

# **Annual Report of the International Whaling Commission 2001**



**Covering the 2000-2001 financial year  
and the 53rd Annual Meeting  
held in London in 2001**



# **Annual Report of the International Whaling Commission 2001**

Covering the fifty-second financial year 2000-2001

**THE INTERNATIONAL WHALING COMMISSION WAS CONSTITUTED UNDER THE  
INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING SIGNED AT  
WASHINGTON ON 2 DECEMBER 1946**



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## List of Members of the Commission

<i>Contracting Government</i>	<i>Adherence</i>	<i>Commissioner</i>	<i>Appointment</i>
Antigua & Barbuda	21.07.82	Mr D.C. Joseph	03.06.96
Argentina	18.05.60	Ambassador E.H. Iglesias	08.02.02
Australia	10.11.48	Mr C. O'Connell	29.08.01
Austria	20.05.94	Dr A. Nouak	09.08.96
Brazil	04.01.74	Mr H. R. Vianna	02.02.00
Chile	06.07.79	Not notified	
People's Republic of China	24.09.80	Mr Li Jianhua	06.06.00
Costa Rica	24.07.81	Not notified	
Denmark	23.05.50	Mr H. Fischer (Vice-Chairman)	24.04.86
Dominica	18.06.92	Mr L. Pascal	10.07.01
Finland	23.02.83	Mr E. Jaakkola	15.04.99
France	03.12.48	Mr F. Pujolas	13.08.99
Germany	02.07.82	Mr P. Bradhering	22.06.01
Grenada	07.04.93	The Hon. C. Charles	29.12.99
Guinea	21.06.00	Mr M. Moustapha Ly	23.03.01
India	09.03.81	Mr S.C. Sharma	22.04.98
Ireland	02.01.85	Mr M. Canny	20.12.90
Italy	06.02.98	Mr G. Ambrosio	01.01.02
Japan	21.04.51	Mr M. Morimoto	12.11.99
Kenya	02.12.81	Mr N. Odera	01.11.84
Republic of Korea	29.12.78	Mr D.B. Park	20.03.01
Mexico	30.06.49	Ambassador A. Rozental	23.01.01
Monaco	15.03.82	Prof. F. Doumenge	15.11.93
Morocco	12.02.01	Mr D. Meski	23.03.01
Netherlands	14.06.77	Mr F.L.M. Vossenaar	12.07.01
New Zealand	15.06.76	The Hon. J.K. McLay	01.01.94
Norway	23.09.60	Ambassador O. G. Skagestad	05.11.99
Oman	15.07.80	Mr H.S. Ambusaidi	24.05.96
Panama	12.06.01	Not notified	
Peru	18.06.79	Mr A. Hart	05.04.02
Russian Federation	10.11.48	Mr V.Y. Ilyashenko	02.05.95
St Kitts and Nevis	24.06.92	Mr C. Liburd	12.04.01
St Lucia	29.06.81	The Hon. C. George	01.01.02
St Vincent & The Grenadines	22.07.81	Mr S. Walters	05.07.01
Senegal	15.07.82	Dr. N. Gueye	05.03.02
Solomon Islands	10.05.93	Mr A. Wata	22.01.98
South Africa	10.11.48	Mr G. de Villiers	21.09.95
Spain	06.07.79	Mr F. Curcio	05.10.00
Sweden	15.06.79	Prof B. Fernholm (Chairman)	15.02.96
Switzerland	29.05.80	Dr T. Althaus	24.02.97
UK	10.11.48	Mr R. Cowan	21.05.01
USA	10.11.48	Mr R. Schmitten	23.06.00

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**SUMMARY OF DECISIONS AND REQUIRED ACTIONS  
FROM THE 53<sup>RD</sup> ANNUAL MEETING**

The major decisions and required actions arising from the 53<sup>rd</sup> Annual Meeting of the IWC are summarised in the table below. The Resolutions adopted are included in Annex C.

Issue	Decisions and Required Actions
<b>Scientific Committee Report</b>	<ul style="list-style-type: none"> <li>• The Commission adopted the report from the Scientific Committee, including its proposed work plan. The work plan includes activities in the following areas: <ul style="list-style-type: none"> <li>➤ Revised Management Procedure (RMP), particularly with respect to North Atlantic common minke whales and western North Pacific common minke whales;</li> <li>➤ Aboriginal Whaling Management Procedure development, and particularly the selection of a <i>Strike Limit Algorithm</i> for Bering-Chukchi-Beaufort Seas bowhead whales;</li> <li>➤ completion of the Comprehensive Assessment of North Atlantic humpback whales;</li> <li>➤ review of status of bowhead, right and gray whales, with emphasis on those stocks subject to aboriginal subsistence whaling;</li> <li>➤ in-depth assessments, with particular emphasis on revising the abundance estimate for Southern Hemisphere minke whales;</li> <li>➤ review of the stock identity concept in a management context;</li> <li>➤ environmental concerns, particularly reviews of results from POLLUTION 2000+ and SOWER 2000 programmes;</li> <li>➤ small cetaceans, with a focus on reviewing the status of humpbacked dolphins (genus <i>Sousa</i>);</li> <li>➤ whalewatching;</li> <li>➤ criteria for reviewing existing sanctuaries and new proposals for sanctuaries (and see 'Sanctuaries' below).</li> </ul> </li> </ul>
<b>Whale killing methods and associated welfare issues</b>	<ul style="list-style-type: none"> <li>• The Commission adopted Resolution 2001-2 in which it agreed to convene a workshop on whale killing methods in 2003. The Resolution also encourages Contracting Governments to provide: (a) information on technical developments in whale killing technologies and variance data on times to death; (b) comparative information on the killing of other large mammals; and (c) technical assistance to reduce time to unconsciousness and death in all whaling operations.</li> </ul>
<b>Comprehensive Assessment of whale stocks</b>	<p><b>Antarctic minke whales</b></p> <ul style="list-style-type: none"> <li>• The Commission gave very high priority to completion of the revised abundance estimate for this species given that there is no agreed current estimate.</li> <li>• The Commission adopted Resolution 2001-7 on Southern Hemisphere Minke Whales and Special Permit Whaling. The Resolution: (1) commends the Scientific Committee's plan to present revised abundance estimates and trends at IWC/55; (2) requests the Scientific Committee to provide to the Commission at IWC/54, a list of plausible hypotheses to explain the apparent population decline and the broad management implications of those; and (3) strongly urges Japan to halt the lethal take of minke whales under the JARPA programme, at least until the Scientific Committee has reported to the Commission on the impacts of this programme on stocks of minke whales in Areas IV and V.</li> </ul>
<b>Sanctuaries</b>	<p><b>Sanctuary reviews</b></p> <ul style="list-style-type: none"> <li>• <i>'Instructions from the Commission to the Scientific Committee for Reviews of Sanctuaries'</i> were agreed. These were developed in response to the Scientific Committee's request for advice on how to review sanctuary proposals and in light of the reviews of the Indian Ocean and Southern Ocean Sanctuaries scheduled for 2002 and 2004 respectively. The Commission agreed to keep them under review.</li> </ul> <p><b>Southern Ocean Sanctuary</b></p> <ul style="list-style-type: none"> <li>• A proposed Schedule amendment that the proposers believed would make the sanctuary consistent with Article V.2 of the Convention was not adopted.</li> </ul> <p><b>New sanctuary proposals for the South Pacific and South Atlantic</b></p> <ul style="list-style-type: none"> <li>• Two Schedule amendments were proposed to create sanctuaries in (1) the South Pacific and (2) the South Atlantic. Neither were adopted.</li> </ul>

Issue	Decisions and Required Actions
<b>Aboriginal subsistence whaling</b>	<p><b>Aboriginal Management Procedure</b></p> <ul style="list-style-type: none"> <li>The Commission endorsed the Scientific Committee's plans to recommend a <i>Strike Limit Algorithm (SLA)</i> for Bering-Chukchi-Beaufort Seas bowhead whales at IWC/54 and accepted a number of proposals from the Scientific Committee with respect to carry-over, survey guidelines and data collection. It also commented on further work needed before it could make a final recommendation with respect to the issue of phase-out.</li> </ul> <p><b>Catch limits</b></p> <ul style="list-style-type: none"> <li>The Commission agreed that no changes to the existing block quotas were necessary this year. It noted that they will require renewal at IWC/54.</li> </ul>
<b>Revised Management Scheme (RMS)</b>	<p><b>RMS</b></p> <ul style="list-style-type: none"> <li>The Commission agreed to establish a small Expert Drafting Group to progress revision of Schedule Chapters V (Inspection and Control) and VI (Information Required) intersessionally and report to the Commission by 15 March 2002. The Group, Chaired by Henrik Fischer (Denmark) comprises representatives from Antigua and Barbuda, Denmark, Japan, New Zealand, Norway, Sweden, the UK, the USA and the Secretariat.</li> </ul> <p><b>Commercial whaling</b></p> <ul style="list-style-type: none"> <li>The Commission adopted Resolution 2001-5 requesting the Government of Norway to (1) refrain from issuing export permits for whale products, (2) reconsider its approach to setting its minke whale quotas, and (3) halt all whaling activities under its jurisdiction.</li> </ul>
<b>Socio-economic implications and small-type whaling</b>	<ul style="list-style-type: none"> <li>The Commission adopted Resolution 2001-6, reaffirming its commitment to work expeditiously to alleviate the distress caused by the cessation of minke whaling to the Japanese coastal communities of Abashiri, Ayukawa, Wadoura and Taiji.</li> <li>A proposed amendment to the Schedule that would allow an interim relief allocation of 50 minke whales for these four communities was not adopted.</li> </ul>
<b>Scientific permits and research methods</b>	<p><b>Antarctic minke whales</b></p> <ul style="list-style-type: none"> <li>Resolution 2001-7 on Southern Hemisphere Minke Whales and Special Permit Whaling urging the Japan to halt the lethal take of minke whales conducted under the JARPA programme was adopted (see Comprehensive Assessment of whale stocks above).</li> </ul> <p><b>North Pacific common minke, Bryde's and sperm whales</b></p> <ul style="list-style-type: none"> <li>Resolution 2001-8 on Expansion of JARPNII Whaling in the North Pacific was adopted. The Resolution: (1) affirms that the data collected under JARPN II on interactions between whales and prey species are not sufficient to justify the killing of whales for research purposes; (2) proposes that required information on stock structure can and should be obtained using non-lethal means; and (3) strongly urges Japan to refrain from issuing any special scientific permit for whaling under JARPN II. However, if it does issue a permit, the Resolution strongly urges that it not be issued until the end of July 2002, to give the Government of Japan adequate time to take into account the views of the Scientific Committee and the Commission.</li> </ul> <p><b>Workshop on Methods for Whale Research</b></p> <ul style="list-style-type: none"> <li>The Commission agreed to the joint Japan/USA proposal to hold a workshop to review recent advances in both lethal and non-lethal methodologies and technologies for whale research. Originally scheduled to take place in Tokyo in early 2002, the workshop will now take place after IWC/54.</li> </ul>

Issue	Decisions and Required Actions
<b>Environmental issues</b>	<p><b>Interactions between cetaceans and fisheries</b></p> <ul style="list-style-type: none"> <li>The Commission endorsed the Scientific Committee's recommendation to hold a workshop to begin to consider the quantification of interactions between cetaceans and fisheries. Initially foreseen to take place before IWC/54, the workshop will now be held in June 2002.</li> <li>The Commission adopted Resolution 2001-9 that: (1) indicates that IWC now gives high priority to the study of interactions between whales and fish stocks; (2) agrees that studies conducted by the FAO on ecosystem-based fisheries management be holistic and balanced in approach; and (3) requests the Secretary to seek co-operation with FAO in the organisation and conduct of the workshop proposed by the Scientific Committee.</li> </ul> <p><b>2001 Stockholm Convention on Persistent Organic Pollutants (POPs)</b></p> <ul style="list-style-type: none"> <li>The Commission adopted Resolution 2001-10 that encourages IWC Contracting Governments to sign, ratify and adhere to the POPs Convention.</li> </ul> <p><b>Habitat protection and integrated coastal zone management</b></p> <ul style="list-style-type: none"> <li>The Commission adopted Resolution 2001-11 that encourages Contracting Governments to better achieve coastal habitat protection and integrated coastal zone management as advocated in a number of Conventions, agreements and initiatives.</li> </ul>
<b>Specific conservation concerns</b>	<p><b>Western North Pacific gray whale</b></p> <ul style="list-style-type: none"> <li>The Commission adopted Resolution 2001-3 that calls for urgent action by range states and others to enhance research, monitoring and management efforts to reduce anthropogenic mortalities of Western North Pacific gray whales to zero and to reduce any other disturbances to the stock.</li> </ul> <p><b>Incidental capture of cetaceans</b></p> <ul style="list-style-type: none"> <li>The Commission adopted Resolution 2001-4 on the incidental capture of cetaceans. The Resolution requests the Scientific Committee to provide information on the most effective means of mitigating bycatch occurrence and disentangling animals which are bycaught. It also recommends that Contracting Governments make reasonable attempts to release captured whales unharmed. If this is not possible it recommends that Governments only permit the commercial exchange of those animals/species subject to a catch limit and that the capture be counted against that limit.</li> </ul> <p><b>Small cetaceans</b></p> <ul style="list-style-type: none"> <li>The Commission adopted Resolution 2001-12 on Dall's porpoises that: (1) directs the Scientific Committee to carry out a full assessment of exploited stocks once information is available; (2) calls upon Japan to provide the information necessary for such an assessment; (3) requests governments with fisheries in the range states of these stocks to report bycatch to the Scientific Committee annually; and (4) urges Japan to halt direct takes until a full assessment by the Scientific Committee has been completed.</li> <li>The Commission adopted Resolution 2001-13 that calls on Contracting Governments to take a variety of measures to improve the conservation status of small cetaceans. These include providing requested information to the Scientific Committee and responding to recommendations for action by that Committee, particularly with respect to incidental and directed catches. Specific mention is made of recent recommendations concerning white whales, narwhals and the critically endangered baiji, and the need to minimise bycatches. It also encourages Contracting Governments to offer technical, scientific and financial support to range states to assist their small cetacean conservation measures.</li> </ul>
<b>Secret ballots, transparency within IWC and NGOs</b>	<ul style="list-style-type: none"> <li>A proposed amendment to the Schedule that would increase the opportunities for using secret ballots was not adopted.</li> <li>The Commission adopted Resolution 2001-1 that stresses the importance of good faith and transparency in countries' involvement in IWC matters, and endorses and reaffirms <i>inter alia</i> the complete independence of sovereign countries to decide their own policies and to participate in the IWC and other fora without undue interference or coercion from other sovereign countries.</li> <li>A Resolution on the Conduct of Non-Governmental Organisations was not adopted.</li> </ul>

Issue	Decisions and Required Actions
<b>Administration</b>	<p><b>Annual Meeting arrangements</b></p> <ul style="list-style-type: none"> <li>• The Commission agreed that: <ul style="list-style-type: none"> <li>➢ venues for Annual Meetings should be identified two years in advance;</li> <li>➢ IWC's public web site could be used in future to make non-confidential meeting documents available to delegates and observers;</li> <li>➢ the preparation of a written Verbatim Record should cease after IWC/52 and be made available in future to those who want it on an indexed CD.</li> </ul> </li> </ul> <p><b>Formalising arrangements for intersessional meetings</b></p> <ul style="list-style-type: none"> <li>• The Commission adopted '<i>Guidelines for Intersessional Meetings</i>'.</li> </ul> <p><b>Enhancing the participation of developing country scientists</b></p> <ul style="list-style-type: none"> <li>• The Commission agreed to a number of steps designed to enhance the participation of developing country scientists in the work of the Scientific Committee.</li> </ul>
<b>Contributions, Finance and Budget</b>	<p><b>Contributions</b></p> <ul style="list-style-type: none"> <li>• The Commission agreed that the Contributions Task Force should continue to work intersessionally to try to reach consensus on proposals for a new contributions formula for review by the Commission at IWC/54. Argentina and Spain joined the Task Force that now comprises representatives from Antigua and Barbuda, Argentina, Japan, Norway, Monaco, South Africa, Spain and the USA.</li> </ul> <p><b>Financial statements and budget estimates</b></p> <ul style="list-style-type: none"> <li>• The Commission approved the Provisional Financial Statement subject to audit. It also approved the budget for 2001-2002, including the research budget, and increases in the NGO observer fee from £510 to £525 and the press fee from £20 to £25 for 2002.</li> </ul> <p><b>Governments in arrears</b></p> <ul style="list-style-type: none"> <li>• Contracting Governments were requested to submit written comments by 31 October 2001 on the Secretariat's document identifying a range of options to deal with the problem that a number of Contracting Governments have been in arrears with their financial contributions for a number of years. These comments will be reviewed by the Advisory Committee with a view to reporting back to IWC/54.</li> </ul>
<b>Amendments to the Rules of Procedure (RoP)</b>	<ul style="list-style-type: none"> <li>• New or revised Rules of Procedure were adopted to: <ul style="list-style-type: none"> <li>➢ improve the advance planning of Annual Meeting venues;</li> <li>➢ clarify what is covered by the observer registration fees;</li> <li>➢ provide guidance on the format and content of Opening Statements;</li> <li>➢ make the final reports of the Commission's committees, sub-committees and working groups (with the exception of the report of the Finance and Administration Committee) available to observers at the same time as to Commissioners and Contracting Governments. This change was made to increase openness and transparency.</li> </ul> </li> <li>• The Secretary was requested to revise the Rules of Procedure to make the text gender-neutral and up-to-date regarding means of communication.</li> </ul>
<b>Date and place of Annual Meetings</b>	<ul style="list-style-type: none"> <li>• The 54<sup>th</sup> Annual Meeting in 2002 will be held in Shimonoseki, Japan during the period 25 April to 24 May 2002.</li> <li>• The 55<sup>th</sup> Annual Meeting in 2003 will be held in Northern Germany during the period May/June (exact location and dates to be determined).</li> </ul>
<b>Advisory Committee</b>	<ul style="list-style-type: none"> <li>• The USA replaced the Netherlands on the Advisory Committee, which now comprises Sweden, Denmark, New Zealand, St. Lucia and the USA.</li> </ul>
<b>Annual Report</b>	<ul style="list-style-type: none"> <li>• The Commission agreed to revise the content of the 'Annual International Whaling Commission Report' to provide a more complete, up-to-date and useful summary of the Commission's activities.</li> </ul>



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# Chair's Report

# Chair's Report of the 53<sup>rd</sup> Annual Meeting

## 1. INTRODUCTORY ITEMS

### 1.1 Date and place

The 53<sup>rd</sup> Annual Meeting of the International Whaling Commission (IWC) took place from 23-27 July 2001 at the Novotel London West, Hammersmith International Centre, London, under the Chairmanship of Prof. Bo Fernholm (Sweden). A list of delegates and observers attending the meeting is provided as Annex A.

### 1.2 Welcome address

Mr Elliot Morley MP, Parliamentary Under Secretary at the Department for Environment, Food and Rural Affairs welcomed all delegations and participants to the 53<sup>rd</sup> Annual Meeting of IWC on behalf of the Government of the United Kingdom.

Mr Morley thanked the Scientific Committee and the Commission sub-groups whose hard work had paved the way for the plenary meeting. He noted the many contentious and high profile issues to be discussed, but stressed that it would be essential for countries to put differences aside and to work together if progress was to be made. He wished the delegates and participants well and hoped that consensus and constructive solutions on these vital issues could be reached during the course of the meeting.

### 1.3 Opening statements

The Chair welcomed new members to the IWC. Before inviting them to address the meeting, he made the following short statement concerning the adherence<sup>1</sup> by Iceland to the International Convention for the Regulation of Whaling (ICRW):

*'Iceland's recent deposition of an instrument of adherence to the International Convention for the Regulation of Whaling is expressly conditioned on a reservation to the commercial whaling moratorium found in paragraph 10 (e) of the Convention Schedule. Until the Commission has the opportunity to review this matter, the participation of Iceland in the IWC does not prejudice the positions of individual members of the Commission on this matter.'*

Morocco, which had adhered to the Convention on 12 February 2001, informed the meeting that it had joined IWC so that it could contribute to establishing a sustainable management policy for marine resources. It noted that it is convinced of the principle of sustainable development and rational utilisation of natural resources in compliance with relevant international conventions and arrangements adopted by the international community. While acknowledging IWC's work to conserve and protect whales, Morocco urged the Commission to complete and incorporate the Revised Management Scheme (RMS) into the Schedule. It noted the importance of science in IWC's work and urged it to explore partnership possibilities, particularly with FAO, regarding development of a sustainable whaling management system. Morocco's view on non-commercial whaling activities not having a significant effect on whale stocks was that they should be considered according to their scientific, cultural and financial impact within each specific context. Finally, Morocco thanked the Secretariat for its

work, wished all participants a productive and successful meeting, and expressed the hope that the efforts of delegations would be dedicated to the completion of IWC objectives.

Iceland described the reasons behind its withdrawal from IWC in 1992 and the reasons for its re-adherence to the Convention on 8 June 2001. It had withdrawn since it believed that IWC was no longer operating in accordance with the Convention and had become a non-whaling commission rather than a whaling commission. However, Iceland considered that there are now signs that support is increasing within IWC for sustainable whaling in some form and had therefore decided to become a member so as to have an influence on the discussions taking place. Iceland also noted that since its withdrawal, a number of countries, both for and against sustainable commercial whaling, had urged it to rejoin. In view of this encouragement, it was disturbed by the reactions of some Contracting Governments to its instrument of adherence. Iceland considered that it had made use of the right it has under international law to adhere with a reservation, and that there is no legal basis for rejecting it. It considered it outside the competence of IWC to take a decision on Iceland's reservation by voting on it, and that it is up to individual Contracting Governments to accept or oppose the reservation unilaterally as had already been done by several States, and as was done with respect to reservations to the Convention lodged previously by Argentina, Chile, Peru and Ecuador. Iceland also had no doubt that its reservation with respect to paragraph 10 (e) of the Schedule is fully compatible with the object and purpose of the Convention. It further noted that international relations are based on the rule of law and that it could not believe that countries present would sidestep this principal in favour of political objectives. Finally, Iceland reported that it had rejoined IWC in good faith with a firm commitment to work constructively towards achievement of the objectives of the Convention and pledged to co-operate with other Contracting Governments that have undertaken to do the same by participating in the work of this important organisation.

Panama, which rejoined IWC on 12 June 2001, reported that its Government's policy is to participate in all international and regional fisheries organisations to promote the interests of its people and to contribute to the responsible management and conservation of all living marine resources. Panama explained that it is active in other intergovernmental fisheries organisations such as FAO<sup>2</sup>, ICCAT<sup>3</sup>, IATTC<sup>4</sup> and OLDEPESCA<sup>5</sup> where it has supported the principle of sustainable use based on sound science and in harmony with the marine ecosystem. Panama noted that fisheries are an important source of employment and revenue as well as an essential component of its food security. It therefore hoped that during the 53<sup>rd</sup> Annual Meeting, common ground could be found and that IWC could move closer to adoption of the RMS. Panama considered that, as with other marine resources, whales would benefit from a responsible and reasonable management scheme and that if this could be

<sup>1</sup> Iceland's instrument of adherence stated that Iceland '*adheres to the aforesaid Convention and Protocol with a reservation with respect to paragraph 10(e) of the Schedule to the Convention. The reservation forms an integral part of this instrument of adherence.*'

<sup>2</sup> United Nations Food and Agriculture Organisation.

<sup>3</sup> International Commission for the Conservation of Atlantic Tuna.

<sup>4</sup> Inter-American Tropical Tuna Commission.

<sup>5</sup> Latin American Organisation for Fisheries Development.

achieved, potential conflicts with other fisheries could be avoided. In conclusion, Panama invited member governments to move forward with their work in a spirit of co-operation and friendship.

The Chair reported that Opening Statements submitted by other Contracting Governments and by Observers would be included in the meeting documentation according to the Commission's normal procedure. He then went on to note with sadness the recent deaths of Mr Stuart Nanton, the long-time Commissioner to IWC for St Vincent and The Grenadines, and Dr Fujio Kasamatsu, a Japanese cetacean biologist who had played an important role in the Scientific Committee for many years.

#### 1.4 Meeting arrangements

##### 1.4.1 Speaking rights for intergovernmental organisations (IGOs)

The Chair reported that during their private meeting on Sunday 22 July 2001, the Commissioners had decided that IGOs should be allowed to make one intervention during the meeting on a substantive agenda item. He requested that IGOs inform him in advance of their interest in addressing the meeting.

##### 1.4.2 Order of business, preparation of Resolutions, credentials and other aspects

The Chair: (1) outlined the order of business he intended to follow during the meeting; (2) asked Parties to keep Resolutions to a minimum, but to consult widely in their preparation; (3) asked the Commission's sub-group Chairs to be concise in their presentations to plenary, and (4) asked delegates to be brief and to the point in their interventions, and where possible to associate themselves with earlier speakers who had similar views.

The Secretary reported that all credentials were in order and reminded the meeting of arrangements for the submission of Resolutions and other documents. Later in the meeting, the credentials of the representatives of the Government of India were questioned. However, following the report from a credentials committee established by the Chair and comprising Australia, Japan and the Secretary, and discussion in a private Commissioners' meeting, the Chair ruled that the Secretary's conclusion on the status of India's credentials was correct. This ruling was not challenged, but Iceland, supported by Norway and Japan, registered their opposition to the decision.

##### 1.4.3 Status of the Russian Federation and Iceland

Before moving to other agenda items, the following issues were addressed:

- the request by the Russian Federation to be granted voting rights even though they were in arrears with their financial contributions;
- the acceptability of Iceland's adherence to the Convention with a reservation to the commercial whaling moratorium found in paragraph 10 (e) of the Convention Schedule.

Discussions began with the request of the Russian Federation which explained that since it was in arrears with its financial contributions for 2000/2001 it was subject to the penalties prescribed in Financial Regulations F.2 and F.3 (i.e. it was receiving no documentation and its voting rights had been suspended). It considered this an unfortunate situation, reported that preparations for payment of contributions were in hand and asked the Commission for a 'special accommodation' that would allow the Russian

Federation to retain its voting rights and to receive documents. Justification for this 'special accommodation' was that the Russian Federation had always had a good record in paying its annual contributions, and that its inability to fulfil its financial commitments to date was unexpected and considered to be a short-term problem. It hoped that its request could be accepted by consensus, but that if this were not possible, it would request that the matter be put to a vote.

Since it was apparent that the Russian Federation's request would not be accepted by consensus, the Chair ruled that Rule of Procedure E.2 applied, i.e. that the Russian Federation's voting rights would be '*suspended until payment is received by the Commission, unless the Commission decides otherwise*'. The Chair then went on to address Iceland's reservation. A number of countries objected to this, preferring first to deal with the Russian Federation's voting rights. The Chair ruled that Iceland's reservation be addressed first. On being challenged, the Chair's ruling was carried (there being 21 votes in support of the ruling and 17 against).

Australia introduced a motion that it proposed together with the USA regarding Iceland's reservation. The motion stated that '*The Commission does not accept Iceland's reservation regarding paragraph 10 (e) of the Schedule (i.e., that Iceland is not bound by paragraph 10 (e) of the Schedule), as reflected in its instrument of adherence dated June 8, 2001*'. Australia noted that it had looked forward to welcoming Iceland back into the Commission, but that this would not be possible because of the way it sought to rejoin the organisation and because of its reading of international law. It stressed that IWC must decide whether the reservation is acceptable, believing that if the Commission could not do this it would be very difficult for it to work effectively and would create a precedent that could hamper other organisations. Australia believed that IWC could not work efficiently if countries could join IWC while not accepting key aspects of the Commission's work and that it would have the effect that new members could be adhering to a different sort of Convention. Australia hoped that when the Commission had made its decision, it would be able to welcome Iceland as a fellow member without its reservation. The USA seconded the motion, making similar points to Australia. It added that Iceland had the opportunity as a member in 1982 to object to Schedule paragraph 10 (e) but had not done so. The USA believed that acceptance of this reservation now would undermine the commercial whaling moratorium.

Referring to Articles 19 and 23 of the 1969 Vienna Convention on Treaties, Japan considered Iceland's reservation to be fully compatible with the object and purpose of the ICRW, adding that acceptance or not of the reservation is a decision for each Contracting Government. It believed that there was no basis for the motion proposed by Australia and the USA, and that the Commission did not have the competency to decide the status of Iceland's reservation.

The Chair indicated he would take views from Contracting Governments on both the motion and on the issue of competency before making a ruling.

The Netherlands, UK, Italy, Argentina, New Zealand, Monaco, Sweden, Spain, Germany, Ireland and Finland made comments similar to those of Australia and the USA, supported the motion, and considered the Commission to have competency to decide the status of Iceland's reservation. On the issue of competency, New Zealand, like Japan, also drew attention to the Vienna Convention on



Treaties. It acknowledged that the Vienna Convention was agreed after the 1946 ICRW and that not all IWC members have adhered to the Vienna Convention, but indicated that it is generally accepted that the Vienna Convention did no more than re-state and codify the customary international law on these issues. New Zealand drew attention to Article 20, sub-paragraph 3 of that Convention dealing with acceptance or rejection of objections that stipulates '*when a treaty is a constituent instrument of an international organisation and unless it otherwise provides, a reservation require the acceptance of the competent organ of that organisation*'. It considered that this principal of customary international law to be binding on the Commission and that it gave rise to three questions: (1) is the ICRW the constituent instrument of the IWC?; (2) does the ICRW provide for reservations?; and (3) is the Commission, in plenary, the competent organ of the Commission? Since under Article III.1 of the ICRW, the Contracting Governments agree to establish an International Whaling Commission, New Zealand considered that the answer to the first and third questions is 'yes' and that the Commission is the only body vested with decision-making power. New Zealand noted that the Convention does not provide for reservations. It further noted that the reservation to the Convention requires the acceptance of the competent organ, and that therefore the Commission can and must decide. Ireland, while noting that it was one of the countries that had encouraged Iceland to rejoin, regretted the political stand Iceland had taken with the reservation, forcing Ireland to object. Ireland noted the wide divergence of legal opinions on the issue, that further advice or a legal ruling from another body could be sought but that in the meantime the Commission had a duty to protect the Convention and to take a decision.

Antigua and Barbuda, Norway, the Republic of Guinea, Iceland, the Russian Federation, Grenada and St Lucia spoke against the motion, believing that Iceland was within its rights to include a reservation in its instrument of adherence, and considered that the Commission did not have competency on this issue. Antigua and Barbuda stressed that the matter should be viewed with extreme caution and that any action taken should have a firm legal foundation. It considered that any vote on the issue of Iceland's reservation would be absurd and illegal. Norway associated itself with the earlier comments of Japan and with Antigua and Barbuda. It noted that there are mechanisms, stipulated by Article 20, sub-paragraph 5 of the Vienna Convention, whereby the non-acceptance of a reservation can be accommodated, i.e. States become bound to accept a reservation 12 months after a notification; States wanting to protest against a reservation must do so within the same 12-month time limit. Iceland stated that the general principle is that States have a sovereign right to make reservations, and that it is outside the competence of the Commission to accept or reject a reservation. Referring to New Zealand's remarks, Iceland disagreed that the Vienna Convention just codifies customary international law, but agreed that large portions were, or have since become, part of the body of customary international law. Given that it is customary international law, Iceland pointed out the need to look at the principles behind each provision. It noted that the provision in paragraph 10(e) of the Schedule was open to objection by all Contracting Parties, is not a constituent body of the IWC and therefore does not apply in so far as it represents customary international law. Its position was that it is a matter for individual States to decide the status of its reservation, and that any vote taken by the Commission would have no

validity under international law. Iceland further noted that if the RMS is completed within a reasonable time-frame and if the moratorium is lifted, it would not need to use its reservation.

Switzerland welcomed Iceland's re-adherence, but noted its reservation with concern. On the issue of Iceland's adherence it noted that the Convention is silent on whether the Commission has to take a decision on the acceptance of a new Contracting Government, and that it has been the practice of the Commission not to do so. Switzerland considered this practice to be in line with international law. Its analysis of the issue had concluded that IWC is not an international organisation as it does not qualify as an autonomous body that possesses an independent legal personality, is not therefore subject to public international law that could pronounce itself on membership and that a vote on the issue would be against international law. Denmark noted that there were two issues under consideration: (1) whether or not the status of Iceland's reservation could be decided on by the Commission, i.e. a procedural issue; and (2) the motion from Australia/USA. Regarding the former, Denmark believed that further legal consideration was needed to resolve the question and that a decision should not be taken hastily. It considered that taking a decision not to vote on the issue at this meeting would not preclude the Commission from voting at a later stage. It underlined, however, that a 'no' vote from Denmark at this meeting would not represent Denmark's definitive view of the right of the Commission to decide the status of Iceland's reservation, but rather that a vote should not be taken at this meeting. Regarding the motion, it indicated that it would not participate in any vote as it believed this to be premature. France considered Iceland to be a member of IWC in accordance with Article X.4 of the ICRW and recognised the right of countries to make reservations to which members could individually object. It further noted that, like a number of other countries, it will object to Iceland's reservation, but it did not believe that the Commission was entitled to vote on this issue.

Morocco suggested that the Australian/USA motion be amended to the effect that the Commission urges Iceland to consider removing its reservation. Italy, supported by Mexico and New Zealand indicated that Morocco's proposal was not an amendment but a new proposal since it implies that Iceland's reservation is accepted. The Chair agreed and ruled that, as indicated by Rule of Debate E.3, the motion of Australia and the USA should be decided upon first.

Before addressing the Australian/USA motion, the Chair indicated that there was a need to decide on the issue of competency. As there was no clear view on this, he ruled that '*the Commission has competence to determine the legal status of Iceland's reservation*'. Austria noted that it would abstain. On being put to the vote the Chair's ruling was upheld. It received 19 votes in favour, 18 against, and one abstention. Iceland regretted what it considered to be an illegal vote, adding that any subsequent vote in relation to its reservation would be invalid. In explaining its vote, the UK indicated that it interpreted the Chair's ruling as giving competence to vote on the Australian/USA motion and had supported the ruling on this basis. It considered that the Chair was right to look for a procedural *modus operandi* to allow the meeting to proceed to its substantive business.

On proceeding to the motion, Japan, Antigua and Barbuda, Iceland, the Republic of China, the Republic of Guinea, Norway, Morocco, Grenada, St Kitts and Nevis, St Lucia, the Solomon Islands, St Vincent and The Grenadines, Panama and Dominica indicated that they would not

participate in what they considered to be an illegal vote. In the subsequent vote, the motion that *'the Commission does not accept Iceland's reservation regarding paragraph 10 (e) of the Schedule..'* was carried. It received 19 votes in support and none against. Three countries abstained and 16 countries did not participate. Denmark explained that it did not participate in the vote since it believed it to be premature. Austria explained that while it disapproved of Iceland's reservation and its potential implications, it could not oppose it on legal grounds. It had therefore abstained.

Although the Chair first ruled that Iceland was invited to participate in the meeting without casting a vote, he subsequently revised this to *'the Chair rules that Iceland is invited to assist as an observer'*. Japan opposed the ruling, but on being put to a vote, the Chair's ruling was carried, receiving 18 votes in support, 16 against with 3 abstentions.

Iceland indicated its intention to continue to participate in the meeting as a Contracting Government. Antigua and Barbuda registered its disquiet with the proceedings, believing that there was no legal basis for condemning Iceland to observer status. It hoped that opportunities would be found during the meeting to correct the situation and that Iceland's status as a full member would be recognised. The Republic of Korea and Norway had similar views. Denmark regretted the decision. Finland indicated that it objected to the reservation but considered that the Commission had no right to nullify Iceland's membership. The Republic of China, supported by Japan, questioned why the Chair had revised his ruling, noting that the Commissioners had not been forewarned at their private meeting. The Chair explained that he is exposed to advice from different directions, and that a way forward is to make a ruling, which he did. He noted that a ruling from the Chair is simply a technical way to make progress with contentious issues.

The meeting then returned to the issue of voting rights for the Russian Federation. The Chair ruled that the Russian Federation had the right to vote at the meeting. On being put to a vote, there were 15 votes in support of the ruling and 22 against. The Russian Federation voting therefore remained suspended, although the Commission agreed to provide documents to its delegation.

## 2. ADOPTION OF THE AGENDA

The agenda was adopted without amendment and is given as Annex B.

## 3. SECRET BALLOTS

### 3.1 Proposal for amendment to Rule of Procedure E.3(d)

Japan introduced its proposed amendment that would have the effect of increasing the opportunities for the use of secret ballots, i.e.

*'Votes can be taken by show of hands, or by roll call, as in the opinion of the Chairman appears to be most suitable, or by secret ballot if requested by a Commissioner and seconded by at least five other Commissioners except that on any matter related to aboriginal subsistence whaling, voting by secret ballot shall only be used when all the Commissioners representing the Contracting Parties where the aboriginal subsistence take or takes will occur requests the use of a secret ballot and where such requests are seconded by at least five other Commissioners.'*

Japan believed that this amendment would improve the functioning of the Commission. It considered the only argument against such a change would be one of reducing

transparency, but noted that the amendment would not preclude individual countries from announcing the way they voted.

### 3.2 Commission discussions and action arising

After a short discussion, the proposed amendment to Rule of Procedure E.3(d) was put to the vote. It received 14 votes in favour, 21 against with 2 abstentions and was therefore not adopted. Oman explained that it abstained since it did not believe that matters relating to aboriginal subsistence whaling should be treated differently.

#### RESOLUTION ON TRANSPARENCY WITHIN THE INTERNATIONAL WHALING COMMISSION

New Zealand introduced a Resolution on behalf of the other co-sponsors (Italy, USA, UK, Australia, Netherlands, Mexico, Argentina, Germany and Monaco) stressing the importance of good faith and transparency in countries' involvement in IWC matters, and endorsing and reaffirming *inter alia* the complete independence of sovereign countries to decide their own policies and to participate in the IWC and other fora without undue interference or coercion from other sovereign countries. The Resolution was proposed in response to recent allegations about coercion and vote-buying within the IWC.

There was broad support for the Resolution and after some amendment it was adopted by consensus (Resolution 2001-1, Annex C). The reservations of Japan and Dominica who wished to include the words 'and NGOs' at the end of the operative paragraph were noted.

#### RESOLUTION ON THE CONDUCT OF NON-GOVERNMENTAL ORGANISATIONS

Antigua and Barbuda introduced a Resolution on the conduct of NGOs on behalf of the other co-sponsors (Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines). The proposed Resolution: (1) endorsed the principle of continued negotiations to give effect to the purpose and objectives of the Convention; (2) reaffirmed the Commission's support for State Parties against the threats of irresponsible NGOs; (3) condemned the actions of irresponsible NGOs against State Parties for exercising their sovereign rights in the decision-making process of IWC; (4) emphasised that such practices shall not be tolerated by the IWC; and (5) directed the Commission to make its rules on NGOs consistent with international practices such as those utilised by economic and social UN organisations. Antigua and Barbuda stressed that it welcomed the participation in the Commission of responsible NGOs and hoped that the Resolution could be adopted by consensus.

As it was evident that consensus could not be achieved, the proposal was put to a vote. There were 12 votes in favour of the Resolution, 21 against and 2 abstentions. The Resolution was therefore not adopted.

Denmark explained that it did not participate in the vote as it was not familiar with the international practices such as those used by economic and social UN organisations to which the Resolution referred. St. Vincent and The Grenadines expressed disappointment with the outcome of the vote, suggesting that it gave the appearance that IWC supports the threatening behaviour of some NGOs, such as that of Sea Shepherd. St. Lucia, St. Kitts and Nevis and Dominica had similar views. Japan expressed sympathy with the Caribbean countries and, like Iceland, had supported the Resolution. The Netherlands and the USA, supported by the UK, noted that the Sea Shepherd is not an IWC-accredited

NGO and that while they distanced themselves from the behaviour of some NGOs, others have constructive roles to play.

Antigua and Barbuda thanked those countries supporting the Resolution and noted its disappointment that more time had not been made available to try to achieve consensus. It requested that the item be kept open. In response, the Chair expressed regret that it had not been possible to reach agreement during this meeting and hoped that a common view could be reached at IWC/54.

#### 4. WHALEWATCHING

##### 4.1 Report of the Scientific Committee<sup>6</sup>

In 2000, the Scientific Committee had identified a number of areas for further research on possible long-term effects of whalewatching on whales and a number of possible data types that could be collected from whalewatching operations to assist in assessing their impact. It developed this further at the 2001 meeting and will continue to work on data collection issues in the intersessional period.

The Committee also reviewed papers containing information on noise from whalewatching vessels and aircraft, and any potential effects this might have on cetaceans. It recommended that such work continues and new information will be considered at next year's meeting.

The Committee continued to consider national guidelines for whalewatching from a number of countries as well as papers examining their effectiveness. It received new information on dolphin feeding programmes in Australia and the USA and reconfirmed its view that programmes involving the feeding of wild cetaceans should be prohibited. It recommended that governments be encouraged to phase out existing feeding programmes as soon as possible and not allow the development of new ones. Similarly, the Committee agreed that there are potential problems with 'swim-with' programmes for wild cetaceans and it will consider this issue further at next year's meeting.

Finally, the Committee considered the question of recreational whalewatching, noting that in some areas guidelines are only directed at commercial operations. The Committee agreed that recreational whalewatching, particularly when undertaken in combination with commercial whalewatching, could be problematic and **recommended** that responsible agencies should be encouraged to enforce regulations when possible. It will continue to review and monitor this item.

##### 4.2 Commission discussions and action arising

Brazil congratulated the Scientific Committee on its work and noted that as the whalewatching industry grew, so did the need for management of this activity. The USA supported continued development of whalewatching, commenting that it contributed to an improved understanding of whale populations and ultimately to conservation. The UK, South Africa, Oman, Mexico and the Netherlands also expressed appreciation for the work of the Scientific Committee and encouraged it to continue.

New Zealand, Italy and the UK introduced documents on whalewatching they had submitted to the meeting. In introducing document IWC/53/19<sup>7</sup>, New Zealand highlighted the rapid growth in whalewatching in

developing countries, noting that the largest and fastest growing industry is in St Lucia, and that the economic benefit was of great potential value to both developing countries and to rural communities in more developed countries. Whalewatching is now reported to be at least a \$1 billion USD industry attracting more than 9 million participants a year in 87 countries and territories. The particular benefits from the whalewatching industry in Kaikoura, New Zealand were summarised. Oman was happy that its own whalewatching activities are flourishing, but drew attention to inaccuracies in IWC/53/19, adding that it would provide corrections to New Zealand after the meeting.

Italy introduced IWC/53/22<sup>8</sup>. The purpose of this IFAW/ICRAM workshop was to review: (1) reports provided to IWC on previous occasions; (2) outcomes from 5 preceding workshops on various aspects of whalewatching; and (3) to develop recommendations for further research and studies to strengthen the whalewatching industry and ensure its sustainability, giving attention to possible future work by interested governments, by IFAW and other NGOs and by the IWC. The actions taken by IWC over the past 17 years are summarised in an Annex to the report.

The UK considered the introduction of the ban on commercial whaling and work on non-consumptive use of whales through whalewatching to be important steps of the Commission and encouraged it to continue to promote whalewatching as a truly sustainable way of using whale resources. It referred to a succession of reports (including one it had commissioned on 'the impacts of whale-watching on the economy of rural West Scotland') demonstrating the increasing popularity of whalewatching and resultant benefits, and stressed the important role IWC has in: (1) helping develop appropriate guidelines and standards; and (2) overseeing discussions on this matter, to ensure that these activities are not harmful to the whales themselves.

South Africa reported that it followed a policy of sustainable non-consumptive use of whales and that whalewatching had become an important economic and cultural part of South African life. As a rapidly growing industry, South Africa believed that more complete and concrete guidelines were needed to manage it. It therefore considered the work plan proposed by the Scientific Committee to be a constructive way forward.

Japan and Norway both considered whalewatching to be outside the scope of IWC. Japan urged the Scientific Committee to make sure that its work in this area remained within that prescribed by Resolution 1996-2<sup>9</sup> and expressed some concern that the Committee appeared to be trying to get information on the status of whale stocks from whalewatching operations. It was doubtful that such activities could provide information of sufficient quality, and believed that dedicated surveys were necessary. In view of IWC's priorities, Japan considered that the work plan proposed by the Scientific Committee might be inappropriate. Norway explained that there is no conflict between its whalewatching and commercial whaling activities, remarking that they co-exist in the same locations. It considered that whalewatching, while entailing certain ethical dimensions, should be treated as a normal commercial activity with the market place determining its commercial viability. However, it noted the vulnerability of the industry to the unpredictable changes in the interests of

<sup>6</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

<sup>7</sup> 'Whale Watching 2001, Worldwide Tourism Numbers, Expenditures and Expanding Socioeconomic Benefits', a report by the International Fund for Animal Welfare (IFAW).

<sup>8</sup> 'Report of the IFAW/ICRAM Closing Workshop to Review Various Aspects of Whale Watching' held in Italy in February 2000.

<sup>9</sup> *Rep. int. Whal. Commn* 47: 48.

tourists, which could be especially dangerous for small countries and small communities.

The Commission noted the report of the Scientific Committee and accepted its recommendations.

## 5. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

### 5.1 Report of the Working Group on Whale Killing Methods and Associated Welfare Issues

Prof. Frederic Briand (Monaco) chaired the Working Group on Whale Killing Methods and Associated Welfare Issues. The Working Group met on 18 July and was attended by delegates from 24 Contracting Governments. Its report is included as Annex D.

In his report to the Commission, Prof. Briand first noted the criticism made by Japan, and supported by Norway, of his ruling at last year's Working Group meeting over the inclusion of certain documents concerning small cetaceans as being inappropriate and misguided. He reported that Japan indicated that it would object to the current Chair being reappointed next year and referred delegates to the official record of last year's Working Group meeting for a full and accurate account of his ruling. He noted the expressions of confidence in his Chairmanship from the UK, Germany, New Zealand and Denmark. Prof. Briand then went on to summarise the Working Group's discussions as provided below.

#### 5.1.1 Data on whales killed

Information had been provided by Denmark, Norway and Japan to meet the requirements of Resolution 1999-1 encouraging countries to report on the numbers of whales killed by various methods, the number and proportion killed instantaneously, etc.. Denmark had provided detailed information on: (1) the 2000 Greenland hunt of minke whales, with statistics being provided on most parameters; and (2) its collaboration with Norway on the introduction and training in the use of the new penthrite grenade harpoons in the minke and fin whale hunts.

Reporting on its 2000 traditional minke whale hunt using harpoon guns with the new Whaleregrenade-99 penthrite grenade, Norway had (1) provided the required data on whales killed and (2) noted that the results showed that all signs of life had ceased instantaneously in 78.2% of animals, and that the average time from the shot until all signs of life had ceased was 136 seconds. No whales were reported to have escaped wounded.

The Working Group had noted Japan's remark that it would participate in the Working Group and provide data from the Japanese Whale Research Program under Special Permit in the Antarctic (JARPA) strictly on a voluntary basis since it considered the issues covered by the Group to be outside IWC's terms of reference and that gathering data on whales killed as part of JARPA fell outside the competence of the Working Group. Japan had provided brief statistics on TTD (time to death) in the Antarctic Area V and western part of Area VI, indicating improvements on TTD in the 2000/2001 hunt compared with the 1998/1999 season. In the 2000/2001 JARPA, Japan had used a number of Norwegian new grenades for the first time and had begun comparative tests with its own grenades. Italy and the UK had (1) expressed disappointment regarding the absence of critical statistical parameters such as variance, and (2) asked if Japan knew why only 36% of the whales were killed instantaneously compared to 78% in the Norwegian hunt. New Zealand enquired as to why mean TTD in 2000/2001

JARPA was higher than had been reported for the Antarctic commercial hunt in 1983/84. Several countries requested Japan to provide data on whales killed from JARPN II.

In response, Japan had (1) noted that it could provide variance data for JARPA to interested parties on request, (2) commented that results from JARPN II may be reported in the proper place, and (3) attributed the difference in instantaneous death rates between Japanese and Norwegian hunts to differences in the nature of the hunt, choice of animals and the fact that it is easier to target the animals in a commercial hunt. It considered comparison with 1983/84 data to be inappropriate, as the two sets of data were not collected in the same way and that different chasing methods between commercial whaling and JARPA may cause differences in TTD.

#### 5.1.2 Information on improving the humaneness of aboriginal subsistence whaling

Denmark had provided information on improvements to whale hunting methods in Greenland over the past three years, including various training courses, past and future, on the handling of the new Norwegian grenade, on improvements to gear, routines and on the use of more powerful rifles. The USA had reported on the use of the new Norwegian grenade by Bowhead subsistence hunters in the Alaskan Arctic and that the indications were that it may produce more rapid death, be more reliable and safer for the crews than the traditional black powder. The Alaskan Eskimo Whaling Commission is continuing to conduct field trials using the new grenade. The Norwegian expert in this area mentioned his willingness to pursue his collaboration with authorities, scientists, whale hunters and whale hunters' organisations to improve the design of hunting gear and penthrite grenades, and referred to the planning of workshops, preparation of manuals and lectures for whale hunters and administrators in Greenland, the Faroe Islands, Iceland, Alaska and Japan.

#### 5.1.3 Need for a second workshop on whale killing methods

There was broad support in the Working Group for a second workshop on whale killing methods (i.e. as follow-up to the May 1999 workshop), but preferably not before 2003. It was recommended that the workshop objectives, funding and organisation be discussed during the course of IWC/54.

#### 5.1.4 Proposal to include welfare issues in Chapter VI of the Schedule

The UK had presented a revised version of a document discussed at the RMS meetings in Adelaide and Monaco. It viewed the collection and reporting of welfare data as a key element of the RMS, and that improving the humaneness of whaling was a long-standing, legitimate concern of the IWC.

Responding to the UK, Norway had remarked that individual IWC member states should be trusted to address animal welfare issues in terms of their own national legislation, and that there would be more appropriate agencies than IWC to handle any necessary intergovernmental co-operation on these matters. In commenting on the UK document, Norway considered that there is no need for continuous monitoring of the kind proposed since periodic checks would suffice, that the checklist provided was too long, and that post mortems and other detailed expert examinations would be of no relevance to the tasks of an international observer. Japan and Iceland supported this position. The Russian Federation considered

that this issue fell strictly under the jurisdiction of national legislation and that it would be practically very difficult to provide all the data requested. Denmark considered that most of the information was already present in Chapter VI of the Schedule, but would not object to including killing methods of baleen whales in the RMS as far as commercial whaling is concerned, but that it would find it impossible to collect such data from aboriginal subsistence hunts. Germany, Finland, Argentina and the USA supported the UK proposal, but the USA also noted that it would not be applicable to aboriginal subsistence hunts. The UK had clarified that it had no intention to interfere with national legislation and that post mortems would be required only when possible. It had also noted that its proposal was intended primarily to apply to commercial whaling.

## 5.2 Commission discussions and action arising

In the Commission, New Zealand noted the improvements towards reducing TTD in hunted whales, but requested clarification from Japan as to why TTDs from 2000/2001 JARPA were longer than in the 1983/84 commercial hunt. Japan explained that in commercial whaling, the hunt focuses on large whales that come close to the boat and are easier to target, whereas in research whaling, the size of whales taken varies from small to large and the operators work under certain constraints (e.g. needing to avoid damage to ear plugs) that result in longer TTDs. It further noted that the TTDs in JARPA are reducing.

Regarding the UK's proposal to include welfare issues in Chapter VI of the Schedule, the USA supported the proposal on the understanding that it was not applicable to aboriginal subsistence whaling. Denmark clarified that it believed that some of the items proposed by the UK did not belong in an RMS, but could be discussed by the Working Group on Whale Killing Methods and Associated Welfare Issues. The Republic of Korea welcomed any technological improvements in whale killing methods, but along with Norway and Japan did not agree to the inclusion of welfare issues in the RMS. Norway reiterated that it considered animal welfare to be outside the scope of the Convention but that it is willing to continue to provide data on improvements to killing methods used in the Norwegian hunt and to help improve the hunting methods of other whaling countries. It considered that the role of an international observer in whaling operations would be to check that only lawful and approved killing methods are used. Like Norway, Japan also considered the issue to be outside the Convention's scope. It thought the UK proposal unnecessary for controlling whaling and managing stocks, considered that it would impose an excessive burden on whaling operations and believed that it was being proposed as a tactic to delay completion of the RMS. Iceland supported the comments of Norway and Japan.

In response to claims that the collection of animal welfare data is outside the competence of IWC, the UK referred the meeting to recommendations on new observer schemes adopted at the 31<sup>st</sup> Annual Meeting (see Rep. Int. Whal. Commn 30, 1980, Appendix 8) that included a recommendation that '*... all countries involved in observer scheme arrangements consider the possibility of combining the duty of IWC observers with such other functions as the countries concerned may agree with respect to scientific research and collection of information relating to humane killing....*'. It considered that this clearly set a precedent. The UK also drew attention to the outcome of a recent RSPCA workshop involving leading international cetacean scientists

and vets that concluded that there is considerable potential for suffering by cetaceans during current whaling activities, that existing IWC criteria for determining death in cetaceans are insufficient to allow the assessment of the onset of insensibility or death and that there are serious welfare concerns arising from the inadequacy of these criteria. The UK believed these views highlighted the need to collect welfare data.

Referring to the criticism of the ruling by the Working Group Chair at last year's meeting, the UK noted that the ruling was not favourable to the UK but that it had accepted it. Along with New Zealand, Italy, the USA, Germany, Mexico and Ireland, the UK reaffirmed its continued support for the Working Group Chair. Japan did not believe that the record of last year's discussions accurately reported what had happened. Prof. Briand, noting that Japan had challenged his appointment as Working Group Chair at IWC/54, believed that the views of a single country should not take precedence and requested that the Advisory Committee develop a proposed procedure for the appointment of sub-group Convenors.

## RESOLUTION ON WHALE KILLING METHODS

On behalf of Australia, the Netherlands and Germany, the UK proposed a Resolution whereby the Commission would agree to convene a workshop on whale killing methods in 2003 and encourage Contracting Governments to provide: (1) information on technical developments in whale killing technologies, and to the extent possible, variance data on times to death; and (2) technical assistance to reduce time to unconsciousness and death in all whaling operations. The UK noted that despite the arguments within the Commission over its competency in killing methods and animal welfare, all countries believe these issues to be important. Germany, Sweden, the Netherlands, Finland and Oman spoke in favour of the Resolution. Sweden noted that it attached great importance to this issue, stressed the need to improve killing procedures in aboriginal subsistence whaling procedures, and added that the revised Schedule should include text to the effect that the hunting of whales should be undertaken so that the hunted whale does not experience unnecessary suffering.

Japan requested that an operative paragraph be added urging all relevant Contracting Governments to provide, for comparison purposes, information on killing techniques and associated information regarding wild and domesticated animals. In addition, it expressed its reservation to the preambular paragraph referring to kills of sperm and Bryde's whales and noted that if a workshop were to be held, Japan would participate only on a voluntary basis. Norway associated itself with the amendments proposed by Japan, and itself proposed an amendment to the final preambular paragraph to the effect that the onset of permanent insensibility in whales should be correlated as far as possible with post mortem examinations. Denmark agreed in principle to Norway's proposal, but pointed out the differences between commercial and aboriginal subsistence operations that made some of the procedures proposed not possible. Regarding Japan's proposals, Denmark recalled that some years ago the Commission agreed to make some comparison between whale killing and the hunts of large land animals, but felt the comparison of killing techniques and times to death of hunted and domestic animals to be unreasonable.

After amendments to incorporate Norway's proposal and to include reference to comparisons with data from the



killing of other large mammals, the Resolution was adopted by consensus (see Resolution 2001-2, Annex C). Japan's reservation to the fifth preambular paragraph was noted.

## 6. WHALE STOCKS<sup>10</sup>

### 6.1 Southern Hemisphere minke whales

#### 6.1.1 Report of the Scientific Committee

##### 6.1.1.1 ANTARCTIC MINKE WHALES

The Scientific Committee has carried out annual surveys (initially under the IDCR programme and now under the SOWER programme<sup>11</sup>) in the Antarctic (south of 60°S) since the late 1970s and the Committee thanked Japan for the generous provision of vessels for these cruises. The last agreed estimates for each of the six management areas for minke whales were for the period 1982/83 to 1989/90<sup>12</sup> (IWC, 1991). Last year, the Committee agreed that whilst these represented the best estimates for the years surveyed, they were no longer appropriate as estimates of current abundance. An initial crude analysis of available recent data had suggested that current estimates might be appreciably lower than the previous estimates<sup>13</sup>.

At the present meeting, considerable time was spent considering Antarctic minke whales with a view to obtaining final estimates of abundance and considering any trend in these. This included a thorough review of data sources (including the ways practical methodology had changed over time) and analytical methodology. After considering the many factors that may potentially affect abundance estimates and trends in these, the Committee agreed that there is still evidence of some decline in the abundance estimates, although it is not clear how this reflects any actual change in minke abundance itself. Three hypotheses that might explain these results were identified:

- (1) a real change in minke abundance;
- (2) changes in the proportion of the population that is present in the survey region at the time of the survey;
- (3) changes in the survey process over the course of the surveys that compromise the comparability of estimates across years.

Given the important implications of this issue, the Committee has established a detailed work plan and is giving high priority to work on this issue both intersessionally and during the 2002 meeting (including a 2-day pre-meeting workshop). It noted that the full third circumpolar set of cruises will not be completed until the 2002/03 season and thus it does not expect to be able to complete a full review of the status of Antarctic minke whales (including an agreed estimate for current abundance) until the 2004 Annual Meeting.

#### 6.1.2 Commission discussions and action arising

New Zealand thanked the Scientific Committee for its report and work done. It commented that it has a particular interest in Southern Hemisphere minke whales and that it had noted with interest last year's conclusion by the Scientific Committee that the 1992 population estimate of 760,000 is no longer valid. In its view, this conclusion should be stressed since it is being used by some to justify that scientific permit whaling causes no problems to the stocks. It

was New Zealand's opinion that the IDCR/SOWER data (which in its view provide the best available data) indicate a very significant decline in abundance over the last decade, although it acknowledged that further data analyses will be needed before agreement on a new population estimate can be reached. It agreed that the Scientific Committee should work expeditiously on this issue. New Zealand was alarmed by the information on abundance presented in the Scientific Committee's report. In its view the fact that, unlike the IDCR/SOWER data, the JARPA<sup>14</sup> data show no declining trend in Areas IV and V, casts doubt on the usefulness of data obtained from scientific whaling. Until a new agreed abundance estimate is obtained, New Zealand considered that a precautionary approach should be adopted i.e. that lethal takes should be suspended and that non-lethal research be performed to investigate whether environmental problems are causing a population decline. The USA and Italy associated themselves with these views.

Norway agreed that there is no current valid estimate, but indicated that this year's report from the Scientific Committee was far less alarming since part of the apparent decline has been shown to be due to different survey techniques and areas covered. Norway considered that it would not be possible for the Scientific Committee to have an agreed estimate at IWC/54 and drew attention to the Scientific Committee's view that the review would be finalised at its 2004 meeting.

Japan considered that the abundance estimate from the incomplete third IDCR/SOWER circumpolar cruise could not be compared with those from the first two cruises. However, it did add that there was little difference between the estimates from the second and third cruises if confidence limits are taken into account. Furthermore, it noted that the Scientific Committee's evaluation of the JARPA results from Areas IV and V is not yet complete and that further analyses have been identified. Until this is completed, comparison of JARPA and IDCR/SOWER estimates is premature. However, Japan added that at this stage the JARPA results suggest that that minke whale abundance in these Areas, where research takes are made, is increasing. Irrespective of whether Antarctic minke whale stocks are stable, increasing or decreasing it is proud of the contribution it makes to the assessments through the provision of research vessels and crews. It believed that it was premature for Commissioners to comment on the status of minke whales until the Committee's review was complete and an agreed estimate available.

The Commission noted the Scientific Committee reported and accepted its recommendations.

### 6.2 Southern Hemisphere blue whales

#### 6.2.1 Report of the Scientific Committee

The Scientific Committee is in the process of reviewing the status of Southern Hemisphere blue whales. An important part of this work is to try to develop methods to identify pygmy blue whales from 'true' blue whales at sea and this is an important component of the SOWER programme. It made a number of research recommendations in this regard. The Committee received updated estimates of abundance for the IDCR/SOWER cruises but did not have time to consider these fully this year. It also received further information on revised Soviet catch data for this species. Catches (and sizes) were over-reported by the authorities for the 1954/55 – 1960/61 seasons for two fleets. The Committee agreed on a

<sup>10</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

<sup>11</sup> IDCR = International Decades of Cetacean Research; SOWER = Southern Ocean Whale and Ecosystem Research.

<sup>12</sup> *Rep. int. Whal. Commn* 41: 117 and *Rep. int. Whal. Commn* 43: 114.

<sup>13</sup> *J. Cet. Res. Manage.* 3 (Suppl.): 29-32.

<sup>14</sup> JARPA = the Japanese Research Programme in the Antarctic, the lethal part of which is carried out under special permit.

number of issues that need to be resolved before it is in a position to carry out an assessment and made a number of recommendations for scientific work.

#### 6.2.2 *Commission discussions and action arising*

Japan noted that it valued highly the work of IDCR/SOWER on monitoring blue whale trends but that while there are signs of slight increases in abundance, the stock is still far from recovery. It considered that the slow recovery of blue whales indicates that minke whales, which compete with blue whales over prey, continue to prevail in the Antarctic and therefore need to be managed appropriately under the RMP/RMS.

New Zealand, supported by Australia, strongly rejected Japan's assertion that blue whale recovery is being hampered by minke whales and reported that there is no scientific evidence of competition between blue and minke whales for food in the Antarctic. New Zealand believes that the recovery of blue whales is slow because they were hunted to the verge of extinction.

Regarding work by Ukrainian scientists to correct falsified records from past Soviet whaling operations, the Russian Federation urged caution in referring to this work since the Russian Government has not been able to check these data as its requests for this material have been refused. On this same issue, Japan considered that the authenticity of such independent reports should first be confirmed before being used by IWC.

The UK emphasized the importance of accurate catch histories that allow the Scientific Committee to provide estimates of current and pre-exploitation population levels. It congratulated the ongoing efforts of the Scientific Committee on historical catches and considered that the efforts of various scientists to try to correct old data should be applauded.

At the end of its discussions, the Commission noted the Scientific Committee report and accepted its recommendations.

### 6.3 Southern Hemisphere humpback whales

#### 6.3.1 *Report of the Scientific Committee*

Considerable progress has been made in recent years in working towards an assessment of humpback whales<sup>15</sup>. Attention has focussed both on data from historic whaling operations and on newly acquired photo-identification, biopsy and sightings data. This work continued at the present meeting and updated abundance estimates from the IDCR/SOWER and JARPA cruises were received. Further work is required to determine their applicability in the population dynamics modelling exercise. The Committee considered progress in the Antarctic photo-identification catalogue and will consider questions of access next year. It received reports of photo-identification studies in the Indo-South Atlantic region and strongly encourages continuation of these. The Committee made a number of research recommendations to further progress towards an assessment.

#### 6.3.2 *Commission discussions and action arising*

Japan noted that as shown in the Scientific Committee report it estimates that the abundance of humpback whales in the JARPA areas have been increasing at an annual rate of 10-17%, indicating that there are about 12,000 whales

present in Area IV and some 4,000 in Area V. Japan considers these findings to be one of the major contributions made by JARPA.

The Commission noted the Scientific Committee report and accepted its recommendations.

### 6.4 Southern Hemisphere fin whales

#### 6.4.1 *Report of the Scientific Committee*

The Scientific Committee received updated abundance estimates for fin whales from the IWC/SOWER and JARPA cruises but did not have time to consider them. In discussing further work on this species it noted that there was insufficient information at this time for this species to carry out an in-depth assessment and these stocks will not be considered at next year's meeting. However, it will work towards developing a form of assessment appropriate to the quality and quantity of data available at some time in the future.

#### 6.4.2 *Commission discussions and action arising*

Japan expressed its regrets that the JARPA report had not been fully discussed because of time constraints caused, in its view, by the considerable time spent on issues such as small cetaceans, whalewatching and environmental matters. It requested that this situation be remedied. Japan reported that its surveys had revealed that some fin whale stocks have recovered considerably and that they are ready for a comprehensive assessment<sup>16</sup>. It noted that the comprehensive assessment of these stocks had not been included as a priority item in the work of the Scientific Committee's sub-committee on In-depth Assessments and requested that this be reconsidered. Japan also commented that consideration should be given to further sightings surveys since the present IDCR/SOWER surveys are primarily designed for minke whales and thus miss the major distribution area of fin whales.

The Commission noted the Scientific Committee report and accepted its conclusions.

### 6.5 North Atlantic humpback whales

#### 6.5.1 *Report of the Scientific Committee*

Priority was given to the comprehensive assessment of North Atlantic humpback whales at this year's Scientific Committee meeting. The Committee recognised the important contribution the international YoNAH (Years of the North Atlantic Humpback) project made to the assessment.

North Atlantic humpback whales are characterised by relatively discrete feeding substocks, with strong site fidelity by individuals. This latter factor also influences movement patterns within feeding grounds. There is clear evidence for at least two breeding stocks in the North Atlantic. Whales from the western North Atlantic breed primarily in the West Indies, as do some whales that feed in the central North Atlantic. However where other central North Atlantic animals and those from the Barents Sea breed is unknown. The only breeding ground, other than the West Indies, known from historical and contemporary data is the Cape Verde Islands, but to date there is no direct evidence to

<sup>16</sup> Editor's note. The Comprehensive Assessment is an in-depth evaluation of the status of all whale stocks in the light of management objectives and procedures; this would include the examination of current stock size, recent population trends, carrying capacity and productivity. Clearly, it is not possible to 'comprehensively assess' all whale stocks simultaneously, and the Committee has been working in an objective manner towards this, initially concentrating on stocks that have recently or are presently being subject to either commercial or aboriginal subsistence whaling.

<sup>15</sup> e.g. see *J. Cet. Res. Manage.* 3 (Suppl.): 18-21.

support the idea that this is a breeding ground used by central and eastern North Atlantic animals. There may be a separate breeding population in the Norwegian Sea (as suggested in the late 1920s) and the possibility that there are three separate breeding stocks in the North Atlantic cannot be ruled out.

The Scientific Committee reviewed a number of population estimates for the feeding and breeding grounds. A series of estimates for the West Indies breeding stock were obtained numbering from about 7,000 to 12,500 (CVs ranging from 0.07 to 0.39) and there is evidence that the population has been increasing at about 3%. It noted that information on abundance of humpback whales off Iceland should become available from a major sightings survey being carried out in the central and eastern North Atlantic. The Committee considered other information necessary for completing the assessment, particularly with respect to catch history. Finally, it agreed on a workplan that should enable it to complete the comprehensive assessment at next year's meeting.

#### 6.5.2 Commission discussions and action arising

Japan and the USA were pleased that this work had begun and looked forward to its early completion.

Japan recalled that the Scientific Committee has yet to complete its assessment. However, Japan noted that from the abundance estimates for the West Indies stock and the estimated annual rate of increase, it estimated that the sustainable catch would be around 300 whales. It therefore considered that the aboriginal subsistence catch of St. Vincent and The Grenadines from this stock should be permitted.

Norway noted that important data for comprehensive assessments are abundance estimates from sightings surveys in the North Atlantic performed by Iceland, the Faroe Islands and Norway, i.e. the same sighting surveys for which the UK has denied access (see 9.1.2).

