

Annual Report of the International Whaling Commission 2004



Covering the
2003-2004
financial year
and the 56th
Annual Meeting
held in
Sorrento
in 2004



Annual Report of the International Whaling Commission 2004

**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 A. Liverpool	02.07.04
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
Belgium	15.07.04	Mr A. de Lichtervelde	14.07.04
Belize	17.06.03	The Hon I. Cal	01.04.04
Benin	26.04.02	Mr Bantole Yaba	06.05.02
Brazil	04.01.74	Coun. M. Pessoa	15.06.04
Chile	06.07.79	Ambassador M. Fernández	26.09.02
People's Republic of China	24.09.80	Mr Li Jianhua	06.06.00
Costa Rica	24.07.81	Not notified	
Cote D'Ivoire	08.07.04	Dr A.J. Djobo	16.07.04
Czech Republic	26.01.05	Dr P. Hýčova	17.03.05
Denmark	23.05.50	Mr H. Fischer (Chair)	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 J.G. Mandon	28.05.03
Gabon	08.05.02	Dr G. Rerambyath	13.04.04
Germany	02.07.82	Mr P. Bradhering	22.06.01
Grenada	07.04.93	Hon G. Bowen	25.06.04
Guinea	21.06.00	Mr I. Sory Touré	29.07.03
Hungary	01.05.04	Dr K. Rodics	06.06.04
Iceland	10.10.02	Mr S. Asmundsson	14.10.02
India	09.03.81	Mr S.V. Rishi	21.05.03
Ireland	02.01.85	Mr C. O'Grady	13.05.03
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 S. Weru	08.05.01
Kiribati	28.12.04	Not notified	
Republic of Korea	29.12.78	Mr K.H. Barng	15.06.04
Mali	17.08.04	Not notified	
Mauritania	23.12.03	Mr S.M.O. Sidina	04.05.04
Mexico	30.06.49	Dr E.E. Real de Azúa	14.11.03
Monaco	15.03.82	Prof F. Briand	13.06.03
Mongolia	16.05.02	Not notified	
Morocco	12.02.01	Mr A. Fahfouhi	01.04.04
Netherlands	14.06.77	Mr G.B. Raaphorst	11.07.02
New Zealand	15.06.76	Rt Hon Sir G. Palmer	02.12.02
Nicaragua	05.06.03	Mr M. Marengo	05.06.03
Norway	23.09.60	Ambassador K. Klepshvik	26.11.04
Oman	15.07.80	Mr I.S. Al-Busaidi	17.03.03
Republic of Palau		Hon K. Nakamura	17.05.02
Panama	12.06.01	Mr R. Santamaria	07.05.03
Peru	18.06.79	Ms E. Velasquez	02.04.04
Portugal	14.05.02	Mr J.S. Costa	26.01.04
Russian Federation	10.11.48	Mr V.Y. Ilyashenko	02.05.95
San Marino	16.04.02	Mr D. Galassi	10.10.02
St Kitts and Nevis	24.06.92	Mr C. Liburd	12.04.01
St Lucia	29.06.81	Hon I. Jean	28.04.04
St Vincent & The Grenadines	22.07.81	Senator E. Snagg	05.03.03
Senegal	15.07.82	Dr N. Gueye	05.03.02
Solomon Islands	10.05.93	Mr S. Diake	15.03.04
South Africa	10.11.48	Mr H. Kleinschmidt (Vice-Chair)	11.07.03
Spain	06.07.79	Mr R. Centenera	01.08.04
Suriname	15.07.04	Mr J. Sahtoe	09.07.04
Sweden	15.06.79	Prof B. Fernholm	15.02.96
Switzerland	29.05.80	Dr T. Althaus	24.02.97
Tuvalu	30.06.04	Mr P. Neleson	13.07.04
UK	10.11.48	Mr R. Cowan	21.05.01
USA	10.11.48	Mr R. Schmitten	23.06.00

Dr N. Grandy, Secretary to the Commission, 25 April 2005

Preface

Welcome to the seventh of the series, the '*Annual Report of the International Whaling Commission*'. Subscription details for the publications of the International Whaling Commission can be found on the Commission web site (www.iwcoffice.org), by e-mailing subscriptions@iwcoffice.org or by the more traditional means of writing, telephoning or faxing the Office of the Commission (details are given on the title page and on the back cover of this volume).

This report contains the Chair's Report of the Fifty-Sixth meeting of the IWC, held in Sorrento, Italy in July 2004. The text of the Convention and its Protocol are also included, as well as the latest versions of the Schedule to the Convention and the Rules of Procedure and Financial Regulations. The Chair's Report includes the reports of the Commission's technical and working groups as annexes.

This year has seen the retirement of one of the longest-serving members of the Secretariat, Daphne Ransom, the Assistant to the Executive Officer. Daphne had served the IWC admirably since the establishment of a permanent Secretariat in 1976. The Commission offers its best wishes for her in the future.

Cover photograph: Statue of St Antonino, an Abbot and the patron Saint of Sorrento, thought to have died on 14 February 830AD. He is a popular saint amongst seamen. The most famous miracle attributed to him was that he freed a young boy swallowed by a whale.

G.P. DONOVAN

Editor

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**SUMMARY OF MAIN OUTCOMES, DECISIONS AND REQUIRED ACTIONS
FROM THE 56TH ANNUAL MEETING**

The main outcomes, decisions and required actions arising from the 56th Annual Meeting of the IWC are summarised in the table below.

Issue	Outcomes, decisions and required actions
Status of stocks	<p>Antarctic minke whales</p> <ul style="list-style-type: none"> • Completion of the revised abundance estimate for Antarctic minke whales continues to be a high priority given that there is no agreed current estimate. <p>Western North Pacific common minke whales</p> <ul style="list-style-type: none"> • The Scientific Committee expects to begin an in-depth assessment of western North Pacific common minke whales, with a focus on the J stock, at next year's Annual Meeting. <p>Southern Hemisphere blue whales</p> <ul style="list-style-type: none"> • The Scientific Committee agreed that (1) on average, the Antarctic blue whale population is increasing at a mean rate of 7.3% per year; (2) had an estimated circumpolar population size of 1,700 (95% CI 860-2,900) in 1996; and (3) that this population is still severely depleted compared with pre-exploitation levels. <p>Right whales</p> <ul style="list-style-type: none"> • The Scientific Committee again reiterated its recommendation that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality in the North Atlantic right whale stock to zero. Right whales continue to die or become seriously injured by entanglements in fishing gear or ship strikes. The remaining population is estimated at between 300 and 350 animals. <p>Western North Pacific gray whales</p> <ul style="list-style-type: none"> • The Scientific Committee noted with great concern that the evidence is compelling that this population (only about 100 whales) is in serious danger of extinction and that it faces an obvious and immediate threat from industrial activities, including noise, vessel traffic and the potential for a catastrophic oil spill. It recommended as a matter of urgency that measures be taken to protect this population and its habitat off Sakhalin Island and that research and monitoring programmes on this stock by range states continue and expand. • The Commission adopted Resolution 2004-1 that <i>inter alia</i>: (1) endorsed the Scientific Committee's conclusions and recommendations; (2) called on range states to actively pursue all practicable actions to eliminate anthropogenic mortality in this stock and to minimise anthropogenic disturbances in the migration corridor and on breeding and feeding grounds; and (3) requested the Secretariat to offer its services and scientific expertise to organisations concerned with oil and gas development projects and exploration projects in the Sakhalin area. <p>Small cetaceans</p> <ul style="list-style-type: none"> • The Scientific Committee reviewed the status of franciscana and made a number of recommendations including the need for improved estimates of abundance and bycatch. The Committee expressed concern over the status of the vaquita and West Greenland stocks of white whales and narwhals.
Aboriginal subsistence whaling	<p>Aboriginal Whaling Management Procedure</p> <ul style="list-style-type: none"> • The Commission endorsed and adopted the <i>Strike Limit Algorithm (SLA)</i> for eastern North Pacific gray whales proposed by the Scientific Committee. This follows the 2002 adoption of an <i>SLA</i> for the Bering-Chukchi-Beaufort stock of bowhead whales. The Committee will now work to develop a similar approach for the management of Greenlandic whaling. <p>Catch limits</p> <ul style="list-style-type: none"> • The Commission agreed that no changes to the block quotas renewed in 2002 were needed. The Scientific Committee reiterated its grave concern at being unable to provide management advice on Greenlandic whaling. <p>Review of Schedule paragraph 13</p> <ul style="list-style-type: none"> • Schedule language dealing with the different aboriginal subsistence hunts was consolidated and harmonised.

Issue	Outcomes, decisions and required actions
Whale killing methods and associated welfare issues	<ul style="list-style-type: none"> • The Commission passed Resolution 2004-3 requesting further work from the Working Group on Whale Killing Methods and Associated Welfare Issues, and in particular to: <ul style="list-style-type: none"> ➢ examine methods for reducing struck and lost rates; ➢ consider the welfare implications of methods used to kill whales caught in nets; ➢ advise the Commission on establishing better criteria for determining the onset of irreversible insensibility and death, methods for improving the efficiency of whale killing methods and reducing times to death and other associated welfare issues.
The Revised Management Scheme (RMS)	<ul style="list-style-type: none"> • The Commission endorsed the Scientific Committee's <i>Requirements and Guidelines for Implementations</i> and the revised <i>Requirements and Guidelines for Conducting Surveys and Analysing Data within the RMP</i>. • The Commission endorsed the Scientific Committee recommendation to initiate a <i>pre-implementation assessment</i> for North Atlantic fin whales and the plans to hold a Workshop on the <i>pre-implementation assessment</i> of western North Pacific Bryde's whales. • The Commission reviewed a proposal from the Chair for an RMS 'package' of measures. No agreement was reached but Resolution 2004-6 was adopted aimed at having draft text and technical details of an RMS ready for consideration, including for possible adoption, at IWC/57, and/or to identify any outstanding policy and technical issues. The Resolution included a plan of work that revived the RMS Working Group (that last met at IWC/54 in 2002), established a Small Drafting Group and various technical specialist groups and required considerable intersessional work.
Sanctuaries	<p>Southern Ocean Sanctuary (SOS)</p> <ul style="list-style-type: none"> • The Scientific Committee completed its review of the sanctuary as required by the Schedule. The Committee agreed that: (1) whales are not effectively protected from whaling in the SOS, because such Sanctuaries apply only to commercial whaling, and because (apart from stocks that migrate to the IOS) whales also migrate outside of the SOS boundaries; (2) the boundaries of the SOS were appropriately established for some, but not for all stocks; (3) it was not possible to completely evaluate the effectiveness of the SOS because the scientific objectives are not clear and are not associated with quantifiable performance measures. The Committee respectfully requested that the Commission considers clarifying the objective(s) of the SOS in order to allow the Committee to discriminate among designs that would, <i>inter alia</i>: protect whales; protect whale species diversity; and increase whaling yields outside the Sanctuary. • A proposed Schedule amendment that would abolish the Southern Ocean Sanctuary and authorise the take of 2,914 minke whales for each of the 2004/05 to 2008/09 seasons was not adopted. • The next SOS review will take place in 2014 unless the Commission decides otherwise. <p>Proposals for new sanctuaries in the South Pacific and South Atlantic</p> <ul style="list-style-type: none"> • As last year, two Schedule amendments were proposed to create sanctuaries in (1) the South Pacific and (2) the South Atlantic. Neither was adopted.
Socio-economic implications and small-type whaling	<ul style="list-style-type: none"> • Two proposed Schedule amendments that would allow the resumption of community based whaling in Japan were not adopted. One proposal was for the taking of 100 minke whales each year for 3 years from the Okhotsk Sea-West Pacific stock. The other was for the taking of 150 Bryde's whales each year for 5 years from the western North Pacific stock. • Resolution 2004-2 was adopted, reaffirming the Commission's commitment to work expeditiously to alleviate the continued difficulties to the Japanese coastal communities of Abashiri, Ayukawa, Wadoura and Taiji caused by the cessation of minke whaling.
Scientific Permits	<ul style="list-style-type: none"> • Discussions of the Scientific Committee focused on reviewing the results and future plans for the ongoing programmes of Japan (i.e. JARPA and JARPNII) and Iceland. No consensus recommendations were made. Given that 2004/05 would be the last year of JARPA, the Committee agreed that it will undertake a full review of results from this 16-year programme once they are available, i.e. some time after the Annual Meeting in 2005. • Last year, the Commission adopted Resolution 2003-3 that <i>inter alia</i>: (1) called on the Government of Japan to halt the JARPA programme or limit it to non-lethal research methodologies; and (2) recommended that no additional JARPA programmes be considered until the Scientific Committee has completed a review of (a) all JARPA results and (b) its abundance estimates for Southern Hemisphere minke whales. The Resolution also recommended that any future programmes should be limited to non-lethal research. As this Resolution remains in force, and to save time, Australia and other co-sponsors withdrew a similar proposed Resolution this year.