The Commission noted the Scientific Committee report and accepted its recommendations.

### 6.6 Other stocks – bowhead<sup>17</sup>, right and gray whales<sup>17</sup>

#### 6.6.1 Report of the Scientific Committee

##### SMALL STOCKS OF BOWHEAD WHALES

The Scientific Committee received information on movements of bowhead whales from West Greenland and the Canadian High Arctic. It also received reports on genetic analyses that will provide better information on stock identity between the various small stocks of bowhead whales in the Arctic and it recommended that this be continued. The Scientific Committee's discussions of the Hudson Bay/Foxe Basin stock are given under Item 8.3.

The Scientific Committee also received a progress report on the long-term study begun in 1995 to better understand the status and ecology of Okhotsk Sea bowhead whales. The study is part of the USA-Russia Agreement on Cooperation in the Field of Environmental Protection.

##### NORTH ATLANTIC RIGHT WHALES

The Committee has paid particular attention to the status of the North Atlantic right whale in recent years<sup>18</sup>. The Committee is extremely concerned about this population,

which, whilst probably the only potentially viable population of this species, is in serious danger. By any management criteria applied by the IWC in terms of either commercial whaling or aboriginal subsistence whaling, there should be no direct anthropogenic removals from this stock.

The Scientific Committee has stated that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality in this population to zero. This is perhaps the only way in which its chances of survival can be directly improved. There is no need to wait for further research before implementing any currently available management actions that can reduce anthropogenic mortalities.

The Committee has made a number of research and management recommendations concerning this stock in the past and reviewed progress on these at this year's meeting.

Recent North Atlantic right whale mortalities were: 1999, 2 (one ship-strike, one entanglement); 2000, 1 (unknown cause, carcass not recovered); and 2001 to July, 4 (two ship-struck calves and two neonatal mortalities). The total number of known right whale deaths from 1970-2001 is 50 (18 due to ship-strikes, 3 due to entanglement, 15 neonatal mortalities and 14 of unknown causes). Human-related mortalities are probably under-represented in these data, since not all carcasses were recovered and necropsies in earlier years may not have been sufficiently thorough to rule out ship-strikes as a cause of death.

After several years of very low calf production (including only one calf in 1999/2000, three in 1998/99 and five in 1997/98), there were 30 calves observed in the winter of 2000/2001 - the largest number ever observed. To date (9 July 2001), four are known to have died, including two killed by ship-strike. The cause of the extreme variability in calf production in recent years is unclear, but there is some evidence from body condition data suggesting that food limitation is involved.

##### NORTH PACIFIC RIGHT WHALES

The Scientific Committee received reports of recent surveys for right whales in the southeastern Bering Sea. Between 1997 and 2000, research vessel and aerial platforms were used to collect both genetic and photographic data from a small population of summering right whales. Eleven unique individuals have been photo-identified.

Analyses of right whale sightings and catches from the 19<sup>th</sup> and 20<sup>th</sup> centuries confirmed that the size and range of the right whale population is now considerably diminished relative to the peak period of whaling in the 19<sup>th</sup> century.

##### SOUTHERN HEMISPHERE RIGHT WHALES

The Scientific Committee last reviewed these stocks in detail in 1998<sup>19</sup>. This year it received reports on a combined photo-identification/genetic study being carried out in South Africa. It also received information concerning right whales incidentally caught in fishing operations in South Africa between 1978 and 2000. During this period, 22 entanglements were recorded of which 80% of the individuals were released alive.

##### WESTERN NORTH PACIFIC GRAY WHALES

The Scientific Committee received a number of reports on the status of this small population. It concluded that the evidence that the western gray whale population is in serious trouble is compelling. Based on results from a joint Russian-USA project, which indicated a small population

<sup>17</sup> Note that the Bering-Chukchi-Beaufort Seas stock of bowhead whales and the eastern North Pacific stock of gray whales are discussed under Item 8.2.

<sup>18</sup> e.g. see the recently published special issue 2 of the *Journal of Cetacean Research and Management – Right Whales: worldwide status*.

<sup>19</sup> *J. Cet. Res. Manage.* (special issue) 2: 1-60 [2000].

size with fewer than 50 reproductive individuals, this population was listed by IUCN in 2000 as 'Critically Endangered'. Since the listing, several new concerns have arisen, including the occurrence of 'skinny' whales in the summers of 1999 and 2000, the small number (12) of known reproductive females, a lower than expected number of calves in 2000 and a male bias in the population (including all nine calves biopsied to date). Given this, the Committee believed that it is a matter of absolute urgency that research and management programmes be continued and expanded immediately. This is the only way to try to ensure the survival of the western gray whale population. Actions needed include: (1) the expansion of the current international research and monitoring programme with an adequate and stable funding base; (2) the establishment of more effective monitoring and protection measures; and (3) an increase in the level of cooperation between scientists, industry and government officials.

The Committee also stressed that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality (including direct catches) to zero and to reduce various types of anthropogenic disturbances to the lowest possible level. The Committee took special note of a plan to conduct seismic surveys in the northern part of the gray whales feeding ground off Sakhalin Island in August 2001 and strongly recommends that no seismic work be conducted while whales are present, because: (1) gray whales are known to exhibit strong avoidance responses to seismic survey activities and could be displaced from critical feeding habitat; (2) this region is the only known feeding ground for the population; (3) the cumulative impacts of seismic operations on the health and survival of these whales are unknown; and (4) 'skinny' whales were observed in the area in 1999 and 2000. Furthermore, all future monitoring and mitigation plans for seismic surveys and other activities related to Sakhalin oil and gas development need to be reviewed by experts not funded directly by industry.

The Scientific Committee has previously recommended that the Commission should arrange to bring together scientists from countries with an interest in, or within the range of, this stock to identify the research and management measures required to maximise the chances of it recovering. The Committee repeats that a similar approach be adopted this year. It also noted the importance and value of continuing various comparative studies between the western and eastern gray whale populations.

#### 6.6.2 Commission discussions and action arising

##### **BOWHEAD WHALES**

No remarks were made on the Scientific Committee's report on bowhead whales under this item but see Item 8.3.1.

##### **NORTH ATLANTIC AND NORTH PACIFIC RIGHT WHALES**

The USA reported on actions it had taken in respect of last year's Resolution 2000-8 on Western North Atlantic right whales. It noted that the USA remains very concerned about the status of this endangered species and described research and management activities in those areas that the US Congress has funded since 1986, i.e., population monitoring, ship-strike reduction and entanglement reduction.

Regarding population monitoring, the USA reported that it has performed some 200 aerial surveys in 1999/2000 and that these are continuing in 2001. The purpose of these surveys is to advise mariners of right whale locations and enable the population to be censused and individual whales to be identified.

Regarding reducing ship-strikes, the USA reported that it had established a mandatory ship reporting system in July 1999 that requires all ships greater than 300 tonnes operating in two coastal water areas to report their location, speed, destination and other aspects of their operation. In return, all ships receive the most recent right whale sighting locations and can therefore avoid key areas.

Regarding entanglements, it had implemented gear modifications and time/area restrictions and efforts to eliminate whale entanglements. In December 2000, the USA issued final rules that: (1) further limit the number of lines and reduced breaking strength for lobster trawls; and (2) reduce breaking strength of lines and specified anchoring configurations for gill net gear. And regarding area actions, the USA reported that it had commissioned a report to investigate regionally-specific ship speed and routing restrictions to reduce the threat of ship strikes. The report should be available in autumn 2001. On area closures, it noted that it has implemented programmes to temporarily close fishing areas where right whales congregate, and that a gill net fishery has been closed and a lobster fishery restricted in May 2001.

Finally the USA reported that it continues efforts to educate mariners to reduce ship strikes and fishermen to reduce entanglements and to assist in disentanglement efforts. The USA hopes that these actions will contribute to the recovery of this whale stock.

Denmark commended the USA for its efforts, and noted that it considers that such human-induced mortalities should be taken into account in whale sanctuaries.

##### **SOUTHERN HEMISPHERE RIGHT WHALES**

Brazil reported that following a recommendation from the Scientific Committee's 1998 workshop on the world-wide status of right whales<sup>20</sup>, the Federal Government had established the Right Whale National Environmental Protection Area that encompasses the coastal waters of the state of Santa Catarina - the nursery area for the surviving population of southern right whales. It noted that this population has been studied for the last 19 years and its protection is being carried out through collaboration among three levels of government, i.e., Federal, State and township. In addition, Brazil noted that private conservation organisations co-operated in the development of whalewatching activities that are under strict Federal rules, now strengthened by the establishment of this sanctuary. Brazil expressed appreciation for the Scientific Committee's management advice and looked forward to continued participation in international initiatives on the recovery of this still-depleted stock.

The Commission noted the Scientific Committee report and accepted its recommendations.

##### **RESOLUTION ON WESTERN NORTH PACIFIC GRAY WHALES**

Prior to the introduction of the Resolution, several countries expressed their concern about the status of the Western North Pacific gray whale stock and their support for the Scientific Committee's conclusions and recommendations.

In introducing the Resolution, Austria on behalf of 11 other co-sponsors, repeated the concern expressed by the Scientific Committee and considered that research and management efforts to reduce anthropogenic mortalities to zero and to reduce disturbances to the stock should continue as a matter of urgency. Austria noted that the survival of this

<sup>20</sup> *J. Cet. Res. Manage.* (special issue) 2: 32 [2000].

population through the 21<sup>st</sup> Century would be a test to see if the people of the world could work together to prevent it from becoming extinct. It hoped that the Resolution could be adopted by consensus.

While agreeing with the substance of the Resolution, Japan, Norway and Antigua and Barbuda expressed concern that the main range states of this gray whale population had not been consulted in its development. They considered this to be an important procedural oversight and asked that the Resolution be withdrawn as a matter of principle. The Chair also noted that he would have preferred wider consultation as requested during his opening remarks. Austria apologised for this oversight but considered that the Resolution was too important to be withdrawn.

The Resolution was put to the vote by a show of hands and was carried by a large majority (Resolution 2001-3, Annex C). Antigua and Barbuda, Morocco, the Republic of Korea and the Republic of China abstained. Japan, supported by the Republic of Guinea, explained that it had opposed the Resolution for procedural reasons, and again urged that Resolutions be prepared in future with appropriate consultation. Denmark noted that insufficient consultation on Resolutions had occurred in the past and that this was an issue that should perhaps be addressed by the Advisory Committee or in another appropriate manner.

## 6.7 Other

Antigua and Barbuda congratulated the Scientific Committee for an excellent report. It stressed that in its view, one of the biggest issues for the IWC to address is how to manage whale stocks with the available methodology, particularly when, as demonstrated for Southern Hemisphere minke whales, up to 40% of the variation in abundance estimates can be attributed to methodology. Antigua and Barbuda noted that overall, there seems to be a bright prospect for some whale populations, especially those targeted for consumption, and that it would be possible to move away from zero catch limits. Finally, Antigua and Barbuda stressed the importance of assessing the impact on the management of other marine resources when taking action on whales.

St. Lucia also commended the work of the Scientific Committee but noted the tendency of some countries to criticise its work and to use a simple majority to railroad through Resolutions covering issues already addressed by the Scientific Committee.

## 7. SANCTUARIES<sup>21</sup>

### 7.1 Reviews of sanctuaries

#### 7.1.1 Report of the Scientific Committee

The Scientific Committee noted that the Commission expects a thorough review of the Indian Ocean Sanctuary in 2002 and the Southern Ocean Sanctuary in 2004. The Commission has provided only limited guidance as to what it expects from such reviews<sup>22</sup> and therefore the Scientific Committee has established an intersessional Steering Group to plan for these reviews. The Terms of Reference for the group are to develop: (1) a process by which the Committee will complete a review; and (2) evaluation criteria for the

reviews, taking into account the Commission's previous comments and any further advice that might be offered by the Commission this year.

#### 7.1.2 Commission discussions and action arising

The Commission noted the report from the Scientific Committee and accepted its workplan.

In response to a request from the Scientific Committee at the 53<sup>rd</sup> Annual Meeting, Japan, on behalf of Norway and Antigua and Barbuda, proposed a Resolution that would provide guidance to the Committee for conducting reviews of existing or proposed sanctuaries. Japan stressed the importance of providing guidance because of the reviews scheduled for the Indian Ocean and Southern Ocean Sanctuaries in 2002 and 2004 respectively. Japan's view was that the adoption of both of these sanctuaries had not been based on scientific findings as required under Convention Article V.2. The Resolution therefore proposed a set of scientifically-based criteria for use in sanctuary reviews that would determine if a sanctuary has a scientific basis and whether it is needed for conservation purposes. Finally Japan noted that the Resolution's wording did not preclude the Scientific Committee from adding further questions or issues, and urged its adoption by the Commission.

Iceland, supported by Japan and Norway, objected to being removed from the list of sponsors, and emphasised the reference made by Japan to Convention Article V.2. Norway believed the Resolution to be highly appropriate and justified, and stressed that the list of criteria is not exclusive and that it would be open to the addition of others.

New Zealand, while supporting the development of guidance, considered the questions included in the Resolution to be leading questions that could be posed in a more non-controversial manner. It also felt that sanctuary reviews should not be restricted to narrow scientific debate and that account should be taken of the increasing debate and use of sanctuaries by other international fora and, for example, cultural and regional considerations. It rejected any suggestion that the establishment of the existing whale sanctuaries was not based on science. New Zealand offered to work with the co-sponsors to develop more suitable text with a view to developing consensus.

In the ensuing discussion, there was support for the development of guidance from many countries, with some supporting the proposed Resolution and others expressing views similar to those of New Zealand. A group, chaired by Norway with participation from 14 countries, was subsequently established to try to develop consensus on revised text. This resulted in the replacement of the Resolution with a document titled 'Instructions from the Commission to the Scientific Committee for Reviews of Sanctuaries' (see Annex E). Although the document was agreed by consensus (but with Brazil reserving its position on item 1), the Commission did not view the guidance as final and agreed to keep it under review. It was therefore agreed that: (1) the Scientific Committee be asked to use the document in its review of the Indian Ocean Sanctuary next year and to report back to the Commission on the utility of the guidance; and (2) that it be used for any new sanctuary proposals.

### 7.2 Research activities within sanctuaries

#### 7.2.1 Report of the Scientific Committee

The Scientific Committee does not discuss this item as a separate issue but rather considers research carried out within Sanctuary areas where relevant to other items on its agenda, particularly those relating to status of stocks.

<sup>21</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

<sup>22</sup> e.g. see *Ann. Rep. Int. Whaling Comm.* 1998: 42.



### 7.2.2 Commission discussions and action arising

Japan commented that it is actively co-operating in research in the Southern Ocean Sanctuary through the SOWER 2000 programme, providing research vessels, crew and scientists. In addition, it noted the contribution made by JARPA to increase knowledge on cetaceans.

Brazil described its dedicated whale research activities in the Southern Ocean Sanctuary over the last 5 years. The work has focused mainly on humpback whales, where non-lethal methods such as photo-identification and genetic sampling have been used to gain a better understanding of stocks in the Antarctic peninsular and the migratory patterns of this species. Brazil reported that it has (1) also gathered information on the sighting of 7 other cetacean species, (2) that it has participated in SOWER 2000 activities, and (3) that it would continue to contribute to non-lethal research in the Southern Ocean Sanctuary and seek co-operation in this issue.

## 7.3 Southern Ocean Sanctuary

### 7.3.1 Proposal to amend paragraph 7.(b) of the Schedule

Japan introduced its proposed amendment to paragraph 7 of the Schedule that would involve deleting the 3rd sentence of Paragraph 7.(b) and adding a new sub-paragraph (c) as follows:

'7. (c) The prohibition described in sub-paragraph (b) above shall be applied only on the advice of the Scientific Committee in accordance with Article V(2) of the Convention.'

Japan noted that it had provided legal analysis to the Commission demonstrating that the Southern Ocean Sanctuary was adopted in contravention of Article V.2 of the Convention. It explained that the proposed Schedule amendment was designed to make this sanctuary consistent with Article V.2.

### 7.3.2 Commission discussions and action arising

Norway and Antigua and Barbuda reiterated their support for Japan's proposed Schedule amendment

New Zealand opposed the proposal, considering it an attempt to repeal the sanctuary. It again rejected claims that the sanctuary was improperly established and recalled the consensus adoption of the report from the February 1994 Norfolk Island meeting on this issue. New Zealand further noted that when the sanctuary was established, the minke whale population estimate was 750,000 and that since it may now be as low as 268,000, believed that the sanctuary should be retained in its present form. Finally, it stressed that decisions can only be taken by the Commission and cannot be delegated to the Scientific Committee. The USA, the Netherlands, the UK, Germany, France, Mexico, Brazil and Sweden supported this view.

In response, Japan reminded the meeting that the Scientific Committee has stated that it will not be in a position to reach a conclusion on estimates from the 3<sup>rd</sup> circumpolar cruise until 2004. Japan reported that its own provisional estimates for the 3<sup>rd</sup> cruise using a number of assumptions to account for incomplete surveys, methodological differences and other factors did not suggest a decline in numbers. Finally, it was Japan's view that the necessity of including scientific evidence in the establishment of sanctuaries was not discussed at the Norfolk Island meeting and that a number of scientific questions posed at that meeting had not been answered when the Sanctuary had been established.

On being put to a vote, there were 13 votes in favour of the proposed Schedule amendment, 23 against and one

abstention. The proposed Schedule amendment therefore failed. Iceland indicated that it supported the proposed amendment.

## 7.4 South Pacific Sanctuary

### 7.4.1 Proposal to amend the Schedule to establish a sanctuary

As the original sponsors of the South Pacific Whale Sanctuary proposal, Australia and New Zealand proposed to amend the Schedule by adding a new paragraph 7(c) as follows:

'In accordance with Article V (1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the South Pacific Sanctuary.

This Sanctuary comprises the waters of the Southern Hemisphere enclosed within the following line: starting from the southern coast of Australia at 130°E; thence due south to 40°S; thence due east to 120°W; thence due north to the equator; thence due west to 141°E; thence generally south along the Papua New Guinea – Indonesian maritime boundary to the northern coast of Papua New Guinea at 141°E; thence generally east, south thence west along the coast of Papua New Guinea to the southern coast of Papua New Guinea at 141°E; thence due south to the northern coast of Australia at 141°E; thence generally east, south thence west along the coast of Australia to the starting point.

This prohibition applies irrespective of the conservation status of baleen or toothed whale stocks in this Sanctuary as may from time to time be determined by the Commission. However, this prohibition shall be reviewed ten years after its initial adoption, and at succeeding ten year intervals and could be revised at such times by the Commission.'

New Zealand thanked the other co-sponsors for supporting this proposal when introduced in Adelaide last year. It reported that since then, regional support to establish a whale sanctuary in the South Pacific had advanced and referred to an April 2001 meeting of Ministers and representatives from countries and territories in the Pacific, who (1) reaffirmed their commitment to progress the proposed sanctuary, (2) recognised whales as an important part of the natural and cultural heritage of Pacific island peoples, (3) welcomed the growth of whalewatching in the area, and (4) requested the South Pacific Regional Environment Programme (SPREP) and IWC members to advise the Commission of the outcome of the meeting.

Cognisant that the Commission must have regard to the science available on this matter, New Zealand reported that further evidence had come to light that the number of whales killed in the Southern Hemisphere last century, especially fin whales, was much higher than previously thought and in excess of 2 million animals. It also noted that while scientists may not be certain of the abundance of minke whales in the Southern Hemisphere, there appears to be scientific consensus that the population levels for most other great whales species in the area remain extremely low. While acknowledging the effort made on the RMP/RMS, New Zealand considered that this is not the only valid approach to managing whale populations and that the RMP/RMS is not the paramount consideration for the local people whose non-consumptive cultural relationship with whales should be recognised within the Commission in the same way as aboriginal subsistence needs are recognised. It stressed the need to also recognise the new opportunities emerging from, and the growing economic importance of whalewatching and eco-tourism that would be enhanced by a sanctuary. Finally, New Zealand rejected the claim that whales are depriving Man of other species, noted that it is Man that has over-exploited both whales and fish, and urged governments to support the proposed sanctuary to safeguard whales in their breeding grounds in the Southern Hemisphere.

Like New Zealand, Australia stressed the scientific justification and extensive regional support (e.g. from SPREP and the Pacific Island Leaders' Forum) for establishing a sanctuary and also noted the opportunity in the South Pacific for, and economic benefits of whalewatching. It considered that establishing a sanctuary would be the best way to foster research and improve knowledge on the status of whale populations. It further considered that establishing a sanctuary would provide protection so that populations can recover and noted with interest that fisheries and wildlife management support the protection afforded through no-take zones such as sanctuaries. It also urged the Commission to support the proposal.

#### 7.4.2 Commission discussions and action arising

The representative from SPREP thanked the Commission for being given the opportunity to address the meeting and reported that the Pacific Islands' Forum and SPREP have supported the development of a proposal to establish a South Pacific Whale Sanctuary for the last four years. Like New Zealand and Australia, he referred to activities since the Adelaide meeting to progress and reaffirm the proposal. Brazil, the UK, Finland, France, Germany, the Netherlands, the USA, Mexico, Monaco, Italy, Sweden, Argentina also spoke in favour of the proposed sanctuary.

Norway, Dominica, Grenada, St Kitts and Nevis, St. Vincent and the Grenadines, St Lucia, Japan, Antigua and Barbuda and the Republic of Korea commented that they could not support the proposal. Norway noted that decisions to establish sanctuaries should be based on science as required by Convention Article V.2.(a). It considered that the background document provided by Australia and New Zealand did not provide any scientific evidence and was interested to hear the views of the Scientific Committee on this matter. Dominica noted the need to be particularly sensitive to the needs of sovereign indigenous people and considered that the establishment of a sanctuary would violate these rights. Grenada could see no new arguments to support the sanctuary, suggested that a sanctuary that simply prevents catching whales that could be taken safely frustrates rather than fulfils the Convention's objectives and questioned what a sanctuary could do that a moratorium and an RMS could not. It noted that all whale species are currently protected by the moratorium on commercial whaling that would only be lifted once an RMS is agreed, adding that at this point quotas would only be set for abundant whale stocks. Grenada also believed that there is no quantifiable evidence that tourists only visit certain countries to go whalewatching. St Vincent and The Grenadines and St Kitts and Nevis and made similar comments, the latter, together with Japan and Antigua and Barbuda commenting that there had been insufficient consultation with regional peoples.

In commenting on sanctuaries in general, the representative of OLDEPESCA noted that it was the view of his organisation that such politically sensitive issues should be subject to extensive consultation with the international community at large. Decisions should be taken not by voting, but preferably by consensus built gradually, based on strong legal and scientific grounds. OLDEPESCA did not consider that this present proposal met these criteria. Referring also to the current moratorium, he remarked that over protection of whales could ultimately impact other fisheries in areas that are now being regulated by existing management schemes or where new ones are being created. It was therefore important not to undermine these efforts. Finally, OLDEPESCA respectfully reminded Australia and New Zealand, that

Chile, Peru, Ecuador and Columbia share the South Pacific and that this should be borne in mind when talking of the people of the South Pacific.

Monaco noted the care taken by New Zealand, Australia, SPREP and others to consult with South Pacific Island people and the support the proposal received from these islands. It expressed surprise at the opposition to the sanctuary proposal expressed by delegates from some of the Caribbean islands, recalling that these same countries had endorsed recommendations from the 1994 Barbados meeting of the global 'Alliance of Small Island States' that included, *inter alia*, the establishment of Marine Protected Areas and sanctuaries wherever necessary in order to enhance the sustainable development process of small island states. Monaco also noted the coming into force in June 2000 of the UNEP Protocol on Specially Protected Areas in Wildlife in the wider Caribbean region (SPAW) that establishes a marine sanctuary protecting all marine mammals. Monaco called for consistency in approach.

Denmark, whilst not against sanctuaries in principle, saw no urgent need for the proposal since the moratorium is still in place and since there is no aboriginal subsistence whaling in the region. It noted that the Scientific Committee had been unable to provide clear recommendations last year and that no new information had emerged this year to change this position. It suggested that in view of the guidance for reviewing sanctuaries just agreed under agenda item 7.1, voting on the proposal be postponed until clear advice, based on this guidance, is forthcoming from the Scientific Committee. The Republic of Guinea stressed the importance of the Commission being guided in its decisions by advice from the Scientific Committee. Ireland, while supporting the concept of sanctuaries as management measures necessary to ensure conservation of whales, considered that further discussions were needed on the current proposal to ensure consensus. It believed that without consensus, and particularly the agreement of whaling countries, it would not be possible to achieve the full potential of sanctuaries since broad issues such as research whaling and international trade would not be addressed. Ireland preferred to delay a vote to give more time to achieve consensus and noted that without consensus it would abstain.

On being put to a vote, the proposed Schedule amendment failed to receive the required three-quarter majority to be adopted. There were 20 votes in favour, 13 against and 4 abstentions. Iceland did not support the proposed amendment. Spain explained that it had voted in favour of the sanctuary in spite of the fact that two of its main sponsors have not complied with provisions of UNCLOS regarding regulations concerning living marine resources in regional fisheries organisations. It expects a change of attitude from these countries. Denmark regretted that the vote had not been postponed pending recommendations from the Scientific Committee.

## 7.5 South Atlantic Sanctuary

### 7.5.1 Proposal to amend the Schedule to establish a sanctuary

Brazil introduced its proposal, co-sponsored by Argentina, to create a South Atlantic Whale Sanctuary that would be enacted through the inclusion of a new sub-paragraph in Chapter III of the Schedule as follows:

'In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the South Atlantic Whale Sanctuary. This Sanctuary comprises the waters of the South Atlantic Ocean enclosed by the following line: starting from the Equator, then

generally south following the eastern coastline of South America to the coast of Tierra del Fuego and, starting from a point situated at Lat 55°07,3'S Long 066°25,0'W; thence to the point Lat 55°11,0'S Long 066°04,7'W; thence to the point Lat 55°22,9'S Long 065°43,6'W; thence due South to Parallel 56°22,8'S; thence to the point Lat 56°22,8'S Long 067°16,0'W; thence due South, along the Cape Horn Meridian, to 60°S, where it reaches the boundary of the Southern Ocean Sanctuary; thence due east following the boundaries of this Sanctuary to the point where it reaches the boundary of the Indian Ocean Sanctuary at 40°S; thence due north following the boundary of this Sanctuary until it reaches the coast of South Africa; thence it follows the coastline of Africa to the west and north until it reaches the Equator; thence due west to the coast of Brazil, closing the perimeter at the starting point. This prohibition shall be reviewed twenty years after its initial adoption and at succeeding ten-year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph shall prejudice the sovereign rights of coastal states according to, *inter alia*, the United Nations Convention on the Law of the Sea.<sup>7</sup>

Brazil acknowledged its past involvement in whaling but reported that in 1987 it had decided to permanently ban whaling and to direct its efforts to a more sustainable, equitable and socially acceptable use of whales through, for example, scientific research and whalewatching. It is proud of the progress made in this respect and of the fact that this approach has been incorporated into national law and public policy. Brazil reported that since 1994, a Federal working group on marine mammals, comprising governmental and non-governmental representatives, has advised national authorities on how best to manage these resources and that in September 2000 the first national sanctuary for whale protection was established. It noted that other countries in the South Atlantic are taking a similar approach. Commenting on threats to whales, Brazil remarked that in addition to pelagic whaling by far-away nations, pollution in its many forms (e.g. habitat degradation, large-scale environmental change) poses a serious threat that must be considered if credible management and long-term conservation of whale stocks is to be achieved. It supported strengthening the Scientific Committee's role in this area. Finally, Brazil considered that the establishment of a further sanctuary in the Southern Hemisphere would ensure that entire populations of whales are adequately conserved and that co-operative research would be fostered on a large scale. It urged the Commission to adopt the proposal.

#### 7.5.2 Report of the Scientific Committee

The Chair of the Scientific Committee reported that in its review of the South Atlantic sanctuary proposal, the Committee had agreed that it would not discuss legal, political or economic issues. It had also agreed that the major points made during last year's meeting regarding the general arguments in favour and against sanctuary proposals were pertinent to this proposal and that therefore it had been unable to reach a single consensus view.

#### 7.5.3 Commission discussions and action arising

The Commission noted the Scientific Committee report. As co-sponsor of the proposal, Argentina informed the meeting that it has long taken a conservationist approach to the marine environment and its resources including whales. It noted that whaling in waters subject to its jurisdiction has been prohibited by national legislation for a long time and that non-lethal uses of whales, including scientific research and whalewatching are subject to specific regulations. It referred to the economic and educational benefits from whalewatching and considered that the proposed sanctuary would enhance research in the area and promote the sustainable non-lethal use of whales, particularly through eco-tourism. Argentina explained that the proposed

sanctuary would encompass the high seas as well as coastal waters in order to protect migration routes. Like Brazil, it urged the Commission to adopt the proposal.

Australia, Austria, the USA, Chile, France, New Zealand, Germany, the Netherlands, Monaco, the UK, Sweden, Italy, Finland and Spain, many of whom were co-sponsors, supported the proposed sanctuary. Spain however, commented that since the proposers had not reported the result of any consultation with non-IWC members, no information on the degree of support from such countries is available. Iceland, Norway, Japan and Antigua and Barbuda did not support the sanctuary proposal for reasons similar to those given during discussions on the South Pacific sanctuary proposal. Japan and Antigua and Barbuda both expressed concern over the absence of consultation with African countries bordering the South Atlantic. Denmark could see no strong Scientific Committee recommendation to establish the sanctuary, and again suggested that voting be postponed until a review of the proposal using the newly approved guidance could be performed. Ireland, although supporting the proposal in principle, indicated that further consultation was needed to achieve consensus and that it would abstain in any vote.

On proceeding to a vote, the proposal received 19 votes in favour, 13 against and 5 abstentions. It did not achieve the required three-quarters majority and was therefore not adopted.

Iceland indicated that it was against the proposal. Switzerland reported that while it welcomes the establishment of sanctuaries as management tools for whale conservation, its government gives great importance to the need for every state affected directly by a sanctuary to agree to its establishment. It remarked that as the Commission had not received information on the views of the West African states or of Uruguay, it had abstained in the vote. Brazil thanked the co-sponsors, range states and others who supported its proposal. It noted that it would continue to participate in good faith in negotiations aimed at accommodating the needs and views of all member countries, but stressed that its sovereign rights to use whales through non-lethal means must be respected and protected by the Commission against the threat posed by the possible resumption of commercial whaling.

## 8. ABORIGINAL SUBSISTENCE WHALING<sup>23</sup>

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on 19 July 2001. Seventy-one delegates from 27 countries attended. The Sub-committee discussed five main issues, i.e. (1) the Aboriginal Subsistence Whaling Scheme, (2) review of the aboriginal subsistence whaling catch limits; (3) catches by non-member nations, (4) contaminated gray whales from the North Pacific eastern stock. David Kay (Australia), Chair of the Sub-committee summarised the outcome of the meeting. The full report is available as Annex F.

### 8.1 Aboriginal subsistence whaling scheme

#### 8.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee

##### ABORIGINAL WHALING MANAGEMENT PROCEDURE

The primary topic discussed this year by the Scientific Committee's Standing Working Group on the Development of an Aboriginal Whaling Management Procedure (hereafter

<sup>23</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

referred to as the Standing Working Group - SWG) was the selection of a recommended *Strike Limit Algorithm (SLAs)* for the Bering-Chukchi-Beaufort Seas stock of bowhead whales. During the Sub-committee meeting, the Chair of the SWG reported that from five *SLAs* (a total of 13 variants), two excellent candidates (four variants) had been identified, but that given the importance of the decision, the complexity of integrating the performance results and the additional work identified, the Scientific Committee had preferred to postpone a final decision on a single candidate until the 2002 Annual Meeting when it could take into account results from a workshop to be held in Seattle in early 2002.

The Chair of the SWG reported that little progress had been made in considering the eastern gray whales and Type-3 fisheries, but that with respect to Greenlandic stocks, the Scientific Committee had made the following recommendations for future work: (1) planning should proceed for an annual series of inshore surveys starting in late summer 2002, with a view to producing a relative abundance index; (2) preliminary simulation studies be conducted of management procedures utilising a combination of an annual relative index and infrequent absolute abundance estimates; (3) an annual programme of satellite tagging in conjunction with the inshore surveys should be started in 2002, with the aim of gradually building up records of animal movements, based on a target of four informative tracks per year. The Scientific Committee had strongly urged both Denmark (Greenland) and the IWC to fund the proposed work.

In the Sub-committee, the Chair of the SWG clarified that the development of potential *SLAs* for the fishery for humpback whales carried out by St. Vincent and The Grenadines would not commence until after the completion, hopefully next year, of the Scientific Committee's Comprehensive Assessment of North Atlantic humpback whales. Until that time it was not possible to say which of the three fishery-types it belonged to. Denmark supported the Scientific Committee's views on the Greenland Research Programme.

The Sub-committee accepted the workplan of the Scientific Committee on these issues.

#### ABORIGINAL WHALING MANAGEMENT SCHEME

The Chair of the SWG had drawn a number of issues to the attention of the sub-committee.

The first concerned the issue of block quotas and carry over. Last year the Commission had agreed the proposal from the Scientific Committee, at least in the context of trials. To allow the Commission to consider this further, the Scientific Committee noted that if under a recommended *SLA*, current need is met (and there is no indication from the present results that this will not be the case), then a revised *Schedule* paragraph might look something like that below:

For the years [2003-2007] inclusive, the total number of strikes shall not exceed [330]. The *Strike Limit* in any one year shall not exceed [100].

The Commission may also wish to incorporate the Scientific Committee's wording for carry-over between blocks presented last year i.e. that a 50% allowance (over the annual average for the block) may be carried over from the last year of one block to the first year of the next but this does not impact on the overall block limit for that block.

The SWG Chair also drew attention to the issues of survey frequency and possible 'phase-out' rules (i.e. progressive lowering of the quota in the absence of survey data) which

must be flexible enough to take into account the fact that weather or ice conditions in the Arctic mean that a successful census may not necessarily occur at the first time of trying. The Scientific Committee had suggested that it might be appropriate for any phase-out provision to begin the 10<sup>th</sup> year after the last accepted abundance estimate, but since several attempts may be required to obtain a successful estimate, this might mean that an attempt to undertake a census might begin after about 7 years from the most recent success, resulting in a survey interval of about 7-10 years in practice. Attention was also drawn to the fact that the risk and need satisfaction performance of the two candidate *SLAs* was not diminished in *Evaluation trials* when surveys occurred at 10-year rather than 5-year intervals.

The SWG Chair explained that a number of factors need to be considered in this regard, not the least, over what time period the phase-out should occur, the magnitude of the phase-out and the quantity (e.g. strike limit or maximum allowable catch) to which it should apply. However, in the limited time available for discussion, the Scientific Committee had noted that there are several potentially useful approaches to phase-out that require further consideration and that it would address these during the coming year. The Scientific Committee sought guidance from the Commission on this issue.

The SWG Chair reported that the Scientific Committee had agreed to the following principles in relation to abundance estimates for use in an *SLA*:

- (1) Plans for undertaking a survey/census should be submitted to the Scientific Committee in advance of their being carried out, although prior approval by the Scientific Committee is not a requirement. This should normally be at the Annual Meeting before the survey/census is being carried out. Sufficient detail should be provided to allow the Scientific Committee review the field and estimation methodology. Considerably more detail would be expected if novel methods are planned.
- (2) Should it desire, the Scientific Committee may nominate one of its members to observe the survey/census to ensure that proposed methods are adequately followed. This will be more important if novel methods are being used.
- (3) All data to be used in the estimation of abundance should be made available to the Scientific Committee suitably in advance of the Annual Meeting at which an estimate was to be presented. If new estimation methods are used, the Scientific Committee may require that computer programs (including documentation to allow such programs to be validated) shall be provided to the Secretariat for eventual validation by them.

With respect to data and sample collection, the Scientific Committee agreed that data from each harvested animal should be collected and made available to the IWC and that the following information should normally be provided for each whale: species, number of animals, sex, season, date, position of catch (to the nearest village), length of catch (to 0.1m). It further requested that information/samples on reproductive status and samples for genetic studies to be collected where possible. The Chair of the SWG noted that such data are already being provided from the bowhead whale fishery.

In response to a request for clarification by a Sub-committee member, the SWG Chair explained that the rationale for having some type of phase-out rule (i.e. progressive lowering of the quota in the absence of survey

data) is that any *SLA* requires some feedback (i.e. a new estimate) to function satisfactorily. No *SLA*, however good, could be expected to function in the absence of data. The USA, Denmark, and Russia requested more time for consideration of this new concept and the Chair of the SWG agreed to discuss the matter further outside the meeting with interested parties.

The Sub-committee Chair advised that based on its discussions, the Sub-committee was not in a position to give the Scientific Committee final guidance on the issue of phase-out at this time, but noted the Sub-committee's agreement to the other suggestions and recommendations made by the Scientific Committee regarding carry-over, survey guidelines and data collection.

#### 8.1.2 Commission discussions and action arising

In the Commission, the USA noted that the aboriginal subsistence whaling management scheme in the current Schedule has worked well in guiding IWC in its management of the Alaskan native subsistence hunt of the Bering-Chukchi-Beaufort Seas stock of bowhead whales for the last 25 years. It explained that to implement the current scheme, the Alaskan whaling community had worked hard to address concerns raised over the years, such as the health of the stock, the efficiency level of the hunt and the modifications to traditional equipment needed to improve humanness of the hunt, and that it will continue to address these concerns through participation in the Scientific Committee, in the Sub-committee and by co-operating with all IWC information requests where feasible. The USA noted that the SWG had made significant progress in designing and selecting an *SLA* for bowheads and that it appeared that whichever is chosen, a good tool will be provided to the Commission.

Regarding the request for guidance on a 'phase-out' rule, the USA saw no problem with a 10-year survey interval, but, as reported by the SWG, the unpredictable conditions in the Arctic make it impossible to guarantee the success of a given survey attempt. It noted that according to the SWG, other potential approaches to the 'phase-out' rule exist, and urged the group to take up this issue. Following consultation with the SWG Chair, the USA suggested that one alternative to consider could be to give a 'grace-period' before the requirement for an implementation review at the end of a 10-year survey interval. Finally, the USA supported the proposed approach to Schedule language for strike limits and to the Scientific Committee's proposed wording for carry-over.

Denmark supported the USA's comments in general terms, particularly in respect to the performance of the current management system, and shared its concerns regarding phase-out periods, further underlining the harsh conditions under which its aboriginal subsistence whaling occurs. It welcomed the Scientific Committee's recommendations for future work on Greenlandic stocks and indicated that it would strive to the extent possible to meet them.

The Russian Federation did not consider 10 years to be a suitable phase-out period, noting the difficult conditions under which its aboriginal subsistence whaling is performed. It noted the progress that had been made for bowhead whales and believed that this could be done for other species, including gray whales and that taking decisions on both stocks in one block should be considered.

The Commission noted the Sub-committee's report and accepted its recommendations and workplan.

## 8.2 Review of aboriginal subsistence whaling catch limits

### 8.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

The Sub-committee Chair reported that noting the advice of the Scientific Committee<sup>24</sup>, the Sub-committee had agreed that there was no need to revise the current Schedule catch limit provisions for: (1) the Bering-Chukchi-Beaufort Seas stock of bowhead whales; (2) Eastern North Pacific gray whales; (3) minke and fin whales off Greenland and (4) North Atlantic humpback whales off St. Vincent and The Grenadines.

Regarding the Bering-Chukchi-Beaufort Seas stock of bowhead whales, The SWG Chair noted that if the Commission adopted a *Strike Limit Algorithm* for bowhead whales next year, although a new abundance estimate was necessary, an assessment in the traditional sense was not required. The USA indicated that it expects to present a new abundance estimate to the Scientific Committee at its next meeting (based on a successful census this year) and that it would contribute to, and co-operate fully with, the assessment scheduled for 2004. The UK was disappointed that information on time to death had not been submitted for this hunt since whaling operations should supply all relevant data to the Commission.

Regarding Eastern North Pacific gray whales, the USA advised that, based upon a court decision, the Makah hunt had been closed in June 2000 with no whales taken in 2000. The Russian Federation stated that the *SLA* system under elaboration, must take into account the very small percentage (approx. 1%) of struck and lost whales in gray whale catches.

Regarding fin and minke whales off Greenland, the Scientific Committee had reported that it has never been able to provide satisfactory scientific advice on either of these stocks - a reflection of the lack of data relating to both stock structure and abundance and the reason why the Scientific Committee called for a Greenland Research Programme to be established in 1998. The inability to provide advice is a matter of great concern, particularly in the case of fin whales where the best available abundance estimate dates from 1987/88 and is only 1,096 (95%CI 520-2,106). The Scientific Committee urged continued funding of the research recommendations at the requisite levels, by both Greenland and the IWC and reminded the Commission that without such information it may be many years before it is able to provide satisfactory scientific advice on these stocks. Even with the success of the programme, the Scientific Committee considered it difficult to envisage that a suitable *SLA* (or *SLAs*) could be developed for the Greenlandic fisheries before 2006. In the Sub-committee meeting, Denmark fully accepted the need for research, noted that it would honour its commitments and urged the Commission to do the same.

Regarding North Atlantic humpback whales off St. Vincent and The Grenadines, the Scientific Committee had reiterated its view of the last two years that a catch of up to three whales taken annually would be unlikely to harm this stock. It had also: (1) noted that the question of the abundance and population identity of humpback whales in the south-eastern Caribbean remains unresolved; and (2) reiterated its request that photographs and tissue samples for genetic analysis of animals taken in the hunt be collected and analysed, and the results presented to the Scientific

<sup>24</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).



Committee. The Scientific Committee had heard that some samples had been collected from animals taken in St Vincent but that these had not yet been analysed. In the Sub-committee, New Zealand stated that it was willing to offer its expertise in genetic analysis to St. Vincent and The Grenadines.

#### 8.2.2 *Commission discussions and action arising*

In response to a request from Mexico, the USA provided further information on latest developments in the Makah gray whale hunt. It recalled that as reported last year, a US court had ruled that the environmental assessment associated with the Makah hunt should be redone, although the right of the Makah to conduct the hunt was not questioned. The USA reported that the new environmental assessment for 2001/2002 released by the National Marine Fisheries Service on 13 July 2001, concluded that a limited tribal hunt would not threaten the Eastern North Pacific gray whale population, including small feeding groups. The report also concluded that there is no biological reason to restrict the hunt to the whales' migrating period from November to June nor to restrict it to ocean areas. Allowing a hunt in the Straits of Juan de Fuca is based on scientific information indicating that the gray whales feeding locally intermingle with a larger gray whale population and do not constitute a separate stock. The tribe is limited to taking no more than 5 whales yearly until 2002, consistent with the IWC total catch limits for this stock. The hunt at any time in the Straits of Juan de Fuca or anywhere between June and December is limited to 5 whales struck over 2 years. The National Marine Fisheries Service must now work out a new co-operative agreement with the Makah based on this new environmental assessment. Following a question from Austria, the USA confirmed that cultural, subsistence and nutritional needs were taken into account in the environmental assessment.

Japan noted that the comprehensive assessment of North Atlantic humpback whales had started<sup>25</sup> and that stock levels are estimated to be high. It considered that the stock would not be harmed by the St. Vincent and The Grenadines hunt and that if the latter wished, the catch limit could be increased. Japan further noted that this hunt was conducted using traditional methods leading to the take of a whale accompanied by a calf, and suggested that a Schedule amendment could be made next year to allow such takes as long as they do not harm the stock.

The Commission noted the Sub-committee's report and accepted its recommendations.

### 8.3 Catches by non-member nations

#### 8.3.1 *Report of the Aboriginal Subsistence Whaling Sub-committee*

In its report to the Sub-committee, the Scientific Committee noted that under the authority of a license issued by the Minister of Fisheries and Oceans, one bowhead whale from the Hudson Bay/Foxe Basin stock was landed in the eastern Canadian Arctic on 11<sup>th</sup> August 2000. In its review of this stock last year, the Scientific Committee had received an abundance estimate of 'at least' 485 animals and identified a number of ways in which the estimate could be improved. It had also received information that the Government of Canada had set a Total Allowable Catch for this stock of 1 animal in three years. Given the low estimated stock size, the lack of information on appropriate methods to manage small populations and the removal of one animal in August 2000, the Scientific Committee urged caution in the setting of any

catch limits for this population and recommended that priority be given to research to: (1) obtain improved abundance estimates; and (2) pursue modelling efforts for use in the management of small populations.

In the Sub-committee, Austria and Germany, referring to Resolution 2000-2<sup>26</sup> passed last year, expressed their disappointment with the taking of one bowhead whale by Canada and called upon the Canadian Government to refrain from allowing further catches of bowhead whales.

#### 8.3.2 *Commission discussions and action arising*

In the Commission, Japan commented that in its view, the Canadian hunt would not affect the bowhead stock adversely, and called on the Government of Canada to rejoin IWC.

The Commission noted the Sub-committee's report and accepted its recommendations.

### 8.4 Contaminated gray whales from the North Pacific eastern stock

#### 8.4.1 *Report of the Aboriginal Subsistence Whaling Sub-committee*

In reporting to the Sub-committee, the SWG Chair noted that although the title of this Agenda Item used the word 'contaminated', this should not be taken to imply that the cause of the 'strong' smelling gray whales reported last year was known and could be attributed to contamination. Norway concurred with these comments, noting that there are several possible causes for these strong-smelling whales, including natural diseases. The SWG Chair further noted that the Scientific Committee had been informed that no such whales had been reported this year and that a joint Russian Federation/USA project to investigate this issue has been established. The Sub-committee welcomed this report and looked forward to receiving a report of the joint project at a future meeting.

#### 8.4.2 *Commission discussions and action arising*

Japan was pleased to hear that no 'contaminated' whales had been reported this year. It considered that it is important to investigate the cause of this problem and indicated that it would be willing to help the Russian Federation if requested.

The Russian Federation noted the support of the USA and Japan's offer of help. It further noted that since the whales taken last year were not edible, it considered that a special status could be applied to these with respect to the catch limit.

The Commission noted the Sub-committee's report and accepted its recommendations.

## 9. REVISED MANAGEMENT SCHEME<sup>27</sup>

### 9.1 Revised Management Procedure (RMP)

#### 9.1.1 *Report of the Scientific Committee*

##### GENERAL ISSUES

The Scientific Committee, following last year's agreement that the new program implementing the *Catch Limit Algorithm* written by the Norwegian Computing Centre should be used by the Secretariat, has completed all but one of the tasks required to achieve this. The final task will be completed by the 2002 meeting. The value of the tuning parameter for the RMP that produces a 72% final depletion in the D1 trial is 0.4020 and this will now be used.

<sup>26</sup> See *Ann. Rep. Int. Whaling Comm. 2000*: 55.

<sup>27</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

<sup>25</sup> See Item 6.5.1.

Last year the Scientific Committee identified work necessary to consider the question of the population component to which MSYR, MSYL and density-dependence should apply (this is relevant to both the RMP and the AWMP) but time constraints mean that this must now be completed intersessionally for discussion at next year's meeting.

The Scientific Committee continued to address a number of issues related to abundance estimation. In particular, it recommended that additional variance between *Small Areas* should also be included when the capping or cascading options in the RMP are used and that every estimate for a *Management Area* should be assigned a time stamp that is an effort-weighted average. The Committee made a number of recommendations for future work and developed a workplan for this topic.

On the basis of work carried out recently, the Scientific Committee recommended a number of modifications and additions to the explanatory annotations to the RMP<sup>28</sup>.

#### IMPLEMENTATION SIMULATION TRIALS

*Implementation Simulation Trials* are trials that are carried out before using the RMP to calculate a catch limit and involve investigating the full range of plausible hypotheses related to a specific species and geographic area.

The process of developing *Implementation Simulation Trials* is not the same as identifying the 'best' assessment for the species/region, but involves considering a set of alternative models to examine a broad range of uncertainties with a view to excluding variants of the RMP that show performance that is not sufficiently robust across the trials. Account needs to be taken of the plausibility of the various trial scenarios when evaluating RMP variants.

The Scientific Committee discussed the general question of how best to ensure that the process of carrying out *Implementations* (or *Implementation Reviews*) is efficient and prompt, whilst taking into account the available information. To achieve this it agreed that they should be conducted at discrete intervals, using the data available at one point in time. The whole process should be completed in two consecutive meetings of the Committee.

#### NORTH PACIFIC COMMON MINKE WHALES

At the 2001 meeting, the Scientific Committee's work concentrated on *Implementation Simulation Trials* for North Pacific minke whales. The major factors being considered relate to stock identity and levels of anthropogenic removals other than direct whaling, such as bycatches in fishing gear. The Committee received new information on stock structure and recognised that this and other new information meant that some revision to the trial structure was necessary. The Committee agreed a timetable for its work on this implementation and will aim to recommend to the Commission one variant of the RMP at the 2002 meeting, irrespective of any further data forthcoming in the interim - this will constitute the end of the present *Implementation*. Any new information will be considered at the next *Implementation Review*. Finally, the Committee recommended that an in-depth assessment of North Pacific minke whales, particularly to include the 'J' stock, be conducted urgently after the completion of the current *Implementation Simulation Trials*.

The Committee also discussed appropriate estimates of abundance for use in the RMP. It approved the design of future surveys for the North Pacific and stressed that biopsy sampling on the surveys should be encouraged. The Committee made a number of recommendations about the contents of future research plans submitted for review. The Committee also recommended that the Commission requests the relevant authorities of the Russian Federation to grant permission in a timely fashion for Japanese vessels to undertake surveys in its EEZ.

#### NORTH PACIFIC BRYDE'S WHALES

The Scientific Committee is in the process of developing initial *Implementation Simulation Trials* for western North Pacific Bryde's whales. In particular, it agreed that next year it would review the reliability of catch statistics (in the light of information suggesting that some catch data for Japanese land stations might be unreliable, based on a recently published book in Japanese) and the need to incorporate any uncertainty about such statistics in the trial structure. The Committee also approved plans for sightings surveys and recommended that biopsy sampling be undertaken, particularly in lower latitudes.

#### NORTH ATLANTIC MINKE WHALES - PLAN FOR IMPLEMENTATION REVIEW IN 2002

The Scientific Committee began to plan for an *Implementation Review* of North Atlantic minke whales, which will take place at the meeting in 2002. Amongst the new information to be considered will be new abundance estimates based on surveys carried out since 1995. The Committee noted that a Norwegian research vessel planning to do a sightings survey (in accordance with Committee guidelines and requirements) in the North Sea was denied access to the UK EEZ. The Committee therefore emphasised its hope that all nations in the region will provide clearance for and/or collaborate in conducting surveys in their waters to enable more complete coverage of this portion of the species' range.

Many members recommended that the Commission request the relevant authorities in the UK to grant permission for Norwegian research vessels to survey in its EEZ waters in the future. They expressed deep concern that not all members of the Committee supported their recommendation. Access to EEZ regions for sightings surveys is essential to the work of this Committee and more generally essential to the conduct of marine research worldwide.

#### BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

The RMP estimates a limit for the number of non-natural removals, not simply a catch limit for commercial whaling. It is therefore important to estimate the numbers of whales removed from the population by indirect means including bycatches in fishing gear and ship strikes, for example.

The Scientific Committee began to consider this issue in some detail this year. It agreed that priority should be given to those areas where the RMP is likely to be implemented - such as the northwestern Pacific and the northeastern Atlantic. Four steps are required: (1) identification of the relevant fisheries; (2) description and categorisation of those fisheries to allow a sampling scheme to be devised; (3) identification of a suitable sampling strategy or strategies; and (4) design and implementation of the sampling scheme to enable estimation of the total bycatch.

<sup>28</sup> These can be found in Appendix 4 of Annex D to the Scientific Committee Report (see *J. Cet. Res. Manage.* 4 (Suppl.)).

The Committee reviewed general methods for estimating bycatches. These fall under two headings: those based on fisheries data and observer programmes; and those based on genetic data. The former have been used successfully for several small cetacean populations. The Committee agreed that independent observer schemes are generally the most reliable means of estimating bycatch rates in a statistically rigorous manner, but that they may not always be practical and will require careful design.

The latter potentially represents a new way of estimating bycatches. The Committee agreed that although genetic methods based on market samples may not be the primary approach to estimating bycatch, they could provide useful supplementary data that could not be obtained in another way. The use of market samples to provide absolute estimates should not be ruled out but would require further developments in sampling design with input from experts outside the Committee with detailed knowledge of market sampling issues. The Committee will consider these issues further next year.

### 9.1.2 Commission discussions

#### GENERAL ISSUES

Japan noted that the bulk of the work on the revision of the CLA (Catch Limit Algorithm) program and tuning was complete and recognised the contribution made by Norway and the Secretariat to this work. Japan regretted that time constraints had prevented calculations specified last year on the population component to which MSYR, MSYL and density dependence should apply from being done since it believes that different management standards have been used in the RMP and AWMP. Japan urged that work be done intersessionally so as to arrive at common criteria next year.

As in other years, the Republic of Korea drew attention to the use of the name 'Sea of Japan' and indicated that it would like simultaneous use of the name 'East Sea'. The Chair noted this comment, but indicated that the Commission was not the appropriate place to discuss this matter.

#### IMPLEMENTATION SIMULATION TRIALS (NORTH PACIFIC MINKE AND BRYDE'S WHALES)

Japan regretted that more progress had not been made on the *Implementation Simulation Trials* for North Pacific minke and Bryde's whales. It believed that progress with the North Pacific minke whale trials had been delayed by the introduction of a putative hypothesis for the existence of sub-stocks - a hypothesis that it considered had been disproved by results from the JARPNII programme. Japan noted that it has been carrying out a variety of research activities (including JARPNII, joint Japan/Korea observation survey, DNA analyses) and that its activities will be strengthened with the aim of completing the RMP. Japan requested that progress be made on North Pacific Bryde's whale *trials* before the next Annual Meeting.

The Republic of Korea was concerned that the *Implementation Simulation Trial* results did not reflect the correct status of the minke whale stocks along the Korean peninsula which it considers to be abundant - a view supported by recent surveys in the area and an increase in the number of animals becoming entangled in fishing gear. The Republic of Korea noted the limitations of using estimated bycatch figures in the *trials* and referred to its strict mandatory bycatch and strandings reporting system which is being improved and re-enforced in domestic law. Finally, it

reported that it would continue to contribute to the work of the Scientific Committee and welcomed regional co-operation with neighbouring countries.

#### NORTH ATLANTIC MINKE WHALES - PLAN FOR IMPLEMENTATION REVIEW IN 2002

Discussions within the Commission related to the UK's refusal to allow access of a Norwegian research vessel in its EEZ for the purposes of a sighting survey. Denmark reported its disappointment that the UK had also denied access to one of its research vessels when it had requested access (on behalf of the Faroe Islands) for a similar purpose. While Denmark recognised that the UK has the right under UNCLOS to deny access to its EEZ, it pointed out that this right is normally never used since it is generally recognised that coastal states and international management organisations manage the living marine resources under their jurisdictions on the basis of the best scientific advice. Coastal states therefore have an obligation to co-operate in the management and study of living marine resources, including cetaceans. With respect to the conservation, study and management of cetaceans in particular, Denmark referred to the requirement in Chapters C and D of Agenda 21 that States should co-operate, and it further noted that information derived from sightings surveys are a pre-requisite for the implementation of the RMP. Denmark requested the government of the UK to reconsider its decision.

Norway associated itself with Denmark's remarks. It went on to note: (1) that it had applied for permission to survey in UK waters with the aim of estimating the abundance of Northeastern Atlantic minke whales to ensure proper management of the species; (2) that the survey formed part of the Comprehensive Assessment programme developed by the Scientific Committee and approved by the Commission; (3) that the Scientific Committee plays an integral role in the planning and analysis of the data collected; and (4) that the information from the survey would contribute to a co-operative project between IWC and NAMMCO (North Atlantic Marine Mammal Commission). It further noted that the UK denial did not facilitate the key purpose of the International Convention for the Regulation of Whaling, i.e. the proper management and conservation of whale stocks through international co-operation. Referring to the long-standing co-operation between Norway and the UK in scientific research, Norway again requested the UK to reconsider its decision.

Sweden, Japan and Iceland associated themselves with the remarks of Denmark and Norway. Monaco expressed unease that the UK had denied access to its EEZ for the purposes of non-lethal research and hoped that a way could be found to resolve such issues.

In response to the views expressed, the UK indicated that it regretted denying access to the Danish and Norwegian vessels but that this was done after careful consideration. The UK explained that its decision regarding the Norwegian vessel took account of the following: (1) that it considered that the sighting survey was not in the best interest of whale conservation, as its primary objective was to provide an abundance estimate that Norway would use to perpetuate its self-awarded minke whale quotas; (2) that Norway continues to disregard decisions taken by IWC and other fora such as CITES; (3) concern over Norway's decision to change the RMP tuning level from 0.72 to 0.66 to increase its catch quota; and (4) Norway's decision to export whale products to other countries. The UK felt that Norway's actions had disrupted their long-standing scientific co-operation to the

extent that it had had to reject its survey application, but it hoped good relations with Norway could be restored. The UK explained that refusal to allow the Danish vessel to survey in its EEZ was a direct consequence of its response to Norway. Finally, the UK noted the requests to reconsider its decision and gave an undertaking to do so.

Norway noted that the UK had chosen to put its own political considerations above the role of the IWC in managing whale stocks.

#### **BYCATCH AND OTHER HUMAN-INDUCED MORTALITY**

There was no discussion of the Scientific Committee report, although a Resolution on the incidental capture of cetaceans was introduced (see Item 9.1.3. Action arising).

##### *9.1.3 Action arising*

The Commission noted the report from the Scientific Committee on work related to the RMP and accepted its recommendations and workplan.

#### **RESOLUTION ON THE INCIDENTAL CAPTURE OF CETACEANS**

In introducing this Resolution on behalf of the co-sponsors Austria, Germany, Mexico and the UK, New Zealand referred to the accidental bycatch of both large and small cetaceans in fishing gear, particularly gillnets, as a widely acknowledged problem. It noted that the proposed Resolution was based on the simple principle of creating a disincentive to the incidental capture of whales by: (1) creating an obligation to release such animals alive where possible; and (2) where this is not possible, to only permit the commercial exchange of those animals/species subject to a quota. A DNA sample for such animals should be forwarded to the appropriate diagnostic register, and the animals should be counted against the quota. New Zealand stressed this latter point in view of the importance of reliable bycatch estimates when deriving catch limits under the RMP and that without it, there would be no incentive to confront the problem of increasing bycatch.

New Zealand noted and expressed its appreciation for the progress achieved by the Working Group on Estimation of Bycatch and Other Human-Induced Mortalities, and urged all members to participate and co-operate fully. It also noted new regulations announced by Japan allowing fishermen to kill and market bycaught whales if it is not feasible to release them. New Zealand considered that it is necessary to provide fishermen with the necessary technical advice to optimise the chances of releasing trapped whales, and that for this reason, the proposed Resolution requests the Scientific Committee to provide a summary to the Commission's 54<sup>th</sup> Annual Meeting of its recent work on methods to mitigate the incidental capture of large cetaceans in fishing gear, and ways to disentangle them with minimal risk to rescuers.

Germany, the UK, the Netherlands and Sweden spoke in support of the Resolution. The UK and the Netherlands stressed the importance to the RMP of estimating incidental catches and the UK expressed concern that commercialisation of animals from stocks for which no quotas are set would encourage capture.

Japan, Antigua and Barbuda, Denmark, the Republic of Korea, St. Vincent and The Grenadines, St. Lucia, Dominica, Grenada and Iceland did not support the proposal. Some of these countries considered that the Resolution addressed issues outside the competence of IWC (e.g. small cetaceans) and was therefore inappropriate. Antigua and Barbuda: (1) drew attention to the potentially high costs involved (a recent rescue attempt of a stranded whale off the US coast was estimated to have cost 1 million US\$ after two

weeks) which the Resolution did not address; and (2) considered that whales dying inadvertently after a rescue attempt should be used regardless of whether they were subject to a quota. The Republic of Korea and Dominica also considered that bycaught animals should be used for food. Denmark believed that the Resolution would be difficult, if not impossible to implement in Greenland for various reasons including (1) that the low temperature of the water makes rescue attempts risky, (2) that it is not always possible to take DNA samples and (3) that damage to equipment from whales caught in fishing nets can be very costly.

On being put to a vote, the Resolution received 22 votes in favour, 14 against, with one abstention and was therefore adopted by a simple majority (Resolution 2001-4, Annex C).

#### **RESOLUTION ON JAPANESE HISTORICAL WHALING RECORDS**

Italy introduced a Resolution on Japanese historical whaling records on behalf of the co-sponsors Austria, Germany, Mexico, the Netherlands and the USA that urged the Government of Japan to review questions raised by the Scientific Committee in 1998, 1999 and 2001 regarding data previously submitted by Japan and addressed by the Scientific Committee, and to report back to the Committee in 2002. Japan objected to the credibility of its whaling statistics being questioned and considered the Resolution to be inappropriate. It reported that as the book questioning the reliability of Japanese land station catch statistics had only just been published, it had not had a chance to review the data properly, or to question the author. However, Japan indicated that it was prepared to investigate and report back next year to either the Infractions Sub-committee or to the Commission.

Noting that the Commission had already endorsed the Scientific Committee's report that identified the further work to be done on this issue, the Chair questioned the need for the Resolution and asked the sponsors whether it could be withdrawn. After consultation and in the spirit of co-operation, the sponsors agreed to the Chair's suggestion.

## **9.2 Revised Management Scheme (RMS)**

### *9.2.1 Report of the Revised Management Scheme Working Group*

The report of the RMS Working Group meeting was summarised by its Chair, Mr Fer von der Assen (the Netherlands). The meeting took place over 18 and 19 July and was attended by delegates from 34 Contracting Governments. The full report is available as Annex 7.

The Working Group Chair recalled that on the basis of Resolution 2000-3, the Group had met from 6-8 February 2001 in Monaco to make further progress on the revision of Chapter V of the Schedule and to develop a text to incorporate the structure and elements of the RMS into the Schedule. He noted that the revised documents resulting from the intersessional meeting, together with written comments submitted subsequently by various Contracting Governments, formed the basis for the Working Group's deliberations in London.

Referring to the outcome of the London meeting, the Chair reported that the Working Group had not been able to resolve all the outstanding issues, but that it did make some progress on both the substance of the issues under consideration and on the question of how to take the work forward.

#### **INCORPORATION OF THE RMS INTO THE SCHEDULE**

A Secretariat proposal for revisions to and re-organisation of the Schedule formed the basis for discussions under this item. The Working Group Chair reported that several delegations indicated general support for the revised structure while indicating that some of the provisions contained in the draft could give rise to problems, and added that it was generally recognised that reaching agreement on substantive changes should have priority over editorial changes which could be decided at a later date.

While the Working Group agreed with many of the proposed changes, the Chair reported that major areas of disagreement remained with respect to: (1) Ireland's proposal to limit the catching of whales to EEZs or other waters within 200 miles of the coast; (2) text relating to commercial catch limits for baleen whales (i.e. text particularly relating to paragraph 10(e)); (3) Ireland's proposal that the meat and products of whales are to be used exclusively for local consumption; and (4) the UK's proposal that in addition, meat and whale products derived from scientific permit whaling should not be sold or offered for sale. In the absence of agreement in these areas, the Working Group Chair reported that the equivalent text from an earlier draft Schedule (i.e. IWC/53/RMS 3) had been inserted. An additional aspect not resolved were the regulations on the capture of cows and calves. In this case, text from the existing Schedule was re-inserted.

#### **REVISIONS TO CHAPTER V, SUPERVISION AND CONTROL**

Discussions here focused on: (1) a New Zealand proposal to include a 'statement of principle' at the beginning of the Chapter to describe the scope, mandate and purpose of any RMS; (2) the international observer scheme, including coverage by observers, reporting frequency, right to object to the appointment of observers, cost recovery and DNA registers; (3) oversight and review of whaling activities; (4) landing sites and land stations; and (5) a New Zealand proposal on rule-making power.

Regarding the proposed inclusion of a 'statement of principle', the Working Group Chair reported that as there were opposing views on the need for such a statement, it had not been possible to take the issue further. He noted the suggestion that it might be resolved after agreement is reached on the rest of Chapter V.

On the issue of observer coverage, the Chair noted that the main point of contention is whether, if there is only room for one additional person on a boat, this place should be taken by a national inspector or international observer. As differences of opinion remain, the Chair reported that he believed a compromise should be possible and that further thought should be given to having national inspectors on board vessels with international observers on shore, and/or the possibility of either national inspectors or international observers fulfilling both roles.

On the question of frequency of reporting by the international observer on whales hunted, struck and/or killed, the Chair noted that a number of possible compromises were suggested that could form the basis for agreement, i.e. reducing the frequency to 48 or 72 hours, weekly reporting increasing to daily reporting as the quota is being approached; examination of the way it is handled in other Conventions.

The Working Group Chair reported that agreement could also not be reached on whether Contracting Governments should have the right to object to the appointment of an international observer, or on the recovery of costs associated with the inspection and observation scheme despite the

introduction of some compromise proposals. Regarding DNA registers, the Chair noted that the primary issue is not whether it is useful to have DNA registers of all whales killed, since all parties agree on this, but whether there is a need for a central register - some countries holding the view that this is not a matter for IWC, with others maintaining that this is an essential part of a transparent inspection and observation scheme.

On the question of oversight and review, the Chair noted that proposals from the UK and New Zealand received support from a limited number of countries, while others believed that the existing mandate of the Infractions Sub-committee would be sufficient to deal with compliance issues.

The Working Group Chair recalled past discussions over the use of the terms 'landing sites' and 'land stations' throughout the text of Chapter V, and reported that there was now agreement to replace both these terms with the phrase 'at point of landing'. He noted that while some countries supported the New Zealand proposal to insert an additional paragraph to provide the basis for further regulations that may be required to implement the inspection and observation scheme, one country considered it too complex to address what it considered to be essentially straightforward technical issues, and that several others required more time to consider the proposal. It was therefore agreed to revisit this issue at a later stage. Finally the Chair reported that there had been insufficient time to discuss the UK's proposal for the collection of data relating to whale killing methods and associated welfare issues.

#### **PROPOSAL FOR FURTHER WORK**

The Chair introduced the Working Group's consensus proposal that an Expert Drafting Group (EDG) be constituted and its composition approved by the Commission at the 53<sup>rd</sup> Annual Meeting to progress the work interessionally. The following terms of reference were also proposed:

- (1) The EDG shall prepare a consolidated draft for the replacement of Chapters V and VI of the current Schedule. The consolidated draft shall be based on the current draft for Chapter V in document IWC/53/RMS2 and the draft for Chapter VI (Information Required) in Appendix 4 of the RMS Working Group report, and shall take into consideration further comments and explanations received at the present meeting of the RMS Working Group, including the UK's proposal for the collection of welfare data. Relevant Scientific Committee recommendations from recent years should also be taken into account.
- (2) The consolidated draft shall contain as few square brackets as possible. In the case of disagreements on minor items, the EDG shall develop compromise text. In the case of disagreement as to whether a major item should be included, the EDG should nevertheless prepare detailed text for the item, but include the entire item in square brackets. The reasons for the inability to agree should be clearly explained in annotations to the consolidated draft.
- (3) The EDG has the authority to rearrange, revise and renumber paragraphs in the current draft texts for Chapters V and VI as appropriate, but should not attempt to merge them with other parts of the Schedule.

The Chair reported that the proposed composition of the EDG included: (1) a limited number of experts nominated by Commissioners representing a balance of interests within the

Commission and with sufficient status to be authorised to negotiate appropriate compromises; and (2) representatives from the Secretariat. He noted the proposal that the EDG meet at least once, in the intersessional period, probably in Cambridge and that the consolidated draft of Chapters V and VI should be completed and circulated to Commissioners and Contracting Governments not later than 15 March 2002, for consideration at the 54th Annual Meeting.

Lastly, the Working Group Chair reported that one country had reiterated its position on the RMS and explained that because of that position it could not be considered to form part of the consensus proposal. Another country had noted its reservation over the exclusion of observers from the EDG.

### 9.2.2 Commission discussions and action arising

#### SCHEDULE AMENDMENTS

Although Japan had hoped to propose a Schedule amendment relating to the RMS, it indicated that it was not in a position to do this since insufficient progress had been made by the RMS Working Group.

A proposed Schedule amendment and a procedure for further progress on the RMS from Argentina, Brazil, Chile, Finland, Ireland, Italy, New Zealand, Oman, South Africa, Spain, Sweden and Switzerland was withdrawn.

#### RMS WORKING GROUP PROPOSALS

The Commission agreed to establish an Expert Drafting Group with terms of reference as proposed. It also agreed that:

- the group should comprise representatives from Antigua and Barbuda, Denmark, Japan, New Zealand, Norway, Sweden, the UK, the US and the Secretariat, and be chaired by Henrik Fischer (Denmark);
- each country would appoint one spokesperson who could be accompanied by up to two advisors and an interpreter or personal assistant if necessary;
- the first EDG meeting would take place in Cambridge in October 2001, with costs being met by the Commission's existing budget;
- that the EDG may decide that a second meeting is necessary.

#### OTHER

Argentina and Oman introduced a Resolution proposing that the following text be inserted into the RMS text: *Commercial whaling in accordance with this Schedule in waters subject to national jurisdiction shall be permitted only if domestic legislation allows such whaling*'. After some discussion, it was agreed that rather than dealing with this proposal as a Resolution, the proposed text would be forwarded and considered by the RMS Working Group

#### RESOLUTION ON COMMERCIAL WHALING

In introducing the proposed Resolution on Commercial Whaling, Germany expressed concern on behalf of its co-sponsors (Austria, Italy, New Zealand, the USA and the UK) regarding the on-going whaling activities taking place in spite of the existing moratorium. With respect to commercial whaling, it noted that Norway has: (1) continued to take whales despite numerous Resolutions and statements urging them to respect the moratorium; (2) decided to take a less conservative approach by using a less protective tuning

level; and (3) decided to resume international trade, despite minke whales being listed on Appendix I of CITES and reports of high levels of contaminants in blubber.

In response, Norway objected to the statement that the tuning level of 0.66 it uses to set catch limits is less conservative, noting that it is in the middle of the range of safe values (0.6 to 0.72) shown by the Scientific Committee to be robust against quite extreme violations in assumptions. Furthermore, it found it unacceptable that the Resolution's sponsors were not respecting a country's right under international law to lodge reservations, even where such action is a specified right as it is in CITES and the IWC - particularly when other countries have exercised such rights. Concerning resumption of international trade, Norway noted that since a majority of Parties to CITES consider that the two stocks of minke whales Norway has proposed for downlisting to Appendix II are not threatened with extinction, its government had decided that there was no basis for continuing the ban on issuing export permits. Norway added that this decision is in accordance with international law. Regarding levels of contaminants, Norway questioned to which reports Germany was referring, since a recent Norwegian report of contaminant analyses in blubber from 83 minke whales caught in 1999 and 2000 concluded that PCB levels in fin tail and tongue blubber (the most likely types to be exported), were below the level of 0.5 ppm - the maximum allowed level in food items according to Japanese health regulations, and that the total level of dioxin equivalents was far below the WHO recommended maximum levels. In view of the above, Norway urged that the Resolution be withdrawn. Iceland, Antigua and Barbuda, Grenada, Dominica, the Russian Federation and Japan supported the position of Norway.

The USA, the UK, Italy, Australia, Brazil, the Netherlands and New Zealand indicated their support for the Resolution. The USA recalled that numerous similar Resolutions had been adopted in the past but that Norway had continued commercial whaling and had now indicated that it will re-open trade in whale products - actions contrary to the moratorium and to CITES. The USA noted its continued concern over the tuning level used by Norway, believing that if Norway continued its commercial whaling, the more conservative level adopted in 1991 and reaffirmed by consensus Resolution 1994-5 should be used. The UK, while not seeking to challenge Norway's rights under the Convention, made the following two points: (1) that since the tuning level was agreed in 1991, all further work by the Commission/Scientific Committee has been based on the adopted tuning level of 0.72 and that it was not aware that Norway had done any work on alternative tuning levels; and (2) that the proposal at CITES COP11 to downlist certain whale species was not adopted. The UK clarified that it does not have any reservations on species listed on Appendix I or II of CITES. Australia commented that it is aware of the formal legal position of Norway with respect to the Convention, but expressed the view that merely because a country is acting within international law does not mean that it should not be urged to change. New Zealand felt that Norway had not responded adequately to the issue of using a less conservative tuning level.

Responding to the UK, Norway reported that it had carried out all necessary calculations to show that tuning levels of 0.66 and 0.60 were appropriate and that these had been presented to and discussed by the Scientific Committee in 1994/1995. It also noted that it accepted the value presented by the Scientific Committee but not necessarily the Resolution from 1991.

On being put to a vote, the Resolution was adopted (Resolution 2001-5, Appendix 2), receiving 21 in favour, 15 against and one abstention. Iceland indicated that it did not support the Resolution. Switzerland indicated its strong reservation to the first operative paragraph.

#### NAMMCO STATEMENT

The NAMMCO representative explained that the organisation, whose members are the Faroe Islands, Greenland, Iceland and Norway, is an international body for co-operation in the conservation, management and studies of marine mammals in the North Atlantic. NAMMCO has followed the development and lack of progress with the RMS. It expressed particular interest in the Commission's discussions on supervision and control and went on to describe its own Joint Control Scheme adopted in 1996 and implemented in 1998. The purpose of the Scheme is to provide a mechanism for NAMMCO to monitor whether the decisions of the Commission are respected. It therefore appoints observers to oversee hunting and inspection activities. The Scheme takes account of the different ways whaling and sealing are carried out in the different member countries. The underlying principle of management and conservation measures in NAMMCO is the sustainable use of marine mammals, with these measures being based on the best available scientific advice, including abundance estimates based on sighting surveys. In this respect NAMMCO expressed its regrets that the UK had denied access to Faroese and Norwegian research vessels conducting cetacean sighting surveys in the North Sea. It noted that this work formed part of the work of its Scientific Committee and considered that denial of access to a portion of the survey area will jeopardise its work. It hoped that this action of the UK would remain an isolated incident.

## 10. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

### 10.1 Proposal to amend the Schedule

As in previous years, Japan introduced a proposal to amend paragraph 10 of the Schedule to provide an interim relief allocation of 50 minke whales for its four small-type whaling communities by adding a new sub-paragraph 10. (f) as follows:

*'Notwithstanding the other provisions of paragraph 10 and those of paragraph 12, the taking of 50 minke whales from the Okhotsk Sea-West Pacific stock of the North Pacific is permitted from the 2001 season in order to alleviate the hardship in the four community-based whaling communities of Japan. This provision shall remain in effect until such take is permitted by some other means under the Convention.'*

Japan urged the Commission to support this proposed Schedule amendment for the following reasons: (1) it has thoroughly documented the socio-economic, cultural, religious and dietary needs of these four communities and the distress caused to them by not allowing any takes of minke whales; (2) IWC has repeatedly acknowledged this distress via a number of Resolutions including Resolution 2000-1 adopted at the 52<sup>nd</sup> Annual Meeting of the Commission; (3) member countries have made an international commitment to the principle of sustainable use of natural resources, and more particularly to the mandate of the ICRW itself for not only the conservation of whale stocks but also the orderly development of the whaling industry; (4) the international community has agreed in several fora to the

need to respect different cultures; and (5) the IWC has no conservation reason to reject Japan's request since the North Pacific minke whale stock is healthy.

### 10.2 Commission discussions and action arising

The Republic of Korea, St. Vincent and The Grenadines, Morocco, the Republic of China, Denmark, Norway, the Russian Federation, Antigua and Barbuda, St. Kitts and Nevis and St. Lucia all spoke in support of Japan's proposed Schedule amendment. St. Vincent and The Grenadines urged the Commission to be more understanding of small island developing states and countries with large coastlines who depend heavily on resources from their surrounding waters. St. Kitts and Nevis and St. Lucia agreed. Norway, while not generally in favour of creating an increased number of whaling categories, considered that in view of the cultural aspect of the proposal, Japan's request could be accommodated within the concept of aboriginal subsistence whaling. Norway further noted, as in previous years, that it is the failure of the Commission to adopt the RMS that leads to a situation where people who would have otherwise been able to conduct legitimate commercial whaling are prevented from doing so. Australia, the USA and New Zealand spoke against the proposed Schedule amendment since it would be an exception to the moratorium and therefore would not be in line with the current Schedule.

On proceeding to a vote, there were 15 votes in favour of the proposed Schedule amendment, 20 against and 2 abstentions. The proposed amendment was therefore not adopted. Iceland noted that it supported the proposal.

#### RESOLUTION ON JAPANESE COMMUNITY-BASED WHALING

The Resolution proposed by Antigua and Barbuda, Dominica, Grenada, the Republic of Guinea, Japan, Norway, Panama, Russian Federation, Solomon Islands, St. Kitts and Nevis, St. Lucia and St. Vincent and The Grenadines reaffirming the Commission's commitment to work expeditiously to alleviate the distress caused by the cessation of minke whaling to the four coastal Japanese communities proceeded straight to a vote since it was similar to Resolutions put before the Commission in previous years. As there were 20 votes in favour, 14 against and 3 abstentions, the Resolution on Japanese Community-Based Whaling was adopted (Resolution 2001-6, Appendix 2). Iceland noted that it supported the Resolution.

St. Vincent and The Grenadines drew attention to the fact that the same Resolution had been adopted last year, and expressed disappointment that no progress had been made. Switzerland noted that it considered this matter to be directly related to the completion of the RMS and viewed it in that light.

## 11. SCIENTIFIC PERMITS<sup>29</sup>

### 11.1 Report of the Scientific Committee

#### 11.1.1 Assessing impacts on stocks

The Scientific Committee examined the results of some intersessional work carried out to improve its ability to assess the impact of scientific permit catches on stocks. In considering this, the Committee agreed that the exercise had provided a useful example of an approach to providing advice on the effect on stocks of scientific permit catches. However, it noted that further modelling approaches need to

<sup>29</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).



be examined and abundance estimates agreed before specific advice on the effect of JARPA on Antarctic minke whale stocks can be provided.

#### *11.1.2 Review of results from existing permits*

The Scientific Committee received a number of documents detailing results from the JARPA and JARPNII programs. Results were considered under relevant agenda items.

#### *11.1.3 Review of new or revised proposals*

Much discussion at the 2000 meeting had centred on a proposal for a new programme (JARPN II) that involves taking 100 common minke whales, 50 Bryde's whales and 10 sperm whales each year<sup>30</sup>. The stated goal was to obtain information to contribute to the conservation and sustainable use of marine living resources in the western North Pacific. It includes sub-projects on: feeding ecology; stock structure; and environmental effects on cetaceans and the marine ecosystem. There had been considerable disagreement within the Committee over most aspects of this research programme, including objectives, methodology, sample sizes, likelihood of success, effect on stocks and the amount and quality of data that could be obtained using non-lethal research techniques. This year, the Committee received preliminary results from the first year of the programme and again there was considerable disagreement over the value of the programme.

The Committee also briefly considered the continuing programme on Antarctic minke whales that was last extensively reviewed in 1997<sup>31</sup>. Discussions on how best to assess the effects of scientific permit catches on stocks are continuing.

Recognising that scientific benefits are only one of several criteria given by the Commission to evaluate proposals, the Scientific Committee has established an intersessional steering group to: generate a list of approaches potentially useful for quantifying the scientific benefit of research catches and the features of a proposal needed for such analyses.

## **11.2 Commission discussions**

### **SCIENTIFIC COMMITTEE REPORT**

There were no comments on the report from the Scientific Committee.

### **JARPN II – PRESENTATION BY JAPAN**

Japan reported the results from the first year of its two-year (2000/2001) feasibility study – JARPN II under special permit. It reminded the Commission that JARRPN II had 3 main objectives: (1) to study the feeding ecology and ecosystem of common minke, Bryde's and sperm whales by investigating prey consumption, prey preference and by ecosystem modelling using these data; (2) to study the stock structure of these whale species; and (3) to study environmental effects, particularly pollution, on cetaceans. Japan drew attention to possible competition between the three whale species and commercial fisheries. In summarising the 2000 data, it noted that: (1) the first attempt at prey consumption/prey preference had been completed successfully, although some adjustments were required; (2) that interesting but preliminary results had been obtained from the ecosystem modelling work; and (3) that work on stock structure and environmental effects is continuing.

### **LEGAL ASPECTS**

Japan introduced two documents it had submitted to the Commission refuting Australia's comment at the 52<sup>nd</sup> Annual Meeting that recent developments in international law raised the possibility that Japan might not be acting within its legal rights when issuing scientific permits. Japan noted the assertion that the issuance of special permits would constitute an abuse of rights if the following two criteria applied: (1) that the research programme made no significant scientific contribution; and (2) that the work was implemented for commercial rather than scientific reasons. It considered that these two criteria are not satisfied, that there was no basis for any allegation of abuse of rights, and that its research programme is fully consistent with the requirements of Article VIII of the Convention.

In response, Australia noted that Japan had just demonstrated its own remark last year, i.e. that it is possible to get different legal opinions. Australia reported that the legal opinion to which it referred last year has since been published in an internationally peer-reviewed journal – the *Asia/Pacific Journal of Environmental Law*, and suggested that Japan might wish to consider submitting its own documents to similar scrutiny.

### **11.3 Action arising**

The Commission noted the report from the Scientific Committee and accepted its recommendations.

### **RESOLUTION ON SCIENTIFIC WHALING**

Ireland recalled that at the Annual Meeting in Monaco in 1997, it had put forward a package of proposals that included the phasing-out of scientific research whaling, but that until now, it had not put forward any further concrete proposals on this particular issue. While recognising the rights of Parties under the Convention to issue Special Permits, the draft Resolution (co-sponsored by Spain, South Africa, Switzerland and Oman) proposed that a voluntary code of practice be adopted under which countries would agree to only issue such permits under certain defined circumstances. Ireland indicated that the purpose of submitting the Resolution was to stimulate discussion, but that since insufficient time was available to do this at this meeting, it would withdraw the Resolution but return to it IWC/54. It added that it had already had useful discussions with some countries outside the meeting, and that it would welcome the opportunity to develop its ideas further.

### **RESOLUTION ON SOUTHERN HEMISPHERE MINKE WHALES AND SPECIAL PERMIT WHALING**

Due to time constraints, the Chair ruled that the Resolution on Southern Hemisphere Minke Whales and Special Permit Whaling, sponsored by New Zealand, Australia, Austria, Brazil, Germany, Mexico, UK, and Argentina proceed directly to a vote, noting that it was similar to others adopted in the past. The Resolution received 21 votes in favour, 14 against, with 1 abstention and was therefore adopted (Resolution 2001-7, Annex C). Iceland noted that it did not support the Resolution.

In brief, the Resolution: (1) commends the Scientific Committee's proposal to complete its review of minke whale abundance in the Southern Hemisphere; (2) endorses the Scientific Committee's proposal to present revised abundance estimates and trends on Southern Hemisphere minke whales at its 2003 meeting; (3) requests the Scientific Committee to provide to the Commission at IWC/54, (a) a list of plausible hypotheses that explain the apparent population decline, and (b) the possible implications of such

<sup>30</sup> See *J. Cet. Res. Manage.* 3 (Suppl.): 61-5.

<sup>31</sup> See *Rep. int. Whal. Commn* 48: 95-105.

a decline for the management of minke whales in the Southern Hemisphere, and for ecologically-related species (in particular other cetaceans), and the state of the Antarctic marine ecosystem; and (3) strongly urges the Government of Japan to halt the lethal take of minke whales conducted under the JARPA programme, at least until the Scientific Committee has reported to the Commission on the impacts of this programme on stocks of minke whales in Areas IV and V.

#### RESOLUTION ON EXPANSION OF JARPN II WHALING IN THE NORTH PACIFIC

Again due to time constraints, the Chair ruled that the Resolution on the Expansion of JARPN II Whaling in the North Pacific proceed directly to a vote. It received 20 votes in favour, 14 against, with 2 abstentions and was therefore adopted (Resolution 2001-8, Annex C). Iceland noted that it did not support the Resolution.

The Resolution: (1) affirms that data gathered under JARPN II on interactions between whales and prey species are not sufficient to justify the killing of minke, Bryde's and sperm whales for research purposes; (2) proposes that any information needed on stock structure can and should be obtained using non-lethal means; and (3) strongly urges the Government of Japan to refrain from issuing any special scientific permit for whaling under JARPN II, but that if it does so, strongly urges that it not be issued until the end of July 2002, to give the Government of Japan adequate time to take into account the views of the Scientific Committee and the Commission.

## 12. ENVIRONMENTAL AND HEALTH ISSUES<sup>32</sup>

### 12.1 Pollution 2000+

#### 12.1.1 Report of the Scientific Committee

Over a period of several years, the Scientific Committee has developed the multi-national, multi-disciplinary research proposal POLLUTION 2000+<sup>33</sup> which has two aims: to determine whether predictive and quantitative relationships exist between biomarkers (of exposure to and/or effect of PCBs) and PCB levels in certain tissues; and to validate/calibrate sampling and analytical techniques. The programme was strongly endorsed by the Commission, ASCOBANS and the ICES Working Group on Marine Mammal Habitats.

Last year, the Commission provided £51,000 for the POLLUTION 2000+ programme; considerably less than required for full funding. After some discussion with the Steering Group for POLLUTION 2000+ (SGP2000+) and the Chair of the Committee, a revised budget for activities to be supported by the IWC in 2000/01 was approved. It was agreed that the initially proposed research programme would be pared down to include only two sub-components: (1) a bottlenose dolphin project, where field studies on live animals would be carried out at several possible field sites (Sarasota Bay and Charlotte Harbor, USA; southern Balearic Islands (Mediterranean Sea) and the Bahamas); and (2) a harbour porpoise project, where studies would be based on samples collected from dead animals.

At the 2001 meeting, the Committee's primary topic concerned pollutant issues, especially related to

POLLUTION 2000+. Progress was made in both sub-projects but was limited due to the shortfall in funding.

#### 12.1.2 Commission discussions and action arising

Japan commented that as a general rule it is interested in the issue of chemical pollution both in relation to effects on human health and on threats to cetaceans but considers it of secondary importance in view of IWC's objectives. Japan was concerned that IWC spends time and funds on this work and considered it serious that the POLLUTION 2000+ includes work only on small cetaceans. It added that if this work is to be implemented, it should be funded from the Small Cetaceans Fund or, in view of the extensive workload of the Scientific Committee, that it be done by a more appropriate forum.

The Commission noted the Scientific Committee report and accepted its recommendations.

### 12.2 SOWER 2000

#### 12.2.1 Report of the Scientific Committee

SOWER 2000<sup>34</sup> is a multi-disciplinary programme developed by the Scientific Committee that will examine the influence of temporal and spatial variability in the physical and biological Antarctic environment on the distribution, abundance and migration of whales. The Scientific Committee also considered progress on the SOWER 2000 programme, particularly with respect to future collaboration with Southern Ocean GLOBEC and preliminary results from last year's collaboration with CCAMLR<sup>35</sup>.

The Scientific Committee recommended that high priority be given to the task of validating the data collected during the joint IWC/CCAMLR cruises, to enable collaborative analyses to proceed. The interdisciplinary approach of cooperative studies between CCAMLR and the IWC benefited both organisations. It was noted that it was very important for IWC to maintain this cooperation to make sure that the remaining analysis of the large whale data, as well as the data verification, proceeds in a timely manner. The Committee also stressed the value of collaboration with SO-GLOBEC.

#### 12.2.2 Commission discussions and action arising

Japan stated that it believed it important to accumulate knowledge on the ecosystem and on the geology of the Antarctic and that it thinks highly of the surveys and research being conducted. However, it entertained doubts about IWC giving priority to research programmes related to CCAMLR and SO-GLOBEC, and considered that environmental work not related directly to the management of large cetaceans had expanded to too large a scale to be appropriate. Finally Japan noted that it is possible that resulting abundance estimates may be negatively biased owing to the research methods employed by the sighting surveys using CCAMLR and SO-GLOBEC research vessels and urged caution in analysis and interpretation of these results and in use of the data in ecosystem models.

The UK thanked the Scientific Committee for its work on the environmental programme and recalled the Commission's attention to the strong support it gave to the Committee's environmental programme, including collaboration with other bodies such as CCAMLR. The UK

<sup>32</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

<sup>33</sup> See *Journal of Cetacean Research and Management (special issue) 1 – Chemical Pollutants and Cetaceans*.

<sup>34</sup> See *J. Cet. Res. Manage.* 2 (Suppl.): 321-46.

<sup>35</sup> Commission for the Conservation of Antarctic Marine Living Resources.

believed strongly that this work should continue and that the Commission should give the work its strong support, priority and continued funding.

The Commission noted the Scientific Committee report and accepted its recommendations.

### 12.3 Competition between cetaceans and fisheries

#### 12.3.1 Report of the Scientific Committee

The Scientific Committee agreed that there is little doubt regarding the importance of using models to address such questions as 'if we remove or reduce the number of marine mammals from an ecosystem, should we expect greater yields of fish?' and, 'if we reduce fishery yields, should we expect increases in the rate of recovery of depleted stocks of cetaceans?'

The Committee agreed that in order to begin to address this issue, a short workshop should be held, if possible before the meeting in 2002. The Workshop would (1) review existing modelling approaches that might be used to address the question 'How are changes in abundance of cetaceans likely to be linked (in the short term and the long term) to changes in fishery catches?'; (2) identify the constraints and data requirements in the existing models or modelling approaches that limit our ability to answer the above question; (3) describe the advantages and disadvantages of the various approaches, bearing in mind the areas for which they were developed; and (4) identify those approaches that seem most likely to be able to answer the above question and provide guidelines as to when and where they might be used (e.g. depending on the likely level of data availability).

#### 12.3.2 Commission discussions and action arising

##### GENERAL COMMENTS

The USA stated that it believed the claim that whales are responsible for the decline in fish stocks to be grossly over simplified and biologically unsound and expressed concern that this issue is being suggested for consideration and analysis in organisations not recognised as having competence in the management of whale stocks. It did however accept that there are valid issues that should be examined by the Scientific Committee. It was therefore pleased that the Scientific Committee had recommended that a workshop be conducted and looked forward to participating. The USA was also pleased to propose a joint Resolution with Japan on Interactions Between Whales and Fish Stocks (see below).

Norway appreciated the interest now being shown by the USA on the scientific questions related to the interaction between fish and marine mammals - an issue that Norway has been investigating for a number of years. Norway mentioned that this issue is also being addressed within NAMMCO, involving North American participation, and that a third workshop would take place in autumn 2001. It looked forward to contributing and participating in the proposed IWC workshop.

With respect to the proposed focus of the workshop, New Zealand, supported by the UK, Austria and Australia, indicated that it would like the Scientific Committee to also review the impact of fisheries on cetaceans through bycatch and prey depletion. Responding to this and other comments, the Chair of the Scientific Committee stressed that in addressing the broad question, the Committee would take a full ecosystem approach, looking at interactions between fisheries and cetaceans (rather than links in a single direction). In this regard, the term 'fishery' was being used in a broad sense (i.e. would not exclude the examination of

other marine resources such as krill). She further noted that the Workshop was the first step in a much longer process. In response to a question on whether the data sets to be used at the workshop would include those from scientific whaling programmes, the Scientific Committee Chair indicated that the workshop would consider whatever data sets were appropriate to examine the ecosystem models. The UK thanked the Chair for her clarifications and in addition commented that in its view, any multispecies ecosystem approach should include consideration of environmental threats and concerns.

St. Lucia offered to host the workshop.

The Commission noted the Scientific Committee report and accepted its recommendations.

##### RESOLUTION ON INTERACTIONS BETWEEN WHALES AND FISH STOCKS

The USA introduced a joint Resolution with Japan that *inter alia*: (1) gave notice that IWC, as the competent international organisation for the conservation and management of whales, had decided to make the study of these interactions a matter of priority; (2) agreed that any studies conducted by the FAO on ecosystem-based fisheries management be holistic and balanced in approach; (3) endorsed the Scientific Committee recommendation for a workshop; and (4) requested the Secretary to seek co-operation with FAO in the organisation and conduct of this workshop. The USA noted that its support for the Resolution does not change its position of opposing Japan's scientific whaling and its continued belief that lethal research whaling is not necessary for the study of the interaction between whales and fish stocks.

The Netherlands, as on previous occasions, expressed its concern over allegations that whales are causing harm to commercially important fish stocks and noted the simplistic nature of the arguments proffered and the general inadequacy of the scientific evidence presented to the Commission to date. Austria was also sceptical of such claims. However, the Netherlands welcomed the further research proposed and considered that the Resolution put the issue in a proper broad perspective. In commenting on the first operative paragraph, the Netherlands suggested that the Commission await the outcome of the workshop before deciding the priority of the issue, but added that, given this understanding, it wished to co-sponsor the proposal. Oman and Spain gave their support and also wished to be co-sponsors. Argentina did not consider the issue to be a matter of first priority but suggested that budgetary provisions be made to enable the participation of developing country scientists.

A number of countries while supporting the sentiment of the Resolution, expressed concern over the wording of the second preambular and first operative paragraphs that recognises IWC as the universally-recognised/the competent international organisation with competence for the conservation and management of whales. Norway considered these formulations not to be in accordance with UNCLOS Article 65 and proposed that the paragraphs be amended to recognise IWC as an organisation with competence. This view was supported by Iceland, Morocco, Denmark and Antigua and Barbuda. NAMMCO, ASCOBANS and ECCO were cited as other international organisations with competence in this area.

Japan was pleased to present the joint proposed Resolution, suggested that the workshop would clarify views on the importance of the issue and indicated that it could

accept Norway's proposed revisions. The USA considered that while the issue may not be a first priority, it is a priority, but unlike Japan it could not support Norway's revisions.

After further discussions in the margin of the meeting, Norway indicated that it would not block consensus by insisting on its proposed rewording. Resolution 2001-9 (Annex C) was then adopted by consensus noting Norway's comments. Denmark, for the record, wished to be associated with Norway's remarks.

#### 12.4 Reports from Contracting Governments

There were no reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals. However, the following two Resolutions were introduced.

##### RESOLUTION ON THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

New Zealand introduced this Resolution on behalf of the other co-sponsors Italy, South Africa, the UK, and the USA who hoped that it could be adopted by consensus. Recognising that persistent organic pollutants are being dealt with in other international fora, New Zealand explained that the Commission's attention was being drawn to this issue in view of the effects these substances may have on cetaceans.

Switzerland, Germany, Sweden, Austria, Spain, Finland and the Netherlands asked to be added to the list of co-sponsors. The Netherlands noted the special interest of IWC in pollution matters, as expressed in the framework of the POLLUTION 2000+ programme, and proposed that a third operative paragraph be added to the Resolution requesting the Secretary to transmit the Resolution text to the Secretariat of the Stockholm Convention. Denmark supported the proposal but noted the similarity to Resolution 2000-6<sup>36</sup> on persistent organic pollutants (POPs) and heavy metals that it had introduced last year.

A number of countries, including Japan, Dominica, the Russian Federation, the Republic of Guinea and Antigua and Barbuda indicated that they did not support the Resolution since the matter it addressed was not of central importance to the work of the Commission.

The Resolution, including the addition proposed by the Netherlands, was adopted after receiving a substantial majority when put to the vote by a show of hands (Resolution 2001-10, Annex C). St. Vincent and The Grenadines explained that it did not participate in the vote, as it did not know the position of its government on the Stockholm Convention.

##### RESOLUTION ON THE IMPORTANCE OF HABITAT PROTECTION AND INTEGRATED COASTAL ZONE MANAGEMENT

In introducing this proposed Resolution on behalf of the other co-sponsors (Italy, South Africa, the UK, France and Oman), New Zealand recalled that already in 1980<sup>37</sup>, the Commission had recognised that 'measures should be taken to preserve the habitats of whales since the survival and health of whale populations is dependent upon the maintenance of a healthy marine and coastal environment'. However, New Zealand noted that despite the best intentions of many, these habitats are deteriorating, with recent FAO estimates indicating that some 34% of the world's coastal zones are at high risk, with 17% being at moderate risk and

the prognosis that the situation will worsen. New Zealand suggested that the causes of the problem may be international such as climate change contributing to coral bleaching, the ubiquitous nature of POPs and outflow of polluted international rivers. It also noted that problems are also caused by nation states through, for example, lack of control of land-based pollution, ill-planned development objectives, excessive nutrient run-off and increasing flow of untreated sewage. The co-sponsors were aware that the Commission could not solve many of the problems, fully appreciated and respected the sovereign rights of States, but were also mindful of the UNCLOS principal that policies of nation states must be in accordance with their duty to protect and preserve the marine environment. New Zealand indicated that the Resolution recognised that this obligation is the subject of numerous international and regional initiatives, and commended these developments to the Commission.

Norway welcomed and supported the Resolution, noting the importance of placing the conservation and management of whale stocks in the broader context of habitat protection and international coastal zone management. It also proposed amendments to clarify the operative paragraph. After further minor proposed amendments the Resolution was subsequently revised and adopted by consensus (Resolution 2001-11, Appendix 2). Japan, while not blocking the consensus, indicated that it did not join it since it considered the issues to be outside the Convention.

#### 12.5 Health issues

##### 12.5.1 Report of the Scientific Committee

The Scientific Committee considered the data structure and protocol for electronic submissions established by the World Health Organisation (WHO)-Global Environment Monitoring System-Food Contaminants Monitoring and Assessment Programme (GEMS/Food). In order for the IWC to determine whether it should follow these protocols, the following should be considered: (1) the time and effort needed for transcribing data into the specific format; (2) duplicate entries must not occur; (3) only data on tissues consumed are appropriate; and (4) issues of possible regulatory and proprietary conflicts.

The Committee recognised that following such high standards for data control and data transfer may complicate the process of data submissions considering the many forms in which the IWC receives contaminants data. The Committee also noted that other organisations could be considered for providing advice, as well as data submissions, on the risk of specific consumption rates, including the Arctic Monitoring and Assessment Programme's Human Health Group, the United Nations Environmental Programme (UNEP), Centers for Disease Control (USA) and other nationally based agencies. The Scientific Committee does not believe that it is the appropriate body to try to conduct a risk assessment related to the consumption of cetacean products by humans. However, it will try to make data available to those capable of doing so or encourage member nations to provide these data to the appropriate organisations.

After some discussion, the Committee agreed on information that should be reported in the evaluation of health effects from the consumption of cetaceans and on guidelines to be followed when reporting information on contaminant levels in cetaceans<sup>38</sup>.

<sup>36</sup> See *Ann. Rep. Int. Whaling Comm. 2000*: 56.

<sup>37</sup> See *Rep. int. Whal. Commn* 31: 32.

<sup>38</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

### 12.5.2 Commission discussions and action arising

The USA was happy to endorse any Scientific Committee recommendations regarding guidelines to be followed when reporting information on contaminant levels in cetaceans. Recalling that Resolution 1999-4<sup>39</sup> on health effects from the consumption of cetaceans simply required the Scientific Committee to receive, review, collate and report information on contaminant burdens in cetaceans to the Commission, the USA considered that the Scientific Committee need not address the issue of risk assessments. The UK associated themselves with these comments and urged Contracting Governments to respect the requirements of Resolution 1998-11<sup>40</sup> to submit information on possible human health effects resulting from the consumption of cetacean products.

Referring to the widespread contamination of fish and cetaceans and subsequent impacts on people reliant on marine resources, Japan considered that there is an obligation to keep the oceans clean so that safe sea food would be available for future generations. It considered that global restrictions on the discharge of pollutants will be required, and that nations worldwide must be encouraged to reduce the amount of harmful substances discharged into the environment.

The Commission endorsed the Scientific Committee report on this issue.

## 12.6 Other

### 12.6.1 Report of the Scientific Committee

#### STATE OF THE CETACEAN ENVIRONMENT REPORT (SOCER)

A working group produced the draft SOCER and the importance of developing such a report for the Commission (as expressed in Resolution 2000-7<sup>41</sup>) and the responsibility for its annual production by the Committee was noted. Appreciation was expressed over the amount of work undertaken by the editors of SOCER but concern was expressed about the document in its present form being misinterpreted as representing the Committee's view. The Committee noted the size and complexity of the task represented by the compilation of such a report and it was probably inevitable that members of the Committee had a number of problems regarding its scope, selection of entries, misunderstanding of some papers included, implied priorities, etc. Given these difficulties, the Committee agreed that it should not be appended to the Committee's report. In the light of Commission Resolution 2000-7, it agreed that the report should be made available to the Commission as document SC/53/E21 under the names of the editors.

Recognising the complexity of the task, the Committee agreed that attention should be given to further developing the mechanism by which such a report should be compiled and reviewed, the appropriate style and structure of the report and its frequency. In this regard, it thanked the editors of SOCER for initiating what clearly must be an iterative process.

#### WORKSHOP ON HABITAT DEGRADATION

An intersessional group met in Rome, Italy in June 2001 and considered several potentially complementary approaches to furthering work on cetacean habitat assessment, with a long-term view to quantification and modelling. The group recommended a three-day workshop to: (1) quantify natural and unnatural environmental parameters and; (2) estimate their significance through a combination of direct

assessment and modelling. The methodology used to quantify the relationship between environmental variables and the health of a given cetacean population would include multivariate regression of cetacean life history data and habitat properties, evaluation of specific contaminants on individual life history parameters for a given population and extrapolation from studies on non-cetacean species. An offer to host the workshop was received from ICRAM (Government of Italy).

Given the relatively short intersessional period, the Committee recommended that: either the habitat degradation workshop be held intersessionally in 2002, if the necessary support can be found, or the merits of supporting the workshop be again reviewed at the 2002 meeting.

### 12.6.2 Commission discussions and action arising

The Netherlands commended the Scientific Committee on its work on environmental concerns and noted that significant progress had been made in the POLLUTION 2000+, SOWER 2000 and SO-GLOBEC programmes and in habitat-related issues. It considered it important that IWC address these issues and encouraged the Committee to maintain the work at the same pace. It particularly welcomed the SOCER report that it considered to be a timely and useful source of information and a first step towards a comprehensive evaluation of the state of the cetacean environment. The Netherlands suggested that the review be performed at regular intervals such as every 3 to 5 years, and was convinced that the habitat-degradation workshop that Italy has offered to host should be held as soon as possible. Following on from the Netherlands's comments, Austria remarked that the SOCER is still a prototype and that comments and suggestions would be welcomed. Italy, Mexico, the USA, Germany, the UK and New Zealand associated themselves with the previous comments. Brazil also welcomed the report, supported its continuation and suggested that this is an area to which developing country scientists could contribute. Argentina indicated that it could provide information regarding the South Atlantic Ocean.

In contrast, Norway did not consider the SOCER to be a good prototype and drew attention to the criticism it received from within the Scientific Committee.

## 13. CO-OPERATION WITH OTHER ORGANISATIONS

### 13.1 Organisations with whom IWC is currently working

#### 13.1.1 Report of the Scientific Committee<sup>42</sup>

The Scientific Committee received reports of its co-operation with a number of other organisations: CMS (Convention on the Conservation of Migratory Species); ASCOBANS (Agreement on Small Cetaceans of the Baltic and North Seas); ACCOBAMS (Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area); ICES (International Council for the Exploration of the Sea); CCAMLR (Convention for the Conservation of Antarctic Marine Living Resources); Southern Ocean GLOBEC; NAMMCO (North Atlantic Marine Mammal Commission); FAO – Committee on Fisheries; PICES (North Pacific Marine Science Organisation); CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora);

<sup>39</sup> See *Ann. Rep. Int. Whaling Comm. 1999*: 53.

<sup>40</sup> See *Ann. Rep. Int. Whaling Comm. 1998*: 46.

<sup>41</sup> See *Ann. Rep. Int. Whaling Comm. 2000*: 56-7.

<sup>42</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

IUCN (International Union for the Conservation of Nature and Natural Resources); and ECCO (Eastern Caribbean Cetacean Commission).

With respect to CITES and the need to improve mechanisms for the transfer of scientific samples between countries, the Committee urged member nations to consider nominating certain 'centres' to be given institutional CITES permits to facilitate the import and export process.

#### 13.1.2 Commission discussions and action arising

The Commission took note of the Scientific Committee report and accepted its recommendations. There was no further discussion.

### 13.2 Co-operation with IMO

The Secretary reported that as requested by Resolution 2000-8 on Western North Atlantic Right Whales, she wrote to the Secretary-General of IMO asking him to distribute the Resolution to the next meetings of the Maritime Safety Committee and Marine Environmental Protection Committee. Because IWC and IMO have no formal co-operative agreement, he was unfortunately unable to comply with the request, but suggested that the Resolution be submitted by a country having membership of both organisations. This was subsequently done by Sweden. Since there may be a need for further co-operation between IWC and IMO in the future, the Secretary also explored the benefits of, and procedures necessary for a more formal co-operative agreement. Although the IMO Secretary-General expressed support of IWC's objectives to conserve whales, the Secretary reported that he did not consider that an agreement of co-operation would be the best way forward since IWC's work is not mainstream to IMO's activities. She therefore proposed that any future requirements for co-operation follow the same procedure as that used for Resolution 2000-8.

New Zealand, supported by Mexico, expressed disappointment in IMO's response, believing that genuine common interest, such as ship strikes, existed between the two organisations. It suggested that, rather than re-opening discussions with IMO, members of both organisations might wish, over time, to seek to promote the view that more formal co-operation would be appropriate.

The Commission agreed to the suggestions of the Secretary and New Zealand.

## 14. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT<sup>43</sup>

### 14.1 Small cetaceans

#### 14.1.1 Report of the Scientific Committee

##### DALL'S PORPOISES

The Scientific Committee considered the status of Dall's porpoises (*Phocoenoides dalli*) off Japan as its primary topic. For reasons documented in the Committee's report, the Government of Japan had decided not to participate in this review.

Dall's porpoises have been subdivided into two subspecies: *P.d. truei* and *P.d. dalli*, primarily on the basis of colour patterns. From a variety of genetic and other evidence, the Committee identified at least eleven stocks. Of these, a *dalli*-type stock that breeds in the northern Okhotsk Sea, a *truei*-type stock that winters off the Pacific coast of

Japan and breeds in the central Okhotsk Sea and at least one other stock are taken in the Japanese hand-harpoon fishery. Dall's porpoises are also taken incidentally in a Japanese fishery in the EEZ of the Russian Federation. Large numbers of this species have been taken in other fisheries in these and adjacent waters in the past and this may continue. The Committee reviewed available information on the catches up to 1999 in conjunction with looking at the latest population estimates it had available (published in 1991 and 1992)<sup>44</sup>. The Committee made a number of research recommendations.

In the absence of published information on the potential rate of increase for this species, the Committee considered the closely-related harbour porpoise with a similar life history, as a proxy. For that species, the Committee has concluded that levels of anthropogenic mortality exceeding 2% of abundance are unlikely to be sustainable. Assuming that all catches of *dalli*-type porpoises were from the relatively large stock that breeds in the southern Okhotsk Sea, directed takes of both forms have exceeded 2% of the most recent abundance estimates for each year (with the exception of the *dalli*-type in 1992) since 1991. In some years, these directed takes have exceeded 4% of estimated abundance. These estimates do not include porpoises struck and lost, bycatches in the Japanese salmon drift net fisheries or other fisheries. In addition, possible effects of the age, sex and reproductive condition of porpoises taken in the hand-harpoon fishery or as bycatch have not been considered.

Based on the review of the available data, the Committee referred to its previous advice on the status of stocks of Dall's porpoises taken by the Japanese hand-harpoon fishery. It reiterated its extreme concern for these stocks and repeated its previous recommendation that catches be reduced as soon as possible to sustainable levels. It is not clear whether the catch levels reported prior to 1986 would be sustainable at present. To determine what levels of catch might be sustainable, the Committee recommended that a full assessment of the status of each stock be conducted as soon as possible, including consideration of the factors described above.

The Committee will be unable to complete such an assessment in the absence of the following data:

- (1) a recent estimate of abundance for each stock; (2) improved catch statistics for each stock, including information on age, sex and reproductive status; and numbers struck and lost; (3) estimates of total bycatches for each stock.

The Committee requests that the Government of Japan provides this information.

### PROGRESS ON PREVIOUS RECOMMENDATIONS

#### STATUS OF THE BAIJI

The baiji is the most endangered cetacean species<sup>45</sup> and last year the Scientific Committee requested the Government of China to report progress on its conservation on an annual basis. Unfortunately, no new information was received this year. The Committee reiterated its request for updated information on this critically endangered species.

#### STATUS OF THE VAQUITA

The Scientific Committee was informed of a new, integrated framework being developed to implement the recovery plan for the vaquita, as recommended by the International

<sup>43</sup> For details of the Scientific Committee's deliberations on this Item see *J. Cet. Res. Manage.* 4 (Suppl.).

<sup>44</sup> See *Rep. int. Whal. Commn* 42: 178-234.

<sup>45</sup> See *J. Cet. Res. Manage.* 3 (Suppl.): 276.

Committee for the Recovery of the Vaquita, or CIRVA. The Committee welcomed this new approach and reiterated its endorsement of the primary conclusion of CIRVA – that to ensure the future survival of the vaquita it will be necessary to eliminate all bycatches as rapidly as possible. The future survival of this species, therefore, will require the substitution of gillnet fisheries with other economic activities in the Upper Gulf of California, as recommended in the Recovery Plan drafted by CIRVA. The Committee also noted the potentially adverse effects of the degradation of estuarine habitat in the Upper Gulf of California and agreed that further research on the effects of this degradation is required.

#### IWC/ASCOBANS JOINT HARBOUR PORPOISE WORKING GROUP

The Scientific Committee outlined a modelling approach whereby simulation modelling could be used to allow ASCOBANS to assess bycatches in the context of its conservation objectives.

The Committee did not consider the status of harbour porpoises at this meeting, but reiterated its previous advice regarding the status of this species in the North Sea and adjacent waters. Throughout this region, in areas where bycatches have been estimated and estimates of abundance are available, the incidental catches are above 2% of abundance and may not be sustainable. The Committee recommended that such bycatches be reduced to sustainable levels as soon as possible.

#### SURVEY METHODOLOGY FOR FRESHWATER CETACEANS

In response to a recommendation made last year, the Scientific Committee was informed about proposals that are being developed to involve survey specialists with studies of freshwater cetaceans in a number of survey sites. The Committee welcomed the development of such proposals.

#### BYCATCH MITIGATION MEASURES

The Scientific Committee received information on cetacean bycatches in South Africa from 1978-2000. Bycatches occur in nets designed to protect bathers from sharks in KwaZulu-Natal, and trials of various mitigation measures are continuing and a report should be available at the next meeting.

The Committee also received information on the use of acoustic alarms in the California swordfish/thresher shark drift gillnet fishery during 2000. The bycatch rate in this fishery during 2000 was comparable to rates observed in years before pingers became mandatory, raising questions about the efficacy of these devices. The Committee has requested further information on this subject at next year's meeting.

#### TAKES OF SMALL CETACEANS IN 2000

As in previous years, the Scientific Committee noted that the table of recent catches of small cetaceans is incomplete. The Committee repeated its recommendation that member nations submit full and complete information on direct and incidental takes in their progress reports; such information should be submitted on a stock-by-stock basis. This is particularly important as next year, the Committee will review current knowledge of the existence of directed and incidental takes by member countries.

#### 14.1.2 Commission discussions and action arising

Japan reported that its scientists had made it clear that information would not be provided to the small cetaceans sub-committee until IWC stopped undue interference

regarding small cetacean fisheries. Japan believed there to be a number of misunderstandings in the Scientific Committee report with respect to Dall's porpoise. It noted that it only started to catch Dall's porpoise in the 1980s, that it is conducting research on these animals in Japanese waters, including abundance surveys and monitoring of catches, and that, to ensure international transparency, it intended to release information on stock structure and abundance and catch statistics outside IWC in an appropriate and timely manner (possibly via a website). Referring to the figure of 11,973 individuals quoted in the Scientific Committee report as being taken as by-catch between 1993 and 1999 in the Japanese salmon drift net fishery in the Russian EEZ, Japan commented that this figure was for the entire Russian fishery operation, of which Japan's fishery accounts for only one-fifth of this area.

On the issue of competency, St Lucia stated that the position of the Caribbean islands is that IWC does not have competency over small cetaceans. It added that in view of the establishment of NAMMCO and more recently of ECCO, it is no longer true that there is no other body to deal with small cetaceans and that IWC should not entertain any Resolutions on this issue that usurp the rights of sovereign nations. Denmark also did not recognise the competence of IWC to deal with management of small cetaceans and recalled that some time ago the majority of Commission members held this same view. New Zealand took an opposite view. It drew the Commission's attention to Agenda 21, Chapter 14.47 where it is made clear that IWC is responsible for the conservation and management of whale stocks and the regulation of whaling and that the Scientific Committee's work on large whales in particular as well as other cetaceans is specifically noted and recognised. New Zealand also noted that the preamble to the ICRW refers to the protection of all species of whale. It therefore commended the Scientific Committee for expressing extreme concern regarding the status of Dall's porpoise and for asking Japan to provide information for use in the stock assessment. Monaco also considered that IWC has competence over small cetaceans. Mexico reported that although for many years it had not recognised IWC's competence on this issue, its position had now changed.

The Republic of China reported on actions being taken to protect baiji dolphins including: (1) a new fisheries law that entered into force in December 2000 that includes an article protecting endangered aquatic wild animals such as the baiji; (2) a March 2001 seminar on the protection of cetaceans in China organised by the Ministry of Agriculture from which a national plan of action for the baiji was put forward; and (3) plans to improve the declining fisheries in the Yangtze river and avoid incidental cetacean catches. The Republic of China noted that it had not provided information to the Scientific Committee since it believes IWC does not have competence over small cetaceans. Finland congratulated the Republic of China on its efforts to conserve the baiji dolphin.

The Commission noted the report of the Scientific Committee.

#### RESOLUTION ON DALL'S PORPOISE

A Resolution on Dall's porpoise was proposed by the UK, Sweden, New Zealand, the USA, Austria, Germany, Italy and the Netherlands that, *inter alia*: (1) directed the Scientific Committee to carry out a full assessment of the status of the exploited Dall's porpoise stock once information is available; (2) called on Japan to provide the information necessary for such an assessment; (3) requested



governments with fisheries in the range states of these stocks to report by-catch to the Scientific Committee annually; and (4) urged Japan to halt direct takes of Dall's porpoise until a full assessment by the Scientific Committee had been performed. In introducing the Resolution, the UK reported that it had consulted widely, but that it had not involved Japan given the latter's declared views on the issue. Although noting Japan's readiness to provide information, the UK indicated that the Resolution might not have been necessary if it had agreed to provide the information to IWC.

Japan noted that the proposed Resolution referred to activities conducted under its own jurisdiction in its own EEZ. It therefore considered the Resolution to be inappropriate and requested that it be withdrawn.

On proceeding to a vote, the Resolution was adopted by a simple majority, with 20 votes in favour, 13 against and 3 abstentions (see Resolution 2001-12, Annex C). Iceland indicated that it was against the Resolution. Spain, who abstained, indicated that it would continue to participate in the work.

#### RESOLUTION ON SMALL CETACEANS

The UK introduced a Resolution on small cetaceans on behalf of its other co-sponsors Sweden, Germany, Italy, Australia and Oman. The UK congratulated the Scientific Committee on its work, welcomed the information from the Republic of China, recognised the actions from other countries and urged Contracting Governments to use the national Progress Reports to provide information on direct and indirect takes and other anthropogenic removals of small cetaceans. It believed the work of the sub-committee would be compromised without these data.

South Africa, Switzerland, Mexico, Sweden, the Netherlands, Finland, Australia and Oman supported the Resolution with a number of them indicating that they wished to be co-sponsors. Realising that there are many endangered dolphin species in need of protection and management, South Africa considered that there was no body better than the Scientific Committee to provide advice. For these reasons it supported the Resolution, although it did recognise those who do not believe IWC has competency in this area. Australia associated itself with South Africa's remarks. Austria explained that it had not co-sponsored the Resolution since it wished to add an additional operative paragraph to urge Contracting Governments to reconsider the use of low frequency active sonar in view of their negative impact on small cetaceans. The UK indicated that while it had given serious thought to this proposal during development of the Resolution, it had decided against including it since it would bring in a rather difficult area. Austria agreed to withdraw its proposal for the sake of making progress with the Resolution.

Iceland stated that IWC did not have competence and opposed the Resolution. St. Lucia, the Republic of China and Dominica indicated that they would not participate in a vote, with Dominica remarking that it believed that the Scientific Committee was becoming overburdened with issues outside the purview of IWC. St. Vincent and The Grenadines proposed that for this and all future Resolutions on small cetaceans, the operative clause from Resolution 1995-4 be included in the preamble (i.e. *'be it resolved that the Commission note the position of the above-mentioned Caribbean countries with respect to IWC work on small cetaceans in their territorial seas and Exclusive Economic Zones, which their governments consider to be their sovereign right'*). In response, Italy indicated that this

statement was a declaration of vote and indicated that it should be recorded as such. St Vincent and The Grenadines agreed.

On being put to a vote, the Resolution was adopted by simple majority. It received 22 votes in favour, 5 against, and 2 abstentions. Eight countries did not participate in the vote. Iceland indicated that it was against the Resolution. The Republic of Korea, who voted against the Resolution, indicated that it would report information on small cetaceans on a voluntary basis.

#### 14.2 Other activities

##### 14.2.1 Report of the Scientific Committee

##### STOCK IDENTITY

Of general concern to the assessment of any cetaceans is the question of stock identity and examination of this concept in the context of management plays an important role in much of the Scientific Committee's work, whether in the context of the RMP, AWMP or general conservation and management. In recognition of this, the Committee has established a Working Group to review theoretical and practical aspects of the stock concept in a management context. At the 2001 meeting, the Committee considered *inter alia*: terminology; stock structure in humpback whales; a range of analytical and statistical issues; the use of archetypes; and the combination of genetic and non-genetic information on stock identity.

Although humpback whale stock structure is complex, some general patterns do emerge. Most humpback whales migrate between low and high latitudes to feed and breed, showing strong site fidelity to individual feeding and breeding grounds. However, humpback whales from a single breeding ground often use various different feeding grounds; and humpbacks on a single feeding ground often come from various different breeding grounds. Good understanding has been reached only through major research effort on both feeding and breeding grounds. Based on the review, the Committee emphasised the need to consider humpback whale management within ocean basins on a case-by-case basis. In particular, consideration should be given to managing on the basis of feeding grounds as well as breeding grounds.

The Committee made considerable progress in discussing the complex issue of the way to define stocks for harvested populations.

##### RESOLUTION ON DNA TESTING AND SUBSEQUENT DISCUSSIONS

The Scientific Committee discussed this in response to Resolution 1999-8<sup>46</sup>. The Committee discussed progress on a number of issues including: progress on genetic methods for species, stock and individual identification; reference databases; and standards for a diagnostic register of DNA profiles.

With respect to reference databases, the Committee noted that public databases such as GenBank are an extremely valuable resource for population and forensic research and that increased validation of the banked sequences will contribute to their utility. It encouraged researchers in the IWC community to contribute sequences, with emphasis on submission of correlated data that will validate their origin and to notify contributors to GenBank of errors they discover in posted contributions and potential useful amendments.

The Committee received information on progress made on specifications for a diagnostic DNA registry. These specifications are the result of recommendations made at an

<sup>46</sup> See *Ann. Rep. Int. Whaling Comm. 1999*: 55.

international symposium on the identification of cetaceans held in 1999 and of discussions in the Committee last year. The information includes the currently accepted definition of the elements required for a composite DNA profile including three genetic markers: mtDNA sequence data for species identification, a series of microsatellite loci for individual identification and sex-specific genetic marker. A Laboratory Information Management System database specifically designed to house the sample information and DNA data required for a Central Tissue Archive and diagnostic DNA registry is in use at the Smithsonian Institution, the US National Cancer Institute and the Max-Planck Institute for Evolutionary Anthropology. The Committee agreed that the specifications described are useful examples of what is required for establishment of a diagnostic registry and looks forward to further progress reports on this work.

The Committee noted that in the absence of further direction from the Commission, future annual progress reports are likely to be similar to this year's report in their content and brevity.

#### **SOWER CIRCUMPOLAR CRUISES**

The Scientific Committee was informed of improvements to the IWC's Database Estimation Software System (DESS) and noted that data from the two most recent surveys are not yet in DESS. The Committee noted the importance of estimates from these surveys in addressing the issue of possible trend in abundance and strongly recommended that data from the two most recent surveys be validated and entered in DESS as soon as possible and that these surveys be analysed before next year's meeting.

The Committee reviewed the report of the 2000/2001 SOWER circumpolar survey and plans to complete the third circumpolar set in the next two seasons. Noting the importance of the IDCR/SOWER surveys to its work, the Committee expressed its gratitude to the Government of Japan for making vessels available and recommended IWC participation in the surveys in 2001/02 and 2002/03.

#### **RESEARCH AND WORKSHOP PROPOSALS**

The Chair of the Scientific Committee had reported in detail on these proposals to the Finance and Administration Sub-committee (see Annex H). She drew particular attention under this Agenda Item to the Workshop on Methods for Whale Research. This had arisen out of a formal request made by the Commissioners of Japan and the USA to the Chair of the Scientific Committee. The proposed workshop would critically review recent advances in both lethal and non-lethal methodologies and technologies for whale research. A focus on tools available for assessing stock structure, population dynamics and cetacean health was suggested. The Commissioners also suggested that the workshop should compare lethal and non-lethal techniques and examine the relative practicability and costs associated with conducting the research and collecting samples.

The Committee developed terms of reference and an agenda for the Workshop and noted the importance to its success of obtaining outside expertise.

#### **WORKING METHODS OF THE COMMITTEE**

The Scientific Committee continued its discussions last year as to whether changes in Rules of Procedure might be an appropriate way to improve its efficiency and transparency. After due consideration it was agreed that flexibility was a key factor in the workings of the Committee and that no changes in the Rules were necessary. The Committee also recognised the value of using intersessional groups as a

means to broaden participation and increase expertise and the importance of ensuring that scientists whose first language was not English were fairly represented. The Committee also agreed on a number of ways in which the IWC website can be used to facilitate the Work of the Committee and on procedural ways to deal with problems that may arise with intersessional groups.

The question of increasing participation of developing country scientists, originally raised by Brazil in the Commission last year, was discussed and reported to the Finance and Administration Committee (see Annex H). Similarly, a slightly modified draft of some of the Committee's Rules with respect to availability of reports was also reported to the Finance and Administration Committee.

#### *14.2.2 Commission discussions and action arising*

Monaco expressed support for the work on DNA.

The USA and Japan gave high priority to the proposals for a workshop on methods for whale research. Japan, who had offered to host the meeting, indicated that it would be held sometime in January/February 2002 in Tokyo<sup>47</sup>.

The Commission noted the Scientific Committee's report and accepted its recommendations.

### **14.3 Scientific Committee future work plan**

#### *14.3.1 Report of the Scientific Committee*

The Chair of the Scientific Committee described the work plan that had been drawn up by the Convenors, with the agreement of the Scientific Committee, after the close of the meeting. The work plan takes account of: (1) priority items agreed by the Committee last year and endorsed by the Commission and, within them, the highest priority items agreed by the Committee on the basis of sub-committee discussions; (2) general plenary discussions on this item and in particular the need to reduce and streamline the Committee's work load; and (3) budget discussions in the full Committee. It was agreed to divide the work among 11 sub-committees/working groups as proposed below. The Chair noted that this structure would provide the basis for a draft agenda for the 2002 meeting and a framework for determining invited participants. She also noted that priorities may be revised in the light of the Commission's decisions.

#### **14.3.1.1 REVISED MANAGEMENT PROCEDURE**

As last year, this sub-committee would concentrate on two areas, i.e. general issues and preparations for implementation as follows:

##### GENERAL ISSUES

- (1) Adjustment of the convergence criteria for the CATCHLIMIT program;
- (2) Consideration of results from the Intersessional Working Group on Abundance Estimation;
- (3) Consideration of the implications of choice of component of population to which MSYR, MSYL and density-dependence apply in RMP trials.

##### PREPARATIONS FOR IMPLEMENTATION

Completion of North Pacific minke whale implementation (including review results of intersessional meeting);  
North Atlantic minke whales *Implementation Review*.

<sup>47</sup> The workshop was subsequently postponed until after the 54<sup>th</sup> Annual Meeting.

It may also discuss western North Pacific Bryde's whales (review of progress on trials and results of sightings surveys).

#### 14.3.1.2 BYCATCH

This Working Group would (in the context of the RMP) review the estimation of anthropogenic removals. The priority topics would be:

- (1) bycatch based on fisheries data and observer programmes;
- (2) bycatch based on genetic data:
  - (a) the feasibility of developing a workshop;
  - (b) analytical tests for assignment to stocks and/or areas;
- (3) further review of information and methods to estimate mortality from ship strikes.

It may also discuss methods for estimating additional human induced mortalities.

#### 14.3.1.3 ABORIGINAL WHALING MANAGEMENT PROCEDURE

This Standing Working Group would continue the development process that would involve an intersessional workshop in Seattle. It would also review results and progress on the Greenlandic Research Programme. Priority topics would be:

- (1) the selection of an SLA for B-C-B (Bering-Chukchi-Beaufort) Seas bowhead whales and presentation to the Commission (including management advice);
- (2) SLA(s) for eastern North Pacific gray whales;
- (3) a review of progress on development of potential SLAs for Greenland fisheries;
- (4) a review of results from Greenlandic Research Programme and revise programme if necessary;
- (5) scientific aspects of an Aboriginal Whaling Scheme;
- (6) the annual review of catch data and management advice for minke and fin whales off Greenland.

#### 14.3.1.4 HUMPBACK WHALES

Priority topics would be:

- (1) completion of the Comprehensive Assessment of North Atlantic humpback whales;
- (2) a review of progress on the Comprehensive Assessment of Southern Hemisphere humpback whales (this will be undertaken by a separate working group);
- (3) the annual review of catch data and management advice for humpback whales off St Vincent and The Grenadines.

#### 14.3.1.5 BOWHEAD, RIGHT AND GRAY WHALES

Priority topics would be:

- (1) an in-depth assessment of gray whales (eastern and to the extent possible western);
- (2) a new abundance estimate for B-C-B bowhead whales;
- (3) a review of progress on previous recommendations.

#### 14.3.1.6 IN-DEPTH ASSESSMENTS

Priority topics would be issues relating to the abundance estimation of Southern Hemisphere minke whales (and, where relevant, other species within the same datasets). There would be a two-day 'early start' to the work of this sub-committee which will continue to run through the

normal sub-committee period. It would also include review of data from the 2001/02 SOWER circumpolar cruise and plans for future cruises.

The group would also devote limited time to planning for an assessment of Southern Hemisphere blue whales (including reviewing progress on the issue of sub-species differentiation).

#### 14.3.1.7 STOCK DEFINITION

Priority topics would be:

- (1) to complete consideration of clarification of management objectives relative to the term stock;
- (2) a review of instances of recovery of cetacean sub-stocks after severe depletion;
- (3) statistical and genetic issues (including reviewing reports from intersessional working groups).

#### 14.3.1.8 ENVIRONMENTAL CONCERNS

Priority topics would be:

- (1) cooperative research in the Antarctic;
- (2) results from SOWER 2000 cruise (cooperative research with CCAMLR);
- (3) progress in developing joint research programme with SO-GLOBEC (including development of long-term research framework and possible mini-symposium);
- (4) reviewing results from workshop on marine mammal-fisheries interactions.

The group would also devote limited time to:

- (a) the Steering group report on POLLUTION 2000+;
- (b) reviewing results from the workshop on habitat degradation (if held);
- (c) reviewing information regarding whalewatching activities and noise impacts;
- (d) consideration of form of State of the Cetacean Environment Report (SOCER).

#### 14.3.1.9 DNA

This working group would provide the annual progress report to the Commission required by Resolution 1999-8. Priority topics would be:

- (1) genetic methods for species, stock and individual identification;
- (2) collection and archiving of tissue samples from catches and bycatches;
- (3) reference databases and standards for diagnostic DNA registries.

#### 14.3.1.10 SMALL CETACEANS

Priority topics would be to:

- (1) review the status of humpbacked dolphins (genus *Sousa*);
- (2) review the existence of directed and incidental takes of small cetaceans in member countries, with a view to requesting data in the future;
- (3) review progress on previous recommendations.

#### 14.3.1.11 WHALEWATCHING

Priority topics would be to:

- (1) review the reports of Intersessional Working Groups;
  - (a) data collection;
  - (b) whalewatching management;
- (2) review information regarding whalewatching activities and noise impacts;

- (3) review of research on the effectiveness of national whalewatching guidelines and regulations;
- (4) review of new information on whale and dolphin swim-with programmes.

The group may also discuss the review of national guidelines and regulations for whalewatching and the review of new information on dolphin feeding programmes.

#### 14.3.2 Commission discussions and action arising

A number of delegates thanked the Chair of the Scientific Committee for her report.

The Netherlands, supported by the UK, noted the reluctance of the Scientific Committee to reduce the funding for POLLUTION 2000+ in 2001/2002 and hoped that the funding would be increased significantly next year. The UK added that the number of Resolutions adopted this year on environmental threats suggests that this is still a high priority area.

Oman hoped that research on cetaceans off Oman could be supported in future, considering that insufficient information is available on cetaceans within the Indian Ocean Sanctuary.

Japan applauded the Scientific Committee's work on the RMP and reassessment of minke whale abundance, but while recognising the importance of issues such as whalewatching, small cetaceans and the environmental concerns, expressed concern on the time spent on them and requested the Committee to focus on activities in accordance with the objectives of the Convention. Dominica agreed.

The Commission adopted the report of the Scientific Committee including the work plan proposed.

## 15. INFRACTIONS, 2000 SEASON

### 15.1 Report of the Infractions Sub-committee

The Chair of the Infractions Sub-committee, Thomas Althaus (Switzerland), summarised the discussions of the group (its full report is given as Annex H) that met on Friday 20 July. Delegates from 23 Contracting Governments attended. As in previous years, despite differences of opinion as to whether the item concerning stockpiles of whale products and trade questions is within the scope of the Convention, the Sub-committee agreed that an exchange of views was useful.

#### 15.1.1 Infractions reports from Contracting Governments, 2000

Infractions reports for 2000 were received from Denmark, St. Vincent and The Grenadines, the USA, the Russian Federation, the Republic of Korea and Norway. Denmark, the USA, the Russian Federation and Norway reported no infractions.

Most of the Sub-committee discussions focused on the infraction report of St. Vincent and The Grenadines. Referring to discussions at last year's meeting concerning the take of a Bryde's whale by a blackfish crew, several countries thanked St. Vincent and The Grenadines for reporting this take as an infraction. In summarising the subsequent discussions, the Chair stated that there was agreement that St. Vincent and The Grenadines had fulfilled its obligations and that it had no need to take further action (note that the crew had been severely reprimanded). However, he also noted that considerations of this case had

led to an interesting discussion of the broader issue of what constitutes an infraction, particularly over the question of bycatches and deliberate versus accidental killing.

The Chair reported that in response to a request from the UK for further information concerning the killing of three northern bottlenose whales in the Faroe Islands last year, Denmark replied that it had not received a report on that issue, but that information may be available during the Commission meeting when a representative of the Faroese Home Rule government would be present. Without additional details, Denmark was unable to comment on whether the take of these animals comprised an infraction, but if this was the case, then it would be reported to the Sub-committee next year. Denmark noted that this species is known to strand occasionally in the Faroe Islands, and under such circumstances, it is the local tradition to utilise rather than waste stranded animals.

#### 15.1.2 Surveillance of whaling operations

Infractions reports submitted by the USA and St. Vincent and The Grenadines stated that 100% of their catches were under direct national inspection. Denmark (Greenland) had reported that its quota monitoring system had functioned successfully and that there had been no infractions in the year 2000. Denmark had also drawn attention to the cases of two humpback whales entangled in fishing gear and provided final information on the case of the animal identified as a sei whale from tissue samples discussed in the Sub-committee last year. It seemed clear that the hunter was unaware that he had caught a sei whale (and not a small fin or a large minke whale) – sei whales are only occasionally found in Greenlandic waters. The Sub-committee had thanked Denmark (Greenland) for its full report.

#### 15.1.3 Checklist of information required or requested under Section VI of the Schedule

The following information was provided:

*Denmark:* Information on date, position, species, length, sex, whether a female is lactating and whether a foetus is present is collected for between 76-100% of the catch, depending on the item. Information on killing methods and struck and lost animals is also collected.

*USA:* Information from a variety of documents shows that information on date, species, position, length, sex, killing method and numbers struck and lost is collected for most of the catch depending on the item. Other biological information is recorded for about 60% of animals.

*St. Vincent and The Grenadines:* Information on date, time, position, species, length, sex, and whether lactating is collected.

*Russian Federation:* information on date, species, position, length, sex and hunting methods is collected.

*Norway:* the required information was submitted to the Secretariat as noted in the Scientific Committee report (IWC/53/4).

#### 15.1.4 Reporting of accidental takes

Following last year's discussions of the whale taken by a Greenlandic hunter that turned out to be a sei whale (see section 15.1.2), the Secretariat had reviewed the archives to investigate how such accidental takes had been reported in the past. That search had revealed that there have been numerous examples of cases where an infraction accidentally occurred. Where it was clear that the infraction

was completely accidental, the usual response was that an infraction was reported and that (1) no penalties were imposed but (2) no bonus payments were made. Examples were found from most countries and for many types of infraction, including the taking of protected species.

The Sub-committee had noted that the Scientific Committee addresses the issue of incidental takes and that there are good reasons for the Scientific Committee to provide this information to the Commission. Several countries had taken the view that incidental takes should not be regarded as an infraction, but should be reported. Another had commented that the term 'incidental catches' would be a better term to use in view of the definition of 'take'. The Secretariat had clarified that the Commission urges all member nations to submit data on non-natural mortalities (such as incidental catches in fishing gear and ship strikes) in the National Progress Reports submitted to the Scientific Committee. A compilation of this information is included as an Annex to the Scientific Committee report each year. As noted in the discussion under the item on infraction reports, such mortalities have not traditionally been considered as infractions or reported to the Infractions Sub-committee.

#### 15.1.5 Submission of national laws and regulations

A summary of national legislation supplied to the Commission was prepared by the Secretariat.

As agreed last year, the Chair reported that the Sub-committee had been asked to determine the extent to which a failure to provide information about laws, or a failure to enact them after giving an undertaking to do so, might be considered an infraction. He informed the meeting that two countries (Australia and South Africa) had noted that not all parties had submitted or enacted legislation, that they had encouraged them to do so, and had suggested that a 'failure to enact' might be considered an infraction. Grenada, noting that Article IX of the Convention states that determining and punishing an infraction was the responsibility of the Contracting Government, considered that failure to enact legislation might be considered a breach of contract but in its view it could not be considered an infraction.