Issue	Outcomes, decisions and required actions
Environmental issues	<ul style="list-style-type: none"> • The Scientific Committee agreed that there is now compelling evidence that military sonar has a direct impact on beaked whales in particular and that evidence suggests that some sound from other sources, including ships and seismic activities, gives cause for concern. • The Committee reported on progress with work on other habitat-related issues, including POLLUTION 2000+, collaborative research in the Antarctic, SOCER, Arctic issues and the habitat degradation workshop scheduled to take place in Siena in November 2004. • Discussions on ways to advance collaboration between the Standing Working Group on the Environment and the assessment-related sub-committees and working groups was initiated.
Conservation Committee	<ul style="list-style-type: none"> • The first meeting of the Conservation Committee took place. It addressed general issues relating to the establishment and purpose of the Committee and considered: (1) its relationship with other bodies within the Commission; (2) terms of reference and working methods; (3) items that should fall under its auspices; (4) collaboration with other organisations; and (5) the development of a Conservation Agenda.
Co-operation with other organisations	<ul style="list-style-type: none"> • The Commission adopted Resolution 2004-5 that requested the Secretariat, <i>inter alia</i>, to explore possible synergies between IWC and the Global Environment Facility, including possible support of the involvement of developing country IWC members in projects related to scientific research and/or policies for scientific research concerning the conservation and management of whales.
Future work of the Scientific Committee	<ul style="list-style-type: none"> • The Commission adopted the report from the Scientific Committee, including its proposed work plan for 2004/2005 that includes activities in the following areas: • Revised Management Procedure (RMP), particularly with respect to (1) finalising the guidelines and requirements for implementing the RMP; (2) completion of the <i>pre-implementation assessment</i> for western North Pacific Bryde's whales; and (3) development of stock structure hypotheses as part of the <i>pre-implementation assessment</i> for North Atlantic fin whales. • Estimation of bycatch based on genetic data and data from fisheries and observer programmes. • Aboriginal Subsistence Whaling Management Procedure development particularly in relation to Greenlandic whaling. • Annual reviews of catch data and management advice for eastern North Pacific gray whales, BCB bowhead whales, minke and fin whales off Greenland and humpback whales off St. Vincent and The Grenadines; • In-depth assessments, with particular emphasis on abundance estimates for Southern Hemisphere minke and humpback whales; • Review of the stock identity concept in a management context; • Environmental concerns, with a focus on reviewing the report of the Habitat Degradation Workshop and the outcome of the special session on sea ice and whale habitat; • Whalewatching (WW), with a focus on assessing possible population level impacts of WW on whales and the development of a scientific foundation for WW guidelines; • Small cetaceans, including a review of the status of the finless porpoise. • The Scientific Committee also agreed, that given the case- and area-specific nature of the bycatch problem, to hold a series of broad-based regional Workshops focusing on regions where bycatch problems: (1) have been given priority by the Scientific Committee as part of its normal review process; and (2) are not already being addressed.
Secret ballots	<ul style="list-style-type: none"> • A proposed amendment to the Commission's Rules of Procedure that would increase the opportunities for using secret ballots was not adopted.
Dealing with legal issues	<ul style="list-style-type: none"> • The Commission reviewed a paper outlining options on how it might address future legal issues arising within the IWC. The matter was referred to the meeting of the F&A Committee at IWC/57.
Administration	<p>Simultaneous interpretation and document translation</p> <ul style="list-style-type: none"> • The Commission agreed that from IWC/57 next year, equipment facilities for simultaneous interpretation into French and Spanish should be provided for the Commission's sub-groups (but not the Scientific Committee), the Commission plenary and private meetings of Commissioners. Governments wishing to make use of these facilities would have to provide the interpreters at their own cost.

Issue	Outcomes, decisions and required actions
Administration cont.	<ul style="list-style-type: none"> The Commission also agreed to establish a small Task Force to work with the Secretariat to develop cost estimates and implications for the provision of document translation at Annual Meetings and to report to the F&A Committee at IWC/57. <p>Amendments to the Rules of Procedure and Financial Regulations</p> <ul style="list-style-type: none"> The Commission adopted revised rules regarding the procedure for the appointment of the Chair and Vice-Chair of the Scientific Committee. <p>Frequency of meetings</p> <ul style="list-style-type: none"> Via Resolution 2004-7 the Commission decided to explore the principle of IWC meetings being held less frequently than annually as at present. It agreed to establish a working group to investigate and make recommendations on the implications of less frequent meetings. The Working Group should report to the Commission next year.
Financial Contributions	<p>Interim Measure</p> <ul style="list-style-type: none"> The Commission adopted Resolution 2004-4 designed to take into account the special position of very small countries in calculating financial contributions. Under the Interim Measure for calculating contributions, member countries are allocated into four capacity-to-pay groups based on their GNI and GNI per capita. Via Resolution 2004-4, the Commission decided that Monaco and San Marino should be transferred from capacity-to-pay Group 3 to Group 2 in view of their much smaller GNI compared with other countries in Group 3. This has the effect of reducing the financial contributions of Monaco and San Marino.
Finance and Budget	<p>Financial statements and budget estimates</p> <ul style="list-style-type: none"> The Commission approved the Provisional Financial Statement for 2003-2004 subject to audit. It also approved the budget for 2004-2005, including the research budget, and increases in the NGO observer fee from £570 to £590 and in the media fee from £30 to £35 for 2005. <p>Secretariat office accommodation</p> <ul style="list-style-type: none"> The Commission agreed that for a number of reasons it would not be practical to relocate the Secretariat's offices away from the Cambridge area, but requested the Secretariat to explore alternative premises locally. <p>Budgetary Sub-committee</p> <ul style="list-style-type: none"> The Commission agreed changes to the membership rota for the Budgetary Sub-committee that included extending the term of members from two to three years, appointing a Vice-Chair as well as a Chair and creating two 'open seats' in addition to the nine allocated on the basis of the capacity-to-pay grouping. The Budgetary Sub-committee was requested to clarify the term for the open seats and the status of observers from Contracting Governments not members of the Sub-committee.
Non-governmental organisations	<p>Participation</p> <ul style="list-style-type: none"> The Commission requested the Secretariat to work with the Advisory Committee to explore how the Rules of Procedure might be amended with respect to criteria and fees for NGO participation (e.g. removal of the current requirement that NGOs must have offices in more than three countries; allowing NGOs to have more than one observer in the meeting room at any one time; revising the fee structure such that the effect of these changes, if put in place, would not have a significant impact on fees). <p>Code of Conduct</p> <ul style="list-style-type: none"> The Commission agreed to establish a Working Group comprising Dominica, Iceland (convenor), Japan, the Netherlands, New Zealand, St. Kitts and Nevis, Sweden and the USA to develop a draft Code of Conduct for NGOs for review at IWC/57. The code was to focus on NGO activities during the Annual Meeting and could, if appropriate, include provisions related to the loss of accreditation.
Date and place of Annual Meetings	<ul style="list-style-type: none"> The 57th Annual and associated meetings in 2005 will be held in Ulsan, Republic of Korea during the period 30 May to 24 June. The 58th Annual Meeting in 2006 will be held in St Kitts and Nevis. The dates are to be determined.
Election of the Vice Chair	<ul style="list-style-type: none"> Horst Kleinschmidt (South Africa) was elected as Vice-Chair to replace Carlos Dominguez Diaz (Spain).
Advisory Committee	<ul style="list-style-type: none"> The Commissioner from Dominica was elected onto the Advisory Committee for a further two years to join the Chair (Denmark), the Vice-Chair (South Africa), the Head of Finance and Administration (Norway) and the UK Commissioner.

Chair's Report of the 56th Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 56th Annual Meeting of the International Whaling Commission (IWC) took place from 19-22 July 2004 at the Hilton Sorrento Palace Hotel, Italy. In the absence of the Chair, Henrik Fischer (Denmark) and Vice-Chair, Carlos Dominguez (Spain) who were both unable to attend, the Commission elected by consensus Rolland Schmitt (USA) and Minoru Morimoto (Japan) as Acting Chair and Vice-Chair respectively for the duration of the meeting. A list of delegates and observers attending the meeting is provided in Annex A. The associated meetings of the Scientific Committee and Commission sub-groups were held at the same venue in the period 28 June to 16 July.

1.2 Welcome addresses

On the first morning of the meeting, Dr Giuseppe Ambrosio, Italy's Commissioner to IWC welcomed all participants on behalf of the Government of Italy. He began by noting that while Italy gives great importance to the protection of cetaceans and is against the resumption of commercial whaling, it also respects those having different cultures and beliefs. He believed that because the concept of conservation is inextricably intertwined with the sustainable use of natural resources, it is logical that the conservation of whales be given due attention. Referring to Italy's concern with regard to degradation of the marine environment, Dr Ambrosio was pleased to note that an IWC workshop on the effects of habitat degradation on cetaceans was scheduled to take place in Siena later in the year. He stressed the importance Italy gives to the use of sanctuaries and marine protected areas in cetacean conservation, given the uncertainties regarding the effects global changes have on the environment, and noted that together with France and Monaco, Italy had established a large sanctuary for the protection of cetaceans in the Mediterranean – 50% of which is in the high seas. Dr Ambrosio indicated that Italy would support the establishment of new sanctuaries in the Southern Hemisphere. Finally, he hoped that the pleasant setting of Sorrento would be conducive to the work of the Commission and that its deliberations would lead to concrete progress in protecting an important natural heritage for which all share responsibility.

A welcome address was also given by the On. Scarpa, Undersecretary of State, Ministero delle Politiche Agricole e Forestali at the opening of the second day of the meeting. Recognising fisheries as an ancient activity on the one hand but at the same time a modern and very topical activity, the On. Scarpa noted that regulating fisheries is as hard, if not harder than regulating other sectors of the economy because of the pressure placed on those responsible. He further noted that fisheries is an area where new policies are being tested to find the right balance between the conservation of natural resources and their commercial use, and referred to work within the European Union to develop a set of shared goals for fisheries in the Mediterranean. He stressed the need to involve all stakeholders, including the fishermen themselves. While being aware of the need to manage the social and cultural problems encountered in

conservation, the On. Scarpa believed that cetacean conservation also requires scientists, governments, NGOs and the few whalers left to reflect on how this resource can be protected, noting the multiple risks to which cetaceans are exposed. He considered that the notion of a common resource is particularly cogent for cetaceans and referred to the United Nations Convention of Law of the Sea (UNCLOS) that allows governments to adopt more stringent conservation measures for cetaceans that those that might apply to other species. He also referred to the Monaco Agreement of November 1996 that acknowledges cetaceans as an integral part of the ecosystem and an agreement that has led governments to adopt a common approach to addressing a problem of common interest. Finally, he did not want the negative opinion expressed by some on whaling (an activity in which few are engaged) to influence the general opinion on fisheries (an activity that affects everyone). He saw no need for conflict between the environment and fishermen, stressing that there must be a relationship of mutual understanding with shared goals.