#### 15.1.6 Reports from Contracting Governments on availability, sources and trade in whale products

Only Australia had provided information related to Resolutions 1994-7, 1995-7, 1996-3, 1997-2 and 1998-8. Australia had indicated that: (1) it had no stockpiles of whale meat; (2) it still remained illegal to possess or sell whale meat in Australia; (3) no cetacean products had been seized in the period from the beginning of 1999 to the end of 2000; and (4) in 1999 and 2000, 40 import or export permits were granted for cetacean products (36 for scientific or exhibition purposes), mostly teeth and tissue samples.

#### 15.1.7 Other matters

Other matters discussed by the Sub-committee were: (1) mis-labelling of whale meat in Japan as 'product of Australia', which Japan believed would not happen again; (2) the source of whale meat on sale in Icelandic restaurants, which Iceland reported is from bycatch; and (3) Japan's new legislation on bycatches on which the UK, New Zealand and Australia expressed concern that it might result in bycaught animals being killed that might otherwise be freed. These countries considered that if this turned out to be the case,

Japan should reconsider its legislation. Japan responded that all bycaught whales must be properly registered on its DNA register and could then be sold.

#### 15.2 Commission discussions and action arising

In the Commission, Australia asked whether Denmark was able to provide more information on the killing of the bottlenose whales. Denmark replied that it had provided information to the UK. It clarified that the animals involved were stranded whales and since this did not constitute an infraction, it had not prepared a report for the Infractions Sub-committee. The UK thanked the Faroese Government for the information, adding that it was satisfied that an infraction had not occurred.

Norway objected to the statement of Australia and South Africa concerning the submission of national laws and regulations (see 15.1.5), and did not believe that 'failure to enact' might be considered an infraction. The Netherlands considered that whales taken accidentally should be reported but not necessarily be treated as infractions.

Australia indicated that it would not provide information in future on the availability, sources and trade in whale products (see 15.1.6) since it had been the only country to do so for the last 3 years. Norway added that this item should not, in any case, be discussed by the Sub-committee.

The Commission took note of, and adopted the report of the Infractions Sub-committee.

## 16. ADMINISTRATIVE MATTERS

Agenda items 16-19 covering administrative and financial matters and amendments to the Rules of Procedure were considered first by the Finance and Administration (F&A) Committee chaired by Jim McLay (New Zealand). Delegates from 29 Contracting Governments attended the meeting that took place on Friday 20 July. The F&A Committee report is attached as Annex I.

### 16.1 Annual Meeting arrangements

#### 16.1.1 Venues

To improve the advance planning of venues for Annual Meetings the F&A Committee recommended the Commission should adopt the revised Rule of Procedure B.1 at its meeting in 2002 as follows:

#### B. Meetings

1. The Commission shall hold a regular Annual Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice *two years in advance*. A *formal offer should include*:
  - (a) *which meetings it covers, i.e. Scientific Committee, Commission Sub-groups, Annual Commission Meeting;*
  - (b) *a proposed time window within which the meeting will take place; and*
  - (c) *a timetable for finalising details of the exact timing and location of the meeting.*

Attendance by a majority of the members of the Commission shall constitute a quorum. Special Meetings of the Commission may be called at the direction of the Chairman after consultation with the Contracting Governments.

The Commission accepted this recommendation, noting Japan's comment that the requirement to notify the Commission 2 years in advance should not be treated too rigidly.

### 16.1.2 Document preparation and distribution

The F&A Committee had generally welcomed the changes implemented by the Secretariat to improve the distribution and timing of documents. These changes included: (1) encouraging Contracting Governments to submit documents in support of agenda items to the Secretariat 5 weeks before the meeting for advance circulation; (2) not providing copies of pre-circulated documents at the meeting; (3) circulating non-confidential documents to observers in advance of the meeting; and (4) setting a firm deadline for the submission of Opening Statements of 17.00 on the first day of the Annual Meeting. However, the need to find a compromise regarding making large documents circulated in advance also available at the meeting was mentioned by a number of delegations. The electronic transmission of documents had worked well and no major problems had been identified. It was agreed that this practice would continue in future but with paper copies being made available to those who requested them.

The Commission accepted the F&A Committee's recommendation to make non-confidential meeting documents available to delegates and observers in future via IWC's public website. Again, hard copies would be sent to Contracting Governments on request. Circular Communications would continue to be sent by email/mail/fax as appropriate.

### 16.1.3 Verbatim Record

The Administrative Review in 1998 had recommended the discontinuation of the Verbatim Record of Annual Meetings. The Commission had agreed to review the question in 2001 and at its meeting in February 2001, the Advisory Committee had agreed to propose to the Commission that (1) the preparation of a written Verbatim Record should cease after the 52<sup>nd</sup> meeting, and that (2) the Verbatim Record should be made available to those who want it on an indexed CD. The F&A Committee agreed to recommend this proposal which was adopted by the Commission.

### 16.1.4 Need for a Technical Committee

At last year's meeting the Commission had agreed to refer the need for a Technical Committee to the Advisory Committee for consideration before IWC/54. At its meeting in February 2001, the Advisory Committee had agreed that at least for IWC/53, a Technical Committee was not needed, and that the need to provide an opportunity for issues to be discussed at least twice would be handled through agenda planning and management. The F&A Committee agreed that a Technical Committee was not required but that the Advisory Committee should keep this under review. If at a latter date the Commission decided not to continue with a Technical Committee a change in the Rules of Procedure would be required. The Commission concurred with these views.

## 16.2 Formalising arrangements for intersessional meetings

At a private Commissioners' meeting in Monaco on 6 February 2001, it was agreed that the Secretary should work with the Advisory Committee to provide advice on (1) what constitutes a formal invitation for an intersessional meeting, and (2) how and when a decision to have an intersessional meeting should be taken. The document '*Guidelines for Intersessional Meetings*' that formalised arrangements for such meetings was submitted to the F&A Committee for review. The F&A Committee agreed to the proposals and

recommended that the Commission adopt the suggested procedures without amendment. The Commission agreed. The Guidelines are provided in Annex J.

## 16.3 Enhancing the participation of developing country scientists

### 16.3.1 Report of the Finance and Administration Committee

At last year's meeting of the F&A Committee, Brazil had proposed that the Advisory Committee, the Chair of the Scientific Committee and the Secretary, assisted by any interested parties should consult on ways to increase scientific participation of developing countries in the work of the Scientific Committee. The F&A Committee had reviewed the outcome of this consultation and that from the Scientific Committee meeting and agreed to recommend that the Scientific Committee's Rules of Procedure be amended by the insertion of new rule A.6 to read as follows:

*'After an IP has his/her participation confirmed through the procedures set up above, a Contracting Government may grant this person national delegate status, thereby entitling him/her to full participation in Committee proceedings, without prejudice to funding arrangements previously agreed upon to support the attendance of the scientist in question.'*

The F&A Committee agreed that this provision was designed to assist developing countries – it was not the intention that it be used by developed countries. The Scientific Committee had indicated that the proposed rule would be workable if Invited Participants could decide that they did not wish to become national delegates.

The F&A Committee also agreed to the use of the Commission's website to facilitate co-operation between scientists, particularly with respect to Scientific Committee activities, and supported the distribution of information and reports, and the donation of sets of Commission publications to specified national institutes. It was noted that the term 'national institutes' was a reference to laboratories or universities dealing with cetacean management.

Brazil noted its appreciation of the efforts of the Scientific Committee Chair to help progress in this matter, and expressed its hope that the Scientific Committee would continue to promote greater participation of developing country scientists in its proceedings. The Chair complimented Brazil for initiating discussion on this matter.

### 16.3.2 Commission discussions and action arising

In a joint statement issued to the Commission, the Governments of Argentina, Brazil, Chile, India, Mexico, Oman and South Africa expressed their satisfaction with the first outcomes of the proposed dialogue on enhancing the participation of scientists from developing countries in the Scientific Committee. They also noted with satisfaction that the recommendations from the Scientific Committee were endorsed by the F&A Committee and forwarded to the Commission under total consensus. Within this context, they stressed the need to give special attention to the selection of qualified scientists from developing countries to attend, as Invited Participants (IP), workshops as well as meetings of working groups, sub-committees and the Scientific Committee. The Republic of China wished to join the statement. Norway considered that the reference to 'total consensus' might be misleading and that a prescriptive view that the Scientific Committee should be a consensus body should not be adopted. It trusted the Scientific Committee to continue to carry out its work without undue interference. In

response, Brazil clarified that the main goal of the joint statement was to show how satisfied the countries making the statement were with the outcome of the discussions.

Morocco strongly supported increased involvement of developing countries and believed that scientists from these countries should be able to express their points of view in their own languages. It asked the Commission to consider the use of Spanish and French. In response, the Chair noted that the Commission had debated this issue previously and it was not appropriate to re-open discussions at this time.

Japan supported the enhanced participation of developing countries in principle, but felt that the issue might be best addressed more specifically via increasing IWC membership. In this light, it considered that the issue should be discussed in the context of the contributions scheme. Noting that the purpose of the Convention is for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry, Japan's view was that enhanced participation of developing countries should be related to the management of large whale stocks and that funds should not be used on lower priority activities and activities outside the Commission's mandate. With respect to developing country IPs, Japan believed that relevant Contracting Governments should be consulted in advance of invitations being issued, and that invitations should not be made against the wishes of a Contracting Government. Norway fully shared the observations and views of Japan.

In response to a request for clarification from the Chair regarding current procedures for inviting IPs, the Netherlands indicated that invitations are made based on the personal expertise of individuals.

The Commission noted the report of the F&A Committee and accepted its recommendations. As there had not been the required 60-day prior notice for the insertion of a new Scientific Committee Rule of Procedure A.6, the Commission agreed that this Rule would be put forward for formal adoption next year and therefore come into effect for the 2003 meeting.

## 17. FORMULA FOR CALCULATING CONTRIBUTIONS

### 17.1 Report of the Finance and Administration Committee

The F&A Committee took note of the discussions and recommendations from the Contributions Sub-committee that were themselves based on the outcome of the May 2001 meeting of the Contributions Task Force. From a large number of models developed by the Task Force, the Contributions Sub-committee recommended that three be taken forward for further consideration. Some delegations had noted their preferences for certain models.

After further discussions, the F&A Committee concluded:

- that there were underlying differences in the three models which had been presented which would make a merger of these options difficult to achieve but that that some blending of the various models may be possible;
- that the Task Force should undertake further work at an intersessional meeting in Cambridge before IWC/54 to try and reach consensus. The Secretariat confirmed that the cost of the intersessional meeting should not exceed £1000 and it would try to absorb this within the Secretariat's overall expenditure
  - that a date for the Task Force meeting should be set at the earliest opportunity

- endorsed the guiding principles of *Openness, Stability, Fairness and 'user pays'* recommended by the Contributions Sub-committee and Task Force
- noted, subject to reservations made, that considerable progress had been made in reducing the number of models from 18 to 3;
- acknowledged that further work should continue and that a report on progress should be made to IWC/54;
- that factual errors should be removed in the models ;
- invited Contracting Governments to provide written comment, information and relevant statistics on certain economic data to the Secretariat by 30 September 2001
  - recognised the need to continue development work on performance criteria
  - that the Commission should strive to achieve consensus on this matter as soon as possible.

The F&A Committee confirmed the current membership of the Task Force and agreed to include one additional member from South America and one from Europe to achieve a better geographical coverage.

Finally, the F&A Committee Chair recommended to the Commission that it formally record that an intersessional meeting of the Task Force is to be held in Cambridge at a date to be set. Costs were not expected to be excessive and consequently could be absorbed within the current budget.

### 17.2 Commission discussions and action arising

Antigua and Barbuda welcomed the progress being made, but noted that after 3 years, there was still much to do to bring the work to completion. Although the F&A Committee report referred to achieving consensus on this issue, Antigua and Barbuda noted that while this would be ideal, a decision on a new contributions formula could be taken by simple majority. In addition, Antigua and Barbuda felt that some of the conclusions listed in the F&A Committee's report were not quite correct. In particular it suggested that: (1) in the 3<sup>rd</sup> bullet point, the phrase 'to try to reach consensus' be deleted; (2) in the 7<sup>th</sup> bullet point, the words 'on progress' be deleted, since the report could be final; and (3) that in the last bullet point the word 'consensus' be replaced with 'resolution'. The F&A Committee Chair noted that the current text of the report is the same as appeared in the draft report and that Committee endorsed these three conclusions unchanged. In his view the report accurately and properly reflected the views of the Committee. Denmark supported this position. The Chair of the Commission concluded that the comments of Antigua and Barbuda would be noted but that revision of an agreed report would not be appropriate.

Monaco, the USA and the UK stressed the importance of reaching consensus on any new contributions scheme. The USA remarked that since the formula will affect all Contracting Governments, decision-making must be by consensus and in keeping with prior practice. Norway considered that while consensus would be preferable, and that it would work diligently towards this goal, the rules of the organisation would allow a decision to be made via a Resolution. St Kitts and Nevis felt the work to develop a new contributions formula lacked urgency and that the F&A Committee recommendations were too open-ended. It thought that it would not be possible to achieve consensus but hoped that a conclusion could be reached by the next Annual Meeting.

South Africa thanked the Task Force for its extensive and useful work, agreed that efforts should continue, but expressed concern that some fundamental differences among countries had not yet been resolved. It reported that it had



studied the three models put forward for consideration in more detail and was satisfied that, while no consensus would be reached on the models as they currently stand, there were elements that held promise and on which agreement could be reached in the future. South Africa noted that it would continue to co-operate in this activity and that it would provide suggestions to the Secretariat over the next few weeks. Japan also appreciated the work done, believing it important to alleviate the burden on developing countries and encourage their participation in IWC. It also wished to continue to help with the work.

Oman supported in principle the revision of the contributions formula to reflect countries' abilities to pay, but felt that other factors such as whaling be given appropriate weight.

Norway noted its active interest in this activity, not simply because it is the second-largest contributor, but also because of its long-standing commitment to IWC and its genuine desire to make the organisation function at the highest level of efficiency, professionalism and credibility. It considered that a number of things could be taken for granted, i.e. that all members have a genuine interest in the organisation and are willing to pay a fair share of the costs, and that it is only fair that large nations with developed economies should pay more than small countries. Norway considered wealth an important factor, but that wealth per capita is not an appropriate measure to use as a basis.

Argentina and Spain encouraged further work on the contributions scheme and expressed their wish to join the Task Force.

The Commission noted the F&A Committee report, accepted its recommendations and invited Spain and Argentina to join the Contributions Task Force. It noted the possibility that the Contributions Task Force may need to meet more than once before the next Annual Meeting.

## 18. FINANCIAL STATEMENTS, BUDGETS AND OTHER ISSUES

The F&A Committee had received the report of the Budgetary Sub-committee that had worked intersessionally and had met during IWC/53 with Mr Ito (Japan) as Chair. The Budgetary Sub-committee had reviewed the provisional statement for 2000/2001 and proposed budgets for 2001/2002 and 2002/2003. The Chair of the F&A Committee noted that the Committee had benefited greatly from the Sub-committee's work.

### 18.1 Review of provisional financial statement, 2000/2001

At the recommendation of the F&A Committee, the Commission approved the Provisional Financial Statements subject to audit.

### 18.2 Consideration of estimated budgets, 2001/2002 and 2002/2003, including the budget for the Scientific Programme

As recommended by the F&A Committee, the Commission:

- approved the proposed increase in the registration fee for non-government observers from £510 to £525 and the proposed increase in the nominal fee for press representatives from £20 to £25;
- approved the budget for 2001-2002 including the anticipated 3.0% increase in member contributions and noted the Forecast Budget for 2002-2003, and the

significant reduction in the level of the General Fund reserves over the two years (Annex K);

- approved the proposed research expenditure by the Scientific Committee for 2001-2002, in addition to the provision for Greenland research of £18,000 for 2000-1 and 2001-2 (Annex L) ;
- approved an additional £10,000 as a contribution towards the provisional estimated total costs of £20,000 of a joint Japan/US proposal for a 'Research Methods Review Workshop'.

The Commission noted that Germany formally reserved its position on the proposed budget increases and that Dominica formally reserved its position on the proposed contribution increases.

Although the F&A Committee had recommended that the Research Methods Review Workshop be funded through a further increase in contributions, following a request from the USA it was agreed that the workshop be funded from the reserves

Japan appreciated the allocation of funds towards the Research Methods Review Workshop. While it expressed its interest in environmental issues and effects on large cetaceans, it was concerned with what it considered to be the recent bias towards funding work on environmental concerns not directly related to large cetaceans. It noted that it would not object to this year's budget but hoped that its views would be taken into consideration next year. The Chair of the F&A Committee drew attention to the fact that work on small cetaceans is funded via voluntary contributions.

## 18.3 Governments with financial contributions outstanding for a number of years

### 18.3.1 Report of the Finance and Administration Committee

The F&A Committee had reviewed a document prepared by the Secretariat in consultation with the Advisory Committee that identified a range of options to deal with the problem that a number of Contracting Governments were in arrears with their financial contributions to IWC and had been for some years. It was noted that these Contracting Governments had built up debts in the region of £500,000, had had their voting rights suspended and no longer played an active role in the work of the Commission. The Secretariat had explained that overall, the measures taken by the Commission for dealing with Contracting Governments in arrears (as detailed in Financial Regulations F. 1-5) had been successful and at, present, there did not appear to be a problem with Contracting Governments newly falling into arrears. However, the Secretariat noted that if that should happen, the current measures did not prescribe any course of action after the penalties had been applied; more particularly, the changes came too late to have any effect on those Governments which had already acquired substantial arrears.

The F&A Committee recognised that the Secretariat's document had raised a number of important issues, among them legal issues, which needed further consideration. It therefore recommended that: (1) Contracting Governments should be asked to submit written comments on the document to the Secretariat no later than 31 October 2001; and (2) that the results of the written contributions be reviewed by the Advisory Committee with a view to reporting back to IWC54.

### 18.3.2 Commission discussions and action arising

Mexico referred to discussions within the private Commissioners' meeting regarding repayment arrangements for countries with long-standing arrears. It had been Mexico's understanding that Commissioners had felt that attempts should be made to establish a set of rules that could be used universally rather than taking decisions on a case-by-case basis as at present that create precedents. Mexico considered that the F&A Committee recommendations would not result in resolution of the issue between this and next year's meeting and wondered whether Contracting Governments and Commissioners could discuss the matter further to see what rules and regulations might be approved to apply universally rather than comments just being sent in, collated and reviewed by the Advisory Committee.

In response, the F&A Committee Chair thought it might be appropriate to add a further recommendation to the Commission, i.e. that the Advisory Committee should also consider guidelines for arrangements for repayment of arrears and the re-establishment of voting and other rights, and that it should circulate any recommendations, particularly to changes to rules, outside the 60-day period specified by the Rules of Procedure, thus allowing proposed changes to be considered for adoption at IWC/54.

Ireland considered that Contracting Governments should meet their obligations regarding funding of the organisation and that the penalties in place are useful for extracting payment. It considered that as long as these penalties act as an inducement they are reasonable, appropriate and effective, but that after some time, they can change from being effective to becoming part of the problem. It therefore suggested that after 3-4 years, the annual contribution should stop being added to the debt already accumulated and that the existing debt only increase annually by application of the due rate of interest. Ireland believed that participation in the organisation should be encouraged and supported a review of the penalties. The Chair asked Ireland to forward its ideas to the Advisory Committee.

Antigua and Barbuda welcomed Ireland's proposal, and suggested that until a uniform approach to repayment of arrears is agreed, the procedure currently being followed by Antigua and Barbuda (i.e. a down payment of 17.5% followed by repayment over 9 years) could be used in the interim. While generally receiving support, a number of countries felt that adoption of interim measures at this meeting would be premature. The F&A Committee Chair noted that perhaps it was not necessary to adopt an interim measure since a problem would only arise if a country in arrears approaches the Secretariat before the next meeting. In this case, the Secretariat has some precedents on which to draw in discussions with that Contracting Government, while recognising that these discussions would be subject to the approval of the Commission. No decision would be made between now and IWC/54.

On the basis of these discussions, the F&A Committee Chair identified the following three issues that should be addressed: (1) how to deal with countries in arrears; (2) whether arrears should continue to accrue indefinitely; and (3) development of guidelines for future arrangements for repayment of arrears. For the first issue the Committee Chair proposed that the suite of proposals put forward by the Secretariat and reviewed by the F&A Committee be considered, and noted that the Advisory Committee may develop recommendations for changes to the Rules of Procedure. If this is the case, any proposals would be circulated at least 60 days before the next Annual Meeting.

The second issue would address Ireland's proposal, and again could involve proposed rule changes but possibly also consideration of legal issues. Regarding the third issue, it was understood that the Commissioners had agreed that changes to the Rules of Procedure would not necessarily be required, but rather than informal guidelines could be developed for use by the Secretariat in any negotiations with governments with arrears, and then applied by the Commission.

The Commission noted the report of the F&A Committee and accepted its recommendations, including those put forward by the Committee Chair in plenary discussions.

### 18.4 Other matters

The F&A Committee Chair also reported back on the outcome of discussions on: (1) the level of reserves; (2) property/accommodation provision; (3) research activity costs; and (4) continuation of the Budgetary Sub-committee.

Regarding the level of reserves, the F&A Committee considered whether the current level was the most appropriate, and what the most productive way of dealing with any surplus might be. It reconfirmed that a 6-month level of reserves in the General Fund was appropriate and noted the Budgetary Sub-committee's request that the F&A Committee consider options for reducing future expenditures. The Committee agreed not to pursue a formal investigation into a second reserve fund, noting that the Secretariat was in contact with other IGOs on such matters. In the Commission, Norway suggested that there is not an expressed instruction for the F&A Committee to consider options for reducing expenditures, rather that this is more open-ended.

The F&A Committee noted that the lease of the premises at the Commission's offices at the Red House will expire in 2009 and that some consideration should be given to forward planning. It agreed that it might be prudent to reconsider the possibility of a separate 'property' account in the event of a future budget surplus and noted that the option of locating away from Cambridge would still be open as the date of the lease expiry approached if the premises at the Commission's office at the Red House became less suitable. The F&A Committee agreed to keep this matter under review.

Regarding research activity costs, the Secretariat drew the F&A Committee's attention to the fact that over the last two years there had been additional administrative activity arising from an expanded research programme. It indicated that additional administrative resources might be needed if research activity continued at the present level (heightened by the 'special environment research provision allocated from the reserves over the last two years). The Secretariat reported that it is introducing internal procedures to try to deal with the increased administration and wished only to flag the potential for difficulty without seeking any action at this time.

The F&A Committee noted that this was the second full year in which the Budgetary Sub-committee had operated. It had been established on an experimental basis to review income and expenditures and proposed budgets to help expedite the work of the full Finance and Administration Committee. The F&A Committee recommended that the Secretariat be asked to develop an appropriate rota system and that the appointment of the Chairman be handled by the Chair of the Commission and the Advisory Committee in the usual fashion. It was agreed that the position should be brought to the Commission's attention as there were implications for appointments to all such informal

Committees. The F&A Committee Chair remarked that the overall view was that the experiment had been successful and that the Budgetary Sub-committee should continue.

The Commission noted and accepted the recommendations of the F&A Committee on the above issues.

## 19. AMENDMENT TO THE RULES OF PROCEDURE

### 19.1 Observer fees

The Commission agreed to revise Rule of Procedure C.1.(b) as follows (new text shown in bold italics) as recommended by the F&A Committee:

'Any international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer, if such international organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting and the Commission issues an invitation with respect to such request. The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of such observers. ***The registration fee will be treated as an annual fee covering attendance at the Annual Meeting to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next Annual Meeting.*** Once an international organisation is accredited, it remains accredited until the Commission ***decides otherwise.***'

### 19.2 Credentials

The Secretariat had proposed an amendment to Rule of Procedure D.1.(a) to provide more accessible guidance on who could sign the credentials of member government representatives or non-member country observers. During the F&A Committee discussions, it became apparent that the formal requirements for the accreditation of representatives differ from country to country and that the issue needed further consideration. The F&A Committee agreed that the proposed changes be withdrawn and that further work be undertaken with a view to a possible rule change next year.

The Commission noted the outcome of the F&A Committee's discussion.

### 19.3 Opening statements

The Commission agreed to adopt the following new Rule of Procedure under section Q (Commission Documents) as recommended by the F&A Committee:

'***Observers admitted under Rule of Procedure C.1.(a) and (b) may submit Opening Statements which will be included in the official documentation of the Annual or other Meeting concerned. They shall be presented in the format and the quantities determined by the Secretariat for meeting documentation.***

***The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.***'

It was also agreed to retain the understanding that there is no intention that the Secretariat should conduct advance or *ex-ante* reviews of such statements. This understanding will be included as a footnote in the revised Rules of Procedure.

### 19.4 Availability of documents to observers

On the recommendation of the F&A Committee, the Commission agreed to adopt a new Rule of Procedure Q.1 (to replace the current Q.1 and Q.2) as follows:

'***Q.1 Reports of meetings of all committees, sub-committees and working groups of the Commission are confidential (i.e. reporting of discussions, conclusions and recommendations made during a***

***meeting is prohibited) until the opening plenary session of the Commission meeting to which they are submitted, or in the case of intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports, with the exception of the report of the Finance and Administration Committee, shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).***'

The Commission also agreed to recommend that the Scientific Committee adopt a revised Rule of Procedure E.5.(b) as follows (changes are in bold italics):

'(b) ***The report of the Annual Meeting of the Scientific Committee shall be distributed to the Commission no later than the beginning of the opening plenary of the Annual Commission Meeting and is confidential until this time.***

Reports of intersessional Workshops or Special Committee Meetings are confidential until they have been ***dispatched by the Secretary*** to the full Committee, Commissioners and Contracting Governments.

Reports of intersessional Steering Groups or Sub-committees are confidential until they have been discussed by the Scientific Committee, normally at an Annual Meeting.

***In this context, 'confidential' means that reporting of discussions, conclusions and recommendations is prohibited. This applies equally to Scientific Committee members, invited participants and observers. Reports shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time.***

The Scientific Committee should identify the category of any intersessional meetings at the time they are recommended.

The changes were introduced to increase transparency.

The Commission also agreed to the F&A Committee's recommendation that the Secretary undertake a comprehensive review of the Rules of Procedure to make the text gender neutral and to ensure that it met the needs of the electronic age.

## 20. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE

The Chair of the F&A Committee thanked the Committee and the Rapporteur, and the members of the Budgetary and Contributions Sub-committees for their work, adding that the procedures now followed, particularly on budgetary matters, were very efficient. The USA, joined by Antigua and Barbuda, endorsed the views of the F&A Chair, and expressed great appreciation for the work of Martin Harvey of the Secretariat. Denmark thanked the F&A Chair for his fair and efficient guidance during discussions.

The Commission then adopted the report of the F&A Committee.

## 21. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

### 21.1 54<sup>th</sup> Annual Meeting, 2002

The Chair reported that the 54<sup>th</sup> Annual Meeting will be hosted by the Government of Japan in Shimonoseki during the period 25 April to 24 May 2002, with the Annual Commission Meeting taking place during the week beginning Monday 20 May. He noted that details on exact dates for the Scientific Committee and Commission sub-group meetings would be determined at a later date.

Japan informed the meeting that it had been working with Shimonoseki City to prepare for the 2002 meeting. The Mayor of Shimonoseki noted the pleasing location of

Shimonoseki and the great interest of its citizens in the forthcoming Annual Meeting and extended a heartfelt welcome to the Commission and Scientific Committee.

### 21.2 55<sup>th</sup> Annual Meeting, 2003

The Commission gratefully accepted the invitation from the German Government to hold its 55<sup>th</sup> Annual Meeting in 2003 in Northern Germany during the period May/June. Germany indicated that it would provide details on the exact date and location as soon as possible.

### 21.3 Intersessional meetings

It was agreed that both the RMS Expert Drafting Group and the Contributions Task Force would meet before IWC/54. The RMS Expert Drafting Group will meet in Cambridge in October 2001. The Contributions Task force will also meet in Cambridge at a date to be decided. It was acknowledged that second meetings of both groups may be necessary.

## 22. ADVISORY COMMITTEE

The Advisory Committee comprises the Chairman, Vice-Chairman, Chairman of the Finance and Administration Committee, Secretary and two Commissioners to broadly represent the interests within the IWC forum. The appointment of the Commissioners is for two years on alternative years.

The Chair: (1) explained that since the Netherlands had completed its two-year term on the Advisory Committee a new member must be appointed; and (2) called for nominations. The nomination of the USA by the Netherlands was seconded by Mexico and supported by the UK, Oman and Japan. The USA indicated that it was very honoured and would be pleased to serve. As there were no other nominations, the USA joins the Advisory Committee, whose composition is now Bo Fernholm (Sweden), Henrik Fischer (Denmark), Jim McLay (New Zealand), Vaughn Charles (St. Lucia) and Rolland Schmitt (USA).

Japan commented that it was perhaps time to review the composition of the Advisory Committee since the current structure is not necessarily appropriate. However, this was not discussed further.

## 23. ANNUAL REPORT

The Secretary introduced a proposal, developed in consultation with the Advisory Committee, to revise the current content of the 'International Whaling Commission Annual Report' to provide a more complete, up-to-date and therefore more useful summary of activities of the Commission. The 'report' would continue to be published together with the Chair's Report of the last Annual Meeting.

The proposed revisions were to:

1. Change the period covered by the 'Annual Report' so that it:
  - reports the activities from the end of one Annual Meeting to the *end* of the next thus making it possible to include a summary of the decisions made at the last meeting;
  - contains information on the audited financial statements for that financial year.

2. Expand the activities described slightly to give a more comprehensive overview of the work of the Commission and the Scientific Committee.
3. Rename the report '*Secretary's Report for the Year XX – XX*', and delegate approval of the report to the Advisory Committee.

The Commission agreed with the proposals with minor amendments to item 3, i.e. the Secretary would finalise the report in consultation with the Advisory Committee and then circulate to Commissioners and Contracting Governments. Any comments received would be taken into account prior to publication.

## 24. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

A document containing final versions of all adopted Resolutions was circulated. A summary of decisions and actions required is provided at the beginning of this report.

## 25. ANY OTHER BUSINESS

Iceland informed the meeting that it considered itself to be a fully-fledged IWC member since it believed the vote taken on the first day of the meeting to be illegal. It noted the support it had received from many Commission members and hoped and expected this support to increase. Iceland indicated that: (1) it will take up the issue of its membership directly with the capitals of those countries that took part in the decision to reject Iceland; and (2) that it will continue to participate and look forward to Shimonoseki.

The Republic of Guinea commended the Chair, who it believed had run the meeting very efficiently in spite of all the difficulties he faced. It requested the Chair and the Secretary to re-examine the case of Iceland's membership.

Norway also thanked the Chair for his sincere efforts in steering the Commission through the rough terrain of the meeting and commended the Secretariat for its performance. Although it has mixed views on the performance of IWC, Norway indicated that it remains basically hopeful, optimistic and confident about the organisation and that its commitment to IWC remains as strong and robust as ever.

The meeting paid tribute to the debonair Commissioner from the Netherlands, Mr Fer von der Assen who was leaving IWC and taking up new duties as the representative of the Dutch Government to UNEP in Nairobi. He was recognised for his integrity and sense of humour and thanked in particular for his dedicated, diplomatic, creative and patient work as Chair of the RMS Working Group. The Commission wished him well in his new post.

The meeting also thanked and recognised Martin Harvey and Daphne Ransom from the Secretariat who have served the Commission with diligence, good humour and seemingly endless patience for 25 years.

Finally, after thanking the Secretariat and the UK Government for arranging the meeting, the Chair closed the meeting.

## 26. AMENDMENTS TO THE SCHEDULE

The amendments to the Schedule adopted at the meeting are provided in Annex M.

## Annex A

# Delegates and Observers Attending the 53<sup>rd</sup> Annual Meeting

(C) Commissioner; (AC) Alternate Commissioner; (I) Interpreter;  
(S) Support Staff; (Alt) Alternate Observer

### Antigua & Barbuda

D. Joseph (C)  
C. Murdoch  
H. Forde

### Argentina

A. Beraud (C)  
M. Vergara (AC)  
A. Schiavini

### Australia

H. Bamsey (C)  
R. Hill  
D. Kay (AC)  
P. Kang  
C. O'Connell (AC)  
G. French (AC)  
M. Brown  
R. Bromley  
P. Eiser  
N. Beynon  
M. Brown (S)

### Austria

A. Nouak (C)  
M. Stachowitsch  
A. Woergetter  
G. Dick (S)

### Brazil

H. da Rocha Vianna (C)  
R. Pinto de Lima (AC)  
J. Palazzo Jr. (AC)  
A. de Mello  
E. Garcia

### Chile

C. Barros (C)  
G. Navarrete (AC)  
G. Bittelman (AC)  
M. Orellana

### China

X. Liu (C)  
M. Luo  
W. Yin

### Denmark

H. Fischer (C)  
S. Amundsen

L. Fontaine

P. Jepsen  
A. Jessen  
K. Mathiasen  
K. Sanderson

### Dominica

L. Pascal (C)  
A. Magloire

### Finland

E. Jaakkola (C)  
R. Rautiainen

### France

C. Abily (AC)  
M. Bigan  
V. Ridoux

### Germany

P. Bradhering (C)  
A. Haack (AC)  
M. Berninger  
P. Deimer-Schütte  
T. Maack (S)

### Grenada

Claris Charles (C)  
Justin Rennie (AC)

### Guinea, Republic of

I. Toure (C)  
A. Diallo (Alt)  
M. Sidibe  
G. Parres (I)

### India

A. Thakur (C)  
H. Singh (AC)

### Ireland

M. Canny (C)  
P. Brazel (AC)

### Italy

G. Notarbartolo di Sciarra (C)  
T. Scovazzi (AC)

### Japan

M. Morimoto (C)  
Y. Ito (AC)  
M. Komatsu (AC)  
D. Nagahata (AC)  
H. Arimura  
K. Ejima  
Y. Fujise  
D. Goodman  
M. Goto  
Y. Hamada  
N. Hattori  
M. Hayashi  
Y. Hayashi  
Y. Iino  
H. Ishikawa  
I. Isono  
M. Ito  
H. Kato  
K. Katsuhara  
S. Kawahara  
K. Kubo  
J. Morishita  
H. Nakada  
K. Nakajima  
K. Ohmagari  
S. Ohsumi  
T. Sakamoto  
N. Suetomi  
Y. Takagi  
T. Tarui  
I. Toyoda  
I. Wada  
T. Yamaguchi  
K. Yamamura  
C. Allford (I)  
M. Inoue (I)  
R. Kawagishi (I)  
M. Ota (I)  
A. Tomita (I)  
T. Furuta (S)  
M. Hamamura (S)  
K. Hamasaki (S)  
Y. Ishikawa (S)  
H. Murakami (S)  
H. Nakamura (S)  
N. Onaka (S)  
K. Wani (S)  
H. Yoshida (S)

### Korea, Republic of

D-B Park (C)  
S-Y Jung  
H-C Shin  
Y-S Kim  
Y-C Kim  
Z. Kim

### Mexico

A. Rozental (C)  
J. Lomónaco (AC)  
S. Manzanilla Naim  
L. Rojas Bracho (I)

### Monaco

F. Doumenge (C)  
F. Briand (AC)

### Morocco

D. Meski (C)  
F. Baroudi

### Netherlands

F. Von Der Assen (C)  
F. Vossenaar (AC)  
P. Reijnders  
A. Van Der Heijden (S)

### New Zealand

S. Lee  
J. McLay (C)  
W. Dovey (AC)  
M. Donoghue  
A. Gillespie  
G. Lento (S)  
H-W Loose (S)  
K. Prime  
W. Stone  
K. Smith (S)

### Norway

O. Skagestad (C)  
H. Johansen (AC)  
P. Schei (AC)  
T. Rodrigues Eusébio  
R. Bøthun  
H. Ynnesdal  
L. Walløe  
E. Øen

- E. Lorentsen  
B-H Bendiksen  
Ø. Stokke (S)  
S. Andresen (S)
- Oman**  
H. Ambusaidi (C)
- Panama**  
E. Diaz C. (C)  
A. Robinson
- Russian Federation**  
V. Ilyashenko (C)  
V. Prokhorov  
R. Abramovich  
R. Borodin (S)  
A. Borodin (S)  
G. Inankeouyas (S)  
O. Etylina (I)
- Saint Kitts and Nevis**  
C. Liburd (C)  
R. Archibald  
J. Simmonds
- Saint Lucia**  
C. Elias (C)  
V. Charles (AC)
- Saint Vincent and The Grenadines**  
S. Walters (C)  
R. Ryan (AC)  
F. Hester
- Senegal**  
N. Gueye
- Solomon Islands**  
L.Laka (AC)  
S. Diake (AC)
- South Africa**  
J.Chalmers (C)  
G. de Villiers (AC)  
H Oosthuizen
- Spain**  
C. Asencio (C)  
J. Lucini (AC)  
F. Arrido (S)
- Sweden**  
B. Fernholm (C)  
S. Hamrin (AC)  
T. Lyrholm (AC)  
A. Roos (AC)
- Switzerland**  
T. Althaus (C)  
M. Krebs (AC)
- UK**  
R. Cowan (C)  
E. Morley (AC)
- R. Bowman (AC)  
G. Jasinski  
L. Kell  
A. Moss  
R. Hepburn  
J. Lonsdale  
M. Simmonds  
P. Birnie  
C. Wold  
I. Orr  
D. Stowe  
J. Barrett (S)  
R. Hitchen (S)  
E. Southard (S)  
S. Doherty (S)  
M. Fulford-Gardiner (S)  
P. Hooley (S)
- USA**  
R. Schmitt (C)  
M. Tillman (AC)  
N. Azzam  
V. Botet  
E. Brower  
R. Brownell  
C. Campbell  
R. Eckert  
M. Hayes  
K. Johnson  
G. Leape  
J-P Plé  
S. Speaks  
G. Ahmaogak (S)  
G. Arnold (S)  
D. Jansen (S)  
M. Lawrence (S)  
G. Rankel (S)  
M. Synder (S)  
K. Stempliski (S)  
A. Summer (S)  
D. Whaley (S)  
C. Yates (S)
- Government invited to assist as an Observer**
- Iceland**  
S. Ásmundsson (C)  
T. Ásgeirsson (AC)  
H. Atlason  
E. Gudnason  
J. Gunnarsson  
T. Heidar  
A. Jónsson  
K. Loftsson  
S. Ómarsdóttir  
G. Víkingsson
- Chair of Scientific Committee**  
J. Zeh
- NON-MEMBER GOVERNMENT OBSERVERS**
- Canada**  
H. Powles  
L. Small
- El Salvador**  
M. González Recinos
- Gabon**  
R. Ondoh M've
- Namibia**  
B. van Zyl
- INTERGOVERNMENTAL ORGANISATION OBSERVERS**  
**CCAMLR**  
M. Richardson
- ECCO**  
H. Walters  
N. Lawrence  
J-M Walters
- IUCN**  
J. Cooke
- NAMMCO**  
G. Hovelsrud-Broda  
C. Winsnes
- OLDEPESCA**  
C. Mazal
- South Pacific Regional Environment Programme**  
T. Tutangata  
J. Opu  
S. Vaipulu
- UNEP/CITES**  
W. Wijnstekers
- NON-GOVERNMENTAL ORGANISATION OBSERVERS**  
**Achiever Yacht Charters Ltd**  
E. Clark  
C. Lonsdale (Alt)  
M. Rice (Alt)
- African Wildlife Foundation**  
R. Mott
- All Japan Seamen's Union**  
T. Masuda  
A. Koen (I)
- American Cetacean Society**  
K. Penland
- American Friends Service Committee**  
M. Ahmaogak
- Animal Kingdom Foundation**  
M. Prideaux
- Animal Welfare Institute**  
B. White Jr.
- Antarctic and Southern Ocean Coalition**  
M. Nagasawa  
J. Sakurai (Alt)
- Ark Angel**  
M. O'Sullivan
- Association Cetus**  
A. Schaffar Delaney
- Association of Traditional Marine Mammal Hunters of Chukotka**  
I. Makotrik  
A. Borodin (Alt)  
P. Vitebsky (Alt)
- Association for Protection of Japanese Fisheries**  
N. Matsushita  
I. Hidaka (I)
- Australians for Animals**  
P. Nielsen
- Blue Odyssey**  
B. Sifaoui  
B. Havas (I)
- Born Free Foundation**  
S. Reddy  
P. Spong (Alt)
- Campaign Whale**  
A. Ottaway  
S. Dawes (Alt)
- Canadian Marine Environment Protection Society**  
A. Sorg
- Care for the Wild**  
D. Owen  
H. Leavesley (Alt)
- Cetacean Society International**  
K. O'Connell
- CMMR Leviathan**  
E. Cabrera
- Coalition Clean Baltic**  
H. Roed
- Cousteau Society**  
C. Merriam
- David Shepherd Conservation Foundation**  
S. Fisher

<b>Dolphin &amp; Whale Action Network</b> N. Kurasawa M. Ishihara (I)	<b>Friends of Whalers</b> A. Macnow	<b>International Foundation for the Conservation of Natural Resources</b> S. Boynton	<b>Monitor</b> C. Van Note
<b>Dolphin Connection</b> K. Hanly	<b>Fundación Cethus</b> V. Tossenberger	<b>International Fund for Animal Welfare</b> K. Steuer	<b>Monitor International</b> K. Block
<b>Earthkind</b> R. Page S. Duthey (Alt)	<b>Gesellschaft zum Schultz der Meeressäugtiere e.V. GSM</b> B. Sloth	<b>International Institute for Environment and Development</b> G. Shepherd	<b>Nordic Council for Animal Welfare</b> O. Lindquist
<b>Earthtrust</b> L. Busby M. Nielsen	<b>Global Guardian Trust</b> H. Yagita T. Miyamoto (I)	<b>International League for the Protection of Cetaceans</b> O. Neve B. Bugada (Alt)	<b>North Star League</b> L. Ainana P. Vitebsky (Alt) O. Etylin (I)
<b>Earth Island Institute</b> D. Phillips	<b>Greenpeace International</b> J. Frizell M. Schwartzman (Alt)	<b>International Marine Mammal Association Inc.</b> T. Kasuya	<b>Northern Forum</b> V. Etylin J. Tichotsky (I)
<b>Earth Voice</b> B. Dribben	<b>Group to Preserve Whale Dietary Culture</b> K. Wani H. Shimizu (I)	<b>International Ocean Institute</b> S. Holt	<b>Norwegian Whaler's Union</b> H. Bendiksen J. Baake (Int)
<b>Eastern Caribbean Coalition for Environmental Awareness (ECCEA)</b> L. Suttly M. Dill (I)	<b>High North Alliance</b> R. Frøvik B. Wisur Olsen (Alt) S. Kerins (Int)	<b>International Transport Workers' Federation</b> H. Kobori H. Kon (I)	<b>Ocean Conservancy</b> C. Taylor Thomas
<b>Ecodetectives</b> A. Thornton N. Stoupe (Alt)	<b>Humane Society International</b> P. Forkan	<b>International Wildlife Coalition</b> D. Morast	<b>Ocean Defense International</b> J. Paul
<b>Environmental Investigation Agency</b> C. Perry	<b>Indigenous World Association</b> E. Brower	<b>IWMC World Conservation Trust</b> E. Lapointe C. Fechko (Alt) H. Lapointe (I)	<b>Progressive Animal Welfare Society</b> A. Thompson S. Antioquia (I)
<b>Eurogroup for Animal Welfare</b> D. Wilkins	<b>Institute of the North</b> M. Zelensky G. Inankeuyas (Alt) E. Tenenbaum (I)	<b>Inuit Circumpolar Conference</b> N. Møller	<b>Project Jonah</b> H. McLachlan
<b>European Bureau for Conservation &amp; Development</b> D. Symons R. Leto (I)	<b>International Association for Religious Freedom North America</b> C. Bailey E. Comstock (Alt)	<b>Japan Fisheries Association</b> J. Hastings	<b>Pro Wildlife</b> S. Altherr
<b>Fauna and Flora International</b> S. Chapman	<b>International Coalition of Fisheries Associations</b> K. Loftsson	<b>Japan Small-Type Whaling Association</b> M. Ito C. Kimura (I)	<b>Robin des Bois</b> C. Nihart J. Bonnemains Courtin (I)
<b>Finns for the Whales Society</b> K. Koomson	<b>International Commission of Jurists</b> J. Lefevre	<b>Japan Whale Conservation Network</b> N. Funahashi	<b>RSPCA</b> L. Sadler
<b>Florida Caribbean Conservation Coalition</b> H. Rockwell	<b>International Dolphin Watch</b> N. Entrup	<b>Japan Whaling Association</b> T. Furuta G. Gomez Diaz (I)	<b>Safety First</b> M. Hagiwara T. Kajiki (I)
<b>Friends of the Earth International</b> S. Tyack	<b>International Environmental Advisors</b> F. Pleym S. Duthie (Alt) M. Schwartzman (Alt)	<b>Minority Rights Group</b> G. Ahmaogak Sr. C. George (Alt)	<b>Save the Children</b> T. O'Hara
<b>Friends of the Gray Whale</b> T. Drake			<b>Sierra Club</b> J. Olmer
			<b>Sino Cetacean International Institute</b> G. Gao
			<b>South Pacific Whale Conservation Association</b> P. Manoa B. Havas (Alt) F. Future (Alt)



**Survival for Tribal People**

H. Brower Jr.

**TEN**

E. Nakata

**TRAFFIC International**

S. Broad

**Waterlife Association**

A. Cardwell

**Werkgroep Zeehond**

G. Drieman

N. Rey (Alt)

**Whale & Dolphin  
Conservation Society**

J. Smith

P. Brakes (Alt)

**Whaleman Foundation**

J. Pantukhoff

S. Dawes (Alt)

**Whales Alive**

O. Andrews

M. McIntyre (Alt)

**Wildlife Volunteer Fund**

A. Hasegawa

M. Naito (I)

**Women's Forum for Fish**

Y. Shiraishi

T. Yamamoto (I)

**Working Group for the  
Protection of Marine  
Mammals (ASMS)**

S. Lüber

**World Council of Whalers**

T. Happynook

K. Happynook (Alt)

**World Society for the  
Protection of Animals**

C. Stroud

B. Maas (Alt)

**World Wide Fund for  
Nature**

C. Phillips



## Annex B

### Agenda

1. INTRODUCTORY ITEMS
  - 1.1 Welcome Address
  - 1.2 Opening Statements
  - 1.3 Arrangements for the Meeting
2. ADOPTION OF THE AGENDA
3. SECRET BALLOTS
  - 3.1 Proposal for amendment to Rule of Procedure E.3(d)
  - 3.2 Commission discussions and action arising
4. WHALEWATCHING  
(*Chairman's Report of the 52<sup>nd</sup> Meeting, section 6*)
  - 4.1 Report of the Scientific Committee
  - 4.2 Commission discussions and action arising
5. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES  
(*Chairman's Report of the 52<sup>nd</sup> Meeting, section 8*)
  - 5.1 Report of the Whale Killing Methods and Associated Welfare Issues Working Group
    - 5.1.1 Activities related to the action plan on whale killing methods
    - 5.1.2 Proposal to include welfare issues in Chapter VI of the Schedule
    - 5.1.3 Other
  - 5.2 Commission discussions and action arising
6. WHALE STOCKS  
(*Chairman's Report of the 52<sup>nd</sup> Meeting, section 11.2*)
  - 6.1 Southern Hemisphere minke whales
    - 6.1.1 Report of the Scientific Committee
    - 6.1.2 Commission discussions and action arising
  - 6.2 Southern Hemisphere blue whales
    - 6.2.1 Report of the Scientific Committee
    - 6.2.2 Commission discussions and action arising
  - 6.3 Southern Hemisphere humpback whales
    - 6.3.1 Report of the Scientific Committee
    - 6.3.2 Commission discussion and action arising
  - 6.4 Southern Hemisphere fin whales
    - 6.4.1 Report of the Scientific Committee
    - 6.4.2 Commission discussion and action arising
  - 6.5 North Atlantic humpback whales
    - 6.5.1 Report of the Scientific Committee
    - 6.5.2 Commission discussion and action arising
  - 6.6 Other stocks – bowhead, right and gray whales
    - 6.6.1 Report of the Scientific Committee
    - 6.6.2 Commission discussion and action arising
  - 6.7 Other
7. SANCTUARIES  
(*Chairman's Report of the 52<sup>nd</sup> Meeting, section 7*)
  - 7.1 Report of the Scientific Committee
    - 7.1.1 Report of the Scientific Committee
    - 7.1.2 Commission discussions and action arising
  - 7.2 Research activities within sanctuaries
    - 7.2.1 Report of the Scientific Committee
      - Southern Ocean Sanctuary (i.e. as follow-up to Resolution 1998-3)
      - Other
    - 7.2.2 Commission discussions and action arising
  - 7.3 Southern Ocean Sanctuary
    - 7.3.1 Proposal to amend paragraph 7.(b) of the Schedule
    - 7.3.2 Commission discussions and action arising
  - 7.4 South Pacific Sanctuary
    - 7.4.1 Proposal to amend the Schedule to establish a sanctuary
    - 7.4.2 Commission discussions and action arising
  - 7.5 South Atlantic Sanctuary
    - 7.5.1 Proposal to amend the Schedule to establish a sanctuary
    - 7.5.2 Commission discussions and action arising
  - 7.6 Other
8. ABORIGINAL SUBSISTENCE WHALING  
(*Chairman's Report of the 52<sup>nd</sup> Meeting, section 10 & Resolution 2000-3*)
  - 8.1 Aboriginal subsistence whaling scheme
    - 8.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee
    - 8.1.2 Commission discussions and action arising
  - 8.2 Review of aboriginal subsistence whaling catch limits
    - 8.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

- 8.2.2 Commission discussions and action arising
- 8.3 Catches by non-member nations
- 8.3.1 Report of the Aboriginal Subsistence Whaling Sub-committee
- 8.3.2 Commission discussions and action arising
- 8.4 Contaminated gray whales from the North Pacific eastern stock
- 8.4.1 Report of the Aboriginal Subsistence Whaling Sub-committee
- 8.4.2 Commission discussions and action arising
- 8.5 Other
9. REVISED MANAGEMENT SCHEME (RMS)
- 9.1 Revised Management Procedure (RMP)  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 11.1*)
- 9.1.1 Report of the Scientific Committee
- general issues
  - implementation simulation trials (North Pacific minke and Bryde's whales)
  - implementation review for North Atlantic minke whales in 2002
- 9.1.2 Commission discussions and action arising
- 9.2 Revised Management Scheme  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 12 & Resolution 2000-3*)
- 9.2.1 Report of the Revised Management Scheme Working Group
- Inspection and observation scheme
  - Incorporation of the RMS into the Schedule
  - Other
- 9.2.2 Commission discussions and action arising, including a proposal to amend the Schedule
- 9.3 Other
10. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 5 & Resolution 2000-1*)
- 10.1 Commission discussions and action arising
- 10.1.1 Proposal to amend the Schedule
11. SCIENTIFIC PERMITS  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 13 & Resolutions 2000-4,5*)
- 11.1 Report of the Scientific Committee
- 11.1.1 Assessing impacts on stocks
- 11.1.2 Review of new or revised proposals
- 11.2 Commission discussions and action arising
12. ENVIRONMENTAL AND HEALTH ISSUES  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 14 & Resolutions 2000-6,7*)
- 12.1 Pollution 2000+
- 12.1.1 Report of the Scientific Committee
- 12.1.2 Commission discussions and action arising
- 12.2 SOWER 2000
- 12.2.1 Report of the Scientific Committee
- 12.2.2 Commission discussions and action arising
- 12.3 Competition between cetaceans and fisheries
- 12.2.1 Report of the Scientific Committee
- 12.2.2 Commission discussions and action arising
- 12.4 Reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals
- 12.5 Health issues
- 12.5.1 Report of the Scientific Committee
- 12.5.2 Commission discussions and action arising
- 12.6 Other
13. CO-OPERATION WITH OTHER ORGANISATIONS  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 16 & Appendix 2*)
- 13.1 Organisations with whom IWC is currently working
- 13.1.1 Report of the Scientific Committee
- 13.1.2 Commission discussions and action arising
- 13.2 Co-operative agreement with IMO
14. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 17 & Resolutions 2000-8,9*)
- 14.1 Small cetaceans
- 14.1.1 Report of the Scientific Committee
- 14.1.2 Commission discussions and action arising
- 14.2 Other activities
- 14.2.1 Report of the Scientific Committee
- 14.2.2 Commission discussions and action arising
- 14.3 Scientific Committee Future Work Plan
- 14.3.1 Report of the Scientific Committee
- 14.3.2 Commission discussions and action arising
- 14.4 Adoption of the Report
15. INFRACTIONS, 2000 SEASON  
(*Chairman's Report of 52<sup>nd</sup> Meeting, section 9*)
- 15.1 Report of the Infractions Sub-committee
- 15.1.1 Infractions reports from Contracting Governments
- 15.1.2 Reporting of accidental takes
- 15.1.3 Submission of national laws and regulations concerning whaling.
- 15.1.4 Reports from Contracting Governments on availability, sources and trade in whale products
- 15.1.5 Other
- 15.2 Commission discussions and action arising
16. ADMINISTRATIVE MATTERS
- 16.1 Annual Meeting arrangements
- 16.1.1 Report of the Finance and Administration Committee
- Venues
  - Document preparation and distribution
  - Verbatim Record
  - Other

- 16.1.2 Commission discussions and action arising
  - 16.2 Formalising arrangements for intersessional meetings
    - 16.2.1 Report of the Finance and Administration Committee
    - 16.2.2 Commission discussions and action arising
  - 16.3 Enhancing the participation of developing country scientists
    - 16.3.1 Report of the Finance and Administration Committee
    - 16.3.2 Commission discussions and action arising
  - 16.4 Other
  - 17. FORMULA FOR CALCULATING CONTRIBUTIONS
    - 17.1 Report of the Finance and Administration Committee
    - 17.2 Commission discussions and action arising
  - 18. FINANCIAL STATEMENTS, BUDGETS AND OTHER ISSUES
    - 18.1 Review of the provisional financial statement, 2000/2001
      - 18.1.1 Report of the Finance and Administration Committee
      - 18.1.2 Commission discussions and action arising
    - 18.2 Consideration of estimated budgets, 2001/2002 and 2002/2003
      - 18.2.1 Report of the Finance and Administration Committee
      - 18.2.2 Commission discussions and action arising
  - 18.3 Governments with financial contributions outstanding for a number of years
    - 18.3.1 Report of the Finance and Administration Committee
    - 18.3.2 Commission discussions and action arising
  - 18.4 Other
  - 19. AMENDMENT TO THE RULES OF PROCEDURE
    - 19.1 Recommendations from the Finance and Administration Committee
      - 19.1.1 Report of the Finance and Administration Committee
      - 19.1.2 Commission discussions and action arising
    - 19.2 Other
  - 20. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE
  - 21. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS
    - 21.1 54<sup>th</sup> Annual Meeting, 2002
    - 21.2 55<sup>th</sup> Annual Meeting, 2003
    - 21.3 Other
  - 22. ADVISORY COMMITTEE
  - 23. ANNUAL REPORT
  - 24. SUMMARY OF DECISIONS AND REQUIRED ACTION
  - 25. ANY OTHER BUSINESS
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## Annex C

# Resolutions Adopted During the 53<sup>rd</sup> Annual Meeting

### Resolution 2001-1

#### RESOLUTION ON TRANSPARENCY WITHIN THE INTERNATIONAL WHALING COMMISSION

NOTING that Article 2(2) of the United Nations Charter calls on all member countries to 'fulfil in good faith their obligations'; and that Article 300 of the United Nations Convention on the Law of the Sea requires that: 'States shall fulfil in good faith the obligations assumed under this Convention ...';

ALSO NOTING that Article 26 of the Vienna Convention on the Law of Treaties requires application of the *pacta sunt servanda* ('agreements are to be kept') rule of international law;

CONSCIOUS that, as set out in the *pacta sunt servanda* rule, 'good faith' requires fairness, reasonableness, integrity and honesty in international behaviour;

NOTING that the 1970 *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the United Nations Charter* stipulates that: 'No state may use or encourage the use of economic, political, or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind';

AWARE of the importance of transparency in international environmental law, and

NOTING that Principle 10 of the *Rio Declaration* calls upon States to, among other things, 'facilitate and encourage public awareness and participation by making information widely available...'

NOW THEREFORE THE COMMISSION:

ENDORSES AND AFFIRMS these principles as applicable to the activities of the International Whaling Commission (IWC) in its implementation of the International Convention on the Regulation of Whaling (ICRW);

STRESSES in particular the importance of adherence to the requirements of good faith and transparency in all activities undertaken by the IWC and in all activities by Contracting Governments in respect of their involvement with the IWC;

ENDORSES AND AFFIRMS the complete independence of sovereign countries to decide their own policies and freely participate in the IWC (and other international forums) without undue interference or coercion from other sovereign countries.

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### Resolution 2001-2

#### RESOLUTION ON WHALE KILLING METHODS

RECOGNISING that the Working Group on Whale Killing Methods and Associated Welfare Issues (WGWM&AWI) is established to review information and documentation available with a view to advise the Commission on whale killing methods and associated welfare issues;

NOTING that IWC/53/WKM&AWI9 as distributed by the Secretariat calls for a Summary of Activities related to the Action Plan on Whale Killing Methods (based on resolution 1999-1), and the UK Paper on Collection of Whale Killing Data (IWC/53/WKM&AWI5) submitted to WGWM&AWI53;

RECALLING IWC resolution 1997-1 which urged aboriginal subsistence whalers to do everything possible to

reduce still further any avoidable suffering caused to whales in such hunts;

NOTING the proposal that Contracting Governments should supply data on animal welfare issues to the IWC;

DISAPPOINTED at the lack of information presented to the WGWM&AWI on the recent kills of sperm and Bryde's whales.

RECOGNISING that seasonal and weather variations can adversely impact times to death;

NOTING the inclusion of the recommendation for the development of better criteria for determining the onset of permanent insensibility in whales, using physiological and behavioural observations, correlated as far as possible with

post mortem examinations, under the revised action plan on whale killing methods IWC51Ann rep. Appendix 1;

NOTING also that previous Workshops have considered relevant comparative data from killing of other large mammals.

NOW THEREFORE THE COMMISSION:

AGREES to convene in 2003 a Workshop on Whale Killing Methods;

ENCOURAGES all Contracting Governments to report to the Commission any technical developments within whale

killing technologies and to submit, to the extent possible, relevant information, including variance data on times to death, to the meetings of the Working Group on Whale Killing Methods and Associated Welfare Issues, and future Workshops on Whale Killing Methods;

ALSO ENCOURAGES all Contracting Governments to provide relevant comparative data from killing of other large mammals;

ENCOURAGES all Contracting Governments to provide appropriate technical assistance to reduce time to unconsciousness and death in all whaling operations

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### Resolution 2001-3

#### RESOLUTION ON WESTERN NORTH PACIFIC GRAY WHALE

RECALLING that the Commission passed a Resolution on Small Populations of Highly Endangered Whales (Resolution 1999-7) at its 51<sup>st</sup> (1999) meeting, which included the western North Pacific gray whale stock;

CONCERNED that IUCN listed the western gray whale as 'critically endangered' in 2000 because of its geographic and genetic isolation combined with the small population size and possibility that fewer than 50 reproductive individuals exist;

ALARMED by the report of the 2001 Scientific Committee report that the population is less than 100 whales with only 12 adult females bearing calves, observation of 'skinny' whales for the first time in 1999, lower than expected number of calves in 2000, some of the few calves produced in recent years are not returning to the feeding grounds, and all recent calves born in the population were males;

WELCOMING the Scientific Committee recommendation that as a matter of absolute urgency that long-term research and management for western North Pacific gray whales be continued and expanded;

COMMENDING the progress made by the joint Russian-American research and monitoring programmes and the various groups supporting these efforts;

NOTING the management recommendations of the 2001 Scientific Committee which stresses that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality to zero and to reduce various types of anthropogenic disturbances to the lowest possible level;

FURTHER NOTING the unique opportunity to continue the long-term in-depth study of one of the world's most endangered whale populations and the valuable insight the work on western gray whales has to better understand the dynamics of other populations of critically endangered whale populations.

NOW THEREFORE THE COMMISSION:

CALLS UPON range states and others to continue to actively pursue all practicable actions to eliminate anthropogenic mortality in this stock and to minimize anthropogenic disturbances in the migration corridor and on their breeding and feeding grounds; URGES range states and others interested in the western gray whale stock to strongly support an expanded research, monitoring and management program for the whales;

ENDORSES all conclusions and recommendations of the 2001 Scientific Committee on western gray whales including that 'every effort must be made to reduce anthropogenic mortality (including directed catches) to zero and to reduce various types of anthropogenic disturbances to the lowest possible level'.

REQUESTS range states for this species and the other stocks noted in Resolution 1999-7 to report back to the Scientific Committee at the IWC 54 (2002), and annually thereafter, on progress made on the above conservation and management recommendations.

### Resolution 2001-4

#### RESOLUTION ON THE INCIDENTAL CAPTURE OF CETACEANS

NOTING that the problem of the incidental capture of non-target species in fishing gear is a problem of international proportions, and is the subject of serious concern within a number of international agreements, including the Convention on Migratory Species,

RECOGNISING that the problem of by-catch of cetaceans has been discussed by the IWC for over twenty years,

RECALLING IWC Resolution 2000-8 (on the North Atlantic Right Whale) and 2000-9 (on fresh water cetaceans),

ACKNOWLEDGING that the problem of by-catch may prove critical for some species,

NOW THEREFORE, THE COMMISSION

COMMENDS the work of the Scientific Committee on the Estimation of By-catch and Other Human-Induced Mortality;

URGES all members to contribute fully to the Committee's further work on this matter;

REQUESTS the Scientific Committee to provide to the 54<sup>th</sup> Annual Meeting of the Commission a summary of its

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work in recent years on the most feasible methods to mitigate the incidental capture of large cetaceans in fishing gear, and ways in which entangled large cetaceans may be removed from fishing gear with minimal risk to rescuers;

RECOMMENDS that all Contracting Parties make reasonable attempts to release alive, with the minimum harm possible, whales that have been incidentally captured.

If the whale cannot be released alive, the Commission recommends that:

(a) There shall be no commercial exchange of

incidentally-captured whales for which no catch limit has been set by the Commission;

(b) If an incidentally-captured whale is subject to a catch limit awarded under the RMP, and the sovereign government wishes to permit commercial exchange for that whale, then:

(i) A DNA sample must be forwarded to the appropriate diagnostic register;

(ii) The incidental capture must be counted against the overall quota for that species or stock.

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### Resolution 2001-5

#### RESOLUTION ON COMMERCIAL WHALING

WHEREAS the Commission has established zero catch limits for commercial whaling in paragraph 10(e) of the Schedule;

CONCERNED that the Government of Norway, having lodged an objection to paragraph 10 (e) of the Schedule, has continued unilaterally to authorise commercial whaling on minke whales, despite IWC Resolutions 1995-5, 1996-5, 1997-3, and 1998-1, and numerous statements read into the records of the Commission calling on it to halt immediately all whaling activities under its jurisdiction;

CONCERNED also that, despite IWC Resolutions 1992-4 and 1993-3, and contrary to the precautionary approach, the Government of Norway has opted to employ a less conservative 'tuning level' in the setting of its quotas, as opposed to the 'high tuning level' of 0.72 accepted by the Commission; in effect implementing a self-determined version of the Revised Management Procedure (RMP) prior to incorporation of the Revised Management Scheme into the Schedule;

RECALLING that the IWC has passed numerous resolutions (IWC Resolutions 1994-7; 1995-6; 1996-3; 1997-2 and 1998-8 and 1999-6) welcoming the continuing cooperation between CITES and the IWC on issues related to trade in whale products, and urging all governments to continue to support IWC and CITES obligations with respect to this issue;

COGNISANT that all species of whales in the Schedule to the IWC have been listed in Appendix I of CITES (with the

exception of the West Greenland stock of minke whales, which is listed in Appendix II of CITES); and that by virtue of the inclusion of these species in Appendix I, CITES requires that Parties not issue any import or export permits for whale stocks for which the IWC has set zero catch limits;

CONCERNED that the Government of Norway, having lodged a reservation to the CITES Appendix I listing of whales, has announced its intention to resume international trade in minke whale products despite the decision by the CITES Conference of the Parties in 2000 to support the continued listing of minke whales on Appendix I;

CONCERNED also at recent reports confirming high levels of contaminants in samples of blubber from minke whales taken in the Norwegian hunt;

NOW THEREFORE THE COMMISSION:

REQUESTS that the Government of Norway refrain from issuing export permits for whale products;

CALLS UPON the Government of Norway to reconsider its less conservative 'tuning level' in the setting of its quotas; and

CALLS UPON the Government of Norway to reconsider its objection to paragraph 10 (e) and to halt immediately all whaling activities under its jurisdiction; and

INSTRUCTS the Secretariat to forward a copy of this resolution to the CITES Secretariat.

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### Resolution 2001-6

#### RESOLUTION ON JAPANESE COMMUNITY-BASED WHALING

RECALLING that the International Whaling Commission has repeatedly recognised the socio-economic and cultural needs of the four community-based whaling communities in Japan and the increasing distress to these communities which has resulted from the whaling moratorium (first, IWC/45/51; most recently, IWC Resolution 2000-1);

RECALLING further that the Commission has repeatedly resolved to work expeditiously to alleviate the distress to the communities which has resulted from the cessation of minke whaling (first, IWC/45/51; most recently, IWC Resolution 2000-1); and

NOTING the widespread recognition in various UN covenants, conventions, and other documents, of the importance for communities to continue customary resource use practices on a sustainable basis,

NOW THEREFORE THE COMMISSION:

REAFFIRMS the Commission's commitment to work expeditiously to alleviate the distress caused by the cessation of minke whaling to the communities of Abashiri, Ayukawa, Wadoura and Taiji.

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**Resolution 2001-7****RESOLUTION ON SOUTHERN HEMISPHERE MINKE WHALES AND SPECIAL PERMIT WHALING**

RECOGNISING that the Southern Ocean Whale Sanctuary may provide a valuable precautionary measure against uncertainties in whale management in the Antarctic;

NOTING that the IDCR/SOWER cruises have been a major investment of the budget and time of the commission and the scientific committee for many years;

FURTHER NOTING that refinement of the experimental design for these cruises has been a continuous process throughout the past two decades;

RECALLING concerns expressed in Resolution 2000-4, regarding appreciably lower abundance estimates for Southern Hemisphere minke whales;

FURTHER RECALLING that IWC Scientific Committee agreed in 2000 that there was no agreed estimate for Southern Hemisphere minke whales;

NOTING that this year's Scientific Committee report provided a crude estimate of abundance for Southern Hemisphere minke whales which, although derived from an incomplete data set for the third circumpolar cruise, nevertheless suggests a substantially lower abundance estimate for Southern Hemisphere minke whales;

CONCERNED that the Scientific Committee report cannot rule out that the Southern Hemisphere minke whale population may have suffered a precipitous decline over the past decade;

NOW THEREFORE THE COMMISSION:

COMMENDS the Scientific Committee's proposal to proceed with the completion of its review of minke whale abundance in the Southern Hemisphere;

ENDORSES the Scientific Committee's proposal to present at its 2003 meeting revised estimates of abundance and trends of Southern Hemisphere minke whales, using improved methodology developed during the course of the review, for the full three circumpolar sets of IDCR/SOWER surveys;

REQUESTS the Scientific Committee to provide to the Commission at IWC 54:

a list of plausible hypotheses that may explain this apparent population decline, the possible implications that such a decline in abundance may have for the management of minke whales in the Southern Hemisphere, and for ecologically-related species, in particular other cetaceans, and the state of the Antarctic marine ecosystem;

STRONGLY URGES the Government of Japan to halt the lethal takes of minke whales conducted under the JARPA programme, at least until the Scientific Committee has reported to the Commission on the impacts of the JARPA programme on the stocks of minke whales in Areas IV and V.

**Resolution 2001-8****RESOLUTION ON EXPANSION OF JARPN II WHALING IN NORTH PACIFIC**

WHEREAS Article VIII of the International Convention for the Regulation of Whaling provided that any Contracting Government may grant special permits authorising their nationals to kill whales for scientific purposes;

RECALLING that the Government of Japan started research whaling on minke whales in the North Pacific in 1994 and then expanded the program last year to include Bryde's and sperm whales, despite numerous concerns raised by the Scientific Committee and the Commission;

WHEREAS because of the timing of the Scientific Committee in 2002, the Committee will not be able to review and comment on any new JARPNII proposal before the start of scientific whaling next year;

NOTING the concern of many members of the Scientific Committee that the lack of any quantifiable objectives in JARPNII effectively means that no reasonable performance standard has been set with which to judge the success or failure of the feasibility phase of the research programme;

NOTING also that more than 600 whales have been killed in the North Pacific since the start of the program;

FURTHER NOTING that the data collected by lethal sampling of sperm, minke and Bryde's whales in JARPN II are not essential in the context of the RMP.

NOW THEREFORE THE COMMISSION:

AFFIRMS that data gathered under JARPN II on interactions between whales and prey species are not sufficient to justify the killing of these whales for research purposes;

PROPOSES that any information needed on stock structure can and should be obtained using non-lethal means;

STRONGLY URGES the Government of Japan for the reasons given above to refrain from issuing any special scientific permit for whaling under JARPN II. If the Government of Japan nevertheless considers issuing a permit in 2002, the Commission STRONGLY URGES that it not be issued until the end of July 2002, to give the Government of Japan adequate time to take into account the views of the Scientific Committee and the Commission.



**Resolution 2001-9****PROPOSED RESOLUTION ON INTERACTIONS BETWEEN WHALES AND FISH STOCKS**

WHEREAS it is the purpose of the International Whaling Commission to provide for the effective conservation and management of whale stocks;

WHEREAS the IWC is the universally recognized international organization with competence for the management of whale stocks;

ACKNOWLEDGING that better understanding of marine ecosystems, including interactions between whales and fish stocks, would contribute to the conservation and management of living marine resources and is of interest to nations as well as to regional fisheries management organizations and international research organizations;

NOTING that the Council of the Food and Agriculture Organization of the United Nations, during its 120<sup>th</sup> session, recommended that ecosystem-based fisheries management studies to be conducted by the FAO, as agreed in paragraph 39 of the report of the 24<sup>th</sup> session of the FAO Committee on Fisheries, should be balanced and holistic in approach;

WELCOMING the Scientific Committee's recommendations to conduct a workshop on interactions between whales and fish stocks, to be held intersessionally between the 53<sup>rd</sup> and 54<sup>th</sup> annual meetings of the Commission;

RECOGNIZING that, in order to effectively address the issue of interaction between whales and fish stocks, the planning and conduct of the workshop requires experts on modeling and data sets and should therefore include coordination with other organizations that have expertise,

experience, and interest in this matter, and the participation of experts from such organizations, as well as those specifically recommended by the Scientific Committee;

NOW THEREFORE THE COMMISSION:

GIVES notice that, as the competent international organization for the conservation and management of whale stocks, it has decided to make the study of interactions between whale and fish stocks a matter of priority;

AGREES that any studies conducted by the FAO on ecosystem-based fisheries management be holistic and balanced in approach;

ENDORSES the recommendations of the Scientific Committee concerning the workshop on interactions between whales and fish stocks;

REQUESTS the Secretary to forward a copy of this resolution and relevant portions of the report of the Scientific Committee to the Assistant Director-General of the Fisheries Department of the FAO and to the Chair of the FAO Committee on Fisheries, seeking their cooperation in the organization and conduct of the workshop;

FURTHER requests the Secretary to forward a copy of this resolution and relevant portions of the report of the Scientific Committee to regional fisheries management organizations, international research organizations, and other appropriate organizations in consultation with Chair of the Scientific Committee.

**Resolution 2001-10****RESOLUTION ON THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS**

WHEREAS persistent organic pollutants are seriously polluting the environment and its living resources including whales, and may have significant negative health effects on consumers of marine mammal products;

RECALLING that the negative effects of Persistent Organic Pollutants upon cetaceans have been repeatedly recognised by the IWC since 1981,

NOTING the International Whaling Commission with its specific responsibility in the management and conservation of whale stocks may have a mutual interest in supporting the

ratification of international treaties with overlapping concerns,

NOW THEREFORE THE COMMISSION:

CONGRATULATES the conclusion of the 2001 Stockholm Convention on Persistent Organic Pollutants, and

ENCOURAGES Contracting Governments to sign, ratify and adhere to the new Convention

REQUESTS that the Secretariat transmits this text to the Secretariat of the Stockholm Convention.

### Resolution 2001-11

#### RESOLUTION ON THE IMPORTANCE OF HABITAT PROTECTION AND INTEGRATED COASTAL ZONE MANAGEMENT

WHEREAS the destruction of coastal habitat may have a detrimental impact upon cetaceans;

RECALLING that the negative effects of habitat destruction upon cetaceans have been repeatedly recognised by the IWC since 1980, as have the positive actions of a number of Signatories to confront habitat destruction and protect various cetacean species,

NOTING that Article 193 of the United Nations Convention on the Law of the Sea stipulates that 'States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.'

MINDFUL that the International Whaling Commission with its specific responsibility in the management and conservation of whale stocks may have a mutual interest in

supporting the ratification of international treaties with overlapping concerns,

NOW THEREFORE THE COMMISSION:

COMMENDS Contracting Governments to the International Convention on the Regulation of Whaling to pursue the objectives of the Convention on Biological Diversity, the Convention on Wetlands, especially Waterfowl Habitats of International Importance (RAMSAR), and the Coral Reefs Initiative, to better achieve coastal habitat protection and integrated coastal zone management as advocated in the implementation decisions of these and similar agreements and initiatives.

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### Resolution 2001-12

#### RESOLUTION ON DALL'S PORPOISE

RECOGNISING that for more than a decade there has been concern about the status of Dall's porpoise stocks impacted by the Japanese hand-harpoon fishery, and that the Government of Japan has provided much valuable information to assess the status of these stocks in the past, leading to a substantial decrease in the numbers taken, although not to the levels recommended by the Scientific Committee;

WHEREAS in 1999 the Commission directed the Scientific Committee to review the status of Dall's porpoise stocks exploited in the Japanese hand harpoon hunt and that this review was carried out at the 53<sup>rd</sup> meeting of the Scientific Committee;

NOTING however, that this year data for the Dall's porpoise status review was not made available by the Government of Japan, and that the work of the Scientific Committee was hampered because of this;

CONCERNED that the most recent abundance estimate for the exploited stocks was made in 1991, and that since this time more than 130,000 Dall's porpoises have been reported taken;

NOTING that there has been a recent increase in the proportion of lactating females in some catches which may reflect a change in hunting techniques whereby hunters target females with dependent calves;

FURTHER NOTING that reported catch statistics are also limited by the absence of data on number of individuals struck and lost, inaccurate reporting on a stock-by-stock basis and the absence of data on age, sex and reproductive condition;

NOTING the Scientific Committee's report that a total of 11,973 Dall's porpoises were taken as by-catch from 1993 to 1999 in the Japanese salmon drift-net fishery that operates in the Russian EEZ, and that some of these by-catches are from the stocks impacted by the Japanese harpoon fishery;

FURTHER NOTING that the Scientific Committee reported that these by-catches should be considered in any future assessment of Dall's porpoises in this region;

NOTING also that the Scientific Committee recommended that Governments should report by-catches of Dall's porpoises on an annual basis to the Scientific Committee;

NOTING that in 1990 the Scientific Committee recommended that catches of Dall's porpoises should be reduced to levels below 10,000 each year, and that, subsequently, catches have exceeded these levels;

CONCERNED that reported levels of directed takes alone exceed levels considered by the Scientific Committee to be sustainable; NOTING that the Scientific Committee reiterated its extreme concern for these stocks and repeated its previous recommendations that catches be reduced as soon as possible to sustainable levels;

NOW THEREFORE THE COMMISSION:

DIRECTS the Scientific Committee to carry out a full assessment of the status of exploited Dall's porpoise stocks as soon as sufficient additional information becomes available;

CALLS ON the Government of Japan to provide information necessary to carry out such an assessment; namely improved catch statistics for each stock, including information on age, sex and reproductive status and numbers struck and lost, and new abundance estimates for each stock;

REQUESTS all governments with fisheries in the range of these stocks to fully report by-catch to the Scientific Committee on an annual basis;

URGES the Government of Japan to halt the directed takes of Dall's porpoises until a full assessment by the Scientific Committee has been carried out.

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**Resolution 2001-13****RESOLUTION ON SMALL CETACEANS**

APPRECIATING the valuable work of the Standing Sub Committee on Small Cetaceans (SCSC) and recognising the usefulness of its findings to other international and regional bodies;

COMMENDING the SCSC's species and population-specific reviews which enable the Scientific Committee and Commission to make species-specific recommendations;

NOTING in particular the Scientific Committee's recent acknowledgement of the critically endangered status of the baiji and vaquita, the depleted or unknown status of many beluga stock and the uncertain status of the narwhal;

NOTING the continuing and critical threat to some small cetaceans posed by directed takes and their incidental capture in fisheries operations;

WELCOMING the information on direct and incidental takes of small cetaceans provided by some Contracting Governments through their annual progress reports to the IWC;

RECOGNISING the Government of Mexico's recovery strategy for the vaquita, the objective of which is to reduce by-catches of vaquita as rapidly as possible;

CONCERNED that, in the absence of information on population status, trends and distribution, takes and other anthropogenic removals, the removal of certain small cetaceans may be detrimental to the survival of that species;

REGRETTING that, despite repeated requests for information and action on certain species and populations, the requested information and action have not always been forthcoming;

NOW THEREFORE THE COMMISSION:

COMMENDS Contracting Governments who have instigated/taken conservation measures in relation to small cetaceans in their waters and through other regional bodies;

URGES Contracting Governments to respond to outstanding and future requests from the Scientific Committee for information on the status of, and threats to small cetaceans and recommendations for action;

DIRECTS the Scientific Committee to undertake a regular review of the extent to which outstanding recommendations and resolutions relating to small cetaceans have been fulfilled;

CALLS ON Contracting Governments to report to the extent practicable information on all direct and non-direct takes and other anthropogenic removals in their national progress reports;

URGES Contracting Governments to take all appropriate measures to prevent, minimise and mitigate by-catch of small cetaceans in fisheries operations;

SUPPORTS the recommendations of the Scientific Committee in 1999 that beluga range states continue studies to resolve the structure of beluga stocks, conduct contaminant analysis and health assessments and provide relevant scientific data to the Scientific Committee;

FURTHER URGES narwhal range states to respond to the recommendations of the Scientific Committee in 1999 to undertake genetic and telemetry studies to identify stocks and improve catch reporting, as well as to assess the potential impact of threats including radionuclide contamination;

FURTHER URGES all Contracting Governments to respond to the Scientific Committee's requests to report progress on the conservation of critically endangered species, including baiji;

ENCOURAGES Contracting Governments to offer technical, scientific and financial support to range states to assist their small cetacean conservation measures;

URGES the IWC under its Memorandum of Understanding with the Convention on Migratory Species (CMS) to pursue complementary and mutually supportive actions in respect of small cetaceans.

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## Annex D

# Working Group on Whale Killing Methods and Associated Welfare Issues<sup>1</sup>

The meeting took place on 18 July 2001. The list of participants is given in Appendix 1. The Working Group was established to review information and documentation available with a view to advise the Commission on whale killing methods and associated welfare issues (*Ann.Rep.Int.Whaling Comm.* 2000:17).

### 1. INTRODUCTORY ITEMS

#### 1.1 Appointment of Chairman

Prof. Frederic Briand (Monaco) was appointed Chairman of the Working Group after preliminary remarks from Japan criticising his ruling at last year's Working Group meeting over the inclusion of certain documents concerning small cetaceans as being inappropriate and misguided. Japan indicated that it would object to the current Chair next year and requested that another Chair be appointed then. Norway supported Japan's criticism with respect to last year's ruling. The UK, Germany and New Zealand expressed their full confidence in the Chair, noting for the record that the IWC is certainly competent to discuss small cetacean matters. Denmark supported the appointment of the Chairman, and repeated its view that the IWC has no competence in managing small cetaceans.

The Chairman flatly rejected Japan's criticism and its recollection of last year's events, which he regarded as unfair and inaccurate. He invited anyone interested to refer to the official record of last year's Working Group meeting (IWC/52/12) for a full and accurate account of his ruling.

Before proceeding any further with the Agenda, the Chair read the following statement prepared by the Chairman of the Commission:

*'Iceland's recent deposition of an instrument of adherence to the International Convention for the Regulation of Whaling is expressly conditioned on a reservation to the commercial whaling moratorium found in paragraph 10(e) of the Convention Schedule. Until the Commission has the opportunity to review this matter, the participation of Iceland in the Working Group does not prejudice the position of individual members of the Commission on this matter.'*

#### 1.2 Appointment of Rapporteurs

Nancy Azzam (USA) and Turid Rodrigues Eusebio (Norway) were appointed Rapporteurs.

#### 1.3 Review of Documents

The Chair reviewed the list of documents available to the Working Group (see Appendix 2) and drew attention to WKM&AWI/53/9, prepared by the Secretariat, suggesting that its summary table might be usefully integrated into the Working Group report.

### 2. ADOPTION OF THE AGENDA

The Agenda given in Appendix 3 was adopted by consensus.

### 3. ACTIVITIES RELATED TO THE ACTION PLAN ON WHALE KILLING METHODS

#### 3.1 Data on whales killed

The documents presented under this Agenda Item were provided to meet the request of IWC Resolution 1999-1<sup>2</sup>.

Denmark (WKM&AWI/53/1) and in reference to IWC Resolution 1999-1, offered detailed information regarding the 2000 Greenland hunt of minke whales with statistics on most parameters. It drew attention to its collaboration with Norway on the introduction and training in the use of the new penthrite grenade harpoons in the minke and fin whale hunts. The UK indicated that it would be useful to have information on spread of time to death for all the whales hunted. It also drew attention to a recent International workshop arranged by the RSPCA (Royal Society for the Prevention of Cruelty to Animals), and sponsored by the UK, on 'Sensibility and Potential for Suffering in Hunted Whales'. The purpose was to try to develop and assess criteria or indicators and new methodologies for determining stages of insensibility and death. New Zealand requested information on the maximum time to death (TTD) for fin whales and the mean time to death in the skiff hunt for minke whales. Denmark replied that the information was not at hand, but would be provided soon.

Norway presented WKM&AWI/53/6 reporting on the Norwegian 2000 traditional minke whale hunt and provided the required data on whales killed. The weapons used in the hunt were harpoon guns with a new penthrite grenade, Whalegrenade-99. The results showed that all signs of life had ceased instantaneously in 78.2 % of the animals. The average time from the shot until all signs of life had ceased was 136 seconds. No whales were reported to have escaped wounded. A Norwegian study is being carried out on brain and tissue damage caused by the detonation of the penthrite grenade, so as to help establishing new criteria for TTD. Norway corrected WKM&AWI/53/9, table 1, so that 'Median Time to TTD' would indicate 0.

Japan stated that the working group on killing methods deals with the issues out of the term of reference of IWC; therefore Japan would not formally participate in the Working Group but would provide information on a voluntary basis. Japan, in presenting WKM&AWI/53/7 on

<sup>1</sup> This was circulated to the meeting as IWC/53/6.

<sup>2</sup> *Ann. Rep. Int. Whaling Comm.* 1999:51-2.

2000/2001 Japanese Whale Research Programme under Special Permit in the Antarctic (JARPA), emphasised further that it was providing information on a voluntary basis as it considered that gathering data on whales killed as part of the Japanese Whale Research Program under Special Permit fell outside the competence of this Working Group. The document WKM&AWI/53/7 provided brief statistics on TTD in the Antarctic Area V and western part of Area VI, indicating improvements on TTD in the 2000/2001 hunt compared to season 1998/1999. In the 2000/2001 JARPA, Japan had used a number of Norwegian new grenades for the first time and begun comparative tests between Japanese and Norwegian grenades. Italy expressed its disappointment at the absence of a critical statistic variance from WKM&AWI/53/7, table 1, and requested an explanation for the surprisingly large difference in instant death rates between the Japanese (36.1%) and the Norwegian hunts (78.2%). The UK shared Italy's disappointment with the Japanese data and pointed out that 64 % of the whales in Japan's latest campaign were not killed instantaneously. The UK asked if the data provided reflected the use of the new harpoon. It also expressed disappointment that Japan had not provided data on the Japanese Whale Research Programme under Special Permit in the North Pacific (JARPN II). The UK noted that Japan was able to provide dietary information, but not TTD, from this hunt. The UK also firmly recorded its view that the IWC does have competence on the collection of data on whales killed under Special Permit. New Zealand inquired on the species of whales used in the grenade shooting test and why the mean time to death in 2000/2001 JARPA was higher than had been reported for the Antarctic commercial hunt in 1983/84. Germany asked for data on the Japanese hunt for sperm and Bryde's whales.

The Chair invited Japan to provide the requested information. Japan answered that information of variance on JARPA could be provided on request to interested parties. On the comparison of instant death rate with Norway's data, Japan stated that it had already responded to this on previous occasions, and that the difference in TTD between JARPA and the Norwegian hunt reflected differences in the nature of the hunt and choice of animals, as it is easier to target the animals in a commercial hunt. A comparison with 1983/84 data was not appropriate, as data were not collected in the same manner as JARPA data. It is also possible that different chasing methods between commercial hunting and JARPA resulted in different TTD. Japan stressed that it was constantly working on improving whale killing methods and decreasing TTD. The second year feasibility study is undertaken in the JARPN II and may be reported in the proper place. In answering New Zealand's question, Japan stated that shooting tests were not conducted on live whales, but on polyurethane targets under the supervision of Dr. Øen. Japan objected to the format of WKM&AWI/53/9, table 1, stating that the parallel presentation was misleading, as it invited improper comparison among different fishery types and/or areas. Norway objected to the suggestion by New Zealand that live whales were used as targets and found this suggestion to be insulting and provoking. New Zealand apologised for the misunderstanding, as its comment was not meant to be insulting and was a result of a genuine misunderstanding of the text of the report. Australia referred to recent information in the Japanese media on a new fast harpoon being developed and asked how it performed. Japan stated that the story was based on misinformation, released by Japan Times.

In closing this agenda item, the Chair thanked Denmark, Norway and Japan for their input and invited the participants

to provide constructive written comments to the Secretariat on ways to improve the summary table in WKM&AWI/53/9.

### **3.2 Information on improving the humaneness of aboriginal subsistence whaling.**

Denmark, in WKM&AWI/53/3, reported on improvements on whale hunting methods in Greenland over the past three years. The process included courses for users on the handling and instruction of the use of the new Norwegian penthrite grenade and improvements of gear. Denmark also informed that there is a plan to hold a seminar for skiff hunt crews on improvements of routines and the use of more powerful rifles in the collective minke whale hunt.

The USA, in WKM&AWI/53/8, reported on the use of the new Norwegian penthrite grenade by Alaskan Bowhead subsistence hunters. The grenade was developed under the Alaska Eskimo Whaling Commission's (AECWC) Weapons Improvement Program. Indications are that the penthrite grenade may be effective in producing more rapid death in the bowhead subsistence hunt, as compared to the traditional black powder grenade. With the exception of a few incidents that were corrected with minor design improvements, the grenade performed with a very high degree of reliability. In addition to its effectiveness in producing more rapid kills, the penthrite grenade is also much safer for the crews and more reliable than the black power grenade. The AECWC is encouraged by these results and continues to conduct field trials using the new grenade.

At the Chair's request, Dr. Øen confirmed his willingness to pursue his co-operative work with authorities, scientists, whale hunters and whale hunters organisations in order to refine the design of hunting gears and penthrite grenades used for whale hunting. He also referred to the planning of workshops, preparation of manuals and lectures given in weapons workshops for whale hunters and administrators in Norway, Greenland, Faroe Islands, Iceland, Alaska and Japan.

### **3.3 Need for a second workshop on whale killing methods.**

The 11-point Action Plan from the May 1999 Workshop on Whale Killing Methods<sup>3</sup> encouraged the IWC to hold a further workshop in the 2002-2004 time period. Broad support (Germany, USA, Norway, UK, Denmark) was expressed in favour of a new workshop but preferably not before 2003. The Chair recommended that the funding, organisation and objectives of this workshop be discussed during the course of IWC 54 next year.

### **3.4 Other**

Denmark referred to WKM&AWI/53/4 in which it is noted that there were no changes in the quota monitoring of its whaling and no infractions in last year's season.

## **4. PROPOSAL TO INCLUDE WELFARE ISSUES IN CHAPTER VI OF THE SCHEDULE**

The UK presented WKM&AWI/53/5, a revised version of a document discussed at the RMS meetings in Adelaide and Monaco. The UK viewed the collection and reporting of welfare data as a key element of the RMS. This was especially important in case of any resumption of commercial whaling. The UK pointed out that improving the humaneness of whaling was a long-standing, legitimate

<sup>3</sup> *Ann. Rep. Int. Whaling Comm.* 1999:51.

concern of the IWC and firmly believed the Scientific Committee should have a role to play in the review of such criteria and data.

Norway referred to its position developed during the Monaco meeting that individual IWC member states should be trusted to address animal welfare issues in terms of their own national legislation. To the extent that institutionalised inter-governmental co-operation on these matters should be called for, this may be handled through other mechanisms than the IWC and by more appropriate agencies. A crucial element is the rights and responsibilities of the respective national authorities in addressing animal welfare issues humanely and in accordance with generally accepted norms and standards. Unless this element is properly understood and accepted in a spirit of mutual confidence, questions could arise that could conceivably be experienced to be embarrassing. Thus, for example, some member states of the IWC have approved hunting practices and certain methods used in slaughterhouses that would have been at variance with Norwegian animal welfare legislation. However, in the profession of veterinary medicine where animal welfare is an integrated discipline, it is not customary to seek to overrule the killing methods used by other nations as long as it occurs within their domain and under their jurisdiction. It is also common practice that once a given killing method has been introduced and approved on the basis of careful professional scrutiny, there is no need for a continuous monitoring of the kind proposed in WKM&AWI/53/5. Periodic checks should suffice. Besides, the checklist provided by the UK is too long to be practical, and would require over 24hrs/animal in some cases. The duties of an international observer with regard to the monitoring of the killing of whales would be to check that only lawfully approved killing equipment and methods are used. Which methods are to be used at any given time would be decided by the competent authorities. Post mortems and other detailed examinations of the animals requiring specialised expertise would in this context be of no relevance for the tasks of an observer.

Iceland supported the position of Norway. Denmark considered that most of this information was already present in Chapter VI of the Schedule, but would not object to including killing methods of baleen whales in the RMS as far as commercial whaling was concerned. Germany considered animal welfare issues to be very important and supported the

UK proposal to include the mentioned document in the RMS. Russia held the view that this issue was outside the competence of the IWC, falling under the jurisdiction of national legislation. It noted that it would be very difficult to provide all of the data presently requested on its hunting activities. The USA supported the UK paper, but stated that it should not apply to aboriginal subsistence whaling (ASW). Japan supported the Norwegian view. It collects data and can share information with other countries, but feels this is not relevant to the RMS or this Working Group.

At the Chair's invitation, the UK provided some clarifications. It first confirmed that it had no intention to interfere with national legislation. It also explained that post mortems would not be required as a matter of routine, but only where possible. The UK stressed that if commercial whaling were to resume, the IWC would have a collective responsibility to raise welfare standards and reduce the pain and suffering of the whales hunted. It was therefore necessary to take account of how whales were killed. The UK clarified that the information was intended primarily to apply for commercial whaling, but it hoped that similar relevant data would be collected in ASW as well. Finland supported the view of the UK, as did Argentina, which considered that this could provide useful data and would not interfere with national legislation. Denmark stated that some of the requested data would be difficult to collect in the context of ASW and would not make much sense to the hunters as they may lose whales while trying to collect all of the required information. Denmark would therefore find it impossible to fulfil such requests.

## 5. OTHER MATTERS

None.

## 6. ADOPTION OF THE REPORT

The report was adopted by the Working Group on 21 July 2001. The Chair thanked all participants for their constructive contributions to the debate and expressed his gratitude to the Rapporteurs.

The UK expressed thanks to the Chair for handling these sensitive issues in a sensible and diplomatic manner.

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## Appendix 1

### LIST OF PARTICIPANTS

#### ARGENTINA

M. Vergara

#### BRAZIL

E. Garcia

#### AUSTRALIA

M. Brown

P. Eiser

D. Kay

N. Beynon

#### AUSTRIA

A. Nouak

M. Stachowitsch

#### DENMARK

H. Fischer

P. Jepsen

A. Jessen

K. Mathiasen

#### FINLAND

E. Jaakkola

#### GERMANY

P. Bradhering

#### GRENADA

J. Rennie

#### GUINEA, REPUBLIC OF

I. Toure

#### ICELAND

S. Asmundsson

H. Atlason

K. Loftsson

G. Vikingsson

#### IRELAND

P. Brazel

#### JAPAN

Y. Hayashi

H. Ishikawa

M. Komatsu	<b>MONACO</b>	<b>RUSSIAN FEDERATION</b>	<b>UK</b>
M. Morimoto	F. Briand	R. Borodin	R. Bowman
D. Nagahata		V. Prokhorov	R. Cowan
S. Ohsumi	<b>NEW ZEALAND</b>		G. Jasinski
M. Ohta (I)	M. Donoghue	<b>SOLOMAN ISLANDS</b>	L. Kell
T. Sakamoto	W. Dovey	L. Laka	J. Lonsdale
T. Tarui	G. Lento	S. Diake	S. Moss
A. Tomita (I)	H. Loose		M. Simmonds
			D. Stowe
<b>KOREA</b>	<b>NORWAY</b>	<b>SPAIN</b>	
Z. Kim	B. Bendiksen	S. Lens	<b>USA</b>
S. Jung	R. Bøthun		N. Azzam
H. Shin	T. Eusébio	<b>SWEDEN</b>	C. Campbell
	H. Johansen	T. Lyrholm	R. Eckert
	E. Øen	<b>SWITZERLAND</b>	J. Ple
<b>MEXICO</b>	O. Skagestad	T. Althaus	R. Schmitten
S. Manzavilla	L. Walløe		M. Tillman
L. Rojas-Bracho (I)	H. Ynnesdal		

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## Appendix 2

### LIST OF DOCUMENTS

- |   |  |
|---|--|
| WKM&AWI/53/   | 5 UK. Paper on collection of whale killing data.   |
| 1 Greenland Home Rule Government. A note regarding information encouraged in IWC Resolution 1999-1.         | 6 Norwegian minke whaling 2000.  |
| 2 Greenland Home Rule Government. Status for Greenland action plan on whale hunting methods, 2001.          | 7 Report on whale killing methods in the 2000/2001 JARPA.  |
| 3 Greenland Home Rule Government. Report on improvements in ASW in Greenland.                               | 8 Report on the use of the penthrite grenade in the 2000 bowhead whale subsistence hunt in Barrow, Alaska. Submitted by the USA. |
| 4 Greenland Home Rule Government. Quota monitoring on minke whale and fin whale hunting in Greenland, 2000. | 9 Summary of data on whales killed. IWC Secretariat.   |

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## Appendix 3

### AGENDA

- |   |   |
|---|---|
| 1. Introductory items   | 3.3 Need for a second workshop on whale killing methods.            |
| 1.1 Appointment of Chairman   | 3.4 Other   |
| 1.2 Appointment of Rapporteurs  |   |
| 1.3 Review of documents   |   |
| 2. Adoption of the agenda   | 4. Proposal to include welfare issues in Chapter VI of the Schedule |
| 3. Activities related to the action plan on whale killing methods             | 5. Other matters  |
| 3.1 Data on whales killed   | 6. Adoption of the report   |
| 3.2 Information on improving the humaneness of aboriginal subsistence whaling |   |
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## Annex E

### Instructions from the Commission to the Scientific Committee for Reviews of Sanctuaries

Amendments to the Schedule, including the establishment of Sanctuaries 'shall be based on scientific findings' (Article V2b). There is a divergence of views within the Commission as to the extent to which other issues (e.g. socio economic and cultural) can be used as the basis for Sanctuaries. Clearly, the Scientific Committee shall only consider scientific aspects when reviewing existing sanctuaries or proposals for new sanctuaries.

#### General

In reviewing existing sanctuaries, the Scientific Committee should give primary attention to assessing how well the scientific aspects of the agreed objectives of the sanctuary have been met and how well they might be met if the sanctuary continues.

In reviewing proposed sanctuaries, the Scientific Committee should give primary attention to considering the scientific feasibility of meeting the scientific aspects of the stated objectives, and, if necessary, recommend amendments to the objectives, or changes to the proposal to better meet its objectives.

#### Specific

The following specific guidelines relate primarily to the review of proposed sanctuaries but should also be used in reviewing existing sanctuaries where relevant. The Commission instructs the Scientific Committee to:

1. Provide advice on the status and trends of whale stocks in the (proposed) sanctuary in so far as these are known. Assess whether the sanctuary distinguishes between species and stocks that are depleted and apparently slow to recover, those that are increasingly rapidly, and those that are abundant and not threatened. Assess the present and potential threats to whale stocks and their habitats in

the area of the (proposed) sanctuary and how the (proposed) Sanctuary addresses these. Such factors may include inter alia:

- a. whaling;
- b. fishing, including by-catch;
- c. oil and gas exploitation, including seismic surveys;
- d. shipping;
- e. whalewatching;
- f. climatic change;
- g. other environmental factors.

It should also consider the relationship of the (proposed) Sanctuary with other existing measures to protect whales from such anthropogenic and other environmental factors.

2. Assess the anticipated effects of the proposed sanctuary in terms of:
  - a. improving protection of whales, in breeding areas, feeding grounds and/or migratory routes;
  - b. improving the conservation of breeding sites, migratory routes and/or feeding grounds; and
  - c. complementing existing or potential protection including the Commission's current management regime and regional and international agreements concerning biodiversity and conservation of nature.
3. Provide advice on whether the proposed boundaries of the sanctuary are ecologically appropriate.
4. Provide advice on whether the sanctuary addresses the issue of critical habitat\* and non-critical whale habitat.
5. Evaluate whether the sanctuary may contribute to or impede the conduct of scientific research useful for meeting IWC objectives and facilitate coordinated and integrated research and monitoring programs.
6. Provide advice on whether the sanctuary is consistent with the precautionary approach.

\* Critical habitat as referred to in point 4 is not the same as the term used in the USA's domestic legislation.



## Annex F

# Report of the Aboriginal Subsistence Whaling Sub-Committee<sup>1</sup>

### 1. INTRODUCTORY ITEMS

The meeting took place on 19 July 2001. The list of participants is given as Appendix 1. The terms of reference of the Aboriginal Subsistence Whaling Sub-committee are to consider relevant information and documentation from the Scientific Committee, and to consider nutritional, subsistence and cultural needs relating to aboriginal subsistence whaling and the use of whales taken for such purposes, and to provide advice on the dependence of aboriginal communities on specific whale stocks to the Commission for its consideration and determination of appropriate management measures (*Rep. int. Whal. Commn* 48: 31).

#### 1.1 Appointment of Chairman

David Kay (Australia) was appointed Chairman and welcomed the participants. Before proceeding with the Agenda, the Chair read the following statement prepared by the Chairman of the Commission:

*'Iceland's recent deposition of an instrument of adherence to the International Convention for the Regulation of Whaling is expressly conditioned on a reservation to the commercial whaling moratorium found in paragraph 10(e) of the Convention Schedule. Until the Commission has the opportunity to review this matter, the participation of Iceland in the Aboriginal Subsistence Whaling sub-committee does not prejudice the positions of individual members of the Commission on this matter'.*

#### 1.2 Appointment of Rapporteur

Mr. Peter Brazel (Ireland) was proposed and appointed as rapporteur with assistance from Greg Donovan.

#### 1.3 Review of Documents

In addition to IWC/53/AS1, relevant extracts from the Draft Report of the Scientific Committee (IWC/53/4)<sup>2</sup> were considered.

### 2. ADOPTION OF THE AGENDA

The Revised Draft Agenda for the Meeting was adopted and is given as Appendix 2.

### 3. ABORIGINAL SUBSISTENCE WHALING SCHEME

The Chair of the Standing Working Group (SWG) on the Development of an Aboriginal Management Procedure, Greg Donovan, presented briefly the relevant extract from the Scientific Committee Report (IWC/53/4, Item 8).

<sup>1</sup> This was circulated to the meeting as IWC/53/8.

<sup>2</sup> The final Report is published in *J.Cetacean Res. Manage.* 4 (Suppl.).

#### Aboriginal Whaling Management Procedure (AWMP)

##### 3.1.1 Report of the Scientific Committee

The Chair of the SWG recalled that this item continues to be discussed as a result of Resolution 1994-4<sup>3</sup>. He did not believe that it was appropriate for him to provide a detailed review of the large quantity of technical work the Scientific Committee had undertaken this year but stressed that he would be happy to meet any interested delegates either individually or collectively for this purpose.

##### *Bowhead whales*

The primary topic for discussion at this year's meeting was the selection of a recommended *Strike Limit Algorithm* (SLAs) for the Bering-Chukchi-Beaufort Seas stock of bowhead whales. He wished to acknowledge the work of all of the developers during recent years. Progress has only been possible because they have shared their ideas, approaches and code – equally important lessons have been learned from approaches that have not succeeded as well as those that have. Whichever procedure is finally chosen will owe a considerable debt to the other developers and members of the SWG which has worked in a spirit of co-operation and collaboration throughout.

Five SLAs (a total of 13 variants) were considered. The Chair of the SWG outlined briefly the selection procedure that was based on (1) the conservation and utilisation objectives for management laid down by the Commission; (2) the advice received from the Commission and hunters; and (3) the results of the computer simulation trials. This procedure allowed the Scientific Committee to determine two excellent candidates (four variants). The Scientific Committee agreed that given the importance of the decision, the complexity of integrating the performance results before it and the additional work identified, it preferred to postpone a final decision on a single candidate until next year. It agreed that, with an expected workshop to be held in Seattle in early 2002, it would still be able to make a recommendation for an SLA for the Bering-Chukchi-Beaufort Seas stock of bowhead whales to the Scientific Committee at the 2002 Annual Meeting. He thanked the US National Marine Mammal Laboratory for once again offering to host the intersessional workshop.

##### *Gray whales*

The Chair of the SWG indicated that the concentration on the bowhead case meant that less progress had been made in considering the eastern gray whale. Work will progress on this intersessionally, however and he hoped to be able to report more progress to the next meeting.

<sup>3</sup> *Rep. int. Whal. Commn* 45:42-43.

### *Greenlandic stocks*

The Chair of the SWG reiterated that without better information on stock identity and abundance, the Scientific Committee would find it almost impossible to develop a suitable *SLA* for these species. The Greenland Research Programme (e.g. see SC/53/Rep1<sup>4</sup>) was considered in the context of possible data needs for a management procedure for Greenlandic whaling.

The Scientific Committee made the following recommendations for future work: (1) planning should proceed for an annual series of inshore surveys starting in late summer 2002, with a view to producing a relative abundance index; (2) preliminary simulation studies be conducted of management procedures utilising a combination of an annual relative index and infrequent absolute abundance estimates; (3) an annual programme of satellite tagging in conjunction with the inshore surveys should be started in 2002, with the aim of gradually building up records of animal movements, based on a target of four informative tracks per year. The Scientific Committee strongly urged both Denmark (Greenland) and the IWC to fund the proposed work.

### *Type-3 fisheries*

The Chair of the SWG reported that this year, there had been insufficient time to discuss the case of Type-3 fisheries, i.e. those characterised by a small total population size (on the order of 300 animals) where demographic and environmental stochasticity may have potentially critical effects on the survival of the stock and aboriginal harvest of even a few whales would be a matter for careful scrutiny.

#### *3.1.2 Discussion and Recommendations*

In response to a question from the USA, the Chair of the SWG noted that the development of potential *SLAs* for the fishery for humpback whales carried out by St. Vincent and The Grenadines would not commence until after the completion of the Scientific Committee's Comprehensive Assessment of North Atlantic humpback whales was completed, which was expected next year. Until that time it was not possible to say which of the three fishery-types it belonged to.

Denmark supported the Scientific Committee's views on the Greenland Research Programme.

The USA congratulated the Chair of the SWG on its work and indicated that it would be happy to accept his offer to discuss technical details further. The sub-committee accepted the workplan of the Scientific Committee on these issues.

### **Aboriginal Whaling Management Scheme (AWMS)**

#### *3.2.1 Report of the Scientific Committee*

The Chair of the SWG noted that the Scientific Committee had placed a strong emphasis on dialogue with the Commission and hunters throughout the development process. It had agreed that it was premature to consider the appropriateness of developing detailed specifications for the AWMP at the level that now exists for the RMP and its associated guidelines with respect to surveys and data. However, there are a number of issues that he wished to draw to the sub-committee's attention.

The first concerned the issue of block quotas and carry over that he had raised in this sub-committee last year. The Commission had agreed the proposal from the Scientific Committee, at least in the context of trials, last year. In order

to allow the Commission to consider this further, the Scientific Committee noted that if under a recommended *SLA*, current need is met (and there is no indication from the present results that this will not be the case), then a revised *Schedule* paragraph might look something like that below:

For the years [2003-2007] inclusive, the total number of strikes shall not exceed [330]. The *Strike Limit* in any one year shall not exceed [100].

The Commission may also wish to incorporate the Scientific Committee's wording for carry-over between blocks presented last year.

He also drew attention to the issues of survey frequency and possible 'phase-out' rules (i.e. progressive lowering of the quota in the absence of survey data). Any such rules must be flexible enough to take into account the fact that weather or ice conditions in the Arctic mean that it is quite possible that a successful census may not necessarily occur at the first time of trying. The Scientific Committee suggested that it might be appropriate for any phase-out provision to begin the 10<sup>th</sup> year after the last accepted abundance estimate. Since it might require several attempts to obtain a successful abundance estimate, this might mean that an attempt to undertake a census might begin after about 7 years from the most recent success. This will probably result in a survey interval of about 7-10 years in practice. Attention is drawn to the fact that the risk and need satisfaction performance of the two candidate *SLAs* was not diminished in *Evaluation trials* when surveys occurred at 10-year rather than 5-year intervals.

He explained that there are a number of factors that need to be considered in this regard, not the least, over what time period the phase-out should occur, the magnitude of the phase-out and the quantity (e.g. strike limit or maximum allowable catch) to which it should apply. However, in the limited time available for discussion, the Scientific Committee noted that there are several potentially useful approaches to phase-out that require further consideration. It will consider the issue further during the coming year.

The Scientific Committee sought guidance from the Commission on this issue.

The Scientific Committee also considered three issues in relation to abundance estimates for use in an *SLA* and agreed to the following principles:

- (1) Plans for undertaking a survey/census should be submitted to the Scientific Committee in advance of their being carried out, although prior approval by the Scientific Committee is not a requirement. This should normally be at the Annual Meeting before the survey/census is being carried out. Sufficient detail should be provided to allow the Scientific Committee review the field and estimation methodology. Considerably more detail would be expected if novel methods are planned.
- (2) Should it desire, the Scientific Committee may nominate one of its members to observe the survey/census to ensure that proposed methods are adequately followed. This will be more important if novel methods are being used.
- (3) All data to be used in the estimation of abundance should be made available to the Scientific Committee suitably in advance of the Annual Meeting at which an estimate was to be presented. If new estimation methods are used, the Scientific Committee may require that computer programs (including documentation to allow such programs to be validated) shall be provided to the Secretariat for eventual validation by them.

<sup>4</sup> See *J. Cetacean Res. Manage.* 4 (Suppl.).

With respect to data and sample collection, the Scientific Committee agreed that data from each harvested animal should be collected and made available to the IWC. The following information should normally be provided for each whale: species, number of animals, sex, season, date, position of catch (to the nearest village), length of catch (to 0.1m). It further requested that information/samples on reproductive status and samples for genetic studies to be collected where possible.

The Chair of the SWG noted that such data are already being provided from the bowhead whale fishery.

The Chair of the SWG outlined the future workplan of the Scientific Committee in the context of the AWMP and confirmed that the Scientific Committee expected to be in a position to recommend a *SLA* to the Commission at next year's meeting. He requested that sufficient time be allocated to the sub-committee as it was important that a full explanation of the Scientific Committee's recommendations and their implications was provided and that there was adequate time for discussion.

### 3.2.1 Discussion and recommendations

The USA thanked the Chair of the SWG for his presentation and sought clarification on the concept of 'phase-out' which was new in the context of aboriginal subsistence whaling. The Chair of the SWG explained that the rationale for having some type of phase-out rule (i.e. progressive lowering of the quota in the absence of survey data) is that any *SLA* requires some feedback (i.e. a new estimate) to function satisfactorily. No *SLA*, however good, can be expected to function in the absence of data.

The USA, Denmark, and Russia requested more time for consideration of this new concept and the Chair of the SWG agreed to discuss the matter further outside the meeting with interested parties. He explained that there are several possible ways to consider this concept and many possible ways to achieve its aims. Norway noted that while the concept may be new to this sub-committee it had been discussed before in both the Scientific Committee and the Commission in the context of the RMP.

The Chairman advised that based on the discussions, the sub-committee was not in a position to give the Scientific Committee final guidance on the issue of phase-out at this time. However, he noted the sub-committee's agreement to the other suggestions and recommendations made by the Scientific Committee with respect to carry-over, survey guidelines and data collection.

## 4. REVIEW OF ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

The first extract of the Scientific Committee's report distributed contained management advice for all stocks but not all of the previous year's catch statistics. The missing statistics were copied and distributed to the sub-committee before the close of the meeting.

### 4.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

#### 4.1.1 Report of the Scientific Committee (IWC/53/4, Item 9.1.1.3)

The Scientific Committee noted that the current catch limit ends in 2002, although a major assessment of this stock of bowhead whales is not scheduled until 2004. It had received no new information that would cause it to change the

management advice it had given last year, namely, that it is very likely that a catch limit of 102 whales or less would be consistent with the requirements of the Schedule.

#### 4.1.2 Discussion and Recommendations

The UK commented that whaling operations should supply all relevant data to the Commission and that it was disappointed that information on time to death had not been submitted for this hunt.

In response to a question, the Chair of the SWG noted that if the Commission adopted a *Strike Limit Algorithm* for bowhead whales, although a new abundance estimate was necessary, an assessment in the traditional sense was not required. The USA indicated that it had carried out a successful census this year and was expecting to present a new abundance estimate to the Scientific Committee at its next meeting and would contribute to, and co-operate fully with, the scheduled assessment.

The sub-committee noted the advice of the Scientific Committee and agreed that there was no need to revise the current Schedule provision.

## 4.2 Eastern North Pacific Gray Whales

### 4.2.1 Report of the Scientific Committee

Given that a full assessment of gray whales was scheduled for next year's meeting, the Scientific Committee did not feel it was necessary at this time to change its advice from last year, namely, that a take of up to 482 whales a year is sustainable, and is likely to allow the population to stabilise above the maximum sustainable yield level.

### 4.2.2 Discussion and Recommendations

In response to a query by Austria on the latest developments on the Makah hunt in 2001, the USA advised that, based upon a court decision, the Makah hunt had been closed in June 2000 with no whales taken in 2000.

The sub-committee noted the advice of the Scientific Committee and agreed that there was no need to revise the current Schedule provision. The Russian Federation stated that the *SLA* system, which is now under elaboration, can not be applicable in full scale with respect to aboriginal subsistence whaling of gray whales. There is a very small percentage (approx. 1%) of struck and lost whales in gray whale catches, and that fact may not have been taken into account.

## 4.3 and 4.4 Minke whales and fin whales off Greenland

### 4.3.1 Report of the Scientific Committee

The Scientific Committee has never been able to provide satisfactory scientific advice on either the fin or minke whales off Greenland. This reflects the lack of data relating to both stock structure and abundance and is the reason the Scientific Committee first called for a Greenland Research Programme to be established in 1998. This inability to provide advice is a matter of great concern, particularly in the case of fin whales where the best available abundance estimate dates from 1987/88 and is only 1,096 (95%CI 520-2,106). The Scientific Committee urges continued funding of the research recommendations at the requisite levels, by both Greenland and the IWC. It reminds the Commission that without such information it may be many years before it is able to provide satisfactory scientific advice on these stocks. Even with the success of the programme, it is difficult to envisage that the SWG will be able to develop a suitable *SLA* (or *SLAs*) for the Greenlandic fisheries before 2006.

#### 4.3.2 Discussion and Recommendations

Denmark introduced IWC/53/AS1 which provided a listing of submissions it had made in previous years. It commented that it fully accepted the need for research and would honour its commitments in this regard and urged the Commission to do the same.

The sub-committee endorsed the Scientific Committee's report on this item. It also agreed that there was no need to revise the current Schedule provision.

### 4.5 North Atlantic humpback whales off St. Vincent and the Grenadines

#### 4.5.1 Report of the Scientific Committee

The Scientific Committee reiterated its view of the last two years that a catch of up to three whales taken annually would be unlikely to harm this stock. It noted that the question of the abundance and population identity of humpback whales in the southeastern Caribbean remains unresolved. It also reiterated its request that photographs and tissue samples for genetic analysis of animals taken in the hunt be collected and analysed, and the results presented to the Scientific Committee. The Scientific Committee was informed that some samples had been collected from animals taken in St. Vincent but that these had not yet been analysed. The Scientific Committee looked forward to receiving results.

#### 4.5.2 Discussion and Recommendations

The sub-committee noted the advice of the Scientific Committee and agreed that this meant that there was no need to revise the current Schedule provision. New Zealand stated it would be willing to offer its expertise in genetic analysis to St. Vincent and the Grenadines.

## 5. CATCHES BY NON-MEMBER NATIONS

### 5.1 Report of the Scientific Committee

Under the authority of a license issued by the Minister of Fisheries and Oceans, one bowhead whale was landed in the eastern Canadian Arctic on 11<sup>th</sup> August 2000. The animal was from the Hudson Bay/Foxe Basin stock.

In its review of the Hudson Bay/Foxe Basin stock last year, the Scientific Committee received an abundance estimate of 'at least' 485 animals and identified a number of ways in which the estimate could be improved. It also received information that the Government of Canada had set a Total Allowable Catch for this stock of 1 animal in three years.

Given the low estimated stock size, the lack of information on appropriate methods to manage small

populations and the removal of one animal in August 2000, the Scientific Committee urges caution in the setting of any catch limits for this population and recommends that priority be given to research to:

- (1) obtain improved abundance estimates;
- (2) pursue modelling efforts for use in the management of small populations.

### 5.2 Discussion and Recommendations

Referring to Resolution 2000-2<sup>5</sup> passed by the Commission last year, Austria and Germany expressed their disappointment with the taking of one bowhead whale by Canada and called upon the Canadian Government to refrain from allowing further catches of bowhead whales.

## 6. CONTAMINATED GRAY WHALES FROM THE NORTH PACIFIC EASTERN STOCK

### 6.1 Report of the Scientific Committee

The Chair of the SWG noted that although the title of this Agenda Item used the word 'contaminated', this should not be taken to imply that the cause of the 'strong' smelling gray whales reported last year was known and could be attributed to contamination. The Scientific Committee had been informed that no such whales had been reported this year. A joint Russian Federation/USA project to investigate this issue has been established which will follow recognised post-mortem protocols.

### 6.2 Discussion and Recommendations

The sub-committee welcomed the report of the Scientific Committee on this matter and looked forward to receiving a report of the joint project at a future meeting.

Norway concurred with the Chair of the SWG's comments over the use of the word 'contaminated', noting that there are several possible causes for these strong-smelling whales, including natural diseases.

## 7. OTHER MATTERS

As there were no other matters, the Chairman thanked Greg Donovan, the rapporteur and the sub-committee members.

The sub-committee reconvened at 9.00am on Saturday 21<sup>st</sup> July 2001 and the report was adopted.

The USA, on behalf of the sub-committee members, thanked the Chairman, rapporteur and the Chair of the SWG for their contribution to the work of the sub-committee.

<sup>5</sup> *Ann.Rep.Int.Whaling Comm.* 2000:55.

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## Appendix 1

### LIST OF PARTICIPANTS

#### ARGENTINA

M. Vergara

#### AUSTRIA

A. Nouak  
M. Stachowitsch

A. Jessen

P. Jepsen  
K. Mathiasen

#### GRENADA

J. Rennie  
F. Hester

#### AUSTRALIA

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N. Beynon  
R. Bromley  
P. Eiser

#### DENMARK

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H. Fischer  
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#### FINLAND

E. Jaakkola

#### GERMANY

P. Bradhering

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K. Loftsson

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S. Ohsumi  
T. Sakamoto  
A. Tomita (I)

**KOREA, REPUBLIC OF**

H. Shin  
S. Jung

**MEXICO**

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L. Rojas-Bracho

**NEW ZEALAND**

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H. Loose  
J. McLay

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E. Øen  
P. Schei  
O. Skagestad  
H. Ynnesdal  
L. Walløe

**OMAN**

H. Ambusaidi

**PANAMA**

E. Diaz

**RUSSIAN FEDERATION**

R. Borodin  
V. Prokhorov

**ST. KITTS & NEVIS**

R. Archibald  
J. Simmonds

**ST. VINCENT AND THE GRENADINES**

R. Ryan

**SOLOMON ISLANDS**

S. Diake  
L. Laka

**SOUTH AFRICA**

G. de Villiers  
H. Oosthuizen

**SPAIN**

C. Ascencio  
S. Lens

**SWEDEN**

A. Roos

**SWITZERLAND**

T. Althaus  
M. Krebs

**UK**

R. Bowman  
R. Cowan  
G. Jasinski  
L. Kell  
J. Lonsdale  
D. Stowe

**USA**

M. Tillman  
R. Brownell  
C. Campbell  
R. Eckert  
J. Plé

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**Appendix 2**
**AGENDA**

1. Introductory items
    - 1.1 Appointment of Chairman
    - 1.2 Appointment of Rapporteur
    - 1.3 Review of Documents
  2. Adoption of the Agenda
  3. Aboriginal Subsistence Whaling Scheme
    - 3.1 Aboriginal Whaling Management Procedure (AWMP)
      - 3.1.1 Report of the Scientific Committee
      - 3.1.2 Discussion and Recommendations
    - 3.2 Aboriginal Whaling Management Scheme (AWMS)
      - 3.2.1 Report of the Scientific Committee
      - 3.2.2 Discussion and Recommendations
  4. Review of Aboriginal Subsistence Whaling catch limits
    - 4.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales
      - 4.1.1 Report of the Scientific Committee
      - 4.1.2 Discussion and Recommendations
    - 4.2 North Pacific Eastern stock of gray whales
      - 4.2.1 Report of the Scientific Committee
      - 4.2.2 Discussion and Recommendations
    - 4.3 Minke whale stocks off Greenland
      - 4.3.1 Report of the Scientific Committee
      - 4.3.2 Discussion and Recommendations
    - 4.4 West Greenland stock of fin whales
      - 4.4.1 Report of the Scientific Committee
      - 4.4.2 Discussion and Recommendations
    - 4.5 North Atlantic humpback whales off St. Vincent and The Grenadines
      - 4.5.1 Report of the Scientific Committee
      - 4.5.2 Discussion and Recommendations
  5. Catches by non-member nations
    - 5.1 Report of the Scientific Committee
    - 5.2 Discussion and Recommendations
  6. Contaminated gray whales from the north pacific eastern stock
    - 6.1 Report of the Scientific Committee
    - 6.2 Discussion and Recommendations
  7. Other matters
  8. Adoption of the report
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**Appendix 3****LIST OF DOCUMENTS**

IWC/53/AS

Greenland Home Rule Government. Documentation to the IWC on Greenland Whaling 1979-2000.

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## Annex G

# Report of the Revised Management Scheme Working Group<sup>1</sup>

### 1. INTRODUCTORY ITEMS

The meeting took place on 18 and 19 July 2001. A list of participants is given as Appendix 1.

#### 1.1 Appointment of Chairman

Fer von der Assen (Netherlands) was appointed as Chairman of the Revised Management Scheme (RMS) Working Group.

At the request of Bo Fernholm, Chairman of the Commission, von der Assen read out a statement regarding the adherence of Iceland to the International Convention for the Regulation of Whaling (ICRW):

*'Iceland's recent deposition of an instrument of adherence to the International Convention for the Regulation of Whaling is expressly conditioned on a reservation to the commercial whaling moratorium found in paragraph 10(e) of the Convention Schedule. Until the Commission has the opportunity to review this matter, the participation of Iceland in the Revised Management Scheme Working Group does not prejudice the positions of individual members of the Commission on this matter'.*

#### 1.2 Appointment of Rapporteurs

Nicky Grandy and Greg Donovan from the IWC Secretariat were appointed as rapporteurs.

#### 1.3 Review of Documents

The documents presented to the Working Group are listed in Appendix 2.

### 2. ADOPTION OF THE AGENDA

The Agenda given in Appendix 3 was adopted.

### 3. MEETING OBJECTIVES

The Chairman reminded the Working Group of its important tasks as defined in Resolution 2000-3<sup>2</sup>, i.e. to:

- (1) make further progress on revising Chapter V of the Schedule on supervision and control;
- (2) develop text to incorporate the structure and elements of the RMS, including the RMP, into the Schedule.

He noted that although some progress with these tasks had been achieved at the intersessional meeting in Monaco in February 2001, considerable work remains. He further noted that it was not the role of the Working Group to discuss whether or not there should be commercial whaling, whether or not there should be an RMS, or whether or not the RMS is tied to the moratorium. Rather the role of the Working

Group is to try to achieve informal consensus on part or all revisions to Chapter V of the Schedule and to lay the foundation for decision-making by the Commission.

In outlining his plans for the running of the meeting, the Chairman indicated that although he planned to spend most of the time available on Agenda Item 4 (revisions to Chapter V), he proposed that the group should first address Item 5, incorporation of the RMS and RMP into the Schedule.

Regarding discussions on revisions to Chapter V, the Chairman proposed that rather than try to cover the whole text, he would prefer to focus on the following key issues:

- The international observer scheme, including the recovery of costs
- DNA registers and associated issues, and
- Oversight.

Other remaining issues would be addressed depending on the time available.

The Working Group **agreed** with the Chairman's proposed plans.

### 4. INCORPORATION OF THE STRUCTURE AND ELEMENTS OF THE RMS, INCLUDING THE RMP INTO THE SCHEDULE

Following an introduction of IWC/53/RMS4 'Proposed revisions to and re-organisation of the Schedule' from the Secretariat, the Working Group was asked to comment on the general acceptability of the re-organisations proposed, before discussing the document in more detail.

The USA generally supported the revised structure, but indicated that they have concerns regarding (1) the deletion of Chapter II 'Seasons' – for practical reasons relating to the placing of observers and (2) deletion of current Para. 8 on area limits for factory ships. The UK, while broadly supporting these comments, suggested that the re-organisation of the Schedule to the extent proposed leads to problems in distinguishing between editorial and substantive changes, resulting in a serious risk of confusion. Regarding the deletion of paragraph 8, the UK believed that area limits might also have a protective value. Germany shared the concerns of the UK. Subsequently, the concerns over current Para. 8 were resolved (see Appendix 4) and it was **agreed** to delete that paragraph.

Sweden agreed that the proposals in IWC/53/RMS4 provided a useful preview of how the Schedule might eventually look when the RMS has been adopted and redundancies removed. However, it believed that progress should first be made on the basis of IWC/53/RMS3 because the task of agreeing the substantive changes should have

<sup>1</sup> This was circulated to the meeting as IWC/53/9.

<sup>2</sup> *Ann.Rep.Int.Whaling Comm.* 2000:55-6.

priority over editorial changes. It expressed a general concern over whether the editing of existing paragraphs could expose them to new objections. Switzerland, Spain and Monaco associated themselves with these views.

Japan expressed its general support for the simple and logical approach taken in IWC/53/RMS4 to streamline and eliminate redundancies in the existing Schedule other than Chapter V. It believes deletion of existing Para. 10(e) is the minimum requirement for making progress towards incorporation of the RMS into the Schedule and it agreed with the rationale in the document for not including that paragraph.

Following these general comments, the Chairman indicated that he wished to use IWC/53/RMS4 as the basis for revising the Schedule but that where there were problems with the proposed text, the equivalent text from IWC/53/RMS3 would be inserted unless an alternative could be reached. The Working Group agreed to this approach, and a revised text is provided in Appendix 4. Appendix 4 also provides comments submitted by a number of countries on the revised text.

While the Working Group agreed with many of the changes, major areas of disagreement remained with respect to the following paragraphs.

Paragraph 1: 'Management Areas for Commercial Whaling'. Ireland proposed to insert a new sentence limiting the catching of whales to Economic Exclusive Zones or other waters within 200 miles of the coast. This proposal was supported by Sweden, Finland, Monaco, New Zealand, Oman, Mexico, Germany and Austria. Brazil indicated that it had not yet made a decision and suggested that the text be placed in square brackets. This proposal was supported by Argentina, the US, South Africa, Switzerland and Italy. Japan indicated that the proposal was not based on scientific findings and is incompatible with the Convention and therefore opposed it. Norway and Iceland expressed similar views.

Denmark indicated that they were open to Ireland's proposal in the spirit of compromise, but that from a conservation perspective it would be preferable to have a catch over as large an area as possible, adding that sensitive areas such as breeding grounds are normally closer to the coast.

Paragraph 5: 'Commercial Catch Limits for Baleen Whales'. There was no agreement on the text relating to commercial catch limits and therefore in line with the Chairman's proposal, the corresponding text from IWC/53/RMS3 has been inserted.

Paragraph 18: 'Chapter III, Operational Matters'. Ireland proposed that a sentence be added to paragraph 18 to the effect that the meat and products of whales are to be used exclusively for local consumption. The UK proposed that in addition, meat and whale products derived from scientific permit whaling should not be sold or offered for sale. Germany supported both proposals. Japan, supported by Iceland and Norway, commented that the UK's proposal contravenes the Convention and therefore opposed it. In response, the UK

indicated that the direction in Article VIII.2 of the Convention requiring utilisation of whales from scientific permit catches does not mean that the products must be sold. Iceland and Denmark noted that the IWC is a management rather than a trade organisation.

There was also considerable discussion on how to incorporate regulations concerning the capture of cows and calves. IWC/53/RMS4 had tried to merge the provisions for commercial whaling and aboriginal whaling into one paragraph. However, there was some disagreement on whether the provision was intended to be the same for these two types of whaling. The USA had proposed that the adjective 'suckling' be dropped, noting that this word did not appear in the present Para. 13 and that it was difficult to determine whether a calf was suckling before it was killed. Norway could not agree with this because it felt that this clarification was necessary to narrow the interpretation of the word 'calf' – otherwise it might be taken to mean any immature animal and this was clearly not the intent of the provision. Discussion also focussed on the whether the provision referring to accompanying animals should be limited to females or all whales (both occur in the current Schedule). The logic behind the latter was that it was not possible to determine the sex of an animal before it was killed. Again differing views on which might be preferable were expressed. Several nations noted that use of length limits might represent a more pragmatic approach. Grenada stated that the current consideration of *Strike Limit Algorithms* for aboriginal subsistence whaling considered only the number of animals and not their sex, length or reproductive status. It believed that there was thus no need to consider any provisions regarding the take of calves for aboriginal subsistence whaling.

In the absence of agreement, the Chair indicated that the existing text for the different whaling operations should be reinserted, despite the apparent differences of opinion over their meaning.

## 5. DISCUSSION OF REVISIONS TO CHAPTER V, SUPERVISION AND CONTROL

### 5.1 Proposed statement of principles

New Zealand introduced its proposal to include a 'statement of principle' in the chapter on supervision and control to clearly describe the scope, mandate and purpose of any RMS (see IWC/53/RMS2), particularly stressing that the proposed new text makes it clear that the provisions of Chapter V were not an attempt to interfere with trade.

Norway opposed the proposal, believing the content of the proposal to be more a matter for discussion in relation to amendments to the Convention rather than the Schedule, which was clearly not the responsibility of the Working Group. In any event, it considered there to be no need for a statement of principle - the Convention itself fulfils this role. Japan also opposed the proposal for similar reasons, adding that it lacked balance since although referring to the protection of whales, it did not refer to sustainable use. Antigua and Barbuda made similar comments. Grenada, St. Lucia, St. Kitts and Nevis, the Republic of Korea, Dominica, Iceland, the Solomon Islands, St. Vincent and the Grenadines, the Russian Federation and the Republic of Guinea also opposed New Zealand's proposal.

The UK, who had also suggested adding a statement of principle supported New Zealand's proposal. Germany, Mexico, Sweden, Finland, Brazil, Austria, Ireland, Oman,



South Africa, Spain, USA and Argentina also indicated their support. Denmark indicated that whilst it did not oppose the idea of a 'summary' in principle, it found it somewhat illogical to discuss the wording before agreement was reached on the substance of Chapter V.

The Chairman concluded that it was not possible to take this issue further at this meeting and noted the divergence of views expressed.

## 5.2 International Observer Scheme

As an introduction to discussions on the international observer scheme, the Chairman identified four issues that remained to be resolved.

- (1) Whether international observers need to be present on all vessels.
- (2) Whether it is necessary to report daily on any whales hunted, struck and killed.
- (3) Whether a Contracting Government may object to the appointment of an observer.
- (4) Who pays the observers salaries and expenses.

### 5.2.1 Coverage of international observers

Concerning the first point, the Chairman suggested that the main point of contention seems to be whether, if there is only room for one additional person on a boat, this place should be taken by a national inspector or international observer. He noted that the need for a national inspector might be a legal requirement for some countries, and if so, asked the Working Group to consider the following options:

- (1) to have a national inspector on board the vessel, but make sure that there is adequate coverage on shore by an international observer(s);
- (2) develop a mechanism whereby it might be possible to make the national inspector also the international observer through agreement with IWC.

Before considering these options further, the UK requested information on how many boats could not accommodate both a national inspector and international observer. Norway reported that out of 32 boats, about 80% could not.

Norway and Japan confirmed that their domestic legislation required national inspectors to be present on vessels and indicated that their national laws would take precedence over requirements of IWC regarding international observers. Denmark, Antigua and Barbuda and the Republics of Korea and Guinea also considered that if there was only room for one additional person, then the national inspector should take precedence.

Those countries considering that precedence should be given to international observers were the UK, the USA, Argentina, Germany, Brazil, New Zealand, Spain, Sweden, and Monaco. Along with others, Finland noted that the credibility of the system is dependent on international observation and that its preference would be to have international observers on vessels, but also recognised that there were other possibilities to consider.

The Chairman noted the differences of opinion regarding whether national inspectors or international observers should take precedence. He suggested that a compromise should be possible on this issue and that further thought be given to having national inspectors on board vessels with international observers on shore, and/or the possibility of either national inspectors or international observers fulfilling both roles.

### 5.2.2 Daily reporting of whales hunted, struck and/or killed

Disagreement remained over the need for international observers to report daily on any whales hunted, struck and/or killed. Some countries saw no need for daily reporting, noting that it was the role of national inspectors not international observers to ensure that catch limits were not exceeded. Others considered it to be reasonable, particularly for cases where catch limits are shared by a number of countries and where central control may be needed to ensure that catch limits are not exceeded. Denmark believed that in cases where more than one country was operating within the same catch limit, these countries would agree individual catch limits. This view was shared by Norway and Japan. However, the USA commented that from a historical perspective, it could not be assumed that countries would be able to agree on quota allocations. It also believed that since daily reporting had been successfully carried out in the past, modern communications meant that daily reporting would be even less difficult now. A number of possible compromises were suggested. These included:

- reducing the frequency of reporting to 48 or 72 hours (Monaco);
- following the practice that was used in the time of the Blue Whale Unit (and which is still in the Schedule) i.e. weekly reporting increasing to daily as the quota is being approached;
- examination of the way this is handled in existing agreements for other Conventions.

The Chairman urged countries to resolve this issue and to take note of the practice in other fishery agreements.

### 5.2.3 Possibility for Contracting Governments to object to the appointment of observers

In commenting on the revised Chapter V text resulting from the Monaco meeting, the UK has proposed the following language: 'Contracting Governments may ask for the reconsideration of the appointment as observer of any persons, but the Commission's decision is final'.

Norway indicated that it preferred the previous wording, i.e. 'Contracting Governments may object to the appointment as observers of any persons'. This position was supported by Iceland, St. Lucia, Dominica, St. Vincent and the Grenadines, St. Kitts and Nevis, Grenada, Antigua and Barbuda.

Denmark made a strong plea that countries consider compromise. It noted that it was unreasonable to expect any country to unconditionally accept any person that might be chosen. Korea indicated that it reserves its position. Noting Australia's opposition to whaling and thus the RMS in any form, the Chairman concluded that the remaining countries supported the UK text.

In the ensuing discussion, Denmark referred to legal problems in trying to place an observer in a country without that country's consent. The UK indicated that it was not its intention to impose persons against whom a country might have cause to object, but stressed the need to have a system in which unjustified objections can be discounted.

The USA stated that its concern related to the possibility of whaling vessels leaving without observers because of continuous objections to observers. It wished to avoid any system that would allow peremptory objections as opposed to those with just cause. In this context, Japan indicated that they could not allow a situation where the departure of a vessel was delayed simply because an international observer is not available.

Mexico suggested an alternative that would allow a Contracting Government to make an objection to an individual, but that the Commission would then appoint another person without objection. Sweden, Ireland, Finland, Spain and Argentina expressed support for this proposal. Norway stated that it agreed that Governments must have just cause for objecting to observers, but believed that the Mexican proposal was for all practical purposes merely a rephrasing of that of the UK, which still meant that a Government could have an unsuitable observer imposed on it at the second time. In the absence of agreement, Mexico withdrew its proposal and supported the UK wording. Denmark regretted this withdrawal since it believed the proposal would respect sovereign rights but not allow continuous objections. Sweden, supported by South Africa, suggested that objections would not pose problems provided that it was clear that vessels could not sail without an observer on board.

The Chairman noted the different opinions expressed.

#### 5.2.4 Recovery of costs

The text from the Monaco meeting had two options regarding who pays observers' salaries and expenses, i.e.

- These costs shall be recovered exclusively from the Contracting Government under whose jurisdiction whaling operations are carried out.
- The Commission shall recover [these and][all] other costs resulting from the supervision and control scheme through a factor in the membership contributions assessed from Contracting Governments [under whose jurisdiction whaling operations are carried out].

In commenting on the report from the Monaco meeting, the UK proposed that 'Observers salaries and expenses shall be paid by the Commission. These and other costs resulting from the supervision and control scheme shall be recovered exclusively from the Contracting Government under whose jurisdiction whaling operations are carried out'.