1.3 Opening statements

The Chair welcomed the following six new Contracting Governments who had adhered since the last Annual Meeting:

- Mauritania – adhered on 23 December 2003;
- Hungary – adhered 1 June 2004;
- Tuvalu – adhered 30 June 2004;
- Côte d'Ivoire – adhered 8 July 2004;
- Belgium – adhered 14 July 2004; and
- Suriname – adhered 14 July 2004.

Reminding the meeting that the Commission's practice is to invite oral opening statements only from new Contracting Governments – existing Contracting Governments and observers can submit written opening statements – the Chair invited the new member countries to address the meeting.

Mauritania noted that as a state with a coastline of over 700km, fishing has a predominant role, generating more than 50% of export income and about 25% of budgetary income. Its strategy for the exploitation of marine fishery resources is based on their sustainable use, but it also supports the protection of endangered marine species. Mauritania explained that this strategy is also the basis for its adherence to the IWC and to all other institutions involved in the regulation and management of marine resources. It noted that it will base its decisions on science and, where insufficient data are available, on the application of the precautionary principle.

Hungary noted that as a small country with high biodiversity, it has made great efforts to protect its environment. These efforts have been further strengthened by its recent accession to the European Union. It reported that over 10% of its territory is protected, with 10 national parks – one of which was established over 30 years ago. It has more than 1,000 protected species for which trade is prohibited. Although it is a land-locked country, Hungary believed that it could contribute to the preservation of the oceans – a common heritage of mankind.

Tuvalu noted that its territory comprises eight low-lying atolls and reef islands scattered across the central Pacific Ocean. While its total land area is only 26 square kilometres, its ocean area covers almost one million square kilometres. Tuvalu therefore relies heavily on marine resources and is keenly aware of the impact of overfishing. It wishes to use and conserve marine resources wisely and prevent overexploitation. Since 1978, its national policies have tried to increase fish catches in Tuvalu waters, identify new stocks that have the potential for commercial exploitation, maximise financial returns from foreign fishing operators, and to improve the domestic management of its marine resources. Although whales migrate through its waters, there is no reliable inventory of species and numbers. Tuvalu wishes to establish a long-term whale research programme and would be pleased to receive any technical support, assistance and guidance from IWC or from any of its members in launching such an initiative. It looked forward to working closely with members of the Commission to achieve the Commission's long term goals.

Côte d'Ivoire noted that it has given full support to Conventions aimed at the rational and sustainable exploitation of natural resources, particularly marine resources and adheres fully to the spirit and word of the International Convention for the Regulation of Whaling. It would support Commission resolutions for a sustainable and responsible use of whale resources based on sound science and to this end suggested that the RMS should be completed and implemented. It also noted its determination to work with other Contracting Governments to ensure the preservation of whale stocks.

Belgium noted that its adherence to the Convention was supported strongly by its parliament and civil society. It believed its adherence is coherent with Belgium's early expeditions in Antarctica and its participation as founding members of the Antarctic Treaty and CCAMLR. It also believed it significant that Belgium was joining IWC at the time the Conservation Committee is being launched. It noted that it will work actively and constructively with all Commission members towards a high level of governance, transparency and efficiency with a view to taking the right decisions for the benefit of present and future generations and in collaboration with other international bodies.

Suriname noted that it supports the principle of the sustainable use of all marine living resources, including cetaceans. As part of the Amazon region, it is well-endowed with freshwater and arable land as well as valuable fishery resources. Deep-sea fishing is the largest exporting industry within Suriname's agricultural sector. Suriname has made significant investments to make its fishing industry viable and has taken measures to comply with all international regulations regarding sustainability and biodiversity. It has followed the debate in IWC for many years and is surprised that whales, which consume large quantities of fish, are regarded by many as a resource that should remain unutilised at a time when nations are striving to maintain food security. Suriname recognised IWC as the global authority in relation to the management of whales and the regulation of whaling, but expected it to respect the interests of both the resources and the users of those resources and to base decisions on the best scientific advice available.

1.4 Credentials and voting rights

The Secretary reported that the credentials committee, comprising Japan, New Zealand and the Secretary, agreed that all credentials were in order. She noted that voting rights were suspended for Costa Rica, Côte d'Ivoire, Morocco and Senegal and that when voting commenced she would call on Gabon first. Senegal's voting rights were restored later in the meeting.

1.5 Meeting arrangements

The Chair asked Contracting Governments to:

- (1) keep Resolutions to a minimum and to consult widely in their preparation; and
- (2) be brief and to the point in their interventions, and to associate themselves, where possible, with earlier speakers who had similar views.

He reconfirmed previous arrangements regarding speaking rights for Intergovernmental Organisations (IGOs), i.e. that he would allow them to make one intervention on a substantive agenda item and that any IGO wishing to speak should let him know in advance. The Secretary drew attention to the arrangements for the submission of Resolutions and other documents.

2. ADOPTION OF THE AGENDA

The Chair drew attention to the provisional annotated agenda and to his proposed order of business. He noted that because of the change in responsibilities of Carlos Dominguez that prevented him from continuing as Vice-Chair of the Commission, a new Vice-Chair needed to be elected. He proposed that a new Item 25 be inserted to deal with this matter. The adopted agenda is given in Annex B. Noting that he was aware of differing views among Contracting Governments as to whether some of the items should be on the agenda, he proposed that, as in previous years, these differences be noted and the agenda adopted with all items retained.

As last year, Japan indicated that it believed a number of items on the agenda were contrary to the objectives or outside the scope of the Convention and that discussion of these matters detracts from the time and resources available to address what in its view were more serious and substantive issues. Japan therefore proposed deletion of Item 7 on whale killing methods and associated welfare issues, Items 8.3 and 8.4 on sanctuaries for the South Pacific and South Atlantic respectively (which had already been discussed thoroughly and rejected by the Commission many times), Item 11 on environmental and health issues, Item 12 on whalewatching, Item 14.1 on small cetaceans and Item 15 on the Conservation Committee. Benin, Republic of Palau, Republic of Guinea, Norway, Gabon, Iceland, St. Kitts and Nevis, St. Lucia, Dominica, Nicaragua, Mauritania, and Morocco spoke in support of Japan. However, the UK, supported by Germany, New Zealand, Italy, India, the USA, Mexico, Brazil, Monaco, Peru, Australia, Spain, and Sweden, could not agree to Japan's proposals. The UK referred to the lengthy discussion on the same issue at last year's Annual Meeting, noted Japan's views, but considered that the items mentioned were legitimate and that it was vital they remained on the agenda and were discussed.

Japan noted the many views both for and against its proposals. Not wishing to prolong the discussion, it withdrew its proposals to delete certain items but indicated that it would make its positions on them clear when those items were discussed.

3. SECRET BALLOTS

3.1 Proposed amendment to Rule of Procedure E.3(d)

Japan again introduced its proposed amendment (that was unsuccessful at the 2001, 2002 and 2003 Annual Meetings¹) to broaden the application 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.'

In addition to being available for electing the Chair and Vice-Chair of the Commission, appointing the Secretary of the Commission and selecting Annual Meeting venues – the current situation, Japan believed that voting by secret ballot should be possible for setting catch limits and deciding other regulatory measures. It again noted that the secret ballot is a system commonly used in other international organisations including fisheries management bodies and saw no reason why its proposal should not be accepted by the Commission.

3.2 Commission discussions and action arising

Iceland, Republic of Guinea, Dominica, Antigua and Barbuda, Mauritania, Republic of Korea, Republic of Palau, Norway, Benin, St. Kitts and Nevis, Grenada, St. Vincent and The Grenadines, St. Lucia, Nicaragua, China, Gabon, Tuvalu, Morocco and Dominica spoke in support of Japan's proposal. Iceland noted that national elections are performed by secret ballot and that the same principles should apply internationally. It felt it important that less powerful nations should be able to work without undue pressure from others. As in previous years, Norway believed that transparency should be employed wherever possible but supported Japan's proposal given the real threats of coercion and intimidation surrounding the whaling debate. Others made similar remarks.

The USA, New Zealand, Germany, Italy, UK, Kenya, Australia, Brazil, Monaco, Mexico, Sweden, South Africa, India, Peru, Netherlands, Argentina, Finland, Denmark, Spain, Portugal, France and Switzerland indicated that they could not support the proposal believing it to be contrary to the principles of openness and transparency. Referring to Iceland's comment, Switzerland accepted that secret ballots are appropriate at the level of the individual citizen, but that in the context of intergovernmental organisations, it believed it important that the public be aware of how their countries vote.

In response to a question from Argentina regarding why, in the proposal, there were additional conditions related to secret votes for aboriginal subsistence whaling, Japan explained that this had been included in view of the frequent calls for matters related to aboriginal subsistence

whaling to be decided by consensus. Regarding the number of seconds required for a secret ballot, Japan noted that within CITES, a secret ballot can proceed if requested by one country and seconded by 10 others. As IWC has fewer member governments than CITES, Japan proposed that a call for a secret ballot need only be seconded by five countries.

On being put to a vote, the proposal failed to achieve a majority and was therefore not adopted. There were 24 votes in support of the proposal and 29 against.

4. WHALE STOCKS²

4.1 In-depth assessment of western North Pacific common minke whales

4.1.1 Report of the Scientific Committee

The Committee reviewed the progress made by an intersessional steering group established last year to plan for the in-depth assessment of western North Pacific common minke whales, with a focus on 'J' stock. The Committee developed a series of priority research items that needed to be accomplished before an assessment could be undertaken, including: analysis of survey data; further work on stock identity; and consideration of ways to elucidate the proportion of 'J' stock animals found in the Sea of Japan. It entrusted this work to a further intersessional group.

4.1.2 Commission discussion and action arising

Japan believed that a reported increase in bycatch of 'J' stock animals is a sign of increasing abundance of this stock which its own research suggests to be greater than 15,000 animals. It anticipated that this would be elucidated by the in-depth assessment. The Republic of Korea was pleased to have started work on this stock around the Korean Peninsula. It too believed that the 'J' stock is increasing, but believed that it should be referred to as the 'Korean peninsular stock'.

The UK, supported by Australia, was concerned by the apparent change in position regarding the abundance of this stock. It recalled that last year, the Scientific Committee had taken a very precautionary variant when determining stock abundance. While it did not dispute that bycatch could be increasing, it suggested that this could be due to a number of reasons, including changes in the distribution of the animals or the effort expended in setting nets.

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

4.2 Antarctic minke whales

4.2.1 Report of the Scientific Committee

The Committee has carried out annual surveys in the Antarctic (south of 60°S) since the late 1970s. The last agreed estimates for each of the six management Areas for minke whales were for the period 1982/83 to 1989/90. At the 2000 meeting, 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 analysis of available recent data had

¹ *Ann. Rep. Whaling Comm.* 2001:8, 2002:8 and 2003:6.

² For details of the Scientific Committee's deliberation on this item see *J. Cetacean Res. Manage.* 7 (Suppl.).

suggested that current estimates might be appreciably lower than the previous estimates³.

Subsequently, considerable time has been spent considering Antarctic minke whales with a view to obtaining final estimates of abundance and considering any trend in these. This has included a review of data collection methods and analytical methodology. After considering many of the factors affecting abundance estimates, there is still evidence of a decline in the abundance *estimates*, although it is not clear how this reflects any *actual* change in minke abundance. Three hypotheses that might explain these results have been identified:

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

A considerable amount of work has been undertaken and further work is ongoing. The final part of the Third Circumpolar Survey undertaken as part of the IWC's SOWER research programme has been completed. This work will again be a priority item for discussion at next year's Scientific Committee meeting. Particular attention will be given to the potential relationship between minke whale distribution and the extent and nature of sea ice.