New Zealand noted that the proposal to recover costs from Contracting Governments was a compromise from earlier text whereby costs would be recovered from the whaling industry. It then proposed a further compromise whereby: (1) core administrative costs associated with the RMS (e.g. the Secretary's salary) would be paid by the IWC as a whole (thus sharing the costs amongst all members), (2) operating costs for the RMS (recruitment, travel, etc.) would be paid by whaling nations, and (3) capital expenditure (computer equipment, etc.) would be met initially by the Commission and then recovered over time as part of operating expenditure. However after Norway, Japan and Iceland indicated that they could not support this proposal, it was withdrawn.

The UK proposal was then supported by Germany, Oman, New Zealand, USA, Brazil, Argentina, Spain, Finland, Monaco, Austria, Mexico, Sweden and Switzerland. A number of countries expressed regret that the New Zealand proposal was withdrawn. Norway, Japan, Iceland, and Dominica indicated that they did not support the UK proposal. The Republic of Korea expressed the view that all Contracting Governments are in principle the beneficiaries of the international observer scheme. Denmark's view was that if the whaling nations are paying a large share of the contributions, they should not be solely responsible for paying for the costs of international observers. Norway and Grenada agreed, Norway pointing out that this would amount to a form of double taxation. Iceland pointed out that non-whaling nations are taking part in the IWC because they

consider themselves to have interests regarding the regulation of whaling. Iceland considered that if they want to take part in these responsibilities they should pay their full share of the associated cost.

#### 5.2.5 DNA registers with profiles of all whales killed

In introducing this topic, the Chairman suggested that from previous discussions, it would appear that the primary issue is not whether or not it is useful to have DNA profiles of all whales killed, but rather whether a central IWC register should be established. He noted that Norway and Japan already have national registers but do not believe that this issue falls under the purview of the IWC.

Norway briefly described the progress it had made with its own register, noting that it had plans to make certain levels of information publicly available. It stressed that it was providing this information as a courtesy and that it strongly believed that this was essentially a trade issue and outside the terms of the Convention. Should an international dimension be needed it felt that other organisations, such as CITES, would be the appropriate bodies for this. Japan noted that it held the same view as Norway on this matter but that it would be happy to provide interested delegations with information on its national register outside the meeting. Iceland suggested that the focus of IWC should be on managing whaling rather than trade which is beyond this body's competence. The Republic of Korea expressed its reservation to international control over national markets.

The USA, Germany, Finland, Brazil, Austria, Monaco, Mexico, South Africa, Argentina and Spain supported the proposals put forward by Sweden, New Zealand and the UK. Grenada, Antigua and Barbuda, Iceland, the Republic of Korea, St. Kitts and Nevis, Japan, Norway, St. Lucia and Dominica did not.

#### 5.3 Oversight and review

The Chairman referred to the two proposals (from the UK and New Zealand) on this Item and enquired if they could be merged. New Zealand indicated that this could be considered if there was sufficient general support for the principles involved.

Norway, Japan, Iceland, St. Lucia and Antigua and Barbuda believed that the current Infractions sub-committee was sufficient to deal with issues of compliance. They failed to see the need for an increased level of bureaucracy and noted that observers were already allowed to attend its meetings, thus making the process suitably transparent.

Sweden indicated that it supported the principle behind the proposals but was not particularly concerned over the name of the body. Finland concurred with this view. Denmark stated that it was open-minded on this question but requested clarification from the UK over the meaning of Para 19(c) in the case where more than one nation was sharing the same catch limit. As the wording stood, this implied collective responsibility i.e. an infraction committed by one nation would result in all nations being collectively punished. The UK agreed that the issue of multiple-nation fisheries would require further consideration. The USA, Mexico and Germany expressed support for the principles behind the UK and New Zealand proposals.

#### 5.4 Landing sites and land stations

There had been some disagreement at the intersessional meeting as to whether the term 'landing sites' needed to be used in addition to 'land stations'. The Working Group

**agreed** that both terms should be replaced by the phrase 'at point of landing', the UK noting that such points of landing would need to be registered.

### 5.5 Rule-making power

New Zealand introduced its proposal (IWC/53/RMS9) for a new paragraph 20, which had been foreshadowed in its comments in IWC/53/RMS3. It believed that this was necessary to fill a legal 'loop-hole' it had identified. Implementing the RMS was a two-stage process, the first being the adoption of the RMS and the second being a set of rules to allow it to work in practice. It suggested that without the rule-making power, the RMS would be inoperable. It noted that rules would be required, for example, to specify acceptable type(s) of 'autonomous system' (Para. 2), 'unique identifier' (Para 18a) and components of DNA profiles (Para. 18b).

The Chair requested views of the principle behind the New Zealand proposal, rather than detailed comments on the text.

Japan commented that it did not see the need for yet another layer of bureaucracy. It believed that the New Zealand approach was far too complex to address what essentially were straightforward technical issues. It believed that such matters should be settled by technical experts in consultation with the Secretariat. It should be the responsibility of national governments to ensure that such matters are resolved satisfactorily. It felt that the effect of this paragraph would be to slow down the process of final implementation. Finally, it was concerned over the legality of an approach that allowed simple majority voting to effectively modify the Schedule.

New Zealand responded that its proposal was not particularly complex and that rather than slow down the implementation process, it would expedite its implementation.

Norway recognised the argument that New Zealand had put forward but believed that the somewhat radical and complex approach it had suggested required further consideration. It shared several of Japan's concerns, and specifically expressed doubts with regard to a system whereby the IWC would break with its well-established practice that binding decisions require a three-quarter majority vote. It will need more time before commenting further on the proposal.

Denmark, the USA, St. Lucia and Antigua and Barbuda all noted that they would need more time to consider this proposal, and in particular its legal implications.

In summary, the Chair noted that this was an interesting new proposal and that several nations had indicated that they required more time for consideration. He also noted that there had been insufficient time to discuss the UK's proposal for the collection of data relating to whale killing methods and associated welfare issues.

## 6. ACTION ARISING

The Chairman introduced a proposal on how to complete the revision of Chapters V and VI of the current Schedule (IWC/53/RMS8). He noted that a fully effective observation and inspection scheme has long been identified as one of the key elements of the RMS. The revision of Chapter V (Supervision and Control) has proved to be the most difficult issue upon which to reach agreement. In order to facilitate agreement on a draft for Chapter V, he proposed that an Expert Drafting Group (EDG) be appointed to attempt to prepare a consolidated draft to form the basis for consensus.

The EDG should consist of a limited (<10) number of experts nominated by Commissioners representing a balance of interests within the Commission. These experts should be of sufficient status to be authorised to negotiate appropriate compromises. Members of the group must be prepared to discuss all issues even though agreement may not be possible. The Secretariat of the Commission shall be represented on the EDG. Since the draft of a revised Chapter V includes some items that are information requirements, he proposed that the EDG consider the revision of Chapters V (Supervision and Control) and VI (Information Required) together.

In response to questions from the USA concerning the presence of observers and the size of the group, the Chairman responded that he did not believe that the presence of observers would facilitate the work of the EDG. The idea was that a small group of experts should have intense and frank discussion about the way forward. Observers, like the full Commission, would receive the report of the EDG and be able to comment on it in plenty of time before it was discussed by the Commission.

New Zealand wished to state for the record its view that the proposed EDG would only achieve consensus if there was a willingness on behalf of all participants to discuss all issues tabled with the Working Group. In the absence of such consensus, it believed that the only alternative would be a 'line-by-line' vote on all disputed (or square-bracketed) text to arrive at a final text upon which the Commission could then vote as a possible Schedule amendment. Mexico concurred with this view.

The UK stressed that the terms of reference should make it clear that all items discussed thus far under Chapters V and VI should be considered by the EDG. It shared the USA's views on transparency and the need for observers. St Lucia suggested that the EDG should include at least one lawyer. Japan commented that as non-native English speakers, it might need to be represented by two people, one being an adviser, if they were to take part in the group.

Following this discussion, the Working Group **agreed by consensus** to the establishment of such an Expert Drafting Group. It further **recommends** that the EDG be constituted, and its composition approved, at the present Annual Meeting of the Commission. The EDG should work intersessionally to produce a consolidated draft for the revision of Schedule Chapters V and VI for consideration at the 2002 Meeting of the Commission. It should meet at least once in the intersessional period, probably in Cambridge. Its proposed Terms of Reference, which take into account discussions during the meeting, are given below.

- (1) The EDG shall prepare a consolidated draft for the replacement of Chapters V and VI of the current Schedule. The consolidated draft shall be based on the current draft for Chapter V in document IWC/53/RMS2 and the draft for Chapter VI (Information Required) in Appendix 4 of this report, and shall take into consideration further comments and explanations received at the present meeting of the RMS Working Group, including the UK's proposal for the collection of welfare data. Relevant Scientific Committee recommendations from recent years should also be taken into account.
- (2) The consolidated draft shall contain as few square brackets as possible. In the case of disagreements on minor items, the EDG shall develop compromise text. In the case of disagreement as to whether a major item should be included, the EDG should nevertheless

prepare detailed text for the item, but include the entire item in square brackets. The reasons for the inability to agree should be clearly explained in annotations to the consolidated draft.

- (3) The EDG has the authority to rearrange, revise and renumber paragraphs in the current draft texts for Chapters V and VI as appropriate, but should not attempt to merge them with other parts of the Schedule.

The consolidated draft shall be completed and circulated to Commissioners and Contracting Governments not later than 15 March 2002 for consideration at the 54th Annual Meeting.

Australia noted that given its well-known position on the RMS, it could not be considered to form part of the consensus. The USA noted its reservation over the exclusion of observers from the EDG.

## 7. ADOPTION OF REPORT

The report was adopted by the Working Group on Saturday 21 July 2001.

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### Appendix 1

#### LIST OF PARTICIPANTS

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##### AUSTRALIA

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##### OMAN

H. Ambusaidi

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E. Diaz

##### RUSSIAN FEDERATION

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V. Prokhorov

##### ST. KITTS & NEVIS

R. Archibald  
J. Simmonds

##### ST. LUCIA

C. Elias

##### ST. VINCENT AND THE GRENADINES

R. Ryan

##### SOLOMON ISLANDS

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##### SECRETARIAT

N. Grandy  
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## Appendix 2

### LIST OF DOCUMENTS

<p>IWC/53/RMS</p> <p>1 Comments and proposals relating to revision of the schedule.</p> <p>2 Revised text of Chapter V, Supervision and Control, from the RMS Intersessional meeting (Monaco, February 2001). Annotated with comments received.</p> <p>3 RMS Intersessional Meeting Document 2: 'Proposed Revisions Needed to Incorporate the RMP and RMS into the Schedule'. Annotated with comments received.</p> <p>4 Proposed Revisions to and Re-organisation of the Schedule to the International Convention for the Regulation of Whaling.</p> <p>4rev</p> <p>5 Report of the Intersessional Meeting of the Revised</p>	<p>Management Scheme Working Group, Monaco, 6-8 February 2001.</p> <p>6 Comments received on Document IWC/53/RMS4 'Proposed revisions to and re-organisation of the Schedule'.</p> <p>7 IWC Resolution 2000-3 on the Revised Management Scheme.</p> <p>8 Proposal from the Chair of the RMS Working Group.</p> <p>9 Proposed Revised Management Scheme: Draft for Para. 20 submitted by New Zealand.</p> <p>WKM&amp;AWI/53/</p> <p>5 UK Paper on collection of whale killing data.</p>
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## Appendix 3

### AGENDA

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|---|---|
| <p>1. Introductory items</p> <p>    1.1 Appointment of Chairman</p> <p>    1.2 Appointment of Rapporteur</p> <p>    1.3 Review of Documents</p> <p>2. Adoption of the Agenda</p> <p>3. Meeting objectives</p> | <p>4. Discussion of revisions to Chapter V, Supervision and Control</p> <p>5. Incorporation of the structure and elements of the RM, including the RMP into the Schedule</p> <p>6. Other matters</p> <p>7. Adoption of the Report</p> |
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## [Appendix 4]

### [REVISED SCHEDULE TEXT FROM DOCUMENT IWC/53/RMS4 ANNOTATED WITH COMMENTS RECEIVED DURING THE MEETING]

*[Tables on following pages]*

## Appendix 4

REVISED SCHEDULE TEXT FROM DOCUMENT IWC/53/RMS4 ANNOTATED WITH COMMENTS  
RECEIVED DURING THE MEETING

*Italicised text* represents areas where there is no agreement. This includes text brought in from IWC/53/RMS3 for which by definition there was no agreement. Proposed new text on which there was no agreement is shown in *[italics within square brackets]*.

## INTRODUCTION

## Comments

The Schedule forms an integral part of the Convention as specified under Article I. It has been and can be amended in accordance with the provisions of Article V. The Schedule uses the common names for whale species agreed by the Scientific Committee and given in Appendix 1a. Other terms used are defined in Appendix 1b or Appendix 2.

**Secretariat:** *This paragraph was agreed pending a later decision on the inclusion of a statement of principles such as suggested by New Zealand.*

**Japan:** *is opposed to a statement of principles.*

**Re current Chapter II 'Seasons'**

**Germany:** *Current Section II 'Seasons' should be retained (because there could be several reasons to have seasonal differentiations concerning whaling activities).*

**UK:** *re-instate reference to 'Seasons' – removal has serious implications, e.g. for welfare and control, seasonal differences in weather conditions, feeding and breeding, practicalities in using observers.*

## I. AREAS

**Management Areas for Commercial Whaling**

1. Commercial whaling catch limits shall be set by *Small Area* (or combinations thereof) as defined in the Revised Management Procedure (RMP) specified in Appendix 2. *[However, such catches may only be taken within Exclusive Economic Zones or other waters within 200 miles of the coast.]*
2. [deleted]
3. [deleted]

**Secretariat:** *It was agreed to delete paras 2 and 3 defining Small Areas. It was agreed that it is not necessary to specify the Small Areas at this time since they will be defined and come into effect when the RMP is implemented.*

**Japan:** *delete sentence in square brackets.*

**Japan:** *deletion of these two paras requires further consideration from a legal standpoint.*

**Sanctuary areas**

4. *No catch limits other than zero may be listed in Table 1 for the following areas designated as sanctuaries (and see Fig. 2).*

**(Secretariat:** *The RMS 4 text was replaced by Italy's proposed text)*

*(a) The **Indian Ocean Sanctuary** comprising the waters of the Northern Hemisphere from the coast of Africa to 100°E, including the Red and Arabian Seas and the Gulf of Oman; and the waters of the Southern Hemisphere in the sector from 20°E to 130°E, with the Southern boundary set at 55°S. This prohibition shall be reviewed by the Commission at its Annual Meeting in 2002.*

*(b) The **Southern Ocean Sanctuary** comprising the waters of the Southern Hemisphere south of the following line: starting from 40°S, 50°W; thence due east to 20°E; thence due south to 55°S; thence due east to 130°E; thence due north to 40°S; thence due east to 130°W; thence due south to 60°S; thence due east to 50°W; thence due north to the point of beginning. This prohibition, adopted on 6 December 1994 shall be reviewed at succeeding ten year intervals, and can be revised at such times by the Commission. Nothing in this sub-paragraph is intended to prejudice the special legal and political status of Antarctica.<sup>1</sup>*

**Japan:** *delete heading and all of paragraph 4 – sanctuaries are unnecessary once the RMP is implemented.*

**Sweden:** *add 'and commercial whaling is prohibited' after Table 1 in the first sentence, alternatively revert to existing Schedule Paras 7a and 7b*

## II. CATCH LIMITS

**Commercial Catch Limits for Baleen Whales**

**Secretariat:** *Paragraph 10 from RMS 3 has been re-inserted, Note also that Monaco's suggested text from IWC/53/RMS 4 has been added – shown here in bold.*

5. *(a) Commercial whaling shall only be permitted for populations, areas and seasons for which catch limits are in force and shown in Table 1. These catch limits shall have been calculated by the Scientific Committee on the instruction of the Commission in accordance with the RMP specified in Appendix 3. They shall be adjusted downwards to account for [human-induced mortalities as specified in paragraph 5 (b).] [mortalities (whether human-induced or otherwise) as specified in paragraph 5 (b) and 5 (c)]. Commercial catch limits for all populations in all areas and seasons not listed in Table 1 are zero.<sup>c</sup>*

**Japan:** *delete last sentence.*

cont...

<sup>1</sup> The Government of Japan lodged an objection to the Southern Ocean Sanctuary to the extent that it applies to the Antarctic minke whale stocks.

<sup>c</sup> *Secretariat note:* This text reflects the language of Resolution 1994-5 on the Revised Management Scheme (operative paragraph 11) and Resolution 1998-2 on Total Catches Over Time (see Background Document 1 from intersessional meeting).

Revised Schedule Text continued.

(b) The adjustment to catch limits to account for human-induced mortalities shall be based on an estimate provided by the Scientific Committee of the size of adjustment required to ensure that total removals over time from each population and area do not exceed the limits set by the RMP. Total removals include commercial catches and other human-induced mortalities caused by aboriginal subsistence whaling, scientific whaling, whaling outside the IWC, bycatches and ship strikes, to the extent that these are known or can be reasonably estimated.<sup>D</sup>

[*(c) In the event of a massive die-off (biological and/or human-induced) larger than 1% of a stock or 500 animals – whichever is smaller – the Commission shall order a temporary cessation of catch limits on that stock. A catch limit integrating this event shall immediately be recalculated by the Scientific Committee: it shall remain in effect for the remainder of the catch limit period. Given the magnitude of a die-off, the Commission may determine, by simple majority vote, that catches are prohibited until further notice.*]

**Secretariat:** Some concern was noted regarding the last sentence of para (c) referring to simple majority voting. Additional background information on this proposal (and its relationship to the RMP) can be found on page 11 of IWC/53/RMS 4.

(d) Notwithstanding the other provisions of paragraph 5 there shall be a moratorium on the taking, killing or treating of whales, except minke whales, by factory ships or whale catchers attached to factory ships. This moratorium applies to sperm whales, killer whales and baleen whales, except minke whales.

**Secretariat:** This paragraph may be best placed as paragraph 17 in Chapter III, Operational Matters.

(e) Notwithstanding the other provisions of paragraph 5, catch limits for the killing for commercial purposes of whales from all stocks for the 1986 coastal and the 1985/86 pelagic seasons and thereafter shall be zero. This provision will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits.\*

6. [not used]

#### Aboriginal Subsistence Whaling Catch Limits

7. Notwithstanding the provisions for commercial whaling, catch limits for aboriginal subsistence whaling to satisfy aboriginal subsistence need shall be established in accordance with the following principles:

(a) For stocks at or above MSY (Maximum Sustainable Yield) level, aboriginal subsistence catches shall be permitted so long as total removals do not exceed 90 per cent of MSY.

(b) For stocks below the MSY level but above a certain minimum level, aboriginal subsistence catches shall be permitted so long as they are set at levels which will allow whale stocks to move to the MSY<sup>1</sup> level.

**Austria and Germany:** human-induced mortalities should be completed by the words 'and other non-natural removals', as proposed by the UK in IWC/53/RMS 3. Reasons: (1) Austria: because singling out bycatch and ship strikes is based on quantifiability. The Scientific Committee agreed 'that to the extent that these additional human-induced mortalities could be reasonably estimated they should be flagged for future consideration by the Committee'. Removing this phrase would unnecessarily prejudice such considerations, especially since certain sources of non-natural mortality, e.g. kills due to oil spills or acoustic trauma, may well be equally estimatable as bycatch and ship strikes. (2) Germany: because we think that the estimates of the Scientific Committee should include all human-induced mortalities.)

**Sweden:** add 'for example' after 'caused' in second sentence.

**UK:** re-instate wording used in Resolution 1998-2 which had considerable support in the RMS Working Group, i.e. 'in setting catch limits the Commission should, as far as possible, use the CLA [Catch Limit Algorithm] to determine the allowable removal and then take account of all known human-induced mortalities including aboriginal subsistence whaling, scientific whaling, whaling outside the IWC, bycatches, ship strikes and other non-natural removals.

**Japan:** delete paragraph

**Japan:** delete paragraph

**Japan:** delete para. Agree with Secretary's explanation for deletion of this para as in Doc IWC/53/RMS 4 page 11.

cont...

<sup>D</sup> Secretariat note: This text reflects the recommendation of the Scientific Committee (IWC/52/4) prepared in response to the Commission's request in Resolution 1998-2 (see Background Document 1), and amended by the RMS Working Group (IWC/52/14). See Background Document 2 – from RMS intersessional meeting.

\* The Governments of Japan, Norway, Peru and the Union of Soviet Socialist Republics lodged objection to paragraph 10 (e) within the prescribed period. For all other Contracting Governments this paragraph came into force on 3 February 1983. Peru withdrew its objection on 22 July 1983.

The Government of Japan withdrew its objections with effect from 1 May 1987 with respect to commercial pelagic whaling; from 1 October 1987 with respect to commercial coastal whaling for minke and Bryde's whales; and from 1 April 1988 with respect to commercial coastal sperm whaling. The objections of Norway and the Russian Federation not having been withdrawn, the paragraph is not binding upon these Governments.

<sup>1</sup> The Commission, on advice of the Scientific Committee, shall establish as far as possible (a) a minimum stock level for each stock below which whales shall not be taken, and (b) a rate of increase towards the MSY level for each stock. The Scientific Committee shall advise on a minimum stock level and on a range of rates of increase towards the MSY level under different regimes.

Revised Schedule Text continued.

*(c) The above provisions will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of these provisions on whale stocks and consider modification.*

*(Secretariat: Current para 13 (a) (3) from the current Schedule has been re-inserted.)*

8. Catch limits for aboriginal subsistence whaling are as given in Paragraphs 9 - 12 below. Such catches are permitted only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines. Where catch limits are set for more than one year, these shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.

9. The taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock by aborigines is permitted, provided that for the years 1998, 1999, 2000, 2001 and 2002, the total number of bowhead whales landed shall not exceed 280. For each of these years, the number of bowhead whales struck shall not exceed 67, except that any unused portion of a strike quota from any year (including 15 unused strikes from the 1995-97 quota) shall be carried forward and added to the strike quotas of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year. *It is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.*

*(Secretariat: The text of current para 13.(b).(1)(ii) regarding the killing of calves and whales accompanied calves has been inserted at the end of this para.)*

10. The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines whose traditional aboriginal subsistence and cultural needs have been recognised or by a Contracting Government on behalf of such aborigines. For the years 1998, 1999, 2000, 2001 and 2002, the total number of gray whales taken shall not exceed 620 and the number taken in any one year shall not exceed 140. *It is forbidden to strike, take or kill calves or any gray whale accompanied by a calf.*

*(Secretariat: The text of current para 13.(b).(2)(ii) regarding the killing of calves and whales accompanied by calves has been inserted at the end of this para.)*

11. The taking of minke whales and fin whales off Greenland is permitted, provided that:

(a) The number of fin whales taken west of 42°W shall not exceed 19 in each of the years 1998, 1999, 2000, 2001 and 2002.

(b) The number of minke whales taken east of 42°W shall not exceed 12 in each of the years 1998, 1999, 2000, 2001 and 2002, except that any unused portion of the quota for each year shall be carried forward from that year and added to the quota of any subsequent years, provided that no more than 3 shall be added to the quota for any one year.

(c) The number of minke whales taken west of 42°W shall not exceed 175 in each of the years 1998, 1999, 2000, 2001 and 2002, except that any unused portion of the strike quota for each year shall be carried forward from that year and added to the strike quota of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year.

*It is forbidden to take or kill suckling calves or female whales accompanied by calves.*

*(Secretariat: current para 14 has been inserted.)*

12. For the seasons 2000 to 2002 the taking of 2<sup>2</sup> humpback whales each season is permitted by Bequians of St Vincent and The Grenadines, but only when the meat and products of such whales are to be used exclusively for local consumption in St Vincent and The Grenadines. *It is forbidden to strike, take or kill calves or any humpback whale accompanied by a calf.*

*(Secretariat: Current para 13.(b).(4) regarding the killing of calves and whales accompanied by calves has been re-inserted.)*

#### **Sperm Whale Catch Limits**

13. Catch limits for sperm whales are zero.

### **III. OPERATIONAL MATTERS**

14. The hunting of whales shall be undertaken so that the hunted whale does not experience unnecessary suffering and so that people and property are not exposed to danger.

15. *It is forbidden to take or kill suckling calves or female whales accompanied by calves in any commercial whaling operation.*

*(Secretariat: This paragraph is essentially current para 14 but with a reference to commercial whaling added)*

**Grenada:** *current consideration of SLAs for considered only number and not sex, length or reproductive status thus there is no need to consider provisions regarding the take of calves.*

**Germany:** *the last sentence about the prohibition of killing calves should be the same as in par 9, 10 and 12 (because there should be consistency between all paragraphs of the aboriginal subsistence whaling provisions.*

**UK:** *should this [i.e. last sentence re calves] be consistent with 9, 10 and 12.*

**Mexico:** *para 12 and 15 need consistency with wording in paragraphs 9, 10 and 12 regarding 'strike, take or kill calves or any whale accompanied by a calf' instead of 'strike, take or kill calves or any humpback whale accompanied by a calf'.*

**Japan:** *delete last sentence. No scientific basis for this prohibition given such a small take from a large stock (ref IWC Scientific Committee Report 2000)*

**Austria:** *should read: 'It is forbidden to strike, take or kill calves or any whale accompanied by a calf'.*

**Germany:** *para 15 should be consistent with the phrases in par a 9-12 - 'It is forbidden to strike, take or kill calves or any whale accompanied by a calf in any commercial whaling operation.*

**UK:** *inconsistent with 9, 10 and 12 above. Delete 'in any commercial whaling'*

cont...

<sup>2</sup> Each year this figure will be reviewed and if necessary amended on the basis of the advice of the Scientific Committee.



Revised Schedule Text continued.

16. The use of the cold grenade harpoon is forbidden in commercial whaling operations.\*

17. [see comment]

*Secretariat: It might be better to insert old para 10 (d) here rather than as 5 (d).*

18. Contracting Governments shall ensure that all whales [taken in any commercial whaling and aboriginal subsistence whaling] are fully utilised to the extent possible. [The meat and products of whales are to be used exclusively for local consumption.] [Meat and whale products derived from scientific permit whaling should not be sold or offered for sale.]

*Secretariat: Suggestions for new text have been added.*

*Japan: has expressed strong opposition to retention of paragraph 10(d) – see IWC/53/RMS 1, page 4.*

*Japan: is opposed to both suggested additions. The second suggested addition is contrary to Article VIII.2 of the Convention.*

#### IV. SUPERVISION AND CONTROL

This is discussed elsewhere.

#### V. INFORMATION REQUIRED

##### Scientific information

A. The following information required for the RMP shall be provided by Contracting Governments for all whaling operations and for all human-induced mortalities as specified in paragraph 7:

- (a) date of capture, striking or discovery;
- (b) species;
- (c) sex;
- (d) position of capture or striking to the nearest minute of latitude and longitude
- (e) number of whales struck but lost.

The above information shall be verified as outlined in Chapter V and a set of verified records shall be submitted to the Secretariat at the end of each season.

B. Contracting Governments shall arrange for the collection, archiving and analysis of such biological samples, tissue samples, specimens and data from whaling operations as the Commission may from time to time decide taking into account the advice of the Scientific Committee and with due regard to the most recent version of the 'Guidelines for Data Collection and Analysis under the Revised Management Scheme (RMS) Other than those Required as Direct Input for the Catch Limit Algorithm (CLA)'. The results of the analyses of these collections shall be reported to the Commission in a timely fashion. The following samples and/or information shall be provided:

- (a) The length of all animals caught shall be obtained, measured in a straight line parallel to the whale from the tip of the upper jaw to the notch of the flukes. These data shall be reported to the Secretariat at the end of each season and included in the IWC database.
- (b) [Where possible, at least one earplug (or bulla) shall be collected from each whale caught. The resultant age estimations and the identity of the reader shall be reported to the Secretariat sufficiently in advance (normally one year) of the next Implementation Review and included in the IWC database.]

*(Secretariat: It was suggested that the usefulness of collecting earplugs or bullae be referred back to the Scientific Committee.)*

- (c) Where possible, both ovaries shall be collected from each female caught. Corpora counts shall be reported to the Secretariat within one year of the close of the season and included in the IWC database.
- (d) If sufficiently trained personnel are present, the presence, length and sex of foetuses shall be recorded. If it is not possible for such personnel to be present, these data should still be recorded where possible, and the lack of trained personnel noted. These data shall be forwarded to the Secretariat at the end of the season and included in the IWC database.
- (e) Lactation shall be recorded and reported to the Secretariat at the close of the season and included in the IWC database.
- (f) At least 5cm<sup>2</sup> of skin shall be collected from each whale caught and, where possible, a sample of tissue from the foetus should be collected. Long term archiving of all samples with appropriate identifying information is the responsibility of the harvesting nation. A list of archived samples shall be forwarded to the Secretariat at the end of each season.

*Japan: maintains its reservation with respect to the amount of information to be collected.*

cont...

\* Japan and the Russian Federation have lodged objections to this paragraph with respect to minke whales.

Revised Schedule Text continued.

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#### Scientific Permits

- C. A Contracting Government shall provide the Secretary with proposed scientific permits before they are issued and in sufficient time to allow the Scientific Committee to review and comment on them. The proposed permits should specify:
- (a) objectives of the research;
  - (b) number, sex, size and stock of the animals to be taken;
  - (c) opportunities for participation in the research by scientists of other nations; and
  - (d) possible effect on conservation of stock.

Proposed permits shall be reviewed and commented on by the Scientific Committee at Annual Meetings when possible. When permits would be granted prior to the next Annual Meeting, the Secretary shall send the proposed permits to members of the Scientific Committee by mail for their comment and review. Preliminary results of any research resulting from the permits should be made available at the next Annual Meeting of the Scientific Committee. These results must include at least the information required under Paras. A and B above.

#### Operational matters

- D. For all whaling operations, Contracting Governments shall report to the Commission the methods used to kill each whale, other than a harpoon.
- E. All Contracting Governments shall report to the Commission the following information for all commercial whaling operations:
- (a) The name and gross tonnage of each factory ship.
  - (b) A list of the land stations which were in operation during the period concerned.
  - (c) For each catcher ship attached to a factory ship or land station:
    - (i) the dates on which each is commissioned and ceases whaling for the season;
    - (ii) the number of days on which each is at sea on the whaling grounds each season;
    - (iii) the gross tonnage, horsepower, length and other characteristics of each; vessels used only as tow boats should be specified.
- F. The information required under paragraph E should also be recorded together with the operational information specific in the log book format shown in Appendix 3, and forwarded to the Commission at the end of each season.

*The information to be included here depends to a large extent on discussions on Supervision and Control. The Scientific Committee has indicated the information it needs on the new logbook form.*

*Japan: maintains its reservation on this paragraph because of security concerns.*

*Japan: maintains its reservation on this para.*

#### Submission of Laws

- G. A Contracting Government shall transmit to the Commission copies of all its official laws and regulations relating to whales and whaling and changes in such laws and regulations.
-

## Annex H

# Report of the Infractions Sub-Committee<sup>1</sup>

### 1. INTRODUCTORY ITEMS

The meeting took place on 20 July 2001. The list of participants is given as Appendix 1. The Infractions Sub-committee considers matters and documents relating to the International Observer Scheme and Infractions insofar as they involve monitoring of compliance with the Schedule and penalties for infractions thereof (*Rep. int. Whal. Commn 29: 22*).

#### 1.1 Appointment of Chair

Mr Thomas Althaus, Switzerland was appointed as Chair and welcomed the participants.

#### 1.2 Appointment of Rapporteur

Ms Hine-Wai Loose, New Zealand, was proposed and appointed as Rapporteur. She was assisted by Greg Donovan from the Secretariat.

#### 1.3 Review of Documents

The following documents were submitted to the Sub-committee.

IWC/53/Inf1 Secretariat. Revised Draft Agenda.

IWC/53/Inf2 Secretariat. National Legislation Details Supplied to the Commission.

IWC/53/Inf3 Greenland. Quota monitoring on minke and fin whale hunting in Greenland, 2000.

IWC/53/6 Draft Secretariat. Summary of Infraction Reports Received by the Commission in 2000.

IWC/52/7 Report of last year's sub-committee on Infractions (Submitted for information only).

Before proceeding any further with the agenda, the Chair read out the following statement on behalf of the Chairman of the Commission:

*'Iceland's recent deposition of an instrument of adherence to the International Convention for the Regulation of Whaling is expressly conditioned on a reservation to the commercial whaling moratorium found in paragraph 10(e) of the Convention Schedule. Until the Commission has the opportunity to review this matter, the participation of Iceland in the Infractions Sub-committee does not prejudice the positions of individual members of the Commission on this matter.'*

### 1. ADOPTION OF THE AGENDA

The agenda adopted is given as Appendix 2. Norway, supported by Japan, referred to the terms of reference and stated, as in previous years, their belief that Item 8, covering stockpiles of whale products and trade questions, is not within the scope of the Convention and proposed that this

item be deleted. The UK, Austria, Germany, New Zealand, USA and the Netherlands did not agree to the deletion of this item.

The Chair proposed that, as in previous years, despite the disagreement on this agenda item, an exchange of views could be useful. This was accepted.

### 2. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2000

The Secretariat introduced IWC/53/6 (draft), the summary of infractions reports received by the Commission in 2000. It requested editorial corrections on the document and these were received from the Russian Federation and the Republic of Korea and these have been included in the final document which is given as Appendix 4 to this report.

Recalling discussions last year concerning the take of a Bryde's whale, Australia thanked St Vincent and The Grenadines for reporting this infraction although it expressed some disappointment that there was not a more extensive report. The USA, New Zealand, Germany, Finland and the Netherlands concurred with this view.

Grenada referred to the extensive information about this catch provided in SC/52/ProgRep St Vincent submitted to the Scientific Committee last year. This was circulated by the Secretariat prior to the conclusion of the present sub-committee meeting. St Vincent and The Grenadines explained that a blackfish (pilot whale) crew had killed the whale, being unaware that Bryde's whales are protected. The crew had been reprimanded severely and was now fully aware of the situation. New Zealand suggested that this information be included as a footnote to Appendix 4.

Japan expressed the view that this taking of a Bryde's whale did not constitute an infraction. It believed that the blackfish fishery was not targeting animals covered by the Convention. In this respect the take could be considered as a bycatch in the blackfish fishery and thus not an infraction.

The Secretariat noted that the only catch allowed for St Vincent and The Grenadines was that for humpback whales (Para. 13) and that a deliberate take of a Bryde's whale would normally be considered an infraction.

The UK, USA, Finland, Sweden, the Netherlands, Australia and New Zealand stated their view that this catch was of a protected species and did constitute an infraction.

St. Vincent and The Grenadines noted that some of the comments being made suggested that no one was allowed to make a mistake. Several delegations including New Zealand, Denmark and the USA, replied that they both welcomed and

<sup>1</sup> This was circulated to the meeting as IWC/53/14.

were satisfied with the report by St. Vincent and The Grenadines and were not suggesting that any further action was necessary.

Grenada noted that the discussion raised an interesting question as to what actually constitutes an infraction under Article IX (4) of the Convention. In particular, it referred to the question of animals caught accidentally in fisheries not targeting large whales e.g. those caught in fishing gear. These have not been traditionally considered infractions. The case of a whale caught accidentally in the blackfish (i.e. non-large whale directed) fishery did raise a potential problem of interpretation.

The Secretariat clarified that cases where animals have been deliberately killed (even if particular provisions of the Schedule have only been accidentally broken) have been traditionally regarded as infractions in this sub-committee and reported as such (and see Item 6 below). By contrast, cases where animals have been accidentally killed (e.g. ship strikes or bycatches in fishing gear) have not been traditionally considered by this sub-committee. Governments are already urged to provide details of incidental catches and ship strikes in their progress reports to the Scientific Committee.

Australia pointed out that bycatches should be dealt with under Item 6, irrespective of any differences of opinion as to whether or not such catches are considered as an infraction. The Bryde's whale incident had been a 'deliberate' catch and therefore had constituted an infraction – bycatches are unintentional. Several countries supported this position.

With respect to infractions, Denmark stated its view that if it is an infraction, it should be recorded according to the rules and if incidental takes of large whales occur, it should not be recorded as an infraction but the IWC should be informed accordingly.

The UK stated that it considered that animals killed under Japan's new legislation which authorises, under certain circumstances, the deliberate killing of whales bycaught in fishing operations should be reported as infractions.

Japan responded that bycatches occur in several countries including the USA, the Republic of Korea, Australia and New Zealand. It also noted that under certain circumstances whales were deliberately killed in several countries e.g. euthanasia of whales in New Zealand. New Zealand responded that such action is only taken to quickly kill animals that are in extreme distress and are unable to be rescued. This is carried out in New Zealand territorial waters under the permit provisions of the Marine Mammals Protection Act.

In conclusion, the Chair stated that there was agreement that St. Vincent and The Grenadines had fulfilled its obligations and that it had no need to take further action. However, considerations of this case had led to an interesting discussion of the broader issue of what comprises an infraction, particularly over the question of bycatches and deliberate versus accidental killing. He noted that traditionally, only animals that have been deliberately killed have been considered by this sub-committee (see Secretariat comment above). He will draw the issue to the attention of the Commission.

Finally under this item, the UK expressed concern about three northern bottlenosed whales reported (on an official Government website) to have been killed this year in the Faroe Islands. It requested that Denmark provide information on these animals. It noted that this species is included in the Schedule (table 3) with a zero catch limit, and believed that the killing of these whales constituted an infraction.

Denmark replied that it had not received a report on this issue and could therefore not supply details. However, it noted that a Faroese Home Rule government representative will be on Denmark's delegation for the Commission meeting and it may be that further information will be available then. Without additional details, it can not comment as to whether the take of these animals comprised an infraction. If this turned out to be the case, they would of course be reported to this sub-committee next year. However, he did draw attention to the fact that this species is known to strand occasionally in the Faroe Islands. Under such circumstances, it is the local tradition to utilise rather than waste stranded animals, where possible.

### 3. SURVEILLANCE OF WHALING OPERATIONS

Infractions reports submitted by the USA and St. Vincent stated that 100% of their catches were under direct national inspection. Denmark (Greenland) referred to its paper on quota monitoring for minke and fin whales (IWC/53/Inf3). It reported that the system had functioned successfully and that there had been no infractions in the year 2000. It also drew attention to the cases of two humpback whales entangled in fishing gear and provided final information on the case of the animal identified as a sei whale from tissue samples discussed in the sub-committee last year. It seems clear that the hunter was unaware that he had caught a sei whale (and not a small fin or a large minke whale) – sei whales are only occasionally found in Greenlandic waters. The sub-committee thanked Denmark (Greenland) for its full report.

### 4. CHECKLIST OF INFORMATION REQUIRED OR REQUESTED UNDER SECTION VI OF THE SCHEDULE

This Checklist was developed as an administrative aid to the Sub-committee in helping it to determine whether obligations under Section VI of the Schedule were being met. It is not compulsory for Contracting Governments to fill in the Checklist although, of course, they do have to fulfil their obligations under this Section of the Schedule.

The available information is summarised below.

*Denmark:* Information on date, position, species, length, sex, whether a female is lactating and whether a foetus is present is collected for between 76-100% of the catch, depending on the item. Information on killing methods and struck and lost animals is also collected.

*USA:* Information from a variety of documents shows that information on date, species, position, length, sex, killing method and numbers struck and lost is collected for most of the catch depending on the item. Other biological information is recorded for about 60% of animals.

*St. Vincent and The Grenadines:* Information on date, time, position, species, length, sex, and whether lactating is collected.

*Russian Federation:* IWC/53/BRG23 and 24 show that information on date, species, position, length, sex and hunting methods are collected.

*Norway:* the required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/53/4).

The sub-committee noted this information.

## 5. REPORTING OF ACCIDENTAL TAKES

At last year's meeting, the sub-committee discussed the case of the whale taken by a Greenlandic hunter that subsequently (after a routine genetic analysis of tissue samples) turned out to be a sei whale (for which there is no quota). There was some discussion as to whether this clearly accidental take of a protected species comprised an infraction. The Secretariat agreed to look into the archives to investigate how such accidental takes have been reported in the past. That search revealed that there have been numerous examples of cases where an infraction accidentally occurred. Where it was clear that the infraction was completely accidental, the usual response was that an infraction was reported and that (1) no penalties were imposed, but (2) no bonus payments were made. Such infractions date back to the early years of the Commission and can be found in many of the infractions sub-committee reports between the early 1950s and late 1970s. Examples have been found from most countries and for many types of infraction, including the taking of protected species.

Australia thanked the Secretariat for its work. It noted that the Scientific Committee addresses the issue of incidental takes and that there are good reasons for the Scientific Committee to provide this information to the Commission. Japan supported Australia and pointed out that it supplied information on incidental takes to the Scientific Committee. It urged all countries to submit incidental-take information to the Scientific Committee. The Netherlands stated its view that whales taken incidentally should not be regarded an infraction but should be reported. The UK shared this opinion. Grenada noted the definition of the word 'take' in the Schedule and suggested that in this instance the term incidental 'catches' was more appropriate.

The Republic of Korea urged caution on the issue of incidental catches. It believed that this sub-committee should only rule on activities defined in the Schedule and that incidental catches should not be considered an infraction.

The Secretariat clarified that the Commission urges all member nations to submit data on non-natural mortalities (such as incidental catches in fishing gear and ship strikes) in the National Progress Reports submitted to the Scientific Committee. A compilation of this information is included as an Annex to the Scientific Committee report each year. As noted in the discussion under Item 3, such mortalities have not traditionally been considered as infractions or reported to this sub-committee.

## 6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of national legislation supplied to the Commission is given in Appendix 3.

Norway reported that it had recently sent a letter to the IWC Secretariat on the revision of its laws. These laws had been streamlined and included acts related to whaling. The Annex to the letter contains an unofficial English translation of the laws. This legislation was implemented last year. Finland reported that its laws relating to whales and whaling have now been translated and will be submitted to the Secretariat in due course. Mexico reported that it had revised two of its laws related to whales and whaling. This included listing all cetaceans in a special protection category.

Last year, the Commission agreed that the Infractions Sub-committee should be asked to determine the extent to which a failure to provide information about laws, or a

failure to enact them after giving an undertaking to do so, might be considered an infraction. The Chair requested comments on this issue.

Australia and South Africa noted that not all parties had submitted or enacted legislation. They encouraged parties to do so and suggested that a 'failure to enact' might be considered an infraction. Grenada noted that Article IX of the Convention stated that determining and punishing an infraction was the responsibility of the Contracting Government. Failure to enact legislation might be considered a breach of contract but in its view it could not be considered an infraction.

The Chair agreed to report these views to the Commission.

## 7. REPORTS FROM CONTRACTING GOVERNMENTS ON AVAILABILITY, SOURCES AND TRADE IN WHALE PRODUCTS

The Commission has adopted a number of Resolutions inviting Contracting Governments to report on the availability, sources and trade in whale products:

- 1994-7 on international trade in whale meat and products
- 1995-7 on improving mechanisms to prevent illegal trade in whale meat
- 1996-3 on improving mechanisms to restrict trade and prevent illegal trade in whale meat.
- 1997-2 on improved monitoring of whale product stockpiles.
- 1998-8 *inter alia* reaffirmed the need for Contracting Governments to observe fully the above Resolutions addressing trade questions, in particular with regard to the problem of illegal trade in whale products, and urged all governments to provide the information specified in previous resolutions.

This year, Australia responded that: (1) it had no stockpiles of whale meat; (2) it still remained illegal to possess or sell whale meat in Australia; (3) no cetacean products had been seized in the period from the beginning of 1999 to the end of 2000; and (4) in 1999 and 2000, 40 import or export permits were granted for cetacean products (36 for scientific or exhibition purposes), mostly teeth and tissue samples.

The sub-committee noted the information from Australia.

## 8. OTHER MATTERS

### *Mis-labelling of whale meat in Japan*

Australia reported that last year whale meat on the Japanese market had been labelled 'product of Australia'. Japan had reported that this had been due to a lack of understanding of newly enacted food laws. Australia sought a reassurance from Japan that a similar incident would not occur again in the future. Japan agreed that this represented a case of serious misconduct by the retailers. They had been given a severe warning that the mislabelling was inappropriate. Japan believed that such an unfortunate incident will not occur again.

### *Whale meat in Iceland*

Australia referred to reports of whale meat being on sale in Icelandic restaurants and asked the Icelandic delegation what might be the source of such meat. Iceland responded that if animals died in fishing gear in Iceland it was considered preferable to utilise the meat rather than waste it.

This applied equally to large whales and small cetaceans. It noted that the latter were outside the competence of the IWC.

*Japan's new legislation on bycatches*

The UK expressed its doubts about Japan's new legislation on bycatches and whether this might result in bycaught animals being killed that might otherwise be freed. It also believed that the legislation might lead to situations where fishing gear was inappropriately used. New Zealand and Austria supported the UK in this. They requested Japan to provide information to the IWC on numbers of whales killed

in this manner to determine whether it resulted in an increase. If this turns out to be the case, they believed that Japan should reconsider its legislation.

Japan clarified that its following statement did not imply that it recognised the competency of the Committee on this issue but that it was merely being provided for information. Its new legislation prescribed that all DNA samples of by-caught whales must be properly registered on Japan's DNA register, and that such by-caught whale products could be sold. If individual delegates were interested in this issue they could contact the Japanese delegation. Details are also available on the Japanese Fisheries Agency website.

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## Appendix 1

### LIST OF PARTICIPANTS

<b>ARGENTINA</b> M. Vergara	<b>GRENADA</b> F. Hester J. Rennie	<b>NEW ZEALAND</b> M. Donoghue A. Gillespie H.. Loose W. Dovey	<b>SOUTH AFRICA</b> G. de Villiers H. Oosthuizen
<b>AUSTRALIA</b> R. Bromley D. Kay P. Eiser	<b>IRELAND</b> P. Brazel	<b>NORWAY</b> E. Øen H. Ynnesdal P. Schei R. Bøthun B. Bendiksen H. Johansen	<b>SWEDEN</b> B. Fernholm A. Roos
<b>AUSTRIA</b> M. Stachowitsch A. Nouak	<b>JAPAN</b> T. Tarui D. Nagahata M. Ota H. Kato T. Sakamoto M. Komatsu S. Ohsumi Y. Ito	<b>OMAN</b> H. Ambusaidi	<b>UK</b> G. Jasinski C. Wold R. Bowman R. Cowan L. Kell D. Stowe J. Lonsdale
<b>BRAZIL</b> J. Palazzo	<b>KOREA, REPUBLIC OF</b> H. Shin S. Jung Z. Kim	<b>RUSSIAN FEDERATION</b> R. Borodin V. Prokhozov	<b>USA</b> M. Tillman R. Schmittten C. Campbell R. Eckert C. Yates M. Hayes R. Brownell N. Assam J. Ple
<b>DENMARK</b> S..Amondson H. Fischer L..Fontaine P. Jepsen A..Jessen K. Mathiassen	<b>MEXICO</b> S. Manzanilla L. Rojas Brocho	<b>ST KITTS AND NEVIS</b> R. Archibald	
<b>DOMINICA</b> A. Magloire	<b>NETHERLANDS</b> F. Von Der Assen	<b>ST VINCENT AND THE GRENADINES</b> R. Ryan	

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## Appendix 2

### AGENDA

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|---|--|
| 1. Introductory <ul style="list-style-type: none"> <li>1.1 Appointment of Chairman</li> <li>1.2 Appointment of Rapporteur</li> <li>1.3 Review of Documents</li> </ul> | 5. Checklist of information required or requested under Section VI of the Schedule           |
| 2. Adoption of the Agenda   | 6. Reporting of accidental takes   |
| 3. Infractions reports from Contracting Governments, 2000   | 7. Submission of national laws and regulations   |
| 4. Surveillance of whaling operations   | 8. Reports from Contracting Governments on availability, sources and trade in whale products |
|   | 9. Other matters   |
-

## Appendix 3

## NATIONAL LEGISLATION DETAILS SUPPLIED TO IWC

Member states of the European Economic Community are subject also to relevant regulations established by the Commission of the European Community.

The date of the most recent EEC legislation supplied to the International Whaling Commission is 1983. Information on which pieces of legislation have been provided by the member countries is available on request from the Secretariat.

Country	Date of most recent material	Country	Date of most recent material
Antigua & Barbuda	None	Korea, Republic of	1985
Argentina	1984	Mexico	1985
Australia	2000	Monaco	None
Austria	1998	Morocco	None
Brazil	1987	Netherlands, The	1978
Chile	1983	New Zealand	1992
China, People's Republic of	1983	Norway	1988
Costa Rica	None	Oman	1981
Denmark (including Greenland)	1998	Peru	1984
Dominica	None	Russian Federation	1998
Ecuador	None	Saint Kitts & Nevis	None
Finland	None	Saint Lucia	1984
France	1994	Saint Vincent & the Grenadines	1986
Germany	1982	Senegal	None
Grenada	None	South Africa	1998
Guinea	None	Spain	1987
India	1981	Sweden	1987
Italy	None	Switzerland	1983
Ireland	1982	UK	1981
Japan	1983	USA	1995
Kenya	None		

## Appendix 4

## SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION IN 2000

Under the terms of the Convention, each Contracting Government is required to transmit to the Commission full details of each infraction of the provisions of the Convention committed by persons and vessels under the jurisdiction of the Government. Note that although lost whales are traditionally reported, they are not intrinsically infractions.

Scientific permit catches were reported to the Scientific Committee. Catch and associated data for commercial and scientific permit catches were submitted to the IWC Secretariat. Norway reported no infractions from her commercial whaling operations. Aboriginal subsistence catches and infractions are summarised in the following Table:

Country	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/ comments
<b>Denmark</b>							
W. Greenland	Fin	3	3	6	1	7	None
	Minke	36	102	142*	3	145	None
E. Greenland	Minke	2	8	10		10	None
<b>St Vincent and The Grenadines</b>							
	Humpback	1	1	2			2 <sup>1</sup>
	Bryde's	1		1			1 <sup>1</sup>
<b>USA</b>							
	Bowhead	14	21	35	12	47	None
<b>Russian Federation§</b>							
	Gray	62	51	113	2		None
	Bowhead		1	1			None
<b>Republic of Korea</b>							
	Minke			2			2 <sup>2</sup>

\* Includes 4 animals of unknown sex

<sup>1</sup> The infractions report stated that the female was lactating and the calf was suckling. It noted that no penalty/action was deemed necessary due to the death of the harpooner. The Bryde's whale was taken by a blackfish crew who were unaware that this species could not be caught. The crew were severely reprimanded.

§ Although the infractions report has not yet been received, this information has been extracted from IWC/53/4.

<sup>2</sup>The Government of the Republic of Korea reported an accident of illegal direct catch of two minke whales by its nationals in Korean waters in 2000. It certified this as an infraction. The fishing vessel involved has a multiple fisheries permit (Permit No. 2004-5). The investigation of this incident verified that the animals were deliberately killed using a small (3m) harpoon comprising an arrowhead, three steel poles and ropes. It also revealed that the meat products were sold to a wholesaler who distributed them to three restaurants in Ulsan and Pusan. Those nationals involved in the catch, market distribution and restaurant were prosecuted and penalised. The Government could not verify the length and sex of the whales in the statement but was told that one was 4.5 m and the other 5.5 m. The Government stated that it has prohibited whale takes and continuously strives to improve measures for the conservation and management of whales in its jurisdictional waters, in accordance with the Convention and the IWC's decisions. The vessel owner was prohibited from fishing for 25 days. The Captain was fined 5m Korean won, the crews 3m Korean won, the wholesaler 1m Korean won and the restaurant owner 0.5 Korean won.



# Annex I

## Report of the Finance And Administration Committee<sup>1</sup>

### 1. INTRODUCTORY ITEMS

The meeting took place on 20 July 2001. The list of participants is given in Appendix 1. The Finance and Administration Committee advises the Commission on expenditure, budgets, scale of contributions, financial regulations, staff questions, and such other matters as the Commission may refer to it from time to time (*Rules of Procedure, Rule M.8*).

#### 1.1 Appointment of Chairman

Mr Jim McLay (New Zealand) was appointed as Chairman of the Committee.

#### 1.2 Appointment of Rapporteur

Mr Richard Hepburn (United Kingdom) was appointed rapporteur.

#### 1.3 Review of Documents

The list of documents is given in Appendix 2.

### 2. ADOPTION OF THE AGENDA

The draft agenda for the meeting was proposed and adopted, and is given in Appendix 3. The Chairman made a statement regarding the participation of Iceland in the Finance and Administration Committee, in the following terms:

*'Iceland's recent deposition of an instrument of adherence to the International Convention on the Regulation of Whaling is expressly conditioned on a reservation to the commercial whaling moratorium found in paragraph 10(e) of the Convention Schedule. Until the Commission has the opportunity to review this matter, the participation of Iceland in the Finance and Administration Committee does not prejudice the positions of individual members of the Commission on this matter'.*

### 3. ADMINISTRATIVE MATTERS

#### 3.1 Annual Meeting arrangements

##### 3.1.1 Venues

The Secretary introduced document IWC.CCG.154 which noted that currently any Contracting Government that wished to host an Annual Meeting was requested to give formal notice one year in advance of the meeting under

Rules of Procedure B.1. The document proposed changes to improve the better advance planning of the venues for Annual Meetings and the distribution of meeting documents. The Secretary proposed that decisions on the location of Annual meetings should be taken two years in advance and that future formal offers (to be made three months before the Annual Meeting at which the decision was to be made) should include details on which meetings it covered, the location and the venue, proposed timing and information on what the host Government would provide.

Australia, supported by Japan and Germany, expressed broad support for the proposal but considered that some elements of the formal offer e.g. the requirement to notify the Secretary of the precise venue and timing of the meeting were inappropriate, and that the Commission's formal acceptance of any offer was needed first before a potential host Government could finalise all the details being asked for. Monaco remarked that pragmatic seasonal variations for the best time of the year could vary and should be taken into account in fixing the timing of the meeting. Oman commented that one year's notice should be adequate and that it was important that any potential host Government knew exactly what financial resources might be available from the Secretariat and how much would be left to the host Government to meet. In response to a suggestion from Oman that a paper setting out in advance what the specific requirements might be on a potential host Government, the Secretary pointed out that such a document had already been produced and was available on request.

The Finance and Administration Committee agreed to recommend that decisions on the location of Annual Meetings should be taken two years in advance. The Secretary accepted that some of the formal requirements might be reduced but the Committee endorsed her view that that any formal offer must include information on which meetings it covered and its timing. The Secretary drafted a revised Rule of Procedure B.1 as set out in document IWC/53/F&A9. The Finance and Administration Committee recommended that the Commission should adopt the revised Rule of Procedure B.1 at its meeting in 2002, as follows (new wording in bold and italics):

#### 'B. Meetings

The Commission shall hold a regular Annual Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice *two years in advance*. A *formal offer should include:*

(a) *which meetings it covers, i.e. Scientific Committee, Commission Sub-groups, Annual Commission Meeting;*

<sup>1</sup> This was circulated to the meeting as IWC/53/15.

- (b) *a proposed time window within which the meeting will take place; and*
- (c) *a timetable for finalising details of the exact timing and location of the meeting.*

Attendance by a majority of the members of the Commission shall constitute a quorum. Special Meetings of the Commission may be called at the direction of the Chairman after consultation with the Contracting Governments.'

Following the Finance and Administration Committee's agreement to recommend adoption of the revised Rule of Procedure B.1, Antigua and Barbuda suggested that the words 'after consultation with the Contracting Governments' in B.2 be amended to 'after consultation and with concurrence of the majority of the Contracting Governments'. This point was noted.

### *3.1.2 Document preparation and distribution*

#### **Recent changes implemented by the Secretariat**

The Secretariat summarised the changes that it was considered would improve the distribution and timing of documents and help plan the agenda for future meetings. This was set out in Circular IWC.CCG.154.

The UK expressed its appreciation of the exemplary way in which the Secretariat had distributed documents to the meeting. Monaco and Mexico added their support to the UK's statement. Australia highlighted the practical problems that the Secretary's proposal not to distribute fresh copies of papers that had been circulated in advance of the Annual meeting would cause some delegates who had to leave home well in advance of the meeting. The weight of documents that had to be taken to the meetings was considerable. Australia suggested that a compromise solution, perhaps for instance allowing for large documents to be circulated at the meeting, should be sought. Denmark, Germany, New Zealand, Norway and South Africa supported Australia's view. New Zealand also suggested that all documents emanating after the Scientific Committee should be made available to all delegates.

Monaco and Switzerland indicated that they were content with the present distribution procedures. Mexico congratulated the Secretary on the current distribution of papers but asked if in future copies could be sent to each of the individual members of a country's delegation. Norway commented on the Mexican proposal and emphasised the responsibility of each Contracting Government to handle the national distribution of documents which the Secretariat provided to an appointed recipient in each member state.

The Finance and Administration Committee recognised that computer and/or email problems sometimes affected the transmission of documents so that this form of distribution could not always be totally relied upon. South Africa suggested that any delegate who wished to receive paper copies rather than by electronic means should inform the Secretary.

In response to the issues raised, the Secretary noted that it was never the intention to deny copies of papers to any delegates. In practice this did not happen. The Chairman noted that the electronic transmission of documents had generally worked well, no major problems had been identified and that this practice would continue in future.

#### **IWC web pages**

The Secretary introduced a proposal (IWC/53/F&A1) on how the IWC's website could be used to make meeting documents available to member countries, observers and

others. The document considered the benefits of such a facility (including reduced problems with emails, easier access to documents and the most up-to-date version of a document being available), the options available (public or password protected site), the costs involved and what similar organisations were doing in this respect. Consideration was also given, in particular, as to how it would enable better planning and scheduling of agenda items by the Chairman and the Secretariat.

The proposal recommended that non-confidential meeting documents should be made available to delegates and observers via pages on the public IWC website (in Word and pdf formats) and that confidential/restricted documents would continue to be emailed, faxed or mailed to Commissioners and Contracting Governments, as appropriate (i.e. as at present). A public website was considered most appropriate. Further proposals were made e.g. that the website should be the primary way to distribute documents for a meeting and that an appropriate mechanism should be put in place by the Secretariat in time for IWC/54.

Korea supported the use of the website as the primary means of future distribution of papers. Antigua and Barbuda welcomed the initiative but suggested that criteria should be established to ensure that confidential documents did not get onto the website inadvertently. Antigua and Barbuda considered that documents should be formally transmitted by conventional means in addition to the website. The Secretary confirmed that the proposal related only to meeting documents and not to Circulars.

The Finance and Administration Committee agreed to recommend the public website proposal for non-confidential meeting documents. Hard copies by mail should be sent to Contracting Governments on request.

### *3.1.3 Verbatim Record*

The Chairman noted that the Administrative Review in 1998 had recommended the discontinuation of the Verbatim Record of Annual Meetings. The Commission had agreed to review the question in 2001 and at its meeting in Monaco on 9 February 2001, the Advisory Committee had agreed to propose to the Commission that (1) the preparation of a written Verbatim Record should cease after the IWC/52, and that (2) the Verbatim Record should be made available to those who want it on an indexed CD. This proposal, which was aimed at reducing the Secretariat's workload, was agreed by the Finance and Administration Committee for recommendation to the Commission.

### *3.1.4 Need for a Technical Committee*

The Chairman noted that at the IWC/52 meeting the Commission had agreed to refer the need for a Technical Committee to the Advisory Committee for consideration before the Annual Meeting in 2001. At its meeting in February, the Advisory Committee had agreed that at least for IWC/53, a Technical Committee was not needed, and that the need to provide an opportunity for issues to be discussed at least twice would be handled through agenda planning and management.

The Finance and Administration Committee agreed that a Technical Committee was not required but that this should be kept under review by the Advisory Committee. If at a later date the Commission decided not to continue with a Technical Committee, a change in the Rules of Procedure would be required.

### 3.2 Formalising arrangements for intersessional meetings

The Chairman noted that at a private Commissioners' meeting in Monaco on 6 February 2001, it had been agreed that the Secretary should work with the Advisory Committee to provide advice on (1) what constitutes a formal invitation for an intersessional meeting and (2) how and when a decision to have an intersessional meeting should be taken.

The Secretary introduced document IWC/53/F&A2, which had been prepared in co-operation with the Advisory Committee, and which proposed 'Guidelines for Intersessional Meetings', thereby formalising arrangements for such meetings. The overall objective for such guidelines was to achieve a situation in which delegates left an Annual Meeting knowing where and when (within a time-window) any intersessional meeting would be held. The Secretariat explained that the proposed Guidelines covered such issues as scope; origin and content of proposals for intersessional meetings, how and when a decision to hold an intersessional meeting should be taken, responsibilities, funding and approval of budgets and a standard form to be used when proposing an intersessional meeting.

The USA welcomed the document as a step forward but commented that option (c) i.e. drawing on reserves should be considered the last of the options for covering the costs of intersessional meetings. The Finance and Administration Committee agreed the proposals set out in the document and recommended that the Commission should adopt the suggested procedures without amendment (Appendix 4).

The Secretary indicated that the guidelines could form a stand alone document and that in any event they would be recorded in the Chairman's report of the meeting.

## 4. ENHANCING THE PARTICIPATION OF DEVELOPING COUNTRY SCIENTISTS

The Chairman noted, that at the meeting of the Finance and Administration Committee in 2000, Brazil had proposed that the Advisory Committee, the Chair of the Scientific Committee and the Secretary, assisted by any interested parties should consult on ways to increase scientific participation of developing countries in the work of the Scientific Committee.

The Secretariat introduced document IWC/53/F&A3 reporting the outcome of their discussions, the participants who were consulted and the response received. Judy Zeh (Chair of the Scientific Committee) presented the Scientific Committee's consideration of the aspects of the document relating to the Scientific Committee, set out in extracts from IWC/53/4 (Item 22 + Annex S)<sup>2</sup>. Brazil recorded its appreciation to the Scientific Committee and noted that all remarks had been helpful in advancing the dialogue. Brazil asked that the words in the second section of Annex S be amended to 'We do not have strong...' and also noted that, although no change in the way the Scientific Committee selected participants was being proposed, an appropriate change to the Rules of Procedure of the Scientific Committee should be made to allow IPs, after being normally selected by the Finance and Administration Committee under current procedure, to be granted national delegate status by their respective governments.

On the question of a higher budget allocation for sponsoring IPs, Brazil recognised further consideration

would be needed to assess the Scientific Committee's and Contracting Government's priorities on this issue. Brazil welcomed the ideas the Secretariat had circulated, such as donating publications to institutes etc in developing countries and greater use of the IWC website to increase the awareness of activities on cetacean management related issues.

In her response, the Chair of the Scientific Committee, noted that all matters on finance were for the Commission to take; IPs must retain the right not to become national delegates and further consultation on the most efficient ways to help scientists in developing countries gain the necessary expertise to address conservation and management issues in their own countries would be welcomed. This might include suggestions for holding and funding IWC Workshops in developing countries and more co-operation between national laboratories and other institutions.

Mexico expressed its support for the Brazilian proposals but questioned whether such participation by IPs had any effect on the way Contracting Government's contributions would be calculated. The Secretariat clarified that the calculations were based on participants solely attending plenary sessions of the IWC. Argentina noted that it had co-sponsored the Brazilian proposal and recognised the continuing constraints which still operated against greater involvement by developing countries in IWC activities. Mexico's view that developing country participants should be allowed to contribute to plenary sessions of IWC since they had no consequence for a Contracting Government's contributions, was recognised by Brazil but it was felt by the Finance and Administration Committee that this was a matter for the Scientific Committee to take forward in their discussions. New Zealand supported any moves to enhance further participation and noted that the Commission would ultimately need to consider the extent to which funds might be made available to encourage this. Monaco supported the views of Brazil and Mexico but suggested that some criteria to define a 'developing country' should be established.

Monaco's support for proposed workshops in developing countries as a way of attracting regional-based scientists was endorsed by South Africa. The website could also be used as a forum for scientific exchanges over current issues. Subject to budgetary considerations, Monaco suggested that, in future years, a small team of the IWC Scientific Committee might go on a regional tour to raise awareness of IWC's work and that consideration should be given to training and IWC fellowships. South Africa supported the proposals put forward by Brazil and other countries.

The Finance and Administration Committee agreed to recommend that the Scientific Committee's Rules of Procedure be amended by the insertion of a new rule A.6. (i) to read as follows:

*'After an IP has his/her participation confirmed through the procedures set up above, a Contracting Government may grant this person national delegate status, thereby entitling him/her to full participation in Committee proceedings, without prejudice to funding arrangements previously agreed upon to support the attendance of the scientist in question.'*

The Finance and Administration Committee agreed that this provision was aimed at developing countries – it was not the intention that it should be used by developed countries.

The Finance and Administration Committee agreed the use of the Commission's website to facilitate co-operation between scientists, particularly with respect to Scientific Committee activities, and supported the distribution of information and reports, and the donation of sets of Commission publications to specified national institutes. It

<sup>2</sup> See *J.Cetacean Res. Manage.* 4(Suppl.).

was noted that the term 'national institutes' was a reference to laboratories or universities dealing with cetacean management.

Brazil recorded its appreciation for the Chair of the Scientific Committee in her efforts to help progress in this matter, and expressed its hope that the Scientific Committee would continue to promote greater participation of developing country scientists in its proceedings. The Chairman complimented Brazil as having initiated the discussion on this matter.

## 5. FORMULA FOR CALCULATING CONTRIBUTIONS

### 5.1 Report of the Contributions Sub-committee

Mr Daven Joseph (Antigua and Barbuda), the Chair of the Contributions Sub-committee, introduced document IWC/53/F&A4 which reported on the outcome of the Sub-committee's discussions on the progress in developing proposals for revising the formula used to calculate member country contributions. Their discussions followed a review of the outcome of the meeting of the Contributions Task Force, which had met in Cambridge on 21-22 May 2001. He drew the Finance and Administration Committee's attention to the report's three recommendations.

The Finance and Administration Committee recorded its appreciation of the hard work and considerable progress made by the Contributions Sub-committee in reducing the model options down to three, although it was agreed that this did not mean that consideration should not be given to any further options. The Finance and Administration Committee noted that the four guiding principles of openness, stability, fairness and 'user pays' had not been included in the Sub-committee's report and asked that a record of these be included in the Finance and Administration Committee's report.

The UK said that it was essential that the Commission operated by consensus on this matter and noted that on model D the UK as a non-whaling nation would pay twice the amount of contribution as a whaling nation like Norway.

Germany, Guinea, Mexico, Monaco, Netherlands, UK and the USA underlined the need for consensus. Japan remarked that it was too early at this stage to refer this to an inter-sessional meeting before IWC/54 and urged work to continue in the forthcoming week. A decision would then have to be taken as to whether consensus was likely to be achieved.

In the discussions a number of countries including Austria, Monaco, Spain indicated that there were errors in the contributions calculated for their countries within the models. The Finance and Administration Committee agreed that it was vital that any factual errors should be removed before the models could be finalised. The Secretariat should be informed of any errors during this meeting or, if not, in writing. Russia suggested that information from the IMF or the World Bank might be used as source of independent information.

St Kitts and Nevis recognised the progress which had been made in reducing the number of models down to three and urged further work in reducing the number down to one. Grenada welcomed the fact that three options had been provided but now asked for one of them to be chosen. St Kitts and Nevis and South Africa were not optimistic about progress as fundamentally different approaches existed. Switzerland encouraged further work to continue. Their view was that those countries which took natural resources

should pay the most and they stressed their opposition to model B which contained no advantages for the two countries that did not have sea borders.

Monaco, supported by Switzerland, suggested that the Finance and Administration Committee should concentrate on the rationale behind the three models instead of the actual financial contributions which had emerged from the models. Monaco noted that all the models had resulted in significantly lower contributions for small island states and other developing states countries at the expense of the developed countries. Monaco said that it was important that the rationale behind the models was clear so that if, for example, a country's GNP went up or down an appropriate change to the model and a country's position in the model could be made. The criteria and any subsequent changes would then be clearly transparent and could be reviewed and assessed every few years. However, Switzerland, supported by Austria, noted that, albeit agreeing on the principles, they could not accept the rationale behind the calculation in model B which included a separate category for land-locked states.

Austria also considered it important that the meeting attendance component retain a basic share for delegations of up to three, to avoid adverse effects through governments cutting their delegations to the size which incurs no cost.

All models put forward in the document included a wealth factor. Although the basis on which the wealth factor had been included varied between each model, the Finance and Administration Committee agreed that model B adopted a different approach to that of models C and D which contained some similarities. Model B took account of the developing countries since they were allocated to classes based on GNP/per capita and scale of economy. Spain noted that in model D the rationale or criteria behind the allocation of wealth shares to countries was not given.

Antigua and Barbuda reminded the Finance and Administration Committee that, while consensus was desirable, only a simple majority was needed for any changes in the way that contributions of Contracting Governments to the IWC are calculated and that he did not know of any other international organisation where the developing countries had to pay equal contributions to those of developed countries. Antigua and Barbuda urged the Commission to act with urgency to resolve this matter and to set a deadline for final conclusion of the issue. This would show the international community that the IWC recognised the problems of the poorer developing countries. Dominica supported the views of Antigua and Barbuda, emphasising that the scale of contributions was an important issue. It was important that a time frame be set so as to relieve developing countries like Dominica of the difficulty in meeting their financial contributions.

In noting their support for a more equitable level of contributions for developing countries, the UK said that it would be reluctant to introduce a timetable for proposing that the work should be concluded. The work should be taken forward but there should be no timing constraint which, if not met, would trigger some sort of reaction. The USA supported the views of UK.

The Finance and Administration Committee confirmed the current membership of the Task Force and agreed to include one additional member from South America and one from Europe on the Task Force to achieve a better geographical coverage. It was understood that one South American country had already expressed interest.

Germany, Mexico, The Netherlands, Spain and the UK formally reserved their position on the three models.

Following discussion the Finance and Administration Committee concluded:

- that there were underlying differences in the three models which had been presented which would make a merger of these options difficult to achieve
- that some blending of the various models may be possible
- that the Task Force should undertake further work at an intersessional meeting in Cambridge before IWC/54 to try and reach consensus. The Secretariat confirmed that the cost of the intersessional meeting should not exceed £1000 and it would try to absorb this within the Secretariat's overall expenditure
- that a date for the Task Force meeting should be set at the earliest opportunity
- endorsed the guiding principles of *Openness, Stability, Fairness and 'user pays'* recommended by the Contributions Sub-committee and Task Force
- noted, subject to reservations made, that considerable progress had been made in reducing the number of models from 18 to 3
- acknowledged that further work should continue and that a report on progress should be made to IWC/54
- that factual errors should be removed in the models
- invited Contracting Governments to provide written comment, information and relevant statistics on certain economic data to the Secretariat by 30 September 2001
- recognised the need to continue development work on performance criteria
- that the Commission should strive to achieve consensus on this matter as soon as possible.

## 6. FINANCIAL STATEMENTS, BUDGETS AND OTHER MATTERS

Mr Yoshiaki Ito, the Chairman of the Budgetary Sub-committee, introduced the report of the Sub-committee in IWC/53/F&A5.

### 6.1 Review of the provisional financial statement, 2000/2001

The Finance and Administration Committee recommended approval of the Provisional Financial Statements, subject to audit.

### 6.2 Consideration of estimated budgets, 2001/2002 and 2002/2003, including the budget for the Scientific Programme

In response to Dominica about the specific position on the expenditure for the SOGLOBEC, the Secretariat noted that there was no underspend on SOGLOBEC. Australia later clarified the position by highlighting the fact that no funds had indeed been allocated to SOGLOBEC in 2000-2001.

In response to Antigua and Barbuda about underspends generally on the research expenditure in 2000-2001, the Secretariat explained that any underspent funds would go into the budget of the following year unless there was an actual outstanding commitment to meet the current year.

Japan requested that an additional £10,000 be allocated from the IWC budget for a 'Research Methods Review Workshop', noting that the rest of the cost would be shared by Japan and the USA. This proposal was seconded by the USA.

New Zealand expressed their concern about the number of intersessional workshops being proposed. Dominica, supported by St Lucia, stressed the importance of the Fishery Cetacean Workshop and suggested that the Pollution 2000+

Workshop should be deleted. Germany shared the concern of New Zealand regarding the number of intersessional workshops and had reservations on spending an additional amount on the 'Research Methods Review Workshop' proposed by Japan and the USA.

Australia supported the views expressed by the USA that all the proposals should be put forward to the Commission if the budget could accommodate them. Denmark and Guinea concurred with this.

Brazil indicated that it could support the additional funding towards the Research Methods Review Workshop on the understanding that particular attention would be paid to the issue of invited participants from developing countries

The Secretariat agreed to add a footnote for information to the Table showing research fund expenditure to clarify the arrangements for the research projects funded through the IWC Voluntary Fund for Small Cetaceans.

The Finance and Administration Committee:

- recommended approval of the proposed increase in the registration fee for non-government observers from £510 to £525 and the proposed increase in the nominal fee for press representatives from £20 to £25
- recommended approval of the budget for 2001-2002 (Appendix 5) including the anticipated 3.0% increase in member contributions
- noted the Forecast Budget for 2002-2003, (Appendix 5) and the significant reduction in the level of the General Fund reserves over the two years
- recommended approval of the proposed research expenditure by the Scientific Committee for 2001-2002, in addition to the provision for Greenland research of £18,000 for 2000-1 and 2001-2 (Appendix 5)
- recommended approval of an additional £10,000 as a contribution towards the provisional estimated total costs of £20,000 of a joint Japan/US proposal for a 'Research Methods Review Workshop' (to be recovered from an increase in contributions) (Appendix 5).

Germany formally reserved its position on the proposed budget increases. Dominica formally reserved its position on the proposed contribution increases.

### 6.3 The level of reserves

The Finance and Administration Committee reviewed whether the current level of the reserves was the most appropriate, and what would be the most productive way of dealing with any surplus. The Finance and Administration Committee reconfirmed that a six month level of reserves in the General Fund was appropriate and noted the Budgetary Sub-committee's request that the Finance and Administration Committee should consider options for reducing future expenditures. The Finance and Administration Committee agreed not to pursue a formal investigation into a second reserve fund, noting that the Secretariat was in contact with other IGOs on such matters.

### 6.4 Property/accommodation provision

The Secretariat drew the Finance and Administration Committee's attention to the fact that the lease of the premises at the Commission's offices at the Red House will expire in 2009. Whilst there was every reason to expect that the lease would be offered for renewal, other options would exist and there were drawbacks to leasing, including significant recurring rental charge and obligations to maintain an old building. The Secretariat had obtained some

preliminary professional advice on time factors and likely costs associated with a future disposal of the lease and feasibility, planning considerations and costs of a redevelopment of part of the existing premises and concluded that these were unlikely to be viable in the foreseeable future.

The Secretariat added that the current premises might not be suitable in future should circumstances change e.g. to require additional staff. In response to a question from Norway, the Secretariat noted that IWC had not recently considered the option of moving away from Cambridge to another less expensive part of the United Kingdom. It believed that a formal direction from the Finance and Administration Committee or Commission would be needed if this proposal was to be considered seriously.

The Finance and Administration Committee agreed that it might be prudent to reconsider the possibility of a separate 'property' account in the event of a future budget surplus. The Chairman noted that the option of locating away from Cambridge would still be open as the date of the lease expiry approached if the premises at the Commission's office at the Red House became less suitable.

### **6.5 Research activity costs**

The Secretariat explained that over the last two years there had been additional administrative activity arising from an expanded research programme. It indicated that additional administrative resources might be needed if, research activity continued at the present level (heightened by the 'special environment research provision' allocated from the reserves over the last two years). The Secretariat is introducing internal procedures to try to deal with the increased administration and wished only to flag the potential for difficulty without seeking any action at this time.

### **6.6 Continuation of the Budgetary Sub-committee**

The Chairman reminded the Finance and Administration Committee that the Budgetary sub-committee had been established on an experimental basis to review income and expenditures and proposed budgets in order to help expedite the work of the full Finance and Administration Committee.

Germany recommended that the membership should be open to all rather than the current rotational membership. Australia and USA considered the rotational membership was still a viable procedure with many benefits to the individuals concerned as well as to the organisation.

The Finance and Administration Committee recommended that the Secretariat should be asked to develop an appropriate rota system and that the appointment of the Chairman be handled by the Chair of the Commission and the Advisory Committee in the usual fashion. It was agreed, following comments from Antigua and Barbuda, that the position should be brought to the Commission's attention as there were implications for appointments to all such informal Committees.

The Finance and Administration Committee took the opportunity to thank the Chair and the participants of the Budgetary Sub-Committee for their work.

### **6.7 Governments with financial contributions outstanding for a number of years**

The Secretariat introduced document IWC/53/F&A6 which had been prepared in consultation with the Advisory Committee. The document identified a range of options to deal with the problem that a number of Contracting

Governments were in arrears with their financial contributions to IWC and had been for some years. It was noted that those Contracting Governments had built up debts in the region of £500,000, had had their voting rights suspended and no longer played an active role in the work of the Commission.

The Secretariat explained that overall, the measures taken by the Commission for dealing with Contracting Governments in arrears (as detailed in Financial Regulations F. 1-5) had been successful and, at present, there did not appear to be a problem with Contracting Governments newly falling into arrears. However, the Secretariat noted that if that should happen, the current measures did not prescribe any course of action after the penalties had been applied; more particularly, the changes came too late to have any effect on those Governments which had already acquired substantial arrears.

The Secretariat drew attention to table 1 of IWC/53/F&A6 which summarised the responses from seven other Intergovernmental Organisations on their procedures or experience. The table highlighted that four organisations had the ability to suspend voting rights after periods of 1-2 years. This was automatic in three cases and discretionary in the other one. Three organisations had no penalties in the event of failure to pay in time. The personal view of one respondent was that the matter of arrears should be addressed quickly, otherwise it might not be taken seriously.

The Finance and Administration Committee noted the comments made that the close attention paid by member governments to the situation of other members which had fallen or appeared likely to fall into arrears, was instrumental in reducing the likelihood of this happening as well as signalling the seriousness with which the matter of financial obligations was viewed. IWC/53/F&A6 had set out three elements which might contribute to a solution to the problem of arrears, namely the further strengthening of existing procedures (e.g. by revising the Rules of Procedure and Financial regulations), having available an effective suite of measures to be swiftly applied if any Contracting Government fell into arrears, and consideration of the merits of an exercise to deal with those Contracting Governments which had already fallen seriously into arrears before the present arrangements took effect. These options were set out in more detail in section 5 of the document.

The USA remarked that their experience with other organisations – they had undertaken legal opinion – was that withdrawal of membership for a Contracting Government that failed to participate and pay its contribution over an extended period of time was not an available option. In response to Switzerland which suggested that greater communication with the Contracting Governments might help find out why they did not participate in the work of IWC and attend its meetings, the Secretariat noted that they made contact with the relevant Contracting Governments about three times a year with generally unproductive results. Monaco commented that in similar cases better results are invariably achieved by arranging a personal, high-level visit to the country and Ministry concerned. The Finance and Administration Committee agreed that the Secretariat should continue regular contacts with the Contracting Governments. Other approaches such as a letter from the Chair of the Commission or from Commissioners might be appropriate as well as using any other opportunities afforded by visits to these countries.

The Finance and Administration Committee recognised that document IWC/53/F&A6 had raised a number of important issues, among them legal issues, which needed

further consideration and it therefore recommended that Contracting Governments should be asked to submit written comments on the document to the Secretariat not later than 31 October 2001. Furthermore the results of the written contributions should be reviewed by the Advisory Committee with a view to reporting back to IWC54.

## 7. AMENDMENT TO THE RULES OF PROCEDURE

### 7.1 Proposals from the Secretariat

The Secretariat introduced papers IWC/53/F&A7 and IWC/53/F&A7-Supplement which included proposed amendments to the Commission's Rules of Procedure on observer fees, credentials, Opening Statements and the availability of the Commission's sub-group reports (including the Scientific Committee) to observers.

#### 7.1.1 Observer fees

The Finance and Administration Committee recommended that the Commission should amend Commission Rule of Procedure C.1.(b) to read as follows (new text shown in bold and italics):

*'Any international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer, if such international organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting and the Commission issues an invitation with respect to such request. The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of such observers. **The registration fee will be treated as an annual fee covering attendance at the Annual Meeting to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next Annual Meeting.** Once an international organisation is accredited, it remains accredited until the Commission *decides otherwise.*'*

#### 7.1.2 Credentials

The Secretariat proposed an amendment to Rule of Procedure D.1.(a) to provide more accessible guidance on who could sign the credentials of member government representatives or non-member country observers. The Finance and Administration Committee discussed whether faxed copies of credentials should be accepted. The Secretariat noted that they would be content to accept faxed credentials should the Commission agree to this. Whilst supporting faxed copies of credentials the UK was not prepared to accept electronic documents as credentials. Dominica, Russia and Austria raised some difficulties in that the proposed changes did not adequately cover all the situations covered under the domestic law in their respective countries. Australia and Norway considered that the current Rules of Procedures were adequate and that no changes were required. The Secretariat outlined some of the problems they faced in reviewing credentials at meetings and that they required further guidance should a situation arise when credentials were challenged. The UK pointed out that one of the problems was that Commissioners were signing their own credentials and agreed that some further guidance to the Secretary would be appropriate. Antigua and Barbuda suggested that a way forward might be for the Secretariat to ask Contracting Governments who was empowered to sign the credentials. After discussion the Finance and Administration Committee agreed that the proposed changes should be withdrawn and further work should be undertaken on this subject.

#### 7.1.3 Opening statements

The Secretariat proposed a new Rule of Procedure under section Q of the Rules of Procedure which concerned Commission documents. The Secretary explained that the content of Opening Statements should be relevant to matters under consideration by the Commission, and should be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments. Remarks about individual countries in Opening Statements were not precluded provided that the statement was addressed to the Commission as a whole.

The UK, Monaco and Germany expressed some concerns that the text was not very clear and might be unduly restrictive for those whose first language was not English. Sweden and Switzerland suggested that the second sentence should be deleted, this would make the proposal consistent with the agreement reached at IWC/53. The Finance and Administration Committee therefore agreed to recommend that the Commission should adopt a new Rule as follows:

*'Observers admitted under Rule of Procedure C.1.(a) and (b) may submit Opening Statements which will be included in the official documentation of the Annual or other Meeting concerned. They shall be presented in the format and the quantities determined by the Secretariat for meeting documentation.*

*The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.'*

#### 7.1.4 Availability of documents to observers

The Secretariat proposed changes to the current Commission Rules of Procedure Q.1 and Q.2 and the current Scientific Committee Rules of Procedure E.5.(b) so that the final reports from the meetings of the Commission's Committees, sub-committees and working groups (with the exception of the Finance and Administration Committee) should be made available to accredited observers at the same time as to member governments with the proviso that the content of the reports remain confidential until the opening plenary session of the Annual Commission meeting, or in the case of intersessional meetings, until after they had been dispatched by the Secretariat to Contracting Governments.

The Finance and Administration Committee agreed to recommend that the Commission should adopt a new Rule of Procedure Q.1 (to replace the current Q.1 and Q.2) as follows:

*Q.1 Reports of meetings of all committees, sub-committees and working groups of the Commission are confidential (i.e. Reporting of discussions, conclusions and recommendations made during a meeting is prohibited) until the opening plenary session of the Commission meeting to which they are submitted, or in the case of intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports with the exception of the report of the Finance and Administration Committee shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).*

The Finance and Administration Committee recommend that the Commission should adopt a revised Rule of Procedure E.5.(b) as follows:

#### 5. Publication of Scientific Papers and Reports

*(b) The report of the Annual Meeting of the Scientific Committee shall be distributed to the Commission no later than the beginning of the opening plenary of the Annual Commission Meeting and is confidential until this time.*

Reports of intersessional Workshops or Special Committee Meetings are confidential until they have been *dispatched by the Secretary* to the full Committee, Commissioners and Contracting Governments.

Reports of intersessional Steering Groups or Sub-committees are confidential until they have been discussed by the Scientific Committee, normally at an Annual Meeting.

*In this context, 'confidential' means that reporting of discussions, conclusions and recommendations is prohibited. This applies equally to Scientific Committee members, invited participants and observers. Reports shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time.*

*The Scientific Committee should identify the category of any intersessional meetings at the time they are recommended.*

The Finance and Administration Committee also recommended that the Secretary should undertake a

comprehensive review of the Rules of Procedure to make the text gender neutral and to ensure that it met the needs of the electronic age.

## 8. ANY OTHER BUSINESS

There was no other business to discuss.

## 9. ADOPTION OF THE REPORT

The report was adopted on 21 July 2001.

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### Appendix 1

#### LIST OF PARTICIPANTS

##### ANTIGUA AND BARBUDA

D Joseph  
C Murdoch  
H Forde

##### ARGENTINA

M Vergara

##### AUSTRALIA

R. Bromley  
P. Eiser  
G. French  
D. Kay

##### AUSTRIA

A. Nouak  
M. Stachowitsch

##### BRAZIL

J. Palazzo  
R. Pinto de Lima

##### DENMARK

H. Fischer  
A. Jessen

##### DOMINICA

A. Magloire  
L. Pascal

##### GERMANY

P. Bradhering

##### ICELAND

H. Atlason  
S. Asmundsson  
T. Heidar  
G. Vikingsson

##### IRELAND

P. Brazel

##### JAPAN

H. Ishikawa  
Y. Ito  
H. Kato  
J. Morishita  
D. Nagahata  
K. Ohmagari  
S. Ohsumi  
T. Sakamoto  
T. Tarui  
A. Tomita (I)

##### KOREA, REP. OF

S. Jung  
Z. Kim  
H. Shin

##### NETHERLANDS

F. Von Der Assen

##### NEW ZEALAND

W. Dovey  
A. Gillespie  
J. McLay (Chair)

##### MEXICO

S. Manzanilla  
A. Rozental

##### MONACO

F. Briand

##### NORWAY

T. Eusebio  
H. Johansen  
O. Skagestad

##### OMAN

H. Ambusaidi

##### RUSSIAN FEDERATION

R. Borodin  
V. Prokhorov

##### ST. KITTS & NEVIS

R. Archibald  
J. Simmonds

##### ST. LUCIA

V. Charles

##### ST. VINCENT & THE GRENADINES

R. Ryan

##### SOLOMON ISLANDS

S. Diake  
L. Laka

##### SOUTH AFRICA

G. de Villiers  
H. Oosthuizen

##### SPAIN

C. Asencio  
S. Lens

##### SWEDEN

B. Fernholm  
A. Roos

##### SWITZERLAND

T. Althaus  
M. Krebs

##### UK

R. Bowman  
R. Cowan  
R. Hepburn (Rapporteur)  
G. Jasinski  
L. Kell  
J. Lonsdale  
M. Simmonds  
C. Wold

##### USA

R. Eckert  
J. Plé

##### SCIENTIFIC COMMITTEE

J. Zeh

##### SECRETARIAT

N. Grandy  
M. Harvey  
S. Morley

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## Appendix 2

### LIST OF DOCUMENTS

#### Commission documents

IWC/53/4 (Extract from the) Report of the Scientific Committee.

IWC/53/16 Financial Statements.

#### Finance and Administration Committee documents

IWC/53/F&A

1 Making IWC meeting documents available via the Website.

2 Formalising arrangements for Intersessional Meetings: Proposed guidelines.

3 Outcome of the Consultation on Enhancing the Participation of Developing Country Scientists.

4 Report of the Contributions Sub-committee.

5 Report of the Budgetary Sub-committee.

6 Arrears of Financial Contributions.

7 Secretariat's proposed amendments to the Rules of Procedure.

7 Supplement.

8 Invited Participants to the Scientific Committee 2001.

9 Proposed Revisions to the Commission's Rules of Procedure Concerning Meetings.

#### Other

Circular Communication IWC.CCG.154: Changes to Annual Meeting Preparations and Procedures.

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## Appendix 3

### AGENDA

1. Introductory items
    - 1.1 Appointment of Chairman
    - 1.2 Appointment of Rapporteur
    - 1.3 Review of Documents
  2. Adoption of the Agenda
  3. Administrative matters
    - 3.1 Annual Meeting arrangements
      - 3.1.1 Venues
      - 3.1.2 Document preparation and distribution
      - 3.1.3 Verbatim record
      - 3.1.4 Need for a Technical Committee
      - 3.1.5 Other
    - 3.2 Formalising arrangements for intersessional meetings
    - 3.3 Other
  4. Enhancing the participation of developing country scientists
  5. Formula for calculating contributions
    - 5.1 Report of the Contributions Sub-committee
    - 5.2 F&A Committee discussions and recommendations
  6. Financial statements, budgets and other matters
    - 6.1 Review of the provisional financial statement, 2000/2001
      - 6.1.1 Report of the Budgetary Sub-committee
      - 6.1.2 F&A Committee discussions and recommendations
    - 6.2 Consideration of estimated budgets, 2001/2002 and 2002/2003, including the budget for the Scientific Programme
      - 6.2.1 Report of the Budgetary Sub-committee
      - 6.2.2 F&A Committee discussions and recommendations
    - 6.3 The level of reserves
      - 6.3.1 Report of the Budgetary Sub-committee
      - 6.3.2 F&A Committee discussions and recommendations
    - 6.4 Property/accommodation provision
      - 6.4.1 Report of the Budgetary Sub-committee
      - 6.4.2 F&A Committee discussions and recommendations
    - 6.5 Research activity costs
      - 6.5.1 Report of the Budgetary Sub-committee
      - 6.5.2 F&A Committee discussions and recommendations
    - 6.6 Continuation of the Budgetary Sub-committee
      - 6.6.1 Report of the Budgetary Sub-committee
      - 6.6.2 F&A Committee discussions and recommendations
    - 6.7 Governments with financial contributions outstanding for a number of years
  7. Amendment to the Rules of Procedure
    - 7.1 Proposals from the Secretariat
    - 7.2 Other
    - 7.3 Committee discussions and recommendations
  8. Any other business
  9. Adoption of the Report
-

**Appendix 4****FORMALISING ARRANGEMENTS FOR INTERSESSIONAL MEETINGS: PROPOSED GUIDELINES  
PURPOSE OF THIS DOCUMENT**

See Annex J of Chair's Report

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**Appendix 5****PROPOSED BUDGET 2001-2002; *FORECAST BUDGET 2002-2003***

See Annex K of Chair's Report.

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**Appendix 6****RESEARCH FUND EXPENDITURE 2002-2002 AND *FORECAST 2002-2003***

See Annex L of Chair's Report.

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## Annex J

# Guidelines for Intersessional Meetings

### A. SCOPE OF THE GUIDELINES

These guidelines address intersessional meetings of the Commission and its sub-groups<sup>1</sup>, excluding the Scientific Committee which has its own mechanisms for arranging such meetings. Intersessional meetings that may, from time to time, be organised jointly with other organisations are also excluded.

In the context of these guidelines, 'intersessional' is taken to mean the period between the end of one series of Annual and associated meetings and the beginning of the next.

### B. ORIGIN AND CONTENT OF PROPOSALS FOR INTERSESSIONAL MEETINGS

A proposal for an intersessional meeting will usually arise via one of two routes:

- (1) as a recommendation to the Commission from one of its sub-groups.

In this situation the proposal would be included in the report of the sub-group submitted to the Commission for review, discussion and action, as appropriate.

- (2) during the plenary Commission meeting itself.

In this situation, a proposal might come in the form of a Resolution, submitted by a single country, or group of countries, or it might arise from the Chairman or from the 'floor' of the meeting (i.e. from a member country) in a more *ad hoc* way.

It is also possible that a proposal could arise intersessionally.

Whatever the origin of a proposal, it should normally include the following:

- the name/description of the group that is to meet (e.g. Revised Management Scheme Working Group, Contributions Task Force)
- the topic for discussion
- the objective(s)/Terms of Reference for the meeting
- proposed timing (i.e. a date or time window) and duration
- whether 'hosted' by invitation of a Contracting Government or Governments (which should be named), or at a venue to be arranged
- by the Secretariat (this would normally be in the UK)
- the venue (e.g. town/city)

<sup>1</sup> The Finance and Administration Committee, Infractions Sub-committee, Aboriginal Subsistence Whaling Sub-committee, Working Group on Whale Killing and Associated Welfare Issues, Revised Management Scheme Working Group and others established under Rule of Procedure M.3.

- a provisional budget
- any other issues relevant to the meeting (e.g. provision for the selection of Chairman or convenor, invited participants, particular documents that should be developed, etc.).

It should be possible for proposals for intersessional meetings from Commission sub-groups or from Resolutions to include all of the above, since there is the possibility to plan these in advance of plenary discussions.

In the case of proposals arising in a more *ad hoc* way during plenary discussions, it may be necessary, given sufficient support for the idea from the floor, for the Chairman to ask a group of countries to develop a more concrete proposal, including a provisional budget, in the margins of the meeting and to bring this back to plenary for review and decision making. The Secretariat will be able to provide advice on the facilities required and on budgeting.

### C. HOW AND WHEN A DECISION TO HOLD AN INTERSESSIONAL MEETING SHOULD BE TAKEN

A decision to hold an intersessional meeting should be taken by the Commission in plenary, either by consensus, or, if necessary, by voting. The outcome of the decision, including the timing and location of the intersessional meeting should be summarised clearly by the Chairman at the end of the discussion and recorded in the meeting report.

If the Commission has decided that an intersessional meeting is necessary, but it has not been possible to specify the date and venue, the Commission should delegate this responsibility to the Chairman of the Commission, in accordance with Rule of Procedure F.(f). In making his decision, the Chairman would be empowered, but not required, to consult with the Advisory Committee and others in whatsoever manner he considers appropriate, including the possible conduct of any informal, advisory or other ballot to determine the preference of Contracting Governments. The same process will apply in the rare event that a proposal for an intersessional meeting arises intersessionally.

### D. RESPONSIBILITIES

Where a Contracting Government offers to host an intersessional meeting, that government should make a clear statement of what such an offer includes, and confirm this in writing to the Chairman during the course of the Annual

Meeting<sup>2</sup>. Normally, the Commission would expect an offer to host an intersessional meeting to cover, as a minimum, arranging and paying for the meeting accommodation and security, if required. An indication of the type of meeting accommodation and other facilities that might be required is provided in Appendix 1.

The Secretariat is primarily responsible for organising any intersessional meeting, including approval of any venue, accommodation and other arrangements proposed by a host government. In the case of meetings hosted by a Contracting Government, the Secretariat should be empowered to delegate all or part of the logistical arrangements to the host government, but shall retain final responsibility for preparing a draft agenda and other aspects of the formal conduct of the meeting.

#### **E. FUNDING FOR INTERSESSIONAL MEETINGS AND APPROVAL OF BUDGETS**

Ideally, provision of funding for any intersessional meeting should be included in the budget for the coming year that is proposed to the Commission by the Finance and Administration Committee.

For proposals for intersessional meetings made by any of the Commission's sub-groups, such provision should be possible since the Finance and Administration Committee is the last sub-group to meet before the plenary Commission meeting and can therefore take such proposals into account. In these cases, it is the responsibility of the Convenor of the sub-group proposing an intersessional meeting to provide

<sup>2</sup> Because the need for an intersessional meeting will usually only be identified during the course of an Annual Meeting, it is recognised that a Commissioner volunteering to host an intersessional meeting may only be able to make a provisional offer pending formal approval from his/her government. Such provisional offers should be confirmed in writing by the government concerned within 30 days of the last day of the meeting.

the necessary details to the Chairman of the Finance and Administration and to the Secretariat so that a budget for the meeting can be developed and incorporated into the budget for the year.

For proposals for intersessional meetings arising during the course of the plenary discussions, such provision would not be possible and the Commission should therefore decide how an intersessional meeting could be financed before making a final decision on the proposed meeting. In some cases (e.g. small Task Force meetings that could be held at the Commission's Headquarters in Cambridge) the cost to the Commission would be small and could be absorbed in the Secretariat costs. For proposals for larger intersessional meetings or meetings with significant costs to the Commission, the options available to cover the costs are:

- (a) an increase in contributions (the Secretariat will normally be able to provide a quick, rough but realistic estimate of the extent of any increase);
- (b) a decrease in some other item of expenditure;
- (c) drawing on reserves;
- (d) some combination of these.

If, having addressed the funding, the Commission decides to go ahead with the intersessional meeting, the Secretariat will prepare a revised budget for the year and circulate it to member countries preferably before the end of the Annual Meeting, or as soon as possible thereafter.

#### **F. STANDARD FORM TO BE USED WHEN PROPOSING AN INTERSESSIONAL MEETING**

Those proposing an intersessional meeting are encouraged to use the form provided in Appendix 2. Use of this form will help ensure that all the information needed for the Commission to make a decision is provided.

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### **Appendix 1**

#### **REQUIREMENTS FOR MEETING ACCOMMODATION AND OTHER FACILITIES**

The following list provides an idea of the type of requirements that may be needed for an intersessional meeting. Actual requirements will depend on the size and

nature of the meeting in question. Normally, the Commission would expect an offer to host a meeting to include at least the items in Part A.

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### **Appendix 2**

#### **FORM TO BE COMPLETED BY PROPOSERS OF AN INTERSESSIONAL MEETING**

*[Table on following page]*

[Form to be completed by proposers of an intersessional meeting]

<b>GENERAL INFORMATION</b>		
Name/description of the group that is to meet:		
Topic for discussion:		
Objectives/Terms of Reference for the meeting:		
Proposed timing (give a date or time window):		
Proposed duration (no. days):		
Indicate whether meeting to be hosted by a Contracting Government or Governments (please name), or to be arranged by the Secretariat		
Proposed venue (e.g. town/city):		
Other (please provide any additional information you believe to be necessary – e.g. provision for the selection of a Chairman or convenor, whether invited participants will be necessary, particular background documents that should be developed):		
<b>PROVISIONAL BUDGET</b>		
<i>Please provide information on estimated costs by completing the columns below as appropriate. Please indicate 'not applicable' for those items that are not needed for the meeting in question.</i>		
	<b>If to be provided and paid for by the host, please tick as appropriate</b>	<b>Estimated (£) cost to the Commission</b>
Meeting accommodation and security (see Annex 1)		
Secretariat costs (e.g. travel, subsistence, overtime – where appropriate, provision/hiring of temporary staff, freight charges)		
Equipment (e.g. computers, printer(s), photocopying)		
Audio-visual (e.g. recording, video, power point)		
Preparatory visit (e.g. travel and subsistence)		
Invited participants (i.e. travel and subsistence)		
Other (please specify):		
<b>TOTAL COST TO THE COMMISSION (£)</b>		

## Annex K

### Budget for 2001-2002 and Forecast for 2002-2003

#### Income and Expenditure Account

	Proposed Budget		<i>Forecast Budget</i>	
	2001-2002		2002-2003	
	£	£	£	£
<b>Income</b>				
Contracting Government Contributions:				
Realisations required (Assessed £1,101,275/£1,098,279)		1,033,590		<i>1,043,300</i>
Recovery of arrears		21,800		<i>21,800</i>
Interest on late contributions		0		<i>0</i>
Voluntary contributions		5,000		<i>0</i>
UK tax recoverable		33,200		<i>33,900</i>
Staff Assessments		122,400		<i>129,700</i>
Annual Meeting attendance fees		52,500		<i>53,600</i>
Sales (IWC and Sponsored Publications)		29,600		<i>30,200</i>
Bank Interest		50,600		<i>51,600</i>
Sundry income		0		<i>0</i>
		<b>1,348,690</b>		<b><i>1,364,100</i></b>
<b>Expenditure</b>				
Secretariat	-918,700		-965,600	
Annual Meeting	-293,000		-313,800	
Other Meetings	-7,000		-7,200	
IWC & Sponsored Publications costs	-72,100		-60,800	
Research:	-313,900		-212,316	
Small Cetaceans	-7,000		-7,200	
Provisions:				
Severance Pay	-40,516		-29,900	
		<b>-1,652,216</b>		<b><i>-1,596,816</i></b>
Excess or deficit (-) of income/expenditure		<b>-303,526</b>		<b><i>-232,716</i></b>
Net Transfers from or to (-):				
Sponsored Publications Fund		19,400		<i>7,100</i>
Small Cetaceans Fund		6,500		<i>6,700</i>
Research Fund		76,917		<i>0</i>
<b>SURPLUS/DEFICIT (-) FOR THE YEAR</b>		<b><u>-200,709</u></b>		<b><u><i>-218,916</i></u></b>

## **Annex L**

### **Approved Research Budget for 2001-2002**

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## **Annex M**

### **Amendments to the Schedule Adopted at the 53<sup>rd</sup> Annual Meeting**

(changes in **bold type**)

*Paragraphs 11 and 12, and Tables 1, 2 and 3:*

Substitute the dates **2001/2002** pelagic season, **2002** coastal season, **2002** season, or **2002** as appropriate.



**Financial Statements  
for the  
Year ended 31 August 2001**

## Financial Statements for the year ended 31 August 2001

### Independent Auditors' Report to the Commission

We have audited the financial statements which comprise the Income and Expenditure account, the Balance Sheet and the related Notes 1 to 8. These financial statements have been prepared under the accounting policies set out below.

#### Respective responsibilities of the Secretary and auditors

As described below, the Secretary is responsible for the preparation of financial statements.

Neither Statute nor the Commission has prescribed that the financial statements should give a true and fair view of the Commission's state of affairs at the end of each year within the specialised meaning of that expression in relation to financial statements. This recognised terminology signifies in accounting terms that statements are generally accepted as true and fair only if they comply in all material aspects with accepted accounting principles. These are embodied in Accounting Standards issued by the Accounting Standards Board. The Commission has adopted certain accounting policies which represent departures from Accounting Standards: - Fixed assets are not capitalised within the Commission's accounts. Instead furniture and equipment are charged to the Income and Expenditure account in the year of acquisition. Hence the residual values of the furniture, fixtures and fittings, and equipment are not reflected in the accounts. Publications stocks are charged to the Income and Expenditure account in the year of acquisition and their year-end valuation is not reflected in the accounts. Provision is made for the severance pay which would be payable should the Commission cease to function.

This is permissible as the financial statements are not required to give a true and fair view. It is our responsibility to form an independent opinion, based on our audit, on those statements and to report our opinion to you. We also report if the Commission has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

**Deloitte & Touche**, Chartered Accountants.

#### Basis of opinion

We conducted our audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Secretary in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Commission's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

#### Added emphasis

In forming our opinion we have taken account of the absence of a requirement for the statements to give a true and fair view as described above.

#### Opinion

In our opinion the financial statements have been properly prepared in accordance with the accounting policies and present a proper record of the transactions of the Commission for the year ended 31 August 2001.

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### The Secretary's Responsibilities

The financial responsibilities of the Secretary to the Commission are set out in its Rules of Procedure and Financial Regulations. Fulfilment of those responsibilities requires the Secretary to prepare financial statements for each financial year which set out the state of affairs of the Commission as at the end of the financial year and the surplus or deficit of the Commission for that period. In preparing those financial statements, the Secretary should select suitable accounting policies and then apply them consistently; make judgements and estimates that are

reasonable and prudent; prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Commission will continue in operation.

The Secretary is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Commission. The Secretary is also responsible for safeguarding the assets of the Commission and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

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### Accounting Policies

The accounting policies adopted by the Commission in the preparation of these financial statements are as set out below. The departures from generally accepted accounting practice are considered not to be significant for the reasons stated.

#### Severance pay provision

The Commission provides for an indemnity to members of staff in the event of their appointment being terminated on the abolition of their posts. The indemnity varies according to length of service therefore an annual provision is made to bring the total provision up to the maximum liability. This

liability is calculated after adjusting for staff assessments since they would not form part of the Commission's liability.

#### Publications

The full cost of printing publications is written off in the year. No account is taken of stocks which remain unsold at the balance sheet date. Most sales occur shortly after publication and so stocks held are unlikely to result in many sales; consequently their net realisable value is not significant.

**Fixed assets**

The full cost of office furniture and equipment is written off in the Income and Expenditure Account in the year in which it is incurred. The total cost of equipment owned by the Commission is some £180,000 and its realisable value is not significant. Proposed expenditure on new items is included in budgets and raised by contributions for the year.

**Interest on overdue contributions**

Interest is included in the Income and Expenditure Account on the accruals basis and provision is made where its recoverability is in doubt.

**Foreign exchange**

Transactions denominated in foreign currencies are translated into sterling at rates ruling at the date of the transactions. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated at the rates

ruling at that date. These translation differences are dealt with in the Income and Expenditure Account.

**Retirement benefits scheme**

The Commission operates a defined contributory retirement benefits scheme. The costs represent the amount of the Commission's contributions payable to the scheme in respect of the accounting period.

**Leases**

The costs of operating leases are charged to the Income and Expenditure Account as they accrue.

**Convention**

These financial statements are prepared under the historical cost convention (i.e assets and liabilities are stated at cost and not revalued).

**Balance Sheet 31 August 2001**

	Note	2001		2000	
		£	£	£	£
<b>Current Assets</b>					
Cash on short term deposit:					
General fund		1,065,374		1,179,038	
Research fund		106,778		153,366	
Publications fund		77,637		72,367	
Small cetaceans fund		17,697		21,923	
		<u>          </u>	1,267,486	<u>          </u>	1,426,694
Cash at bank on current account:					
General fund		1,000		(51,009)	
Research fund		1,000		1,000	
Publications fund		1,000		600	
Small cetaceans fund		1,000		1,000	
Cash in hand		93		150	
		<u>          </u>	4,093	<u>          </u>	(48,259)
			1,271,579		1,378,435
Outstanding contributions from members (including interest)		2,496,897		2,272,377	
Less provision for doubtful debts		<u>(2,446,260)</u>		<u>(2,206,881)</u>	
Other debtors and prepayments			50,637		65,496
			115,209		109,771
			1,437,425		1,553,702
<b>Creditors: amounts falling due within one year</b>	6		<u>(76,781)</u>		<u>(91,610)</u>
<b>Net Current Assets</b>			1,360,644		1,462,092
<b>Provision for Severance Pay</b>	5		<u>(293,700)</u>		<u>(260,835)</u>
			<u>1,066,944</u>		<u>1,201,257</u>
<i>Financed by</i>					
<b>Publications Fund</b>	1		38,630		57,584
<b>Research Fund</b>	2		153,044		123,864
<b>Small Cetaceans Fund</b>	3		19,568		22,861
<b>General Fund</b>	4		855,702		996,948
	7		<u>1,066,944</u>		<u>1,201,257</u>

Approved on behalf of the Commission  
**Nicky Grandy**, *Secretary*

**Income and Expenditure Account** (year ended 31 August 2001)

	Note	2001		2000	
		£	£	£	£
<b>Income: continuing operations</b>					
Contributions from member governments			1,010,028		995,995
Interest on overdue financial contributions			219,319		193,784
Voluntary contributions for research, small cetaceans work and publications			58,197		42,172
Sales of publications			16,762		26,318
Sales of sponsored publications			2,026		5,272
Observers' registration fees			56,896		48,223
UK taxes recoverable			55,098		27,814
Staff assessments			120,880		118,023
Interest receivable			62,660		69,089
Sundry income			641		-
			1,602,507		1,526,690
<b>Expenditure</b>					
Secretariat		871,023		843,430	
Publications		42,868		25,760	
Annual meetings		282,664		207,082	
Other meetings		4,205		8,239	
Research expenditure		258,327		317,829	
Small cetaceans	3	6,887		9,359	
Sponsored publications		-		-	
Sundry		(1,398)		1,597	
Exceptional items:					
Appointment of Secretary		-		3,188	
		1,464,576		1,416,484	
<b>Provisions made for:</b>					
Unpaid contributions		37,915		62,685	
Unpaid interest on overdue contributions		201,464		173,780	
Severance pay	5	32,865		(64,139)	
Unpaid observer fees					
			1,736,820		1,588,810
<b>Excess of (Expenditure over Income) Income over Expenditure for the Year:</b>					
Continuing operations	7		(134,313)		(62,120)
<b>Net Transfers (to) from Funds</b>					
Publications fund	1	18,954		(7,924)	
Research fund	2	(29,180)		(31,361)	
Small Cetaceans Fund	3	3,293		(1,345)	
			(6,933)		(40,630)
<b>Surplus (Deficit) for the year after transfers</b>	4		(141,246)		(102,750)

There are no recognised gains or losses for the current financial year and the preceding financial year other than as stated in the Income and Expenditure account.



**International Convention  
for the  
Regulation of Whaling, 1946**

*signed at Washington, 2 December 1946*

and its

**Protocol**

*signed at Washington, 19 November 1956*

The Schedule which is attached to the Convention and under Article I forms an integral part thereof is amended regularly by the Commission. The most recent version begins on p. xx of this volume.



# International Convention for the Regulation of Whaling

Washington, 2nd December, 1946

The Governments whose duly authorised representatives have subscribed hereto,

Recognizing the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks;

Considering that the history of whaling has seen over-fishing of one area after another and of one species of whale after another to such a degree that it is essential to protect all species of whales from further over-fishing;

Recognizing that the whale stocks are susceptible of natural increases if whaling is properly regulated, and that increases in the size of whale stocks will permit increases in the number of whales which may be captured without endangering these natural resources;

Recognizing that it is in the common interest to achieve the optimum level of whale stocks as rapidly as possible without causing widespread economic and nutritional distress;

Recognizing that in the course of achieving these objectives, whaling operations should be confined to those species best able to sustain exploitation in order to give an interval for recovery to certain species of whales now depleted in numbers;

Desiring to establish a system of international regulation for the whale fisheries to ensure proper and effective conservation and development of whale stocks on the basis of the principles embodied in the provisions of the International Agreement for the Regulation of Whaling, signed in London on 8th June, 1937, and the protocols to that Agreement signed in London on 24th June, 1938, and 26th November, 1945; and

Having decided to conclude a convention to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry;

Have agreed as follows:-

## Article I

1. This Convention includes the Schedule attached thereto which forms an integral part thereof. All references to "Convention" shall be understood as including the said Schedule either in its present terms or as amended in accordance with the provisions of Article V.
2. This Convention applies to factory ships, land stations, and whale catchers under the jurisdiction of the Contracting Governments and to all waters in which whaling is prosecuted by such factory ships, land stations, and whale catchers.

## Article II

As used in this Convention:-

1. "Factory ship" means a ship in which or on which whales are treated either wholly or in part;
2. "Land station" means a factory on the land at which whales are treated either wholly or in part;

3. "Whale catcher" means a ship used for the purpose of hunting, taking, towing, holding on to, or scouting for whales;
4. "Contracting Government" means any Government which has deposited an instrument of ratification or has given notice of adherence to this Convention.

## Article III

1. The Contracting Governments agree to establish an International Whaling Commission, hereinafter referred to as the Commission, to be composed of one member from each Contracting Government. Each member shall have one vote and may be accompanied by one or more experts and advisers.
2. The Commission shall elect from its own members a Chairman and Vice-Chairman and shall determine its own Rules of Procedure. Decisions of the Commission shall be taken by a simple majority of those members voting except that a three-fourths majority of those members voting shall be required for action in pursuance of Article V. The Rules of Procedure may provide for decisions otherwise than at meetings of the Commission.
3. The Commission may appoint its own Secretary and staff.
4. The Commission may set up, from among its own members and experts or advisers, such committees as it considers desirable to perform such functions as it may authorize.
5. The expenses of each member of the Commission and of his experts and advisers shall be determined by his own Government.
6. Recognizing that specialized agencies related to the United Nations will be concerned with the conservation and development of whale fisheries and the products arising therefrom and desiring to avoid duplication of functions, the Contracting Governments will consult among themselves within two years after the coming into force of this Convention to decide whether the Commission shall be brought within the framework of a specialized agency related to the United Nations.
7. In the meantime the Government of the United Kingdom of Great Britain and Northern Ireland shall arrange, in consultation with the other Contracting Governments, to convene the first meeting of the Commission, and shall initiate the consultation referred to in paragraph 6 above.
8. Subsequent meetings of the Commission shall be convened as the Commission may determine.

## Article IV

1. The Commission may either in collaboration with or through independent agencies of the Contracting Governments or other public or private agencies, establishments, or organizations, or independently

- (a) encourage, recommend, or if necessary, organize studies and investigations relating to whales and whaling;
  - (b) collect and analyze statistical information concerning the current condition and trend of the whale stocks and the effects of whaling activities thereon;
  - (c) study, appraise, and disseminate information concerning methods of maintaining and increasing the populations of whale stocks.
2. The Commission shall arrange for the publication of reports of its activities, and it may publish independently or in collaboration with the International Bureau for Whaling Statistics at Sandefjord in Norway and other organizations and agencies such reports as it deems appropriate, as well as statistical, scientific, and other pertinent information relating to whales and whaling.

#### Article V

1. The Commission may amend from time to time the provisions of the Schedule by adopting regulations with respect to the conservation and utilization of whale resources, fixing (a) protected and unprotected species; (b) open and closed seasons; (c) open and closed waters, including the designation of sanctuary areas; (d) size limits for each species; (e) time, methods, and intensity of whaling (including the maximum catch of whales to be taken in any one season); (f) types and specifications of gear and apparatus and appliances which may be used; (g) methods of measurement; and (h) catch returns and other statistical and biological records.
2. These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization of the whale resources; (b) shall be based on scientific findings; (c) shall not involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory or ship or land station or to any group of factory ships or land stations; and (d) shall take into consideration the interests of the consumers of whale products and the whaling industry.
3. Each of such amendments shall become effective with respect to the Contracting Governments ninety days following notification of the amendment by the Commission to each of the Contracting Governments, except that (a) if any Government presents to the Commission objection to any amendment prior to the expiration of this ninety-day period, the amendment shall not become effective with respect to any of the Governments for an additional ninety days; (b) thereupon, any other Contracting Government may present objection to the amendment at any time prior to the expiration of the additional ninety-day period, or before the expiration of thirty days from the date of receipt of the last objection received during such additional ninety-day period, whichever date shall be the later; and (c) thereafter, the amendment shall become effective with respect to all Contracting Governments which have not presented objection but shall not become effective with respect to any Government which has so objected until such date as the objection is withdrawn. The Commission shall notify each Contracting Government immediately upon receipt of each objection and withdrawal and each Contracting Government shall acknowledge receipt of all notifications of amendments, objections, and withdrawals.

4. No amendments shall become effective before 1st July, 1949.

#### Article VI

The Commission may from time to time make recommendations to any or all Contracting Governments on any matters which relate to whales or whaling and to the objectives and purposes of this Convention.

#### Article VII

The Contracting Government shall ensure prompt transmission to the International Bureau for Whaling Statistics at Sandefjord in Norway, or to such other body as the Commission may designate, of notifications and statistical and other information required by this Convention in such form and manner as may be prescribed by the Commission.

#### Article VIII

1. Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.
2. Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.
3. Each Contracting Government shall transmit to such body as may be designated by the Commission, in so far as practicable, and at intervals of not more than one year, scientific information available to that Government with respect to whales and whaling, including the results of research conducted pursuant to paragraph 1 of this Article and to Article IV.
4. Recognizing that continuous collection and analysis of biological data in connection with the operations of factory ships and land stations are indispensable to sound and constructive management of the whale fisheries, the Contracting Governments will take all practicable measures to obtain such data.

#### Article IX

1. Each Contracting Government shall take appropriate measures to ensure the application of the provisions of this Convention and the punishment of infractions against the said provisions in operations carried out by persons or by vessels under its jurisdiction.
2. No bonus or other remuneration calculated with relation to the results of their work shall be paid to the gunners and crews of whale catchers in respect of any whales the taking of which is forbidden by this Convention.
3. Prosecution for infractions against or contraventions of this Convention shall be instituted by the Government having jurisdiction over the offence.
4. Each Contracting Government shall transmit to the Commission full details of each infraction of the provisions of this Convention by persons or vessels under the jurisdiction of that Government as reported by its



inspectors. This information shall include a statement of measures taken for dealing with the infraction and of penalties imposed.

#### **Article X**

1. This Convention shall be ratified and the instruments of ratifications shall be deposited with the Government of the United States of America.
2. Any Government which has not signed this Convention may adhere thereto after it enters into force by a notification in writing to the Government of the United States of America.
3. The Government of the United States of America shall inform all other signatory Governments and all adhering Governments of all ratifications deposited and adherences received.
4. This Convention shall, when instruments of ratification have been deposited by at least six signatory Governments, which shall include the Governments of the Netherlands, Norway, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, enter into force with respect to those Governments and shall enter into force with respect to each Government which subsequently ratifies or adheres on the date of the deposit of its instrument of ratification or the receipt of its notification of adherence.

5. The provisions of the Schedule shall not apply prior to 1st July, 1948. Amendments to the Schedule adopted pursuant to Article V shall not apply prior to 1st July, 1949.

#### **Article XI**

Any Contracting Government may withdraw from this Convention on 30th June, of any year by giving notice on or before 1st January, of the same year to the depository Government, which upon receipt of such a notice shall at once communicate it to the other Contracting Governments. Any other Contracting Government may, in like manner, within one month of the receipt of a copy of such a notice from the depository Government give notice of withdrawal, so that the Convention shall cease to be in force on 30th June, of the same year with respect to the Government giving such notice of withdrawal.

The Convention shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter.

In witness whereof the undersigned, being duly authorized, have signed this Convention.

Done in Washington this second day of December, 1946, in the English language, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the other signatory and adhering Governments.

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## **Protocol**

### **to the International Convention for the Regulation of Whaling, Signed at Washington Under Date of December 2, 1946**

The Contracting Governments to the International Convention for the Regulation of Whaling signed at Washington under date of 2nd December, 1946 which Convention is hereinafter referred to as the 1946 Whaling Convention, desiring to extend the application of that Convention to helicopters and other aircraft and to include provisions on methods of inspection among those Schedule provisions which may be amended by the Commission, agree as follows:

#### **Article I**

Subparagraph 3 of the Article II of the 1946 Whaling Convention shall be amended to read as follows:

“3. ‘whale catcher’ means a helicopter, or other aircraft, or a ship, used for the purpose of hunting, taking, killing, towing, holding on to, or scouting for whales.”

#### **Article II**

Paragraph 1 of Article V of the 1946 Whaling Convention shall be amended by deleting the word “and” preceding clause (h), substituting a semicolon for the period at the end of the paragraph, and adding the following language: “and (i) methods of inspection”.

#### **Article III**

1. This Protocol shall be open for signature and ratification or for adherence on behalf of any Contracting Government to the 1946 Whaling Convention.
2. This Protocol shall enter into force on the date upon which instruments of ratification have been deposited with, or written notifications of adherence have been received by, the Government of the United States of America on behalf of all the Contracting Governments to the 1946 Whaling Convention.
3. The Government of the United States of America shall inform all Governments signatory or adhering to the 1946 Whaling Convention of all ratifications deposited and adherences received.
4. This Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter, following which period it shall be open for adherence.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Protocol.

DONE in Washington this nineteenth day of November, 1956, in the English Language, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all Governments signatory or adhering to the 1946 Whaling Convention.

**International Convention  
for the  
Regulation of Whaling, 1946  
Schedule**

**As amended by the Commission at the 53<sup>rd</sup> Annual Meeting 2001**



# International Convention for the Regulation of Whaling, 1946 Schedule

As amended by the Commission at the 53<sup>rd</sup> Annual Meeting London,  
UK, 23–27 July 2001

## EXPLANATORY NOTES

The Schedule printed on the following pages contains the amendments made by the Commission at its 53<sup>rd</sup> Annual Meeting 2001. The amendments which are shown in *italic bold type* came into effect on 21 November 2001. In Tables 1, 2 and 3 unclassified stocks are indicated by a dash. Other positions in the Tables have been filled with a dot to aid legibility. Numbered footnotes are integral parts of the Schedule formally adopted by the Commission. Other footnotes are editorial. The Commission was informed in June 1992 by the ambassador in London that the membership of the Union of Soviet Socialist Republics in the International Convention for the Regulation of Whaling from 1948 is continued by the Russian Federation. The Commission recorded at its 39th (1987) meeting the fact that references to names of native inhabitants in Schedule paragraph 13(b)(4) would be for geographical purposes alone, so as not to be in contravention of Article V.2(c) of the Convention (*Rep. int. Whal. Commn* 38:21).

## I. INTERPRETATION

1. The following expressions have the meanings respectively assigned to them, that is to say:

### A. Baleen whales

“baleen whale” means any whale which has baleen or whale bone in the mouth, i.e. any whale other than a toothed whale.

“blue whale” (*Balaenoptera musculus*) means any whale known as blue whale, Sibbald’s rorqual, or sulphur bottom, and including pygmy blue whale.

“bowhead whale” (*Balaena mysticetus*) means any whale known as bowhead, Arctic right whale, great polar whale, Greenland right whale, Greenland whale.

“Bryde’s whale” (*Balaenoptera edeni*, *B. brydei*) means any whale known as Bryde’s whale.

“fin whale” (*Balaenoptera physalus*) means any whale known as common finback, common rorqual, fin whale, herring whale, or true fin whale.

“gray whale” (*Eschrichtius robustus*) means any whale known as gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

“humpback whale” (*Megaptera novaeangliae*) means any whale known as bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale.

“minke whale” (*Balaenoptera acutorostrata*, *B. bonaerensis*) means any whale known as lesser rorqual, little piked whale, minke whale, pike-headed whale or sharp headed finner.

“pygmy right whale” (*Caperea marginata*) means any whale known as southern pygmy right whale or pygmy right whale.

“right whale” (*Eubalaena glacialis*, *E. australis*) means any whale known as Atlantic right whale, Arctic right whale, Biscayan right whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, or southern right whale.

“sei whale” (*Balaenoptera borealis*) means any whale known as sei whale, Rudolphi’s rorqual, pollack whale, or coalfish whale.

### B. Toothed whales

“toothed whale” means any whale which has teeth in the jaws.

“beaked whale” means any whale belonging to the genus *Mesoplodon*, or any whale known as Cuvier’s beaked whale (*Ziphius cavirostris*), or Shepherd’s beaked whale (*Tasmacetus shepherdi*).

“bottlenose whale” means any whale known as Baird’s beaked whale (*Berardius bairdii*), Arnoux’s whale (*Berardius arnuxii*), southern bottlenose whale (*Hyperoodon planifrons*), or northern bottlenose whale (*Hyperoodon ampullatus*).

“killer whale” (*Orcinus orca*) means any whale known as killer whale or orca.

“pilot whale” means any whale known as long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*G. macrorhynchus*).

“sperm whale” (*Physeter macrocephalus*) means any whale known as sperm whale, spermacete whale, cachalot or pot whale.

### C. General

“strike” means to penetrate with a weapon used for whaling.

“land” means to retrieve to a factory ship, land station, or other place where a whale can be treated.

“take” means to flag, buoy or make fast to a whale catcher.

“lose” means to either strike or take but not to land.

“dauhval” means any unclaimed dead whale found floating.

“lactating whale” means (a) with respect to baleen whales - a female which has any milk present in a mammary gland, (b) with respect to sperm whales - a female which has milk present in a mammary gland the maximum thickness (depth) of which is 10cm or more. This measurement shall be at the mid ventral point of the mammary gland perpendicular to the body axis, and shall be logged to the nearest centimetre; that is to say, any gland between 9.5cm and 10.5cm shall be logged as 10cm. The measurement of any gland which falls on an exact 0.5 centimetre shall be logged at the next 0.5 centimetre, e.g. 10.5cm shall be logged as 11.0cm. However, notwithstanding these criteria, a whale shall not be considered a lactating whale if scientific (histological or other biological) evidence is presented to the appropriate national authority establishing that the whale could not at that point in its physical cycle have had a calf dependent on it for milk.

“small-type whaling” means catching operations using powered vessels with mounted harpoon guns hunting exclusively for minke, bottlenose, beaked, pilot or killer whales.

## II. SEASONS

### Factory Ship Operations

2. (a) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating baleen whales except minke whales, in any waters south of 40° South Latitude except during the period from 12th December to 7th April following, both days inclusive.
- (b) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating sperm or minke whales, except as permitted by the Contracting Governments in accordance with sub-paragraphs (c) and (d) of this paragraph, and paragraph 5.
- (c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, an open season or seasons not to exceed eight months out of any period of twelve months during which the taking or killing of sperm whales by whale catchers may be permitted; provided that a separate open season may be declared for each factory ship and the whale catchers attached thereto.
- (d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by the whale catchers may be permitted provided that:
  - (1) a separate open season may be declared for each factory ship and the whale catchers attached thereto;
  - (2) the open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to sub-paragraph (a) of this paragraph.
3. It is forbidden to use a factory ship which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, except minke whales, in any other area except the North Pacific Ocean and its dependent waters north of the Equator for the same purpose within a period of one year from the termination

of that season; provided that catch limits in the North Pacific Ocean and dependent waters are established as provided in paragraphs 12 and 16 of this Schedule and provided that this paragraph shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

### Land Station Operations

4. (a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with sub-paragraphs (b), (c) and (d) of this paragraph.
- (b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen whales, except minke whales, by the whale catchers shall be permitted. Such open season shall be for a period of not more than six consecutive months in any period of twelve months and shall apply to all land stations under the jurisdiction of the Contracting Government: provided that a separate open season may be declared for any land station used for the taking or treating of baleen whales, except minke whales, which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen whales, except minke whales, under the jurisdiction of the same Contracting Government.
- (c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed eight continuous months in any one period of twelve months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, provided that a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000miles from the nearest land station used for the taking or treating of sperm whales under the jurisdiction of the same Contracting Government.
- (d) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations one open season not to exceed six continuous months in any period of twelve months during which the taking or killing of minke whales by the whale catchers shall be permitted (such period not being necessarily concurrent with the period declared for other baleen whales, as provided for in sub-paragraph (b) of this paragraph); provided that a separate open season may be declared for any land station used for the taking or treating of minke whales which is more than 1,000 miles from the nearest land station used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government.

Except that a separate open season may be declared for any land station used for the taking or treating of minke whales which is located in an area having oceanographic conditions clearly distinguishable from those of the area in which are located the other land stations used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government; but the declaration of a separate open season by virtue of the provisions of this sub-paragraph shall not cause thereby the period

of time covering the open seasons declared by the same Contracting Government to exceed nine continuous months of any twelve months.

- (e) The prohibitions contained in this paragraph shall apply to all land stations as defined in Article II of the Whaling Convention of 1946.

### Other Operations

5. Each Contracting Government shall declare for all whale catchers under its jurisdiction not operating in conjunction with a factory ship or land station one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by such whale catchers may be permitted. Notwithstanding this paragraph one continuous open season not to exceed nine months may be implemented so far as Greenland is concerned.

### III. CAPTURE

6. The killing for commercial purposes of whales, except minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1980/81 pelagic and 1981 coastal seasons. The killing for commercial purposes of minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1982/83 pelagic and the 1983 coastal seasons.\*
7. (a) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Indian Ocean Sanctuary. This comprises the waters of the Northern Hemisphere from the coast of Africa to 100°E, including the Red and Arabian Seas and the Gulf of Oman; and the waters of the Southern Hemisphere in the sector from 20°E to 130°E, with the Southern boundary set at 55°S. This prohibition applies irrespective of such catch limits for baleen or toothed whales as may from time to time be determined by the Commission. This prohibition shall be reviewed by the Commission at its Annual Meeting in 2002.
- (b) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Southern Ocean Sanctuary. This Sanctuary comprises the waters of the Southern Hemisphere southwards of the following line: starting from 40 degrees S, 50 degrees W; thence due east to 20 degrees E; thence due south to 55 degrees S; thence due east to 130 degrees E; thence due north to 40 degrees S; thence due east to 130 degrees W; thence due south to 60 degrees S; thence due east to 50 degrees W; thence due north to

the point of beginning. This prohibition applies irrespective of the conservation status of baleen and toothed whale stocks in this Sanctuary, as may from time to time be determined by the Commission. However, this prohibition shall be reviewed ten years after its initial adoption and at succeeding ten year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph is intended to prejudice the special legal and political status of Antarctica.\*\*+

### Area Limits for Factory Ships

8. It is forbidden to use a factory ship or whale catcher attached thereto, for the purpose of taking or treating baleen whales, except minke whales, in any of the following areas:
- (a) in the waters north of 66°N, except that from 150°E eastwards as far as 140°W, the taking or killing of baleen whales by a factory ship or whale catcher shall be permitted between 66°N and 72°N;
- (b) in the Atlantic Ocean and its dependent waters north of 40°S;
- (c) in the Pacific Ocean and its dependent waters east of 150°W between 40°S and 35°N;
- (d) in the Pacific Ocean and its dependent waters west of 150°W between 40°S and 20°N;
- (e) in the Indian Ocean and its dependent waters north of 40°S.

### Classification of Areas and Divisions

9. (a) *Classification of Areas*  
Areas relating to Southern Hemisphere baleen whales except Bryde's whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 1.
- (b) *Classification of Divisions*  
Divisions relating to Southern Hemisphere sperm whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 3.
- (c) *Geographical boundaries in the North Atlantic*  
The geographical boundaries for the fin, minke and sei whale stocks in the North Atlantic are:

#### FIN WHALE STOCKS

##### NOVA SCOTIA

South and West of a line through:

47°N 54°W, 46°N 54°30'W,

46°N 42°W, 20°N 42°W.

##### NEWFOUNDLAND-LABRADOR

West of a line through:

75°N 73°30'W, 69°N 59°W, 61°N 59°W

52°20'N 42°W, 46°N 42°W and

North of a line through:

46°N 42°W, 46°N 54°30'W, 47°N 54°W.

\* The Governments of Brazil, Iceland, Japan, Norway and the Union of Soviet Socialist Republics lodged objections to the second sentence of paragraph 6 within the prescribed period. For all other Contracting Governments this sentence came into force on 8 March 1982.

Norway withdrew its objection on 9 July 1985 and Brazil on 8 January 1992.

Iceland withdrew from the Convention with effect from 30 June 1992.

The objections of Japan and the Russian Federation not having been withdrawn, this sentence is not binding upon these governments.

\*\* The Government of Japan lodged an objection within the prescribed period to paragraph 7(b) to the extent that it applies to the Antarctic minke whale stocks.

The Government of the Russian Federation also lodged an objection to paragraph 7(b) within the prescribed period but withdrew it on 26 October 1994.

For all Contracting Governments except Japan paragraph 7(b) came into force on 6 December 1994.

+ Paragraph 7(b) contains a provision for review of the Southern Ocean Sanctuary "ten years after its initial adoption". Paragraph 7(b) was adopted at the 46th (1994) Annual Meeting. Therefore, the first review is due in 2004.

**WEST GREENLAND**

East of a line through:

75°N 73°30'W, 69°N 59°W,  
61°N 59°W, 52°20'N 42°W,  
and West of a line through  
52°20'N 42°W, 59°N 42°W,  
59°N 44°W, Kap Farvel.

**EAST GREENLAND-ICELAND**

East of a line through:

Kap Farvel (South Greenland),  
59°N 44°W, 59°N 42°W, 20°N 42°W  
and West of a line through:  
20°N 18°W, 60°N 18°W, 68°N 3°E,  
74°N 3°E, and South of 74°N.

**NORTH NORWAY**

North and East of a line through:

74°N 22°W, 74°N 3°E, 68°N 3°E,  
67°N 0°, 67°N 14°E.

**WEST NORWAY-FAROE ISLANDS**

South of a line through:

67°N 14°E, 67°N 0°, 60°N 18°W, and  
North of a line through:

61°N 16°W, 61°N 0°, Thyborøn (Western entrance to Limfjorden,  
Denmark).

**SPAIN-PORTUGAL-BRITISH ISLES**

South of a line through:

Thyborøn (Denmark), 61°N 0°, 61°N 16°W,  
and East of a line through:  
63°N 11°W, 60°N 18°W, 22°N 18°W.

**MINKE WHALE STOCKS****CANADIAN EAST COAST**

West of a line through:

75°N 73°30'W, 69°N 59°W, 61°N 59°W,  
52°20'N 42°W, 20°N 42°W.

**CENTRAL**

East of a line through:

Kap Farvel (South Greenland),  
59°N 44°W, 59°N 42°W, 20°N 42°W,  
and West of a line through:  
20°N 18°W, 60°N 18°W, 68°N 3°E,  
74°N 3°E, and South of 74°N.

**WEST GREENLAND**

East of a line through:

75°N 73°30'W, 69°N 59°W, 61°N 59°W  
52°20'N 42°W, and  
West of a line through:  
52°20'N 42°W, 59°N 42°W,  
59°N 44°W, Kap Farvel.

**NORTHEASTERN**

East of a line through:

20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,  
and North of a line through:  
74°N 3°E, 74°N 22°W.

**SEI WHALE STOCKS****NOVA SCOTIA**

South and West of a line through:

47°N 54°W, 46°N 54°30'W, 46°N 42°W,  
20°N 42°W.

**ICELAND-DENMARK STRAIT**

East of a line through:

Kap Farvel (South Greenland),  
59°N 44°W, 59°N 42°W, 20°N 42°W,  
and West of a line through:  
20°N 18°W, 60°N 18°W, 68°N 3°E,  
74°N 3°E, and South of 74°N.

**EASTERN**

East of a line through:

20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,  
and North of a line through:  
74°N 3°E, 74°N 22°W.

**(d) Geographical boundaries in the North Pacific**

(d)The geographical boundaries for the sperm,  
Bryde's and minke whale stocks in the North Pacific  
are:

**SPERM WHALE STOCKS****WESTERN DIVISION**

West of a line from the ice-edge south along the 180° meridian of  
longitude to 180°, 50°N, then east along the 50°N parallel of  
latitude to 160°W, 50°N, then south along the 160°W meridian of  
longitude to 160°W, 40°N, then east along the 40°N parallel of  
latitude to 150°W, 40°N, then south along the 150°W meridian of  
longitude to the Equator.

**EASTERN DIVISION**

East of the line described above.