4.2.2 Commission discussion and action arising

Japan considered that the difference in abundance estimates between CPII and CPIII cannot be fully explained by biological reasons and that the employment of different survey designs, survey methods and timing between the series, as well as differences in sea ice, may have had an impact. It was therefore pleased to see that the Scientific Committee is now working on elucidating the reasons for these differences and awaited the outcome with interest. Japan noted that results from JARPA do not show any sign of declines in abundance and concluded that stock abundance is stable, supporting the view that the differences between CPII and CPIII are apparent.

Australia noted that Japan's suggestion that abundance estimates are stable is not the consensus view of the Scientific Committee. Rather it believed it to be clear that uncertainty surrounding stock abundance continues and drew attention to the high priority given by the Scientific Committee on this issue. Referring to its comments on this matter in earlier years, Australia again expressed concern that a large number of minke whales are being taken in the Antarctic despite the uncertainty in stock abundance. The USA and Germany agreed.

St. Lucia congratulated those involved in the SOWER series and thanked Japan for providing the vessels and support to this work. It urged other governments with similar resources to contribute in a similar fashion to ensure continuation of this important work.

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

4.3 Southern Hemisphere whales other than minke whales

4.3.1 Report of the Scientific Committee

4.3.1.1 HUMPBACK WHALES

Considerable progress has been made in recent years in working towards an assessment of humpback whales. Attention has focussed both on data from historic whaling operations and on newly acquired photo-identification, biopsy and sightings data. The Committee made a number of research recommendations to further progress towards an assessment. An intersessional group was established last year to review progress and determine whether it is feasible to set a deadline for the assessment to be completed. Further work was identified this year and progress was reviewed. Further work remains to be completed.

4.3.1.2 BLUE WHALES

The Committee is beginning 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 progress is being made on this. Work on genetic and acoustic differentiation techniques is continuing and there is considerable progress with morphological methods. The Committee has agreed on a number of issues that need to be resolved before it is in a position to carry out an assessment, which it believes should commence in 2006. This year, the Committee reviewed a paper by Branch *et al.* (2004⁴). The Committee agreed that this research supported the conclusions that: (1) on average, the Antarctic blue whale population is increasing at a mean rate of 7.3% per annum (95% CI 1.4–11.6%); (2) had an estimated circumpolar population size of 1,700 (95% CI 860–2,900) in 1996; and (3) that this population is still severely depleted with the 1996 population estimate estimated to be at 0.7% (95% CI 0.3–1.3%) of the estimated pre-exploitation level.

4.3.2 Commission discussion and action arising

Australia was encouraged that Southern Hemisphere humpback whales are apparently increasing in and around its waters and reported that it is good news for its whalewatching industry that relies on increasing numbers of humpback whales. Believing that some sightings surveys and modelling exercises may be over-estimating the numbers of some humpback populations, Australia looked forward to greater clarity of what it believed were apparent anomalies.

Japan reported that results from JARPA indicated sharp increases in the numbers of humpback and fin whales. It quoted estimates of 41,000 for humpback whales and 15,000 for fin whales in the north of the survey area (suggesting an estimate of 68,000 for the total stock). Australia, the UK and New Zealand believed these estimates to be flawed. Japan responded that the areas where these increases have been seen are south of 60°S. It believed that there are certain biological reasons for these increases but also suggested that some animals may have moved south from Australian waters. Japan also suggested that the increase in numbers of various large whale species in the Southern Hemisphere may not be helpful to the recovery of blue whales, given interspecific competition. Brazil, supported by Australia did not agree.

⁴ Branch, T.A., Matsuoka, K. and Miyashita, T. 2004. Evidence for increases in Antarctic blue whales based on Bayesian modelling. *Mar. Mammal Sci.* 20(4): 726-754.

³ *J. Cetacean Res. Manage.* 3 (Suppl.): 29-32.

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

4.4 Other small stocks – bowhead, right and gray whales

4.4.1 Report of the Scientific Committee

4.4.1.1 SMALL STOCKS OF BOWHEAD WHALES

The Committee received information of a number of analyses on the stock identity, movements and abundance of bowhead whales from the Davis Strait/Baffin Bay and Hudson Bay/Foxe basin regions. There were no reports of any catches in 2004.

4.4.1.2 NORTH ATLANTIC RIGHT WHALES

The Committee has paid particular attention to the status of the North Atlantic right whale in the western North Atlantic in recent years (e.g. see *JCRM Special Issue 2: Right Whales: Worldwide Status*). The Committee is extremely concerned about this population, which, whilst probably the only potentially viable population of this species, is in serious danger (ca 300 animals). 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.

This year, the Committee once again noted that individuals from this stock are continuing to die or become seriously injured as a result of becoming entangled in fishing gear or being struck by ships. It repeated 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 reviewed progress on a number of research and management recommendations concerning this stock.

4.4.1.3 NORTH PACIFIC RIGHT WHALES

The Committee received reports of sightings of the endangered North Pacific right whales, including news of one biopsy sample and three photo-identification photographs

4.4.1.4 SOUTHERN RIGHT WHALES

The Committee received reports of continuing increases in Southern right whale numbers off South Africa. It was estimated that there are more right whales there now than at any time in the last 150 years. The Committee recommends that the over 30 year monitoring programme be continued, noting its value to conservation and management.

The Committee also received reports of right whales off Brazil and Argentina, and reviewed the report of a photo-identification workshop held in Adelaide, Australia.

4.4.1.5 WESTERN NORTH PACIFIC GRAY WHALES

This is one of the most endangered populations of great whales in the world. It numbers less than 100 animals and there are a number of proposed oil and gas-related projects in and near its only known feeding ground. The Committee held a Workshop in October 2002 to review this further. The Workshop report was published in *J. Cetacean Res. Manage.* 6 (Suppl.). Overall, the Workshop agreed with the conclusions of previous reviews on western gray whales. Specifically, that the population is very small, and suffers from a low number of reproductive females, low calf survival, male-biased sex ratio, dependence upon a

restricted feeding area and apparent nutritional stress (as reflected in a large number of skinny whales). Other major potential concerns include behavioural reactions to noise (notably in light of increasing industrial activity in the area) and the threat of an oil spill off Sakhalin which could cover all or part of the Piltun area and thus potentially exclude animals from this feeding ground. The Workshop had noted that assessments of the potential impact of any single threat to the survival and reproduction of western gray whales were insufficient and had strongly recommended that risk assessments consider the cumulative impact of multiple threats (from both natural and anthropogenic sources). Last year, the Committee adopted the Workshop report and endorsed its recommendations, including the research and monitoring plan.

In reviewing progress this year, the Committee noted with great concern that the evidence is compelling that this population is in serious danger of extinction. It reiterated that the population is small (only about 100 whales) and appears to have biological problems (only 23 reproductive females, three or more years calving interval, male biased sex ratio, and apparent low calf survival). Furthermore, there is only a single known coastal feeding habitat (approximately 60km long and 5km wide) used by females and calves which faces an obvious and immediate threat from industrial activities, including noise, vessel traffic and the potential for a catastrophic oil spill. Noting, its similarly strong concerns for North Atlantic right whales, the Committee recommended as a matter of absolute urgency that measures be taken to protect this population and its habitat off Sakhalin Island.

Plans for the Russia-USA research collaboration and national research plans from Russia and Korea were presented. As in previous years, the Committee strongly recommended that the ongoing Russia-USA and Russian and Korean national programmes on western gray whale research and monitoring continue and expand into the future. Results from these programmes will be the only way to monitor and assess the status of this critically endangered population.

The Committee also strongly recommended that all range states develop or expand national monitoring and research programmes on western gray whales. The Committee noted particularly that the precise location and status of the breeding grounds of this highly endangered whale (presumably in Chinese waters) are still unknown.

4.4.2 Commission discussion and action arising

New Zealand welcomed the news that there are more southern right whales now than there have been for the past 150 years but noted that the global population is still only around 10% of its estimated pre-exploitation level. It also noted that all these small stocks were once abundant and suggested that it will be centuries, if ever, before they recover.

Further discussion focused on the western North Pacific stock of gray whales. Noting the concern expressed by the Scientific Committee regarding this stock, the Russian Federation considered that as yet there is no evidence that the oil development programme off Sakhalin Island is having an actual impact on the gray whales. The Republic of Korea shared the Scientific Committee's concern and believed that more studies were needed to assess the impact, if any of the oil industry's activities. It noted the historic and cultural importance of this species to the

Korean peoples and that in 1962, the Korean Government had declared its migration corridor a national treasure. It reported that it had conducted a national census that would complement the work of the Scientific Committee, and stressed the importance of involving range states in work on this stock. The USA, Germany and Italy also expressed concern regarding the status of this stock and welcomed the Scientific Committee's recommendations. Japan considered that the countries in which the headquarters of the major oil companies involved are based should work closely with range states on this issue.

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

RESOLUTION ON WESTERN NORTH PACIFIC GRAY WHALE

The UK introduced a draft Resolution on western North Pacific gray whales of behalf of the other co-sponsors South Africa, Belgium and Germany. Among other things, the draft Resolution:

- (1) endorsed all of the Scientific Committee's conclusions and recommendations;
- (2) requested the Secretariat to offer its services and scientific expertise to the organisations concerned with oil and gas development projects and to participate actively in any international panels convened to consider the impacts of these projects on the western gray whale; and
- (3) requested all range states to develop, begin or continue scientific research programmes on the migration, distribution, breeding, population assessment and other research of the entire range of this stock.

While the general sentiment of the draft Resolution was supported by all, the Republic of Korea, Norway and Japan questioned whether it was necessary given that it was largely a repeat of the Scientific Committee recommendations. Referring to the third pre-ambular paragraph, the Russian Federation repeated its earlier comments that there is no evidence that oil and gas exploration is having an impact on the population and that this population was under threat of extinction prior to these activities beginning. It proposed some revisions to the text to reflect its view. Japan questioned why the co-sponsors had not consulted with the range states. Iceland objected to the last pre-ambular paragraph referring to IWC as the international recognised body for the conservation of whale stocks and believed this statement to be contrary to UNCLOS.

The UK explained that the key difference between the draft Resolution and the Scientific Committee recommendations was that the former urges governments to involve IWC in the independent work taking place around Sakhalin Island. It could not support the Russian Federation's proposed amendments since these would not reflect the Scientific Committee views, and it believed that it had consulted with range states and invited them to comment on the draft Resolution.

Sensing strong support for the draft Resolution, the Chair requested parties to consult to try to resolve differences. Such consultation took place and a revised draft Resolution was submitted with Germany, Italy, Switzerland and Austria being added to the list of sponsors. The Russian Federation believed that the revised proposal would help it in its discussions with the oil and gas industry and called on range states to participate. It hoped that the draft Resolution could be adopted by consensus. The

Republic of Korea associated itself with these remarks and urged members to be cognisant of the sovereign rights of range states. Norway's view on the need for a Resolution remained unchanged, believing it to be superfluous. It indicated it would abstain from any vote. Japan was of a similar view and indicated that it too would abstain. In the end, the revised Resolution (2004-1, see Annex C) was adopted by consensus, noting the views of Norway and Japan.

5. ABORIGINAL SUBSISTENCE WHALING⁵

The meeting of the Aboriginal Subsistence Whaling Subcommittee took place on 14 July chaired by Andrea Nouak (Austria). Delegates from 30 Contracting Governments participated. The Chair of the Scientific Committee's Standing Working Group on the Development of an Aboriginal Whaling Management Procedure (SWG) reported the outcome of the Committee's work and discussions. A summary of the discussions of the Subcommittee is included below. The full Subcommittee report is available as Annex D.