**BRYDE'S WHALE STOCKS****EAST CHINA SEA**

West of the Ryukyu Island chain

**EASTERN**

East of 160°W (excluding the Peruvian stock area)

**WESTERN**

West of 160°W (excluding the East China Sea stock area)

**MINKE WHALE STOCKS****SEA OF JAPAN-YELLOW SEA- EAST CHINA SEA**

West of a line through the Philippine Islands, Taiwan, Ryukyu  
Islands, Kyushu, Honshu, Hokkaido and Sakhalin Island, north of  
the Equator

**OKHOTSK SEA-WEST PACIFIC**

East of the Sea of Japan-Yellow Sea- East China Sea stock and  
west of 180°, north of the Equator

**REMAINDER**

East of the Okhotsk Sea-West Pacific stock, north of the  
Equator

**(e) Geographical boundaries for Bryde's whale stocks in the Southern Hemisphere****SOUTHERN INDIAN OCEAN**

20°E to 130°E

South of the Equator

**SOLOMON ISLANDS**

150°E to 170°E

20°S to the Equator

**PERUVIAN**

110°W to the South American coast

10°S to 10°N

**EASTERN SOUTH PACIFIC**

150°W to 70°W

South of the Equator (excluding the Peruvian stock area)

**WESTERN SOUTH PACIFIC**

130°E to 150°W

South of the Equator(excluding the Solomon Islands stock area)

**SOUTH ATLANTIC**

70°W to 20°E

South of the Equator (excluding the South African inshore stock  
area)

**SOUTH AFRICAN INSHORE**

South African coast west of 27°E and out to the 200 metre  
isobath

Table 1  
BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS\* (excluding Bryde's whales)

Area	SEI		MINKE		FIN		BLUE		RIGHT, BOWHEAD, HUMPBACK		PYGMY RIGHT		GRAY	
	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit
SOUTHERN HEMISPHERE-2001/2002 pelagic season and 2002 coastal season														
I	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
II	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
III	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
IV	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
V	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
VI	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
Total catch not to exceed:														
				0		0		0		0		0		0
NORTHERN HEMISPHERE-2002 season														
ARCTIC	.	.	.	.	.	.	.	.	.	.	PS	0	.	.
NORTH PACIFIC														
Whole region	PS	0	.	0	PS	0	PS	0	PS	0	PS	0	.	.
Okhotsk Sea-West Pacific Stock	.	.	.	0	.	.	.	.	.	.	.	.	.	.
Sea of Japan-Yellow Sea- East	.	.	.	.	.	.	.	.	.	.	.	.	.	.
China Sea Stock	.	.	PS	0	.	.	.	.	.	.	.	.	.	.
Remainder	.	.	IMS	0	.	.	.	.	.	.	.	.	SMS	!
Eastern Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	PS
Western Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	PS
NORTH ATLANTIC														
Whole region	.	.	PS	0	.	.	PS	0	PS	0	PS	0	.	.
West Greenland Stock	.	.	.	.	.	19 <sup>2</sup>	.	.	.	.	.	.	.	.
Newfoundland-Labrador Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
Canadian East Coast Stock	.	.	.	0	.	.	.	.	.	.	.	.	.	.
Nova Scotia Stock	PS	0	.	.	PS	0	.	.	.	.	.	.	.	.
Central Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
East Greenland-Iceland Stock	.	.	.	.	SMS	0	.	.	.	.	.	.	.	.
Iceland-Denmark Strait Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Spain-Portugal-British Isles	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
North-eastern Stock	.	.	PS*	0	.	.	.	.	.	.	.	.	.	.
West Norway-Faroe Islands	.	.	.	.	PS	0	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
North Norway Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
Eastern Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
NORTHERN INDIAN OCEAN														
	.	.	IMS	0	.	.	PS	0	PS	0	PS	0	.	.

\* Available to be taken by aborigines or a Contracting Government on behalf of aborigines (b)/2.

<sup>2</sup> Available to be taken by aborigines pursuant to paragraph 13(b)3. Catch limit for each of the years 1998, 1999, 2000, 2001 and 2002.

+ The catch limits of zero introduced into Table 1 as editorial amendments as a result of the withdrawn objections to the said paragraph.

10(e) are not binding upon the governments of the countries which lodged and have not

\*The Government of Norway presented objection to the classification of the Northeastern A January 1986 but is not binding on the Government of Norway.

otection Stock within the prescribed period. This classification came into force on 30

**Classification of Stocks**

10. All stocks of whales shall be classified in one of three categories according to the advice of the Scientific Committee as follows:

- (a) A Sustained Management Stock (SMS) is a stock which is not more than 10 per cent of Maximum Sustainable Yield (hereinafter referred to as MSY) stock level below MSY stock level, and not more than 20 per cent above that level; MSY being determined on the basis of the number of whales.

When a stock has remained at a stable level for a considerable period under a regime of approximately constant catches, it shall be classified as a Sustained Management Stock in the absence of any positive evidence that it should be otherwise classified.

Commercial whaling shall be permitted on Sustained Management Stocks according to the advice of the Scientific Committee. These stocks are listed in Tables 1, 2 and 3 of this Schedule.

For stocks at or above the MSY stock level, the permitted catch shall not exceed 90 per cent of the MSY. For stocks between the MSY stock level and 10 per cent below that level, the permitted catch shall not exceed the number of whales obtained by taking 90 per cent of the MSY and reducing that number by 10 per cent for every 1 per cent by which the stock falls short of the MSY stock level.

- (b) An Initial Management Stock (IMS) is a stock more than 20 per cent of MSY stock level above MSY stock level. Commercial whaling shall be permitted on Initial Management Stocks according to the advice of the Scientific Committee as to measures necessary to bring the stocks to the MSY stock level and then optimum level in an efficient manner and without risk of reducing them below this level. The permitted catch for such

stocks will not be more than 90 per cent of MSY as far as this is known, or, where it will be more appropriate, catching effort shall be limited to that which will take 90 per cent of MSY in a stock at MSY stock level.

In the absence of any positive evidence that a continuing higher percentage will not reduce the stock below the MSY stock level no more than 5 per cent of the estimated initial exploitable stock shall be taken in any one year. Exploitation should not commence until an estimate of stock size has been obtained which is satisfactory in the view of the Scientific Committee. Stocks classified as Initial Management Stock are listed in Tables 1, 2 and 3 of this Schedule.

- (c) A Protection Stock (PS) is a stock which is below 10 per cent of MSY stock level below MSY stock level.

There shall be no commercial whaling on Protection Stocks. Stocks so classified are listed in Tables 1, 2 and 3 of this Schedule.

- (d) Notwithstanding the other provisions of paragraph 10 there shall be a moratorium on the taking, killing or treating of whales, except minke whales, by factory ships or whale catchers attached to factory ships. This moratorium applies to sperm whales, killer whales and baleen whales, except minke whales.

- (e) Notwithstanding the other provisions of paragraph 10, catch limits for the killing for commercial purposes of whales from all stocks for the 1986 coastal and the 1985/86 pelagic seasons and thereafter shall be zero. This provision will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits.\*

Table 2

Bryde's whale stock classifications and catch limits<sup>†</sup>

	Classification	Catch limit
SOUTHERN HEMISPHERE-2001/2002 pelagic season and 2002 coastal season		
South Atlantic Stock	-	0
Southern Indian Ocean Stock	IMS	0
South African Inshore Stock	-	0
Solomon Islands Stock	IMS	0
Western South Pacific Stock	IMS	0
Eastern South Pacific Stock	IMS	0
Peruvian Stock	-	0
NORTH PACIFIC-2001 season		
Eastern Stock	IMS	0
Western Stock	IMS	0
East China Sea Stock	PS	0
NORTH ATLANTIC-2001 season		
	IMS	0
NORTHERN INDIAN OCEAN-2001 season		
	-	0

<sup>†</sup> The catch limits of zero introduced in Table 2 as editorial amendments as a result of the coming period. For all other Contracting Governments this paragraph came into force on 3 February 1983. Peru withdrew its objection on 22 July 1983.

(e) are

not binding upon the governments of the countries which lodged and have not withdrawn o

\* The Governments of Japan, Norway, Peru and the Union of Soviet Socialist Republics lodged objection to paragraph 10(e) within the prescribed period. For all other Contracting Governments this paragraph came into force on 3 February 1983. Peru withdrew its objection on 22 July 1983.

The Government of Japan withdrew its objections with effect from 1 May 1987 with respect to commercial pelagic whaling; from 1 October 1987 with respect to commercial coastal whaling for minke and Bryde's whales; and from 1 April 1988 with respect to commercial coastal sperm whaling.

The objections of Norway and the Russian Federation not having been withdrawn, the paragraph is not binding upon these Governments.



Table 3  
Toothed whale stock classifications and catch limits<sup>1</sup>

SOUTHERN HEMISPHERE-2001/2002 pelagic season and 2002 coastal season			
Division	Longitudes	Classification	SPERM Catch limit
1	60°W-30°W	-	0
2	30°W-20°E	-	0
3	20°E-60°E	-	0
4	60°E-90°E	-	0
5	90°-130°E	-	0
6	130°E-160°E	-	0
7	160°E-170°W	-	0
8	170°W-100°W	-	0
9	100°W-60°W	-	0
NORTHERN HEMISPHERE-2001 season			
NORTH PACIFIC			
Western Division		PS	0 <sup>1</sup>
Eastern Division		-	0
NORTH ATLANTIC			
		-	0
NORTHERN INDIAN OCEAN			
		-	0
NORTH ATLANTIC			
		PS	0
BOTTLENOSE			
		PS	0

<sup>1</sup> No whales may be taken from this stock until catch limits including any limitations on size and established by the Commission.

<sup>+</sup> The catch limits of zero introduced in Table 3 as editorial amendments as a result of the coming paragraph 10(e) are not binding upon the governments of the countries which lodged and have not withdrawn objections to the said paragraph.

### Baleen Whale Catch Limits

11. The number of baleen whales taken in the Southern Hemisphere in the 2001/2002 pelagic season and the 2002 coastal season shall not exceed the limits shown in Tables 1 and 2.
12. The number of baleen whales taken in the North Pacific Ocean and dependent waters in 2002 and in the North Atlantic Ocean in 2002 shall not exceed the limits shown in Tables 1 and 2.
13. (a) Notwithstanding the provisions of paragraph 10, catch limits for aboriginal subsistence whaling to satisfy aboriginal subsistence need for the 1984 whaling season and each whaling season thereafter shall be established in accordance with the following principles:
  - (1) For stocks at or above MSY level, aboriginal subsistence catches shall be permitted so long as total removals do not exceed 90 per cent of MSY.
  - (2) For stocks below the MSY level but above a certain minimum level, aboriginal subsistence catches shall be permitted so long as they are set at levels which will allow whale stocks to move to the MSY level.<sup>1</sup>
  - (3) The above provisions will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of these provisions on whale stocks and consider modification.

(b) Catch limits for aboriginal subsistence whaling are as follows:

- (1) The taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that:
  - (i) For the years 1998, 1999, 2000, 2001 and 2002, the number of bowhead whales landed shall not exceed 280. For each of these years the number of bowhead whales struck shall not exceed 67, except that any unused portion of a strike quota from any year (including 15 unused strikes from the 1995-97 quota) shall be carried forward and added to the strike quotas of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year.
  - (ii) It is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.
  - (iii) The provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee, particularly its advice arising from the 1998 Comprehensive Assessment.

<sup>1</sup> The Commission, on advice of the Scientific Committee, shall establish as far as possible (a) a minimum stock level for each stock below which whales shall not be taken, and (b) a rate of increase towards the MSY level for each stock. The Scientific Committee shall advise on a minimum stock level and on a range of rates of increase towards the MSY level under different catch regimes.

- (2) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or a Contracting Government on behalf of aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines whose traditional aboriginal subsistence and cultural needs have been recognised.
- (i) For the years 1998, 1999, 2000, 2001 and 2002, the number of gray whales taken in accordance with this sub-paragraph shall not exceed 620, provided that the number of gray whales taken in any one of the years 1998, 1999, 2000, 2001 or 2002 shall not exceed 140.
  - (ii) It is forbidden to strike, take or kill calves or any gray whale accompanied by a calf.
  - (iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee
- (3) The taking by aborigines of minke whales from the West Greenland and Central stocks and fin whales from the West Greenland stock is permitted and then only when the meat and products are to be used exclusively for local consumption.
- (i) The number of fin whales from the West Greenland stock taken in accordance with this sub-paragraph shall not exceed the limits shown in Table 1.
  - (ii) The number of minke whales from the Central stock taken in accordance with this sub-paragraph shall not exceed 12 in each of the years 1998, 1999, 2000, 2001 and 2002, except that any unused portion of the quota for each year shall be carried forward from that year and added to the quota of any subsequent years, provided that no more than 3 shall be added to the quota for any one year.
  - (iii) The number of minke whales struck from the West Greenland stock shall not exceed 175 in each of the years 1998, 1999, 2000, 2001 and 2002, except that any unused portion of the strike quota for each year shall be carried forward from that year and added to the strike quota of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year. This provision will be reviewed if new scientific data become available within the 5 year period and if necessary amended on the basis of the advice of the Scientific Committee.
- (4) For the seasons 2000 to 2002 the taking of 2<sup>1</sup> humpback whales each season is permitted by Bequians of St Vincent and The Grenadines, but only when the meat and products of such whales are to be used exclusively for local

consumption in St Vincent and The Grenadines. It is forbidden to strike, take or kill calves or any humpback whale accompanied by a calf.

14. It is forbidden to take or kill suckling calves or female whales accompanied by calves.

#### **Baleen Whale Size Limits**

15. (a) It is forbidden to take or kill any sei or Bryde's whales below 40 feet (12.2 metres) in length except that sei and Bryde's whales of not less than 35 feet (10.7 metres) may be taken for delivery to land stations, provided that the meat of such whales is to be used for local consumption as human or animal food.
- (b) It is forbidden to take or kill any fin whales below 57 feet (17.4 metres) in length in the Southern Hemisphere, and it is forbidden to take or kill fin whales below 55 feet (16.8 metres) in the Northern Hemisphere; except that fin whales of not less than 55 feet (16.8 metres) may be taken in the Southern Hemisphere for delivery to land stations and fin whales of not less than 50 feet (15.2 metres) may be taken in the Northern Hemisphere for delivery to land stations, provided that, in each case the meat of such whales is to be used for local consumption as human or animal food.

#### **Sperm Whale Catch Limits**

16. Catch limits for sperm whales of both sexes shall be set at zero in the Southern Hemisphere for the 1981/82 pelagic season and 1982 coastal seasons and following seasons, and at zero in the Northern Hemisphere for the 1982 and following coastal seasons; except that the catch limits for the 1982 coastal season and following seasons in the Western Division of the North Pacific shall remain undetermined and subject to decision by the Commission following special or annual meetings of the Scientific Committee. These limits shall remain in force until such time as the Commission, on the basis of the scientific information which will be reviewed annually, decides otherwise in accordance with the procedures followed at that time by the Commission.
17. It is forbidden to take or kill suckling calves or female whales accompanied by calves.

#### **Sperm Whale Size Limits**

18. (a) It is forbidden to take or kill any sperm whales below 30 feet (9.2 metres) in length except in the North Atlantic Ocean where it is forbidden to take or kill any sperm whales below 35 feet (10.7 metres).
- (b) It is forbidden to take or kill any sperm whale over 45 feet (13.7 metres) in length in the Southern Hemisphere north of 40° South Latitude during the months of October to January inclusive.
- (c) It is forbidden to take or kill any sperm whale over 45 feet (13.7 metres) in length in the North Pacific Ocean and dependent water south of 40° North Latitude during the months of March to June inclusive.

<sup>1</sup>Each year this figure will be reviewed and if necessary amended on the basis of the advice of the Scientific Committee.

**IV. TREATMENT**

19. (a) It is forbidden to use a factory ship or a land station for the purpose of treating any whales which are classified as Protection Stocks in paragraph 10 or are taken in contravention of paragraphs 2, 3, 4, 5, 6, 7, 8, 11, 12, 14, 16 and 17 of this Schedule, whether or not taken by whale catchers under the jurisdiction of a Contracting Government.
- (b) All other whales taken, except minke whales, shall be delivered to the factory ship or land station and all parts of such whales shall be processed by boiling or otherwise, except the internal organs, whale bone and flippers of all whales, the meat of sperm whales and parts of whales intended for human food or feeding animals. A Contracting Government may in less developed regions exceptionally permit treating of whales without use of land stations, provided that such whales are fully utilised in accordance with this paragraph.
- (c) Complete treatment of the carcasses of "dauhval" and of whales used as fenders will not be required in cases where the meat or bone of such whales is in bad condition.
20. (a) The taking of whales for treatment by a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcass (except of a whale used as a fender, which shall be processed as soon as is reasonably practicable) shall remain in the sea for a longer period than thirty-three hours from the time of killing to the time when it is hauled up for treatment.
- (b) Whales taken by all whale catchers, whether for factory ships or land stations, shall be clearly marked so as to identify the catcher and to indicate the order of catching.

**V. SUPERVISION AND CONTROL**

21. (a) There shall be maintained on each factory ship at least two inspectors of whaling for the purpose of maintaining twenty-four hour inspection provided that at least one such inspector shall be maintained on each catcher functioning as a factory ship. These inspectors shall be appointed and paid by the Government having jurisdiction over the factory ship; provided that inspectors need not be appointed to ships which, apart from the storage of products, are used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.
- (b) Adequate inspection shall be maintained at each land station. The inspectors serving at each land station shall be appointed and paid by the Government having jurisdiction over the land station.
- (c) There shall be received such observers as the member countries may arrange to place on factory ships and land stations or groups of land stations of other member countries. The observers shall be appointed by the Commission acting through its Secretary and paid by the Government nominating them.
22. Gunners and crews of factory ships, land stations, and whale catchers, shall be engaged on such terms that their remuneration shall depend to a considerable extent upon

such factors as the species, size and yield of whales and not merely upon the number of the whales taken. No bonus or other remuneration shall be paid to the gunners or crews of whale catchers in respect of the taking of lactating whales.

23. Whales must be measured when at rest on deck or platform after the hauling out wire and grasping device have been released, by means of a tape-measure made of a non-stretching material. The zero end of the tape-measure shall be attached to a spike or stable device to be positioned on the deck or platform abreast of one end of the whale. Alternatively the spike may be stuck into the tail fluke abreast of the apex of the notch. The tape-measure shall be held taut in a straight line parallel to the deck and the whale's body, and other than in exceptional circumstances along the whale's back, and read abreast of the other end of the whale. The ends of the whale for measurement purposes shall be the tip of the upper jaw, or in sperm whales the most forward part of the head, and the apex of the notch between the tail flukes.

Measurements shall be logged to the nearest foot or 0.1 metre. That is to say, any whale between 75 feet 6 inches and 76 feet 6 inches shall be logged as 76 feet, and any whale between 76 feet 6 inches and 77 feet 6 inches shall be logged as 77 feet. Similarly, any whale between 10.15 metres and 10.25 metres shall be logged as 10.2 metres, and any whale between 10.25 metres and 10.35 metres shall be logged as 10.3 metres. The measurement of any whale which falls on an exact half foot or 0.05 metre shall be logged at the next half foot or 0.05 metre, e.g. 76 feet 6 inches precisely shall be logged as 77 feet and 10.25 metres precisely shall be logged as 10.3 metres.

**VI. INFORMATION REQUIRED**

24. (a) All whale catchers operating in conjunction with a factory ship shall report by radio to the factory ship:
- (1) the time when each whale is taken
  - (2) its species, and
  - (3) its marking effected pursuant to paragraph 20(b).
- (b) The information specified in sub-paragraph (a) of this paragraph shall be entered immediately by a factory ship in a permanent record which shall be available at all times for examination by the whaling inspectors; and in addition there shall be entered in such permanent record the following information as soon as it becomes available:
- (1) time of hauling up for treatment
  - (2) length, measured pursuant to paragraph 23
  - (3) sex
  - (4) if female, whether lactating
  - (5) length and sex of foetus, if present, and
  - (6) a full explanation of each infraction.
- (c) A record similar to that described in sub-paragraph (b) of this paragraph shall be maintained by land stations, and all of the information mentioned in the said sub-paragraph shall be entered therein as soon as available.

- (d) A record similar to that described in sub-paragraph (b) of this paragraph shall be maintained by "small-type whaling" operations conducted from shore or by pelagic fleets, and all of this information mentioned in the said sub-paragraph shall be entered therein as soon as available.
25. (a) All Contracting Governments shall report to the Commission for all whale catchers operating in conjunction with factory ships and land stations the following information:
- (1) methods used to kill each whale, other than a harpoon, and in particular compressed air
  - (2) number of whales struck but lost.
- (b) A record similar to that described in sub-paragraph (a) of this paragraph shall be maintained by vessels engaged in "small-type whaling" operations and by native peoples taking species listed in paragraph 1, and all the information mentioned in the said sub-paragraph shall be entered therein as soon as available, and forwarded by Contracting Governments to the Commission.
26. (a) Notification shall be given in accordance with the provisions of Article VII of the Convention, within two days after the end of each calendar week, of data on the number of baleen whales by species taken in any waters south of 40° South Latitude by all factory ships or whale catchers attached thereto under the jurisdiction of each Contracting Government, provided that when the number of each of these species taken is deemed by the Secretary to the International Whaling Commission to have reached 85 per cent of whatever total catch limit is imposed by the Commission notification shall be given as aforesaid at the end of each day of data on the number of each of these species taken.
- (b) If it appears that the maximum catches of whales permitted by paragraph 11 may be reached before 7 April of any year, the Secretary to the International Whaling Commission shall determine, on the basis of the data provided, the date on which the maximum catch of each of these species shall be deemed to have been reached and shall notify the master of each factory ship and each Contracting Government of that date not less than four days in advance thereof. The taking or attempting to take baleen whales, so notified, by factory ships or whale catchers attached thereto shall be illegal in any waters south of 40° South Latitude after midnight of the date so determined.
- (c) Notification shall be given in accordance with the provisions of Article VII of the Convention of each factory ship intending to engage in whaling operations in any waters south of 40° South Latitude.
27. Notification shall be given in accordance with the provisions of Article VII of the Convention with regard to all factory ships and catcher ships of the following statistical information:
- (a) concerning the number of whales of each species taken, the number thereof lost, and the number treated at each factory ship or land station, and
  - (b) as to the aggregate amounts of oil of each grade and quantities of meal, fertiliser (guano), and other products derived from them, together with
  - (c) particulars with respect to each whale treated in the factory ship, land station or "small-type whaling" operations as to the date and approximate latitude and longitude of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex, if ascertainable, of the foetus.
- The data referred to in (a) and (c) above shall be verified at the time of the tally and there shall also be notification to the Commission of any information which may be collected or obtained concerning the calving grounds and migration of whales.
28. (a) Notification shall be given in accordance with the provisions of Article VII of the Convention with regard to all factory ships and catcher ships of the following statistical information:
- (1) The name and gross tonnage of each factory ship.
  - (2) For each catcher ship attached to a factory ship or land station:
    - (i) the dates on which each is commissioned and ceases whaling for the season
    - (ii) the number of days on which each is at sea on the whaling grounds each season
    - (iii) the gross tonnage, horsepower, length and other characteristics of each; vessels used only as tow boats should be specified.
  - (3) A list of the land stations which were in operation during the period concerned, and the number of miles searched per day by aircraft, if any.
- (b) The information required under paragraph (a)(2)(iii) should also be recorded together with the following information, in the log book format shown in Appendix A, and forwarded to the Commission:
- (1) where possible the time spent each day on different components of the catching operation
  - (2) any modifications of the measures in paragraphs (a)(2)(i)-(iii) or (b)(1) or data from other suitable indicators of fishing effort for "small-type whaling" operations.
29. (a) Where possible all factory ships and land stations shall collect from each whale taken and report on:
- (1) both ovaries or the combined weight of both testes
  - (2) at least one ear plug, or one tooth (preferably first mandibular).
- (b) Where possible similar collections to those described in sub-paragraph (a) of this paragraph shall be undertaken and reported by "small-type whaling" operations conducted from shore or by pelagic fleets.
- (c) All specimens collected under sub-paragraphs (a) and (b) shall be properly labelled with platform or other identification number of the whale and be appropriately preserved.
- (d) Contracting Governments shall arrange for the analysis as soon as possible of the tissue samples and specimens collected under sub-paragraphs (a) and (b) and report to the Commission on the results of such analyses.

30. A Contracting Government shall provide the Secretary to the International Whaling Commission with proposed scientific permits before they are issued and in sufficient time to allow the Scientific Committee to review and comment on them. The proposed permits should specify:

- (a) objectives of the research;
- (b) number, sex, size and stock of the animals to be taken;
- (c) opportunities for participation in the research by scientists of other nations; and
- (d) possible effect on conservation of stock.

Proposed permits shall be reviewed and commented on by the Scientific Committee at Annual Meetings when possible. When permits would be granted prior to the next Annual Meeting, the Secretary shall send the proposed permits to members of the Scientific Committee by mail for their comment and review. Preliminary results of any research resulting from the permits should be made available at the next Annual Meeting of the Scientific Committee.

31. A Contracting Government shall transmit to the Commission copies of all its official laws and regulations relating to whales and whaling and changes in such laws and regulations.

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**Appendix A**

TITLE PAGE

(one logbook per catcher per season)

Catcher name ..... Year built .....

Attached to expedition/land station .....

Season .....

Overall length ..... Wooden/steel hull .....

Gross tonnage .....

Type of engine ..... H.P. ....

Maximum speed ..... Average searching speed .....

Asdic set, make and model no. ....

Date of installation .....

Make and size of cannon .....

Type of first harpoon used ..... explosive/electric/non-explosive

Type of killer harpoon used .....

Length and type of forerunner .....

Type of whaleline .....

Height of barrel above sea level .....

Speedboat used, Yes/No

Name of Captain .....

Number of years experience .....

Name of gunner .....

Number of years experience .....

Number of crew .....

SCHEDULE APPENDIX A

TABLE 2

SCHOOLING REPORT

To be completed by pelagic expedition or coastal station for each sperm whale school chased. A separate form to be used each day.

Name of expedition or coastal station .....

Date ..... Noon position of factory ship .....

Time School Found .....

Total Number of Whales in School .....

Number of Takeable Whales in School .....

Number of Whales Caught from School by each Catcher .....

Name of Catcher .....

Name of Catcher .....

Name of Catcher .....

Name of Catcher .....

Total Number Caught from School .....

Remarks: .....

Explanatory Notes

- A. Fill in one column for each school chased with number of whales caught by each catcher taking part in the chase; if catchers chase the school but do not catch from it, enter 0; for catchers in fleet which do not chase that school enter X.
- B. A school on this form means a group of whales which are sufficiently close together that a catcher having completed handling one whale can start chasing another whale almost immediately without spending time searching. A solitary whale should be entered as a school of 1 whale.
- C. A takeable whale is a whale of a size or kind which the catchers would take if possible. It does not necessarily include all whales above legal size, e.g. if catchers are concentrating on large whales only these would be counted as takeable.
- D. Information about catchers from other expeditions or companies operating on the same school should be recorded under Remarks.

INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING, 1946

DAILY RECORD SHEET

TABLE 1

Date ..... Catcher name ..... Sheet No. ....

Searching: Time started (or resumed) searching .....  
 \*Time whales seen or reported to catcher .....

Whale species .....

Number seen and no. of groups .....

Position found .....

Name of catcher that found whales .....

Chasing: Time started chasing (or confirmed whales) .....

Time whale shot or chasing discontinued .....

Handling: Time whale flagged or alongside for towing .....

Serial No. of catch .....

Towing: Time started picking up .....

Time finished picking up or started towing .....

Date and time delivered to factory .....

Resting: Time stopped (for drifting or resting) .....

Time finished drifting/resting .....

Time ceased operations .....

WEATHER CONDITIONS

Total searching time .....

Total chasing time .....

A) with asclic .....

B) without asclic .....

Total handling time .....

Total towing time .....

Total resting time .....

Other time (e.g. bunkering, in port) .....

Whales Seen (No. and No. of schools)

Blue..... Bryde's .....

Fin..... Minke .....

Humpback..... Sperm .....

Right..... Others (specify) .....

Sei.....

Signed.....

\*Time whales reported to catcher means the time when the catcher is told of the position of a school and starts to move towards it to chase it.

# **Rules of Procedure and Financial Regulations**

**As amended by the Commission at the 53<sup>rd</sup> Annual Meeting, July 2001**

<b>RULES OF PROCEDURE .....</b>	<b>00</b>
<b>FINANCIAL REGULATIONS .....</b>	<b>000</b>
<b>RULES OF DEBATE .....</b>	<b>000</b>
<b>RULES OF PROCEDURE OF THE TECHNICAL COMMITTEE .....</b>	<b>000</b>
<b>RULES OF PROCEDURE OF THE SCIENTIFIC COMMITTEE .....</b>	<b>000</b>

# Rules of Procedure

## A. Representation

1. A Government party to the International Convention for the Regulation of Whaling, 1946 (hereafter referred to as the Convention) shall have the right to appoint one Commissioner and shall furnish the Secretary of the Commission with the name of its Commissioner and *his/her* designation and notify *the Secretary* promptly of any changes in the appointment. The Secretary shall inform other Commissioners of such appointment.

## B. Meetings

1. The Commission shall hold a regular Annual Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice thereof in advance of the preceding Meeting. Attendance by a majority of the members of the Commission shall constitute a quorum. Special Meetings of the Commission may be called at the direction of the *Chair* after consultation with the Contracting Governments.

## C. Observers

1. (a) Any Government not a party to the Convention or any intergovernmental organisation may be represented at meetings of the Commission by an observer or observers, if such non-party government or intergovernmental organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting, or if the Commission issues an invitation to attend.
- (b) Any international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer, if such international organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting and the Commission issues an invitation with respect to such request. The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of such observers. The registration fee will be treated as an annual fee covering attendance at the Annual Meeting to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next Annual Meeting. Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.
2. Observers accredited in accordance with Rule C.1.(a) and (b) are admitted to all meetings of the Commission and the Technical Committee, and to any meetings of subsidiary groups of the Commission and the Technical Committee, except the Commissioners-only meetings and the meetings of the Finance and Administration Committee.

## D. Credentials

1. (a) The names and status of all participants, advisers and observers to any meeting of the Commission or committees, as specified in the Rules of Procedure of

the Commission, Technical and Scientific Committees, shall be notified to the Secretary in writing before their participation and/or attendance at each meeting. The written notification shall be made by governments or the authority appointed by them or the heads of organisations as the case may be.

- (b) In the case of members of delegations who will attend the Annual Commission Meeting and its associated meetings, the notification may be made *en bloc* by submitting a list of the members who will attend any of these meetings.
- (c) The Secretary, or *his/her* representative, shall report on the received notifications at the beginning of a meeting.
- (d) In case of any doubt as to the authenticity of notification or in case of apparent delay in their delivery, the *Chair* of the meeting shall convene an *ad hoc* group of no more than one representative from any Contracting Government present to decide upon the question of participation in the meeting.

## E. Voting

1. Each Commissioner shall have the right to vote at Plenary Meetings of the Commission and in *his/her* absence *his/her* deputy or alternate shall have such right. Experts and advisers may address Plenary Meetings of the Commission but shall not be entitled to vote. They may vote at the meetings of any committee to which they have been appointed, provided that when such vote is taken, representatives of any Contracting Government shall only exercise one vote.
2. The right to vote of representatives of any Contracting Government whose annual payments including any interest due have not been received by the Commission within 3 months of the due date prescribed in Regulation E.2 of the Financial Regulations, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.
3. (a) Where a vote is taken on any matter before the Commission, a simple majority of those casting an affirmative or negative vote shall be decisive, except that a three-fourths majority of those casting an affirmative or negative vote shall be required for action in pursuance of Article V of the Convention.
- (b) Action in pursuance of Article V shall contain the text of the regulations proposed to amend the Schedule. A proposal that does not contain such regulatory text does not constitute an amendment to the Schedule and therefore requires only a simple majority vote. A proposal that does not contain such regulatory text to revise the Schedule but would commit the Commission to amend the Schedule in the future can neither be put to a vote nor adopted.
- (c) At meetings of committees appointed by the Commission, a simple majority of those casting an affirmative or negative vote shall also be decisive. The committee shall report to the Commission if the decision has been arrived at as a result of the vote.
- (d) Votes shall be taken by show of hands, or by roll call, as in the opinion of the *Chair*, appears to be most suitable. The election of the *Chair*, *Vice-Chair*, the



appointment of the Secretary of the Commission, and the selection of IWC Annual Meeting venues shall, upon request by a Commissioner, all proceed by secret ballot.

4. Between meetings of the Commission or in the case of emergency, a vote of the Commissioners may be taken by post, or other means of communication in which case the necessary simple, or where required three-fourths majority, shall be of the total number of Contracting Governments whose right to vote has not been suspended under paragraph 2.

#### F. Chair

1. The **Chair** of the Commission shall be elected from time to time from among the Commissioners and shall take office at the conclusion of the Annual Meeting at which *he/she* is elected. The **Chair** shall serve for a period of three years and shall not be eligible for re-election as **Chair** until a further period of three years has elapsed. The **Chair** shall, however, remain in office until a successor is elected.
2. The duties of the **Chair** shall be:
  - (a) to preside at all meetings of the Commission;
  - (b) to decide all questions of order raised at meetings of the Commission, subject to the right of any Commissioner to request that any ruling by the **Chair** shall be submitted to the Commission for decision by vote;
  - (c) to call for votes and to announce the result of the vote to the Commission;
  - (d) to determine after consultation with the Commissioners and the Secretary the provisional order of business so that the Secretary may despatch it by *the most expeditious means available* not less than 100 days in advance of the meeting;
  - (e) to sign, on behalf of the Commission, a report of the proceedings of each annual or other meeting of the Commission, for transmission to Contracting Governments and others concerned as an authoritative record of what transpired;
  - (f) generally, to make such decisions and give such directions to the Secretary as will ensure, especially in the interval between the meetings of the Commission, that the business of the Commission is carried out efficiently and in accordance with its decision.

#### G. Vice-Chair

1. The **Vice-Chair** of the Commission shall be elected from time to time from among the Commissioners and shall preside at meetings of the Commission, or between them, in the absence or in the event of the **Chair** being unable to act. *He/she* shall on those occasions exercise the powers and duties prescribed for the **Chair**. The **Vice-Chair** shall be elected for a period of three years and shall not be eligible for re-election as **Vice-Chair** until a further period of three years has elapsed. *He/she* shall, however, remain in office until a successor is elected.

#### H. Secretary

1. The Commission shall appoint a Secretary and shall designate staff positions to be filled through appointments made by the Secretary. The Commission shall fix the terms of employment, rate of remuneration including tax assessment and superannuation and travelling expenses for the members of the Secretariat.

2. The Secretary is the executive officer of the Commission and shall:
  - (a) be responsible to the Commission for the control and supervision of the staff and management of its office and for the receipt and disbursement of all monies received by the Commission;
  - (b) make arrangements for all meetings of the Commission and its committees and provide necessary secretarial assistance;
  - (c) prepare and submit to the **Chair** a draft of the Commission's budget for each year and shall subsequently submit the budget to all Contracting Governments and Commissioners as early as possible before the Annual Meeting;
  - (d) despatch by *the most expeditious means available*:
    - (i) a draft agenda for the Annual Commission Meeting to all Contracting Governments and Commissioners 100 days in advance of the meeting for comment and any additions with annotations they wish to propose;
    - (ii) an annotated provisional agenda to all Contracting Governments and Commissioners not less than 60 days in advance of the Annual Commission Meeting. Included in the annotations should be a brief description of each item, and in so far as possible, documentation relevant to agenda items should be referred to in the annotation and sent to member nations at the earliest possible date;
  - (e) receive, tabulate and publish notifications and other information required by the Convention in such form and manner as may be prescribed by the Commission;
  - (f) perform such other functions as may be assigned to *him/her* by the Commission or its **Chair**;
  - (g) where appropriate, provide copies or availability to a copy of reports of the Commission including reports of Observers under the International Observer Scheme, upon request after such reports have been considered by the Commission.

#### I. Chair of Scientific Committee

1. The **Chair** of the Scientific Committee may attend meetings of the Commission and Technical Committee in an *ex officio* capacity without vote, at the invitation of the **Chair** of the Commission or Technical Committee respectively in order to represent the views of the Scientific Committee.

#### J. Order of Business

1. No order of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the provisional order of business which has been despatched by *the most expeditious means available* to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.

#### K. Financial

1. The financial year of the Commission shall be from 1st September to 31st August.
2. Any request to Contracting Governments for financial contributions shall be accompanied by a statement of the

Commission's expenditure for the appropriate year, actual or estimated.

3. Annual payments and other financial contributions by Contracting Governments shall be made payable to the Commission and shall be in pounds sterling.

#### L. Offices

1. The seat of the Commission shall be located in the United Kingdom.

#### M. Committees

1. The Commission shall establish a Scientific Committee, a Technical Committee and a Finance and Administration Committee. Commissioners shall notify their desire to be represented on the Scientific, Technical and Finance and Administration Committees 28 days prior to the meetings, and shall designate the approximate size of their delegations.
2. The *Chair* may constitute such *ad hoc* committees as may be necessary from time to time, with similar arrangements for notification of the numbers of participants as in paragraph 1 above where appropriate. Each committee shall elect its *Chair*. The Secretary shall furnish appropriate secretarial services to each committee.
3. Sub-committees and working groups may be designated by the Commission to consider technical issues as appropriate, and each will report to the Technical Committee or the plenary session of the Commission as the Commission may decide.
4. The Scientific Committee shall review the current scientific and statistical information with respect to whales and whaling, shall review current scientific research programmes of Governments, other international organisations or of private organisations, shall review the scientific permits and scientific programmes for which Contracting Governments plan to issue scientific permits, shall consider such additional matters as may be referred to it by the Commission or by the *Chair* of the Commission, and shall submit reports and recommendations to the Commission.
5. The preliminary report of the Scientific Committee should be completed and available to all Commissioners by the opening date of the Annual Commission Meeting.
6. The Secretary shall be an *ex officio* member of the Scientific Committee without vote.
7. The Technical Committee shall, as directed by the Commission or the *Chair* of the Commission, prepare reports and make recommendations on:
  - (a) Management principles, categories, criteria and definitions, taking into account the recommendations of the Scientific Committee, as a means of helping the Commission to deal with management issues as they arise;
  - (b) technical and practical options for implementation of conservation measures based on Scientific Committee advice;
  - (c) the implementation of decisions taken by the Commission through resolutions and through Schedule provisions;
  - (d) Commission agenda items assigned to it;
  - (e) any other matters.
8. The Finance and Administration Committee shall advise the Commission on expenditure, budgets, scale of

contributions, financial regulations, staff questions, and such other matters as the Commission may refer to it from time to time.

9. The Commission shall establish an Advisory Committee. This Committee shall comprise the *Chair*, *Vice-Chair*, *Chair* of the Finance and Administration Committee, Secretary and two Commissioners to broadly represent the interests within the IWC forum. The appointment of the Commissioners shall be for two years on alternative years.

The role of the Committee shall be to assist and advise the Secretariat on administrative matters upon request by the Secretariat or agreement in the Commission. The Committee is not a decision-making forum and shall not deal with policy matters or administrative matters that are within the scope of the Finance and Administration Committee other than making recommendations to this Committee.

#### N. Language of the Commission

1. English shall be the official and working language of the Commission but Commissioners may speak in any other language, if desired, it being understood that Commissioners doing so will provide their own interpreters. All official publications and communications of the Commission shall be in English.

#### O. Records of Meetings

1. The proceedings of the meetings of the Commission and those of its committees shall be recorded in summary form.

#### P. Reports

1. Commissioners should arrange for reports on the subject of whaling published in their own countries to be sent to the Commission for record purposes.
2. The *Chair's* Report of the most recent Annual Commission Meeting shall be published in the Annual Report of the year just completed.

#### Q. Commission Documents

1. Reports of meetings of all committees, sub-committees and working groups of the Commission are confidential (i.e. reporting of discussions, conclusions and recommendations made during a meeting is prohibited) until the opening plenary session of the Commission meeting to which they are submitted, or in the case of intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports, with the exception of the report of the Finance and Administration Committee, shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).
2. Any document submitted to the Commission for distribution to Commissioners, Contracting Governments or members of the Scientific Committee is considered to be in the public domain unless it is designated by the author or government submitting it to be restricted. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.
3. Observers admitted under Rule of Procedure C.1.(a) and (b) may submit Opening Statements which will be

included in the official documentation of the Annual or other Meeting concerned. They shall be presented in the format and the quantities determined by the Secretariat for meeting documentation.

The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.<sup>1</sup>

<sup>1</sup> [There is no intention that the Secretariat should conduct advance or *ex-ante* reviews of such statements.]

4. All meeting documents shall be included in the Commission's archives in the form in which they were considered at the meeting.

#### **R. Amendment of Rules**

1. These Rules of Procedure may be amended from time to time by a simple majority of the Commissioners voting, but notice of any proposed amendment shall be despatched by *the most expeditious means available* to the Commissioners by the Secretary to the Commission not less than 60 days in advance of the meeting at which the matter is to be discussed.
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## Rules of Debate

### A. Right to Speak

1. The *Chair* shall call upon speakers in the order in which they signify their desire to speak.
2. A Commissioner or Observer may speak only if called upon by the *Chair*, who may call a speaker to order if *his/her* remarks are not relevant to the subject under discussion.
3. A speaker shall not be interrupted except on a point of order. *He/she* may, however, with the permission of the *Chair*, give way during *his/her* speech to allow any other Commissioner to request elucidation on a particular point in that speech.
4. The *Chair* of a committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by *his/her* committee or group.

### B. Submission of Motions

1. Proposals and amendments shall normally be introduced in writing in the working language of the meeting and shall be submitted to the Secretariat which shall circulate copies to all delegations in the session. As a general rule, no proposal shall be discussed at any plenary session unless copies of it have been circulated to all delegations normally no later than 6pm, or earlier if so determined by the *Chair* in consultation with the Commissioners, on the day preceding the plenary session. The presiding officer may, however, permit the discussion and consideration of amendments, or motions, as to procedure, even though such amendments, or motions have not been circulated previously.

### C. Procedural Motions

1. During the discussion of any matter, a Commissioner may rise to a point of order, and the point of order shall be immediately decided by the *Chair* in accordance with these Rules of Procedure. A Commissioner may appeal against any ruling of the *Chair*. The appeal shall be immediately put to the vote and the *Chair's* ruling shall stand unless a majority of the Commissioners present and voting otherwise decide. A Commissioner rising to a point of order may not speak on the substance of the matter under discussion.
2. The following motions shall have precedence in the following order over all other proposals or motions before the Commission:
  - (a) to adjourn the session;
  - (b) to adjourn the debate on the particular subject or question under discussion;
  - (c) to close the debate on the particular subject or question under discussion.

### D. Arrangements for Debate

1. The Commission may, in a proposal by the *Chair* or by a Commissioner, limit the time to be allowed to each speaker and the number of times the members of a delegation may speak on any question. When the debate is subject to such limits, and a speaker has spoken for his

allotted time, the *Chair* shall call *him/her* to order without delay.

2. During the course of a debate the *Chair* may announce the list of speakers, and with the consent of the Commission, declare the list closed. The *Chair* may, however, accord the right of reply to any Commissioner if a speech delivered after *he/she* has declared the list closed makes this desirable.
3. During the discussion of any matter, a Commissioner may move the adjournment of the debate on the particular subject or question under discussion. In addition to the proposer of the motion, a Commissioner may speak in favour of, and two Commissioners may speak against the motion, after which the motion shall immediately be put to the vote. The *Chair* may limit the time to be allowed to speakers under this rule.
4. A Commissioner may at any time move the closure of the debate on the particular subject or question under discussion, whether or not any other Commissioner has signified the wish to speak. Permission to speak on the motion for the closure of the debate shall be accorded only to two Commissioners wishing to speak against the motion, after which the motion shall immediately be put to the vote. The *Chair* may limit the time to be allowed to speakers under this rule.

### E. Procedure for Voting on Motions and Amendments

1. A Commissioner may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request of such division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be accorded only to two Commissioners wishing to speak in favour of, and two Commissioners wishing to speak against, the motion. If the motion for division is carried, those parts of the proposal or amendments which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.
2. When the amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the last amendment moved and then on the next to last, and so on until all amendments have been put to the vote. When, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.
3. If two or more proposals relate to the same question, the Commission shall, unless it otherwise decides, vote on the proposals in the order in which they have been submitted. The Commission may, after voting on a proposal, decide whether to vote on the next proposal.

## Rules of Procedure of the Technical Committee

### A. Participation

1. Membership shall consist of those member nations that elect to be represented on the Technical Committee. Delegations shall consist of Commissioners, or their nominees, who may be accompanied by technical experts.
2. The Secretary of the Commission or a deputy shall be an *ex officio* non-voting member of the Committee.
3. Observers may attend Committee meetings in accordance with the Rules of the Commission.

### B. Organisation

1. Normally the Vice-*Chair* of the Commission is the *Chair* of the Technical Committee. Otherwise the *Chair* shall be elected from among the members of the Committee.
2. A provisional agenda for the Technical Committee and each sub-committee and working group shall be prepared by the Technical Committee *Chair* with the assistance of the Secretary. After agreement by the *Chair* of the Commission they shall be distributed to Commissioners 30 days in advance of the Annual Meeting.

### C. Meetings

1. The Annual Meeting shall be held between the Scientific Committee and Commission meetings with reasonable overlap of meetings as appropriate to agenda requirements. Special meetings may be held as agreed by the Commission or the *Chair* of the Commission.
2. Rules of conduct for observers shall conform with rules established by the Commission for meetings of all committees and plenary sessions.

### D. Reports

1. Reports and recommendations shall, as far as possible, be developed on the basis of consensus. However, if a consensus is not achievable, the committee, sub-committee or working group shall report the different views expressed. The *Chair* or any national delegation may request a vote on any issue. Resulting recommendations shall be based on a simple majority of those nations casting an affirmative or negative vote.
  2. Documents on which recommendations are based should be available on demand immediately following each committee, sub-committee or working group meeting.
  3. Technical papers produced for the Commission may be reviewed by the Committee for publication by the Commission.
-

## Financial Regulations

### A. Applicability

1. These regulations shall govern the financial administration of the International Whaling Commission.
2. They shall become effective as from the date decided by the Commission and shall be read with and in addition to the Rules of Procedure. They may be amended in the same way as provided under Rule R.1 of the Rules of Procedure in respect of those Rules.
3. In case of doubt as to the interpretation and application of any of these regulations, the *Chair* is authorised to give a ruling.

### B. Financial Year

1. The financial year of the Commission shall be from 1st September to 31st August (Rules of Procedure, Rule K.1).

### C. General Financial Arrangements

1. There shall be established a Research Fund and a General Fund, and a Voluntary Fund for Small Cetaceans.

- (a) The Research Fund shall be credited with voluntary contributions and any such monies as the Commission may allocate for research and scientific investigation and charged with specific expenditure of this nature.
- (b) The General Fund shall, subject to the establishment of any other funds that the Commission may determine, be credited or charged with all other income and expenditure.
- (c) The details of the Voluntary Fund for Small Cetaceans are given in Appendix 1.

The General Fund shall be credited or debited with the balance on the Commission's Income and Expenditure Account at the end of each financial year.

2. Subject to the restrictions and limitations of the following paragraphs, the Commission may accept funds from outside the regular contributions of Contracting Governments.

- (a) The Commission may accept such funds to carry out programmes or activities decided upon by the Commission and/or to advance programmes and activities which are consistent with the objectives and provisions of the Convention.

- (b) The Commission shall not accept external funds from any of the following:

- (i) Sources that are known, through evidence available to the Commission, to have been involved in illegal activities, or activities contrary to the provisions of the Convention;
- (ii) Individual companies directly involved in legal commercial whaling under the Convention;
- (iii) Organisations which have deliberately brought the Commission into public disrepute.

3. Monies in any of the Funds that are not expected to be required for disbursement within a reasonable period may be invested in appropriate Government or similar loans by the Secretary in consultation with the *Chair*.

4. The Secretary shall:

- (a) establish detailed financial procedures and accounting records as are necessary to ensure effective financial administration and control and the exercise of economy;
- (b) deposit and maintain the funds of the Commission in an account in the name of the Commission in a bank to be approved by the *Chair*;
- (c) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received, and that payment has not previously been made;
- (d) designate the officers of the Secretariat who may receive monies, incur obligations and make payments on behalf of the Commission;
- (e) authorise the writing off of losses of cash, stores and other assets and submit a statement of such amounts written off to the Commission and the auditors with the annual accounts.

5. The accounts of the Commission shall be audited annually by a firm of qualified accountants selected by the Commission. The auditors shall certify that the financial statements are in accord with the books and records of the Commission, that the financial transactions reflected in them have been in accordance with the rules and regulations and that the monies on deposit and in hand have been verified.

### D. Yearly Statements

1. At each Annual Meeting, there shall be laid before the Commission two financial statements:
  - (a) a provisional statement dealing with the actual and estimated expenditure and income in respect of the current financial year;
  - (b) the budget estimate of expenditure and income for the ensuing year including the estimated amount of the individual annual payment to be requested of each Contracting Government.

Expenditure and income shall be shown under appropriate sub-heads accompanied by such explanations as the Commission may determine.

2. The two financial statements identified in Regulation D.1 shall be despatched by *the most expeditious means available* to each Contracting Government and each Commissioner not less than 60 days in advance of the Annual Commission Meeting. They shall require the Commission's approval after having been referred to the Finance and Administration Committee for consideration and recommendations. A copy of the final accounts shall be sent to all Contracting Governments after they have been audited.

3. Supplementary estimates may be submitted to the Commission, as and when may be deemed necessary, in a form consistent with the Annual Estimates. Any supplementary estimate shall require the approval of the Commission after being referred to the Finance and Administration Committee for consideration and recommendation.

**E. Contributions**

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. If any new Contracting Government's first payment has not been received by the due date, the provisions of Regulation F.1 shall apply immediately and Regulations F.2 and F.3 on the expiration of the appropriate period thereafter.
4. The Secretary shall report at each Annual Meeting the position as regards the collection of annual payments.

**F. Arrears of Contributions**

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 compound interest shall be added to the outstanding annual payment at a rate of 10% per annum with effect from the day following the due date and thereafter on the anniversary of that 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, the Secretary shall not make available any Commission documentation, excluding individual correspondence, to the Contracting Government concerned, such documentation to be reserved for provision at such time as the amount in arrears, including interest, is settled in full.
3. 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, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.
4. Any interest paid by a Contracting Government to the Commission in respect of late annual payments shall be credited to the General Fund.
5. 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.

**Appendix 1****VOLUNTARY FUND FOR SMALL CETACEANS***Purpose*

The Commission decided at its 46th Annual Meeting in 1994 to establish an IWC voluntary fund to allow for the participation from developing countries in future small cetacean work and requested the Secretary to make arrangements for the creation of such a fund whereby contributions in cash and in kind can be registered and utilised by the Commission.

*Contributions*

The Commission has called on Contracting Governments and non-contracting Governments, intergovernmental organisations and other entities as appropriate, in particular those most interested in scientific research on small cetaceans, to contribute to the IWC voluntary fund for small cetaceans.

Acceptance of contributions from entities other than Governments will be subject to the Commission's procedures for voluntary contributions. Where funds or support in kind are to be made available through the Voluntary Fund, the donation will be registered and administered by the Secretariat in accordance with Commission procedures.

The Secretariat will notify all members of the Commission on receipt of such voluntary contributions.

Where expenditure is incurred using these voluntary funds the Secretariat will inform the donors of their utilisation.

*Distribution of Funds*

1. Recognising that there are differences of view on the legal competence of the Commission in relation to small cetaceans, but aware of the need to promote the development of increased participation by developing countries, the following primary forms of disbursement will be supported in accordance with the purpose of the Voluntary Fund:
  - (a) provision of support for attendance of invited participants at meetings of the Scientific Committee;
  - (b) provision of support for research in areas, species or populations or research methodology in small cetacean work identified as of direct interest or priority in the advice provided by the Scientific Committee to the Commission;
  - (c) other small cetacean work in developing countries that may be identified from time to time by the Commission and in consultation with intergovernmental agencies as requiring, or likely to benefit from support through the Fund.
2. Where expenditure is proposed in support of invited participants, the following will apply:
  - (a) invited participants will be selected through consultation between the *Chair* of the Scientific Committee, the Convenor of the appropriate sub-committee and the Secretary;
  - (b) the government of the country where the scientists work will be advised of the invitation and asked if it can provide financial support.
3. Where expenditure involves research activity, the following will apply:
  - (a) the normal procedures for review of proposals and recommendations by the Scientific Committee will be followed;
  - (b) appropriate procedures for reporting of progress and outcomes will be applied and the work reviewed;
  - (c) the Secretariat shall solicit the involvement, as appropriate, of governments in the regions where the research activity is undertaken.

# Rules of Procedure of the Scientific Committee

## TERMS OF REFERENCE

The Scientific Committee, established in accordance with the Commission's Rule of Procedure M.1, has the general terms of reference defined in Rule of Procedure M.4.

In this regard, the DUTIES of the Scientific Committee, can be seen as a progression from the scientific investigation of whales and their environment, leading to assessment of the status of the whale stocks and the impact of catches upon them, and then to provision of management advice on the regulation of whaling. This can be defined in the following terms for the Scientific Committee to:

- Encourage, recommend, or if necessary, organise studies and investigations related to whales and whaling [Convention Article IV.1(a)]
- Collect and analyse statistical information concerning the current condition and trend of whale stocks and the effects of whaling activities on them [Article IV.1 (b)]
- Study, appraise, and disseminate information concerning methods of maintaining and increasing the population of whale stocks [Article IV.1 (c)]
- Provide scientific findings on which amendments to the Schedule shall be based to carry out the objectives of the Convention and to provide for the conservation, development and optimum utilization of the whale resources [Article V.2 (a) and (b)]
- Publish reports of its activities and findings [Article IV.2]

In addition, specific FUNCTIONS of the Scientific Committee are to:

- Receive, review and comment on Special Permits issued for scientific research [Article VIII.3 and Schedule paragraph 30]
- Review research programmes of Contracting Governments and other bodies [Rule of Procedure M.4]

SPECIFIC TOPICS of current concern to the Commission include:

- Comprehensive Assessment of whale stocks [*Rep. int. Whal. Commn* 34:30]
- Implementation of the Revised Management Procedure [*Rep. int. Whal. Commn* 45:43]
- Assessment of stocks subject to aboriginal subsistence whaling [Schedule paragraph 13(b)]
- Development of the Aboriginal Subsistence Whaling Management Procedure [*Rep. int. Whal. Commn* 45:42-3]
- Effects of environmental change on cetaceans [*Rep. int. Whal. Commn* 43:39-40; 44:35; 45:49]
- Scientific aspects of whale sanctuaries [*Rep. int. Whal. Commn* 33:21-2; 45:63]
- Scientific aspects of small cetaceans [*Rep. int. Whal. Commn* 41:48; 42:48; 43:51; 45:41]
- Scientific aspects of whalewatching [*Rep. int. Whal. Commn* 45:49-50]

## A. Membership and Observers

1. The Scientific Committee shall be composed of scientists nominated by the Commissioner of each Contracting Government which indicates that it wishes to be represented on that Committee. The Secretary of the Commission and relevant members of the Secretariat shall be ex officio non-voting members of the Scientific Committee.
2. The Scientific Committee recognises that representatives of Inter-Governmental Organisations with particular relevance to the work of the Scientific Committee may also participate as non-voting members, subject to the agreement of the **Chair** of the Committee acting according to such policy as the Commission may decide.
3. Further to paragraph 2 above the World Conservation Union (IUCN) shall have similar status in the Scientific Committee.
4. Non-member governments may be represented by observers at meetings of the Scientific Committee, subject to the arrangements given in Rule C.1(a) of the Commission's Rules of Procedure.
5. Any other international organisation sending an accredited observer to a meeting of the Commission may nominate a scientifically qualified observer to be present at meetings of the Scientific Committee. Any such nomination must reach the Secretary not less than 60 days before the start of the meeting in question and must specify the scientific qualifications and relevant experience of the nominee. The **Chair** of the Scientific Committee shall decide upon the acceptability of any nomination but may reject it only after consultation with the **Chair** and Vice-**Chair** of the Commission. Observers admitted under this rule shall not participate in discussions but the papers and documents of the Scientific Committee shall be made available to them at the same time as to members of the Committee.
6. The **Chair** of the Committee, acting according to such policy as the Commission or the Scientific Committee may decide, may invite qualified scientists not nominated by a Commissioner to participate by invitation or otherwise in committee meetings as non-voting contributors. They may present and discuss documents and papers for consideration by the Scientific Committee, participate on sub-committees, and they shall receive all Committee documents and papers.
  - (a) Convenors will submit suggestions for Invited Participants (including the period of time they would like them to attend) to the **Chair** (copied to the Secretariat) not less than four months before the meeting in question. The Convenors will base their suggestions on the priorities and initial agenda identified by the Committee and Commission at the previous meeting. The **Chair** may also consider offers from suitably qualified scientists to contribute to priority items on the Committee's agenda if they submit such an offer to the Secretariat not less than four months before the meeting in question, providing information on the contribution they believe that they can make. Within two weeks of this, the **Chair**, in consultation with the Convenors and Secretariat, will develop a list of invitees.
  - (b) The Secretary will then promptly issue a letter of invitation to those potential Invited Participants suggested by the **Chair** and Convenors. That letter will state that there may be financial support available, although invitees will be encouraged to find their own support. Invitees who wish to be considered for travel and subsistence will be asked to submit an estimated airfare (incl. travel to and from



the airport) to the Secretariat, within 2 weeks. Under certain circumstances (e.g. the absence of a potential participant from their institute), the Secretariat will determine the likely airfare.

At the same time as (b) a letter will be sent to the government of the country where the scientists is domiciled for the primary purpose of enquiring whether that Government would be prepared to pay for the scientist's participation. If it is, the scientist is no longer an Invited Participant but becomes a national delegate.

- (c) At least three months before the meeting, the Secretariat will supply the *Chair* with a list of participants and the estimated expenditure for each, based on (1) the estimated airfare, (2) the period of time the *Chair* has indicated the IP should be present and (3) a daily subsistence rate based on the actual cost of the hotel deemed most suitable by the Secretary and *Chair*<sup>1</sup>, plus an appropriate daily allowance.

At the same time as (c) a provisional list of the proposed Invited Participants will be circulated to Commissioners, with a final list attached to the Report of the Scientific Committee.

- (d) The *Chair* will review the estimated total cost for all suggested participants against the money available in the Commission's budget. Should there be insufficient funds, the *Chair*, in consultation with the Secretariat and Convenors where necessary, will decide on the basis of the identified priorities, which participants should be offered financial support and the period of the meeting for which that support will be provided. Invited Participants without IWC support, and those not supported for the full period, may attend the remainder of the meeting at their own expense.
- (e) At least two months before the meeting, the Secretary will send out formal confirmation of the invitations to all the selected scientists, in accordance with the Commission's Guidelines, indicating where appropriate that financial support will be given and the nature of that support.
- (f) In exceptional circumstances, the *Chair*, in consultation with the Convenors and Secretariat, may waive the above time restrictions.
- (g) The letter of invitation to Invited Participants will include the following ideas:
- (h) Under the Committee's Rules of Procedure, Invited Participants may present and discuss papers, and participate in meetings (including those of subgroups). They are entitled to receive all Committee documents and papers. They may participate fully in discussions pertaining to their area of expertise. However, discussions of Scientific Committee procedures and policies are in principle limited to Committee members nominated by member governments. Such issues will be identified by the *Chair* of the Committee during discussions. Invited Participants are also urged to use their discretion as regards their involvement in the formulation of potentially controversial recommendations to the Commission; the *Chair* may at his/her discretion rule them out of order.

7. A small number of interested local scientists may be

permitted to observe at meetings of the Scientific Committee on application to, and at the discretion of, the *Chair*. Such scientists should be connected with the local Universities, other scientific institutions or organisations, and should provide the *Chair* with a note of their scientific qualifications and relevant experience at the time of their application.

## B. Agenda

1. The initial agenda for the Committee meeting of the following year shall be developed by the Committee prior to adjournment each year. The agenda should identify, as far as possible, key issues to be discussed at the next meeting and specific papers on issues should be requested by the Committee as appropriate.
2. The provisional agenda for the Committee meeting shall be circulated for comment 60 days prior to the Annual Meeting of the Committee. Comments will normally be considered for incorporation into the draft agenda presented to the opening plenary only if received by the *Chair* 21 days prior to the beginning of the Annual Meeting.

## C. Organisation

1. The Scientific Committee shall include standing sub-committees and working groups by area or species, or other subject, and a standing sub-committee on small cetaceans. The Committee shall decide at each meeting on sub-committees for the coming year.
2. The sub-committees and working groups shall prepare the basic documents on the identification, status and trends of stocks, including biological parameters, and related matters as necessary, for the early consideration of the full Committee.
3. The sub-committees, except for the sub-committee on small cetaceans, shall concentrate their efforts on stocks of large cetaceans, particularly those which are currently exploited or for which exploitation is under consideration, or for which there is concern over their status, but they may examine matters relevant to all cetaceans where appropriate.
4. The *Chair* may appoint other sub-committees as appropriate.
5. The Committee shall elect from among its members a *Chair* and *Vice-Chair* who will normally serve for a period of three years. They shall take office at the conclusion of the annual meeting at which they are elected. The *Vice-Chair* shall act for the *Chair* in his/her absence.

## D. Meetings

1. Meetings of the Scientific Committee as used in these rules include all meetings of subgroups of the Committee, e.g. sub-committees, working groups, workshops, etc.
2. The Scientific Committee shall meet prior to the Annual Meeting of the Commission. Special meetings of the Scientific Committee or its subgroups may be held as agreed by the Commission or the *Chair* of the Commission.

<sup>1</sup> [Invited participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

3. The Scientific Committee will organise its work in accordance with a schedule determined by the *Chair* with the advice of a group comprising sub-committee/working group *chairmen* and relevant members of the Secretariat.

#### **E. Scientific Papers and Documents**

The following documents and papers will be considered by the Scientific Committee for discussion and inclusion in its report to the Commission:

1. Progress Reports. Each nation having information on the biology of cetaceans, cetacean research, the taking of cetaceans, or other matters it deems appropriate should prepare a brief progress report following in the format agreed by the Committee.
2. Special Reports. The Committee may request special reports as necessary on matters to be considered by the Committee for the following year.
3. Sub-committee Reports. Reports of the sub-committees or working groups shall be included as annexes to the Report to the Commission. Recommendations contained therein shall be subject to modification by the full Committee before inclusion in its Report.
4. Scientific and Working Papers.
  - (a) Any scientist may submit a scientific paper for consideration by the Committee. The format and submission procedure shall be in accordance with guidelines established by the Secretariat with the concurrence of the Committee. Papers published elsewhere may be distributed to Committee members for information as relevant to specific topics under consideration.
  - (b) Scientific papers will be considered for discussion and inclusion in the papers of the Committee only if the paper is received by the Secretariat on or by the first day of the annual Committee meeting, intersessional meeting or any sub-group. Exceptions to this rule can be granted by the *Chair* of the Committee where there are exceptional extenuating circumstances.
  - (c) Working papers will be distributed for discussion only if prior permission is given by the *Chair* of the committee or relevant sub-group. They will be archived only if they are appended to the meeting report.
  - (d) The Scientific Committee may receive and consider unpublished scientific documents from non-members of the Committee (including observers) and may invite them to introduce their documents at a meeting of the Committee provided that they are received under the same conditions (with regard to timing etc.) that apply to members.
5. Publication of Scientific Papers and Reports.
  - (a) Scientific papers and reports considered by the Committee that are not already published shall be included in the Commission's archives in the form in which they were considered by the Committee or its sub-committees. Papers submitted to meetings shall be available on request at the same time as the report of the meeting concerned (see (b) below).
  - (b) The report of the Annual Meeting of the Scientific Committee shall be distributed to the Commission no later than the beginning of the opening plenary of the Annual Commission Meeting and is confidential until this time.

- (i) Reports of intersessional Workshops or Special Committee Meetings are confidential until they have been dispatched by the Secretary to the full Committee, Commissioners and Contracting Governments.
- (ii) Reports of intersessional Steering Groups or Sub-committees are confidential until they have been discussed by the Scientific Committee, normally at an Annual Meeting.

The Scientific Committee should identify the category of any intersessional meetings at the time they are recommended.

In this context, 'confidential' means that reporting of discussions, conclusions and recommendations is prohibited. This applies equally to Scientific Committee members, invited participants and observers. Reports shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time.

The Scientific Committee should identify the category of any intersessional meetings at the time they are recommended.

- (c) Scientific papers and reports (revised as necessary) may be considered for publication by the Commission. Papers shall be subject to peer review before publication. Papers submitted shall follow the Guidelines for Authors published by the Commission.

#### **F. Review of Scientific Permits**

1. When proposed scientific permits are sent to the Secretariat before they are issued by national governments the Scientific Committee shall review the scientific aspects of the proposed research at its annual meeting, or during a special meeting called for that purpose and comment on them to the Commission.
2. The review process shall take into account guidelines issued by the Commission.
3. The proposed permits and supporting documents should include specifics as to the objectives of the research, number, sex, size, and stock of the animals to be taken, opportunities for participation in the research by scientists of other nations, and the possible effect on conservation of the stock resulting from granting the permits.
4. Preliminary results of any research resulting from the permits should be made available for the next meeting of the Scientific Committee as part of the national progress report or as a special report, paper or series of papers.

#### **G. Financial Support for Research Proposals**

1. The Scientific Committee shall identify research needs.
2. It shall consider unsolicited research proposals seeking financial support from the Commission to address these needs. A sub-committee shall be established to review and rank research proposals received 4 months in advance of the Annual Meeting and shall make recommendations to the full Committee.
3. The Scientific Committee shall recommend in priority order those research proposals for Commission financial support as it judges best meet its objectives.

#### **H. Availability of data**

The Scientific Committee shall work with the Secretariat to ensure that catch and scientific data that the Commission holds are archived and accessible using modern computer

data handling techniques. Access to such data shall be subject to the following rules.

1. Information identified in Section VI of the Schedule that shall be notified or forwarded to the IWC or other body designated under Article VII of the Convention.

This information is available on request through the Secretariat to any interested persons with a legitimate claim relative to the aims and purposes of the Convention<sup>2</sup>

2. Information and reports provided where possible under Section VI of the Schedule.

When such information is forwarded to the IWC a covering letter should make it clear that the information or report is being made available, and it should identify the pertinent Schedule paragraph under which the information or report is being submitted.

Information made available to the IWC under this provision is accessible to accredited persons as defined under 4. below, and additionally to other interested persons subject to the agreement of the government submitting the information or report.

Such information already held by the Commission is not regarded as having been forwarded until such clarification of its status is received from the government concerned.

3. Information neither required nor requested under the Schedule but which has been or might be made available to the Commission on a voluntary basis.

This information is of a substantially different status from the previous two types. It can be further divided into two categories:

(a) *Information collected under International Schemes*

- (i) Data from the IWC sponsored projects.
- (ii) Data from the International Marking Scheme.
- (iii) Data obtained from international collaborative activities which are offered by the sponsors and accepted as contributions to the Comprehensive Assessment, or proposed by the Scientific Committee itself.

Information collected as the result of IWC sponsored activities and/or on a collaborative basis

with other organisations, governments, institutions or individuals is available within those contributing bodies either immediately, or, after mutual agreement between the IWC and the relevant body/person, after a suitable time interval to allow 'first use' rights to the primary contributors.

- (b) *Information collected under national programmes, or other than in (a).*

Information in this category is likely to be provided by governments under special conditions and would hence be subject to some degree of restriction of access. This information can only be held under the following conditions:

- (i) A minimum level of access should be that such data could be used by accredited persons during the Scientific Committee meetings using validated techniques or methods agreed by the Scientific Committee. After the meeting, at the request of the Scientific Committee, such data could be accessed by the Secretariat for use with previously specified techniques or validated programs. Information thus made available to accredited persons should not be passed on to third parties but governments might be asked to consider making such records more widely available or accessible.
- (ii) The restrictions should be specified at the time the information is provided and these should be the only restrictions.
- (iii) Restrictions on access should not discriminate amongst accredited persons.
- (iv) All information held should be documented (i.e. described) so that accredited persons know what is held, along with stated restrictions on the access to it and the procedures needed to obtain permission for access.

4. Accredited persons are those scientists defined under sections A.1, 2, 3 and 6 of the Rules of Procedure of the Scientific Committee. Invited participants are also considered as 'accredited' during the intersessional period following the meeting which they attend.

<sup>2</sup> [The Government of Norway notes that for reasons of domestic legislation it is only able to agree that data it provides under this paragraph are made available to accredited persons]





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