5.1 Aboriginal subsistence whaling procedure

5.1.1 Report of the Aboriginal Subsistence Whaling Subcommittee

5.1.1.1 EASTERN NORTH PACIFIC GRAY WHALES

As anticipated, the Scientific Committee had been able to recommend a *Strike Limit Algorithm (SLA)* for eastern North Pacific gray whales to the Commission. This was the second *SLA* that the Scientific Committee has recommended in the development process, the first being that for the Bering-Chukchi-Beaufort stock of bowhead whales at the Annual Meeting in 2002.

The candidate procedures for the gray whale case were tested for a broad range of uncertainty in a variety of factors, including: changes in *MSYR* and *MSYL*; model uncertainty; time dependent changes in carrying capacity, natural mortality and productivity; episodic events; stochasticity; survey bias and variability; survey frequency and errors in the historic catch series. The overall performance of candidate *SLAs* was judged by a combination of an examination of the detailed conservation and need satisfaction statistics for each of the *Evaluation Trials* and *Robustness Trials* and human integration of these results in the context of the relative plausibility each member assigns to the individual trials.

Two procedures, J-B2 and the GUP2 (Grand Unified Procedure) based on J-B2 and D-M2 procedures, had performed equally well in the trials. However, after examination of other features that may be used to separate the two *SLAs* (see Annex D for further details), the Scientific Committee unanimously recommended that the GUP2 *SLA* (hereafter the '*Gray whale SLA*') be forwarded to the Commission. It believes that this *SLA* meets the objectives of the Commission set out in 1994 and represents the best scientific advice that the Committee can offer the Commission with respect to the management of the Eastern North Pacific stock of gray whales.

In making this recommendation, the Scientific Committee had noted the integral importance of *Implementation Reviews* to the whole process. These would

⁵ For details of the Scientific Committee's deliberation on this item see *J. Cetacean Res. Manage.* 7 (Suppl.).

occur every five years and would normally involve at least reviews of information: (1) required for the *SLA* (i.e. catch data, abundance estimates); and (2) to ascertain if the present situation is as expected and within tested parameter space. In addition, to enable swift reaction to new information that gives rise to serious concern, *Unscheduled Implementation Reviews* can be called. There are a variety of possible outcomes of *Implementation Reviews*, including:

- (a) the continuation of use of the *SLA*;
- (b) the setting of a zero strike limit;
- (c) the running of further simulation trials;
- (d) the undertaking of a new census immediately; and
- (e) a combination of some of the above.

The Sub-committee endorsed the Scientific Committee's recommendations.

5.1.1.2 GREENLANDIC FISHERIES

The Chair of the Standing Working Group (SWG) had reminded the Sub-committee that an urgent need for a Greenland Research Programme was first identified in 1998, primarily due to the lack of recent abundance estimates and the poor knowledge of stock structure. He had noted that it would be extremely difficult, if not impossible, to develop an *SLA* for the Greenlandic fisheries that would satisfy all of the Commission's objectives without such information. This is particularly important in the light of the Scientific Committee's grave concern at its inability to provide management advice for these fisheries.

In reporting to the Sub-committee, the SWG Chair separated out this item into four main issues: stock structure; abundance estimates; biological data and *SLA* development. With respect to the former, the problem was that although the available information suggested that the animals found off West Greenland did not comprise either separate fin or common minke whale stocks, the identity and size of the complete stocks is unknown. The Scientific Committee had agreed to follow a two-step process to further the essential work needed to provide information suitable for management; namely an initial simulation study to focus appropriate genetic analyses.

Regarding genetic analyses, the Scientific Committee had expressed disappointment at the lack of progress in obtaining genetic samples, even though it is mandatory under local regulations to return a sample from each whale caught. It noted that new procedures are in place but repeated its strong recommendation that samples for genetic analysis be collected from the catch as a matter of very high priority. It urged the Commission to encourage the Government of Denmark and the Greenland Home Rule authorities to assist with logistical and, if necessary, financial support and encouraged Greenlandic scientists to investigate other potential sources of samples. The news that some 50 samples are available from the eastern USA and Canada was welcomed and the Scientific Commission urged that these be analysed.

With respect to abundance estimates, last year the Scientific Committee had strongly recommended that a traditional aerial cue-counting survey be carried out in summer 2003 in Greenland. Unfortunately, for logistical and financial reasons it had not been possible to undertake such a survey, but some valuable experimental work had been carried out in 2003 that had been discussed by the Scientific Committee. Greenlandic scientists had presented a plan for a full aerial photographic survey (not cue-

counting) to take place in summer 2004. The Scientific Committee had noted the great need for new abundance estimates and, in order to facilitate presentation of appropriate analyses as quickly as possible, had established an intersessional advisory group. The Chair of the SWG noted that the difficult environmental conditions (notably fog and high winds) in Greenland make the undertaking of successful surveys problematic.

In terms of developing an *SLA*, it was noted that the differences between the relatively 'easy' data-rich cases of the bowhead and gray whales and the data-poor Greenlandic cases, may warrant a different approach to the examination of the trade-off between risk and need satisfaction. The SWG had also considered how best to proceed with the development of one or more *SLAs* given the continuing uncertainties about stock structure, abundance, and mixing in the region. One approach would be to postpone *SLA* development until more and better data become available. The SWG had rejected this approach, instead believing that *SLA* development was a matter of considerable urgency. The SWG therefore intends to develop the best *SLA(s)* it can given the data available, and, noting the potential of the simulation approach to help identify appropriate data collection programmes, it recognised that it might become necessary to improve the *SLA(s)* at future *Implementation Reviews* when more information is available. The Scientific Committee had endorsed this approach.

The catch data for 2003 were: 6 landed fin whales (2 males and 4 females), with 3 struck and lost; 178 landed West Greenland common minke whales (58 males, 117 females, 3 unknown sex) and 7 struck and lost; and 13 landed East Greenland common minke whales (1 male, 11 females, and 1 unknown sex). An analysis of recent catch data will be provided to the next Committee meeting.

Other aspects of the Scientific Committee's discussions of the Greenlandic fisheries, including the provision of management advice, are given under Item 5.3.1.3

In the Sub-committee New Zealand stated that it considered the data provision by Greenland unsatisfactory and questioned whether restrictions should be imposed on its catch quotas. It asked Denmark to explain how they intended to remedy this situation. Denmark responded that information on the importance of returning samples has been given to the hunters and that efforts are being made to improve communication. The Greenland Home Rule Government regrets the low number of samples collected and, for the 2004 season, letters and phials have been sent to the municipalities and will be handed out to the hunters when licenses are issued. The UK expressed its concern with this response. It recognised that policing of the hunt is difficult, but stated that the conditions under which aboriginal subsistence whaling in Greenland is allowed are known to the hunters and are included in licences. The UK felt that non-compliance with conditions required more serious action.

The Sub-committee endorsed all recommendations of the Scientific Committee on this item.

5.1.2 Commission discussions and action arising

Discussion in the Commission focused on the Greenlandic fisheries.

Following the discussions in the Aboriginal Subsistence Whaling Sub-committee and the Infractions Sub-committee (see section 18 and Annex I) a statement on the Greenland

Research Programme had been prepared and submitted to plenary by Denmark. In this statement, Greenland pointed to the following:

- that the International Whaling Commission has accepted that the West Greenland need for meat from large whales is 670 tons annually;
- that the current IWC quotas do not meet the accepted need;
- further that the Greenland need for whale meat is supplemented by whale meat from stocks not covered by the IWC;
- that Greenland has regularly submitted substantive information on whaling issues to the Commission for decades;
- that the Greenland Home Rule Government has allocated DKK 1.2 – 1.4 mill in each of the years 2002, 2003 and 2004 to surveys and the development of survey methods;
- that attempts were made to carry out aerial surveys in 2002, but due to bad weather these were not carried out as planned, and furthermore, a camera survey test flying was conducted successfully in 2003 in Iceland;
- that Greenland has collected 301 genetic samples from 1998 to 2003, and that 166 samples collected in West Greenland and 30 collected in East Greenland have been analysed in connection with investigations of stock structure of north Atlantic minke whales;
- that the IWC has supported the Greenland Research Program with a total amount of £69,552 in the years 1999 – 2004 to both feasibility study, biopsy study and satellite telemetry;
- that the Commission has decided not to implement the AWMP until the RMS has been implemented;
- that the Greenland annual harvest of the central North Atlantic minke whales constitutes less than 0.01% of the stock;
- that a harvest of minke whale of West Greenland waters has had a larger proportion of females; and
- that the present Schedule foresee a review if new scientific data become available within the present 5 year period (2003-2007) and if necessary amended on the basis of the advice of the Scientific Committee.

Greenland and Denmark further:

- find that the lack of adequate data on abundance and stock structure of West Greenland minke and fin whales is a matter of concern;
- want to complete the research recommended by the Scientific Committee as soon as possible and to continue to facilitate hunters to collect and submit samples from each whale landed; and
- want the Scientific Committee to further discuss the existing results and to guide future analysis of genetic samples.

The statement further requested the Scientific Committee if possible and in concurrence with its own agenda to:

- (1) continue development of and complete an AWMP for Greenland whaling when adequate data become available;
- (2) continue cooperation and guidance of Greenland scientific activities;
- (3) establish adequate guidelines in relation to analysis of the collected samples; and

- (4) continue further dialogue with Greenland scientists in order to ensure that the appropriate research activities are successfully undertaken.

The UK referred to the discussions between Denmark/Greenland and the UK and New Zealand during the Sub-committee meeting. It urged Greenland to carry on its research programme and to try to address the question of sex bias in the catches. The UK also urged the Scientific Committee to consider urgently the effect of this bias in catches on the population dynamics of the stocks involved and to consider what might be done to recognise the difficulties of hunting in the Arctic. It welcomed Denmark's statement and hoped that work could proceed on this basis. New Zealand, Germany and Australia echoed the UK's remarks.

The Minister of Fisheries and Hunting of the Greenland Home Rule Government stressed that his Government recognizes the need to complete the survey and genetic research required for developing abundance estimates. He reported that Greenland is working hard to fulfil its research programme but sought the Commission's understanding of the difficult conditions under which it must be carried out. He requested that a formal review of aboriginal subsistence whaling in Greenland be kept as planned, i.e. a review at the Annual Meeting in 2007.

Japan commented on the different approach being used to develop *SLAs* for aboriginal subsistence whaling (i.e. stock-specific) compared with that for the RMP (i.e. generic), noting that if applied to the B-C-B Seas stock of bowheads the RMP would not give a catch limit. It did not believe these different approaches to be scientifically justified and considered that double standards were being applied. In response, the USA noted that the approaches to the *SLA* and *CLA* are different because the Commission has given different policy advice for the different types of hunt. The USA considered it inappropriate to apply the *CLA* to a stock subject to subsistence whaling. It further noted that the Scientific Committee has indicated that the bowhead *SLA* will have to be reviewed if new information on stock identity comes to light. The Commission noted this part of the Sub-committee's report and endorsed its recommendations.

5.2 Aboriginal subsistence whaling scheme (AWS)

5.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

As for the last two years, the Scientific Committee recommended a number of scientific aspects of an eventual AWS⁶. These included strike-limit related issues (block limits, carryover, grace period), survey-related issues (survey/census methodology and design, Committee oversight, data analysis and availability), guidelines for data/sample collection and *Implementation Reviews*. During the Sub-committee, Australia recognised that the focus of discussion was on science, but registered its concern over whaling management regimes that it considered should be given equal attention. The USA stated that they have previously expressed concerns over certain provisions of the AWS and that their reservations should continue to be noted. The Sub-committee endorsed the recommendations of the Scientific Committee.

⁶ *Ann. Rep. Int. Whal. Comm.* 2002: 74-5.

5.2.2 Commission discussions and action arising

In the Commission, the USA expressed appreciation for the work of the Scientific Committee on the AWS, but believed that some aspects are not appropriate for the B-C-B Seas stocks of bowhead whales. It noted that the 'grace period' (i.e. a mechanism to deal with a hypothetical situation of no abundance estimates being made available with the specified time frame) does not take into account the difficulties of conducting abundance surveys in the Arctic and in any case is redundant as the Commission can request an *Implementation Review* at any time. It further noted that although it agrees in principle with the concept of block quotas, it would like some flexibility regarding their duration; five years would be a minimum. The USA believed that the current management regime provided in paragraph 13(a) of the Schedule has worked well for over 25 years and that any revised scheme must provide a true improvement over the *status quo*.

The Commission noted this part of the Sub-committee report and endorsed its recommendations.

5.3 Aboriginal subsistence whaling catch limits

5.3.1 Report of the Aboriginal Subsistence Whaling Sub-committee

5.3.1.1 BERING-CHUKCHI-BEAUFORT SEAS STOCK OF BOWHEAD WHALES

The Chair of the SWG had noted that this year, the Scientific Committee undertook an in-depth assessment of the B-C-B bowhead whales. The Committee had agreed that substantial progress has been made in investigating possible stock or population structure among B-C-B bowheads but that there is insufficient information at this stage to fully support or refute the hypothesis of a single stock; in fact it is premature to reject any of the hypotheses, or even to draw conclusions about their relative plausibility. The Committee was pleased to receive information on an extensive research programme to address this issue further. Catch information was provided for 2003 by the USA and the Russian Federation (see Annex D).

In terms of management advice, the Scientific Committee agreed that the *Implementation Review* of bowhead whales, due to begin at the 2006 Annual Meeting in time for the major review of subsistence quotas in 2007, will include stock structure issues as a major component, examining the robustness of the *Bowhead SLA* with respect to plausible stock hypotheses via simulation trials.

The Scientific Committee had also noted:

- (1) the continuing increase in the abundance estimates derived from the census under the recent catch limits and record high calf counts;
- (2) the spatio-temporal distribution and opportunistic nature of the hunt and the low numbers of whales struck annually in St. Lawrence Island and Chukotka; and
- (3) the development of an extensive research programme that will address questions of stock structure and allow the formulation of one or more plausible stock structure hypotheses.

Given these factors, the Committee agreed that the *Bowhead SLA* remains the most appropriate tool for providing management advice for this harvest, at least in the short-term. Consequently the results from the *Bowhead SLA* indicate that no change is needed to the current block quota for 2003-2007.

In the Sub-committee, the USA and the Russian Federation commented on planned co-operative research. Noting the Scientific Committee's recommendation on the need for additional research on the bowhead stock identity issue, the USA expressed its commitment to undertake this research so that when the bowhead quota is next reviewed in 2007, management of the stock will be based upon the best science available at that time. The Russian Federation noted its intent to engage in as much joint research as is possible, although it noted that CITES sample requirements may impose difficulties on what is possible. In this respect, Switzerland drew attention to a Resolution adopted at COP 12 of CITES in Santiago (Chile), aimed at facilitating transboundary movement of sensitive biological samples such as scientific research materials for conservation purposes. It suggested that the CITES Management Authorities should be made aware of this if the need arises.

The Sub-committee endorsed the recommendations of the Scientific Committee.

5.3.1.2 NORTH PACIFIC EASTERN STOCK OF GRAY WHALES

Data on catches and information on calf counts from the northbound migration and the breeding lagoons in Mexico were presented to the Scientific Committee. The Committee was encouraged to hear that calf production remains at the mid-range of pre-1999 levels (after low levels in 1999, 2000, 2001). In 2002, the Scientific Committee had carried out an in-depth assessment of the Eastern North Pacific stock of gray whales and agreed that a take of up to 463 whales per year is sustainable for at least the medium term (~30 years), and is likely to allow the population to remain above *MSYL*. No information was presented this year to change that advice. The Committee was pleased to receive the *Gray Whale SLA*, which could be used in future for providing management advice.

The Sub-committee endorsed the recommendations of the Scientific Committee.

5.3.1.3 MINKE AND FIN WHALE STOCKS OFF WEST GREENLAND

The Chair of the SWG had reported that the minke and fin whale stocks off West Greenland was an important issue in the Scientific Committee's deliberations this year. The Committee has never been able to provide satisfactory management advice for either of these stocks. This reflects the lack of data on stock structure and abundance and is the reason for the Committee to first call for the Greenland Research Programme in 1998. He noted that the Commission's financial contributions to the programme had been aimed at testing the feasibility of large-scale biopsy sampling and satellite telemetry to try to obtain information on abundance and stock structure but that unfortunately both proved unsuccessful.

The Scientific Committee stressed that its inability to provide advice on safe catch limits 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 520-2,100) while that for West Greenland minke whales dates from 1993 and is 8,371 (95% CI 2,400-16,900). Obtaining adequate information for management must be seen as very high priority by both the national authorities and the Commission. The Committee urged the Commission to encourage the Government of Denmark and the Greenland Home Rule authorities to provide the necessary logistical and financial support. Without such adequate information, the

Committee will not be able to provide safe management advice in accord with the Commission's management objectives, or develop a reliable *SLA* for many years, with potentially serious consequences for the status of the stocks.

The Scientific Committee recommended that every effort be made to ensure that the number of samples collected from the catch in 2004 is considerably higher than in 2003 and close to 100%. It also recommended strongly that these and all existing samples held in Greenland be analysed as soon as possible in accordance with guidance to be given by the intersessional working group.

The Scientific Committee drew attention to the grace period provision that it had agreed previously in the context of a general aboriginal whaling scheme (although it has not yet been accepted by the Commission) associated with agreed *SLAs*. Under such a provision, catch limits would begin to be phased out 10-14 years after an abundance estimate was last obtained and catches would revert to zero at the end of the five-year period during which the catch limit would have been half the previous block. The Committee has not previously suggested that such a grace period should have started for fin whales. However, it drew attention to the fact that if it had, such a period would now be nearing completion.

The SWG Chair reported that it was with great concern that the Scientific Committee advised the Commission that in the absence of an agreed abundance estimate for fin whales arising out of the 2004 survey, it will likely recommend that the take of fin whales off West Greenland be reduced or eliminated immediately. If, as hoped, an abundance estimate is obtained, the Committee will review this next year in its formulation of management advice.

In the Sub-committee, Denmark explained that the Greenland Home Rule Government gave financial support for survey projects of between DKK 1.2-1.4 million annually for the years 2002-2004, and reported on the number of samples collected and analysed (see Annex D) and on the publication of the results. It noted what it considered to be a disappointingly short discussion of these results in the SWG, but hoped to receive some guidance from the SWG on the best directions for future analyses. Greenland was therefore looking forward to a project to be undertaken this winter in cooperation with the SWG. On the question of reduction of the current quota of fin whales, Greenland suggested that the Scientific Committee is not the right body to decide such a reduction. The Greenland Home Rule Government stated that it intended to increase its efforts in cooperation with the hunters' organisation to gain more samples as recommended.

The UK noted that the Scientific Committee recommendations were in the strongest terms it had seen. The UK felt that the Commission would need to agree to take action on the quota if data were not made available. Australia concurred with the UK and suggested that the Scientific Committee concerns should be reinforced by the Sub-committee.

Argentina, New Zealand and the UK expressed concern that the sex ratio of the Greenland's minke hunt is highly female biased: on average, 72% of all minke whales killed in Greenland since 1986 were female. Denmark explained, as it had on earlier occasions, that sex selection is impossible to enforce in Greenland due to both weather and ocean conditions. New Zealand was concerned that the preferential removal of females could significantly affect

the regenerative capacity of the stock and suggested that it would be helpful for Greenland to provide information on the date, location and sex of every whale taken, to show precisely what is going on. New Zealand believed that these issues raise fundamental questions of accountability that go to the centre of the integrity of the legal instrument under which the Commission operates. The UK, supported by Switzerland, remarked that if a degree of sex bias is inevitable, it raised some very important questions about the sustainability of the hunt.

With respect to the female bias in the catch, the SWG Chair clarified that it is common for minke whales to segregate both geographically and temporally by sex in the North Atlantic. The sex bias in the catch is longstanding and earlier attempts to model the animals off West Greenland showed that if the minke whales found there comprised a complete stock they would already have become extinct. The sex bias in the catch probably reflects the sex ratio in the waters there and not any selectivity by whalers (which in any case is not possible). He noted that the Committee was expecting a paper on recent catches (both geographical and temporal by sex) at its next meeting.

Greenland explained that the information on the seasonal distribution of the harvest suggests northward movement in early part of hunting season and a southern movement in the autumn, so that the hunting season, which is in any case short, is even shorter in the northern part of the area of distribution of minke whales in West Greenland. Analysis has not so far shown differential distribution of the two sexes. They suggested that knowledge of this bias is long-standing and not recent. This bias suggests that this is probably a part of a larger stock, whose boundaries are uncertain.

The Sub-committee endorsed the recommendations of the Scientific Committee regarding the minke and fin whale stocks off Greenland.

5.3.1.4 NORTH ATLANTIC HUMPBACK WHALES OFF ST. VINCENT AND THE GRENADINES

The Scientific Committee had agreed that it was most plausible that the animals off St. Vincent and The Grenadines are part of the West Indies breeding population (*ca* 10,750 animals in 1992), although it acknowledged that further data to confirm this are desirable. It repeated its previous recommendations that every effort be made to obtain photographs and genetic samples from animals taken. The Scientific Committee was disappointed not to receive information on whether or not any catches had been taken last year (no scientists from St. Vincent and The Grenadines had been present and no national progress report had been submitted). However, it noted that the genetic analyses of at least three samples from caught animals is being conducted and it was pleased to hear that sightings cruises are taking place in the region.

The Scientific Committee agreed that if the humpback whales are part of the West Indies breeding population, the block catch limit of 20 for the period 2003-2007 will not harm the stock.

In the Sub-committee, the UK did not dispute the Scientific Committee recommendations, but urged the need for further data, since it believed there could be ramifications if the animals off St. Vincent and The Grenadines are not part of the West Indies population. Australia understood that St. Vincent and The Grenadines passed new whaling regulations in December 2003, and

asked whether a copy of this legislation had been submitted to the Secretariat as is required, and whether it had been found to be consistent with the draft legislation presented to the IWC. The Chair of the SWG indicated that this matter was usually dealt with in the Infractions Sub-committee, but he would investigate this situation.

5.3.2 Commission discussions and action arising

The Commission noted the Sub-committee's report and endorsed its recommendations. Discussions on specific stocks are summarised in the following sections.

5.3.2.1 BERING-CHUKCHI-BEAUFORT SEAS STOCK OF BOWHEAD WHALES

The USA reported that it had undertaken genetic research in response to the request from the Special Meeting of the Commission in October 2002 that an in-depth assessment of this stock be completed with results available for the 2004 Annual Meeting. The USA noted that the results did reveal genetic differences, but that it is too early to draw conclusions regarding stock identity. It drew attention to the Scientific Committee's view that for the time being it is reasonable to continue to apply the bowhead *SLA*, noted the data showing an increase in abundance of this stock and indicated that it saw no need to modify current management approaches. The USA was, however, committed to carrying out further research on stock identity in time for 2007 as requested by the Scientific Committee.

Japan expressed appreciation for the active discussions in the Scientific Committee and believed that the results from work on this stock should be reflected in management advice from this year onwards. As last year⁷ it noted what it believed to be double standards in the approach to management of the bowhead stock using the *SLA* and the *Implementation Simulation Trials* on western North Pacific minke whales using the *CLA*. It called for consistency in approach.

5.3.2.2 NORTH PACIFIC EASTERN STOCK OF GRAY WHALES

There were no comments on this stock.

5.3.2.3 MINKE AND FIN WHALE STOCKS OFF WEST GREENLAND

There were no comments on this stock.

5.3.2.4 NORTH ATLANTIC HUMPBACK WHALES OFF ST. VINCENT AND THE GRENADINES

St. Vincent and The Grenadines indicated that it was unfortunate that it had been unable to attend the Scientific Committee and the Aboriginal Subsistence Whaling Sub-committee meetings. It confirmed that it had submitted a copy of its 2003 whaling regulations to the Secretariat, and it reported that on 29 March 2003 one humpback whale, 39ft in length, had been taken.

5.4 Revision of Schedule paragraph 13

5.4.1 Report of the small working group and proposed Schedule amendment

REPORT OF THE SMALL WORKING GROUP

At the 55th Annual Meeting of the IWC, a Small Group comprising the Russian Federation, Denmark, Australia, the USA and the Secretariat was charged with reviewing of the Schedule paragraph 13, that provides for aboriginal subsistence whaling catch limits, to determine how consistency in approach across all such whaling operations could be achieved and to propose some amendments to the

Schedule for review and decision-making at the 56th Annual Meeting of the IWC in 2004.

The Small Group worked intersessionally by e-mail and agreed the following.

All provisions governing aboriginal subsistence whaling operations are understood to be, and should be, included in paragraph 13 of the Schedule.

Should the Commission decide to harmonise the Aboriginal Subsistence Whaling Schedule language, the group recommends considering the creation of one option concerning the prohibition on the taking of calves and whales accompanied by calves. The Schedule has such parts in sub-paragraphs 13 (b) (1) and 13 (b) (2), but not in the sub-paragraphs 13 (b) (3) and 13 (b) (4). A new sub-paragraph 13 (a) (4) could be inserted in the general principles governing this form of whaling, to read as follows: 'It is forbidden to strike, take or kill calves or any whale accompanied by a calf.'

The group agreed that nothing in the Russian Federation's proposals to amend Schedule paragraph 13 was intended to allow for commercialisation of the aboriginal subsistence whaling.

The words 'when the meat and products of such whales are to be used exclusively for local consumption' means that some transaction beyond the aboriginal whaling communities under the current Schedule language are acceptable. The definition of aboriginal 'subsistence use' was adopted by the Cultural Anthropology panel of the IWC Meeting of Experts on Aboriginal/Subsistence Whaling in February 1979 (reported in IWC Special Issue 4, 1982) and provided that:

- (1) The personal consumption of whale products for food, fuel, shelter, clothing, tools or transportation by participants in the whale harvest.
- (2) The barter, trade or sharing of whale products in their harvested form with relatives of the participants in the harvest, with others in the local community or with persons in locations other than the local community with whom local residents share familial, social, cultural or economic ties. A generalised currency is involved in this barter and trade, but the predominant portion of the products from such whales are ordinarily directly consumed or utilised in their harvested form within the local community.
- (3) The making and selling of handicraft articles from whale products, when the whale is harvested for the purposes defined in (1) and (2) above.

It was agreed by the Small Group that aboriginal communities in Chukotka, which have quota to take gray and bowhead whales, have equal rights to other aboriginal communities that have Aboriginal Subsistence Whaling quota to use the meat and products of these whale species.

The Small Group noted that the proposal to delete the words 'whose traditional aboriginal subsistence and cultural needs have been recognised' from Schedule sub-paragraph 13(b) (2) was intended to reflect this equality of rights. Without prejudice to any Party's final position and subject to there being no consequential difficulties, it was agreed that should it be necessary to delete the above words to reflect the equality of rights, this would be justified.

PROPOSED SCHEDULE AMENDMENT

After consultation with the Small Group, the Russian Federation proposed the following amendment with a view to improved harmonisation of the Schedule paragraph 13.

⁷ *Ann. Rep. Int. Whaling Comm.* 2003:14.

Amend Schedule paragraph 13 as follows (proposed new text is shown in ***bold italics***; deleted text is in ~~strikeout mode~~):

III. Capture

Baleen Whale Catch Limits

13 (a) (4) *It is forbidden to strike, take or kill calves or any whale accompanied by a calf.*

13 (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 2003, 2004, 2005, 2006 and 2007, 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 1998 - 2002 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)~~ **(ii)** This provision shall be reviewed annually by the Commission in the light of the advice of the Scientific Committee.

~~(iv)~~ **(iii)** The findings and recommendations of the Scientific Committee's in-depth assessment for 2004 shall be binding on the parties involved and they shall modify the hunt accordingly.

(2) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or 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~~ **and further provided that:**

(i) For the years 2003, 2004, 2005, 2006 and 2007, the number of gray whales taken in accordance with this sub-paragraph shall not exceed 620, provided that number of gray whales taken in any one of the years 2003, 2004, 2005, 2006 and 2007 shall not exceed 140.

~~(ii) It is forbidden to strike, take or kill calves or any gray whale accompanied by a calf.~~

~~(iii)~~ **(ii)** 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 2003, 2004, 2005, 2006 and 2007, 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 2003, 2004, 2005, 2006 and 2007, 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 season 2003-2007 the number of humpback whales to be taken by the Bequians of St. Vincent and The Grenadines shall not exceed 20. The meat and products of such whales are to be used

exclusively for local consumption in St. Vincent and The Grenadines. Such whaling must be conducted under formal legislation that accords with the submission of the Government of St. Vincent and The Grenadines (IWC/54/AS 8 rev2). The quota for the seasons 2006 and 2007 shall only become operative after the Commission has received advice from the Scientific Committee that the take of 4 humpback whales for each season is unlikely to endanger the stock.

5.4.2 Report of the Aboriginal Subsistence Whaling Sub-committee

In the Sub-committee, while there did not seem to be problems with the report from the Small Group, some concerns were expressed regarding the Schedule amendment proposed by the Russian Federation.

The UK fully accepted that the rights of Chukotka people should be exactly the same as other indigenous peoples but stressed the need to ensure that for aboriginal subsistence whaling operations, the products are, totally or in large measure, used for the people whose needs have been acknowledged. It therefore suggested that rather than simply deleting the text 'whose traditional aboriginal subsistence and cultural needs have been recognised' it be moved so as to apply equally to all indigenous whaling operations. New Zealand made a similar point. Austria sought clarification as to whether deleting this phrase would mean that all future new applications for aboriginal quotas would no longer need to demonstrate that they fulfil these criteria. Several members commented that the appropriate tests of need would continue to apply and that it is the Commission itself that recognises need when it approves aboriginal subsistence whaling quotas.

Grenada supported the proposed Schedule amendment in as much as it was aimed at producing a more uniform code for subsistence whaling operations, but questioned why St. Vincent and The Grenadines is the only one of those operations managed by IWC for which explicit text is included to effect that its operations must be conducted according to national legislation. On the understanding that all IWC members must enact national laws in accordance with the Convention, Grenada suggested that this reference in paragraph 13(b)4 either be deleted or inserted into the sub-paragraphs relating to other subsistence whaling operations. Japan considered that the proposed new paragraph 13(a)4 should refer to female whales accompanied by calves and, noting its long-standing cultural needs for whales, questioned how cultural needs are defined.

The Sub-committee endorsed the recommendation of the small group that its report and the proposed Schedule amendment be put forward to the Commission in plenary. The Sub-committee Chair recommended that those countries suggesting modifications to the proposed Schedule amendment consult prior to the Plenary.

5.4.3 Commission discussions and action arising

In the Commission, the Russian Federation introduced the report of the Small Group (see section 5.4.1), drawing particular attention to the definition of 'subsistence use', and asked that it be adopted by consensus and included in the Chair's Report of the meeting. It noted that since the meeting of the Aboriginal Subsistence Whaling Sub-committee it had worked with Denmark, St. Vincent and The Grenadines and the USA to address the Sub-committee's comments and with them wished to put forward the following slightly revised proposed Schedule amendment:

With the intention to further harmonise Schedule paragraph 13 it is proposed to amend Schedule paragraph 13 as follows (proposed new text is in ***bold italics***; deleted text is in ~~strikeout mode~~):

~~‘13.(a) (4) For aboriginal whaling conducted under subparagraphs (b)(1), (b)(2), and (b)(3) of this paragraph, it is forbidden to strike, take or kill calves or any whale accompanied by a calf. For aboriginal whaling conducted under subparagraphs (b)(4) of this paragraph, it is forbidden to strike, take or kill suckling calves or female whales accompanied by calves.~~

(5) All aboriginal whaling shall be conducted under national legislation that accords with this paragraph.

(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 2003, 2004, 2005, 2006 and 2007, 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 1998 - 2002 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) (ii)~~ (ii) This provision shall be reviewed annually by the Commission in the light of the advice of the Scientific Committee.

~~(iv) (iii)~~ (iii) The findings and recommendations of the Scientific Committee's in-depth assessment for 2004 shall be binding on the parties involved and they shall modify the hunt accordingly.

(2) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or 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 and further provided that:~~

(i) For the years 2003, 2004, 2005, 2006 and 2007, the number of gray whales taken in accordance with this sub-paragraph shall not exceed 620, provided that number of gray whales taken in any one of the years 2003, 2004, 2005, 2006 and 2007 shall not exceed 140.

~~(ii) It is forbidden to strike, take or kill calves or any gray whale accompanied by a calf.~~

~~(iii) (ii)~~ (ii) 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 2003, 2004, 2005, 2006 and 2007, 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 2003, 2004, 2005, 2006 and 2007, 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 2003-2007 the number of humpback whales to be taken by the Bequians of St. Vincent and The Grenadines shall not exceed 20. The meat and products of such whales are to be used exclusively for local consumption in St. Vincent and The Grenadines. ~~Such whaling must be conducted under formal legislation that accords with the submission of the Government of St. Vincent and The Grenadines (IWC/54/AS.8 rev.2).~~ The quota for the seasons 2006 and 2007 shall only become operative after the Commission has received advice from the Scientific Committee that the take of 4 humpback whales for each season is unlikely to endanger the stock.⁷

In explaining the changes to its earlier proposal, the Russian Federation noted that since all aboriginal subsistence whaling operations must be conducted under national legislation and since St. Vincent and The Grenadines has fulfilled its obligation to develop such legislation, the text referring to legislation could be deleted from paragraph 13(b)4. It also explained that since the hunters of St. Vincent and The Grenadines are able to distinguish between males and females, the distinction between this hunt and the others regarding the prohibition of taking whales accompanied by calves should be retained. The Russian Federation believed that a fragile balance had been reached and on behalf of the other co-sponsors asked that in addition to the report of the small group, the revised proposed Schedule amendment could also be adopted by consensus.

The Commission adopted both the report of the small group and the revised proposed Schedule amendment by consensus. The Russian Federation thanked all Commissioners for their understanding and acknowledged the work of the small group in coming to this result. It hoped that the Commission could continue to work in such a friendly atmosphere. St. Vincent and The Grenadines echoed these sentiments.

6. REVISED MANAGEMENT SCHEME

6.1 Revised Management Procedure (RMP)⁸

6.1.1 Report of the Scientific Committee

6.1.1.1 GENERAL RMP ISSUES

REVIEW OF THE IMPLEMENTATION PROCESS AND LEVELS OF INFORMATION REQUIRED FOR PRE-IMPLEMENTATION ASSESSMENTS AND FOR PROCEEDING TO AN IMPLEMENTATION

The Scientific Committee reviewed the *Implementation process*⁹ in light of its experience with western North Pacific minke whales. The aim was to develop a more streamlined and practical approach that would allow the Committee to provide advice to the Commission in a reasonable timeframe regarding particular implementations of the RMP. The unacceptably long time taken to complete the *Implementation* for western North Pacific common minke whales, particularly in comparison with North Atlantic common minke whales, prompted this work.

The Committee Chair reminded the Commission that unlike the case-specific approach used to develop AWMP *Strike Limit Algorithms* such as that for the *Gray Whale SLA* (see section 5.1), it had been decided that the RMP would follow a generic approach that should be applicable to all baleen whales; the RMP's *Catch Limit Algorithm (CLA)* was thus developed on an assumption of a generic single stock. The most important feature of the

⁸ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 7 (Suppl.).

⁹ i.e. a process by which the Committee makes recommendations to the Commission concerning catch limits (which may be zero or greater than zero) for a particular species in a region.

Implementation Simulation Trials (ISTs) is to examine RMP performance in a real multi-stock situation and to decide which variant or variants¹⁰ of the RMP can be recommended to the Commission. In all cases it is the *CLA* that is used to calculate the catch limit. In this respect, the Chair noted that some of the reasons for the lengthy process for western North Pacific whales related to the potential complexity of stock structure and the fact that whaling was taking place in coastal waters during migration. He further noted that it is likely that this type of scenario is one that the Commission will request the Committee to provide management advice on in the future.

The Scientific Committee took considerable time to examine the process in detail. Believing that the RMP represents a major step forward in the provision of safe management advice for natural resources, it wanted to make sure that it had a clear set of guidelines as to how it should be used in real situations. In doing this, the Committee looked at a number of issues surrounding, in particular, questions of plausibility, data requirements and availability, and the balance in the nature of the *ISTs*. The Committee was also aware that there is almost a paradox in implementing the RMP in that it is a feedback procedure that is designed to learn more as it progresses through time. However, at the beginning of the process (i.e. before feedback starts) there will be the most uncertainty. One of the major discussions of the Committee was to investigate ways to address this issue which do not compromise the appropriate conservative nature of the RMP and the Commission's objectives.

Given this, the Committee developed technical specifications for the 'Requirements and Guidelines for *Implementations*'¹¹. The key elements of the Requirements and Guidelines are given below.

- (1) The development of a single structure and timetable to avoid the implementation process taking an extended period of time. The important development is that the *pre-implementation assessment* is the forum for ensuring that sufficient information is available to enter into an *Implementation*, with the expectation that the latter can be completed within two years.
- (2) Practical ways to deal with the issues that have caused significant difficulty in the past, including:
 - (i) how to deal with plausibility of alternate hypotheses (on *inter alia* stock structure, historical catch/bycatch, $g(0)$ for abundance estimates);
 - (ii) how to assign weights to simulation trials; and
 - (iii) how to interpret trial results.
- (3) A way to encourage the provision of information while whaling operations are taking place by giving the Commission an option to initiate the RMP by:
 - (i) using a hybrid variant for an initial period whilst ensuring that the objectives of the RMP (particularly with respect to conservation performance) are still met; and
 - (ii) linking this specifically to a research programme designed to reduce key uncertainties.

With respect to (3) above, the Committee Chair noted that the general idea, first raised two years ago but not specified in any detail, is that there may be limited circumstances when it is appropriate to give the Commission an option for a hybrid variant, i.e. one that is tested as a combination of a less conservative variant for an initial period of one or two 5-year blocks (whilst data to reduce specific areas of uncertainty are collected), followed by an assumption of a worst case scenario in which it is assumed the associated research programme designed by the Scientific Committee does not result in a reduction of uncertainty and thus the next block reverts to the more conservative variant. The Committee Chair noted that this latter point, although only one aspect of the overall guidelines, had become the focus of some discussion outside the Committee. He therefore provided the following clarifications:

- (1) the possibility of using a hybrid variant can only be considered if it has been thoroughly tested in *Implementation Simulation Trials* and found to have fully acceptable conservation performance under the RMP, both in the short term and the long term;
- (2) only RMP variants that perform acceptably or 'borderline' on the 'high' weight trials would be considered as candidates for the less conservative variant;
- (3) this option will only be considered if the Scientific Committee believes that a research programme can be designed that has a good chance of allowing the Committee to answer its questions on the plausibility of the hypotheses under dispute;
- (4) the associated research programme that will be developed and guided by the Committee must identify expected progress in a manner that will allow the Committee to review annually whether the programme has been adequately followed;
- (5) the option of using a hybrid variant can only be used once - it is not possible for it to be used again at the end of the initial period under the guidelines we have proposed;
- (6) if the Committee does put forward a hybrid variant to the Commission, it will simply be one of several options, i.e. all of the variants that perform acceptably will be put before the Commission for its consideration.

The Committee noted that although this differs from the general guidelines used last year for the western North Pacific common minke whale trials (where acceptable variants needed to perform acceptably in all high plausibility trials and at least borderline in medium plausibility trials), any hybrid variant that the Committee might recommend under the requirements developed this year must perform to the same agreed level of acceptability.

The Chair noted that the 'Requirements and Guidelines for *Implementation*' developed by the Committee relate to:

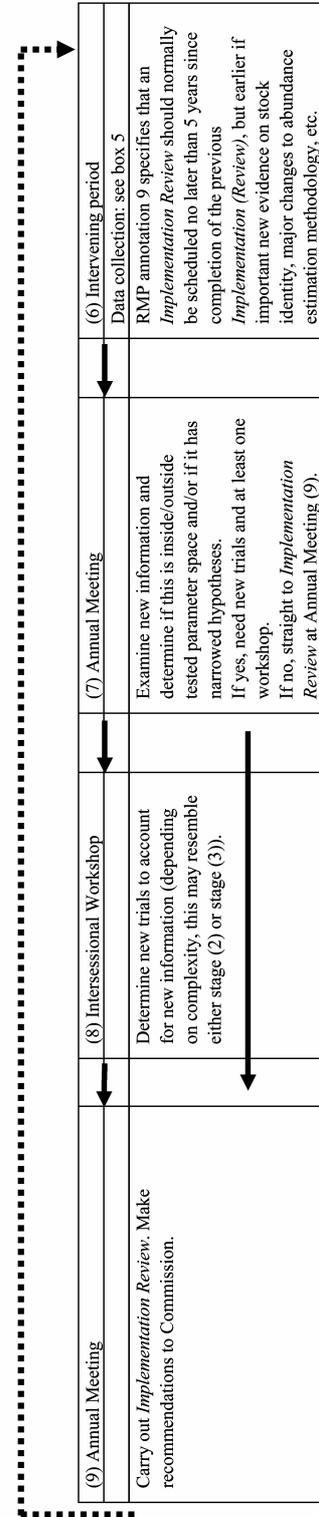
- (1) the information needed to initiate the *pre-implementation assessment*;
- (2) the nature and outcomes from a *pre-implementation assessment*; and
- (3) the steps in conducting an *Implementation* and the expected input and outcomes at each stage.

¹⁰ i.e. options already included in the RMP specification such as catch cascading or catch capping as well as spatial and temporal considerations.

¹¹ *J. Cetacean Res. Manage.* 7 (Suppl.): Annex D, Appendix 2.

Table 1
Recommended schedule for an *Implementation* and subsequent *Implementation Reviews*.

(1) x+ Annual Meetings <i>'Pre-implementation assessment'</i>	↑	(2) First Intersessional Workshop Trial structure development	↑	(3) First Annual Meeting Conditioning and final trial structure	↑	(4) Second Intersessional Workshop Review results of final trials	↑	(5) Second Annual Meeting Committee recommendations
<p>The <i>pre-implementation assessment</i> will take place during one or more Annual Meetings and will focus on the following issues:</p> <ul style="list-style-type: none"> (1) the establishment of plausible stock hypotheses consistent with the data (taken <i>inier alia</i> from an agreed list of archetypes) that are inclusive enough that it is deemed unlikely that the collection of new data during the <i>Implementation</i> process would suggest a major novel hypothesis (e.g. a different number of stocks) not already specified in the basic trial structure; (2) examination of available abundance estimates; and (3) information on the geographical and temporal nature of 'likely' whaling operations - taking into account the complexity of the situation with regard to spatio-temporal issues. <p>On the basis of this assessment, the Committee will make a recommendation as to whether or not to formally begin the <i>Implementation</i> process.</p>	<p>The primary objective is to develop an appropriate <i>Implementation Simulation</i> <i>Trials</i> structure and to specify the associated conditioning so that it can be carried out before the First Annual Meeting. Workshop discussions will include:</p> <ul style="list-style-type: none"> (1) A final review of the plausible hypotheses taking into account the probable management implications to avoid unnecessary work; (2) An examination of more detailed information on expected operations; (3) The determination of the small geographical areas that will be used in specifying the stock structure hypotheses and operational pattern; (4) The development of (options for) potential <i>Small Areas</i> and management variants; (5) The specification of the data and methods for conditioning the trials; (6) Further consideration of experimental ways to distinguish amongst competing stock hypotheses. <p>It is important to note that after this stage:</p> <ul style="list-style-type: none"> (1) there shall be no changes to the agreed trials structure that implements the agreed plausible hypotheses; (2) no new data will be considered. 	<p>The primary objective is to review the results of conditioning and to finalise the <i>IS</i>'s. This review may include new analyses of data but not new data. The Trials may be changed but not the overall structure. Final <i>IS</i>'s based on:</p> <ul style="list-style-type: none"> (1) final consideration of plausibility, including weighting trials in terms of the overall balance of the <i>IS</i>'s; (2) discussion of what data/research may reduce number of hypotheses; (3) updates to standard data sets (i.e. abundance, catches, bycatches) for use in final trials; (4) specification of operational features and management variants; (5) specification and classification of final trials; (6) develop timetable for remaining work 	<p>The primary objective is to review the results of the final trials and develop recommendations for consideration by the full Committee on:</p> <ul style="list-style-type: none"> (1) management areas; (2) RMP variants (e.g. <i>Catch-cascading</i>, <i>Catch-capping</i>); (3) associated operational constraints (e.g. temporal restrictions); (4) research needs (either within or outside operations) to narrow range of plausible hypotheses; (5) use of 'a less conservative' variant with appropriate research and associated time period. 	<p>The primary objective is to review the results of the Second Intersessional Workshop (including any additional trials) and agree recommendations for <i>Implementation</i>. If this includes a recommendation for a 'less conservative' option, integral to this will be an agreed research programme guided and approved by the Committee. A progress report on this programme must be submitted annually to the Scientific Committee.</p>				



He noted that an *Implementation* will normally be completed two years after the Committee recommends that the *pre-implementation assessment* is complete and the assessment can start. The implementation itself will occur during two intersessional workshops and two Annual Meetings. Table 1 summarises the recommended schedule for an *Implementation* and subsequent *Implementation Reviews*.

The Scientific Committee recommended the adoption of the 'Requirements and Guidelines for *Implementation*'.

OTHER

In response to some questions raised by the Commission in the past concerning the spatial-temporal considerations in the RMP, a possible annotation to the RMP specifications was discussed and drafted by the Committee. It will be discussed and finalised at next year's meeting, then presented to the Commission.

The Committee's Requirements and Guidelines for Conducting Surveys and Analysing Data within the RMP were revised and recommended to the Commission for adoption.

The Norwegian representatives to the Committee formally notified it that Norway intended to develop and propose a change to the *CLA* for minke whales in the North Atlantic, in accordance with the guidelines for such a process given in 1992.¹²

6.1.1.2 PREPARATIONS FOR IMPLEMENTATION

NORTH PACIFIC BRYDE'S WHALES

The Committee has made relatively slow progress on completing the *Implementation* for western North Pacific Bryde's whales *inter alia* due to its heavy workload. While noting that it was in the *pre-implementation assessment* stage, the Committee noted the considerable work already undertaken and agreed that it should be possible to move faster towards *Implementation* than would be the case for new situations. For a number of reasons, the Committee did not make as much progress as it had hoped on this issue in Sorrento. In order to ensure progress during the coming year it therefore agreed to hold an intersessional Workshop before the next annual meeting.

NORTH ATLANTIC FIN WHALES

The Committee reviewed the available information in order to determine whether there was sufficient information to warrant the initiation of a *pre-implementation assessment* for North Atlantic fin whales. It agreed that there was and recommended that the Committee initiate the *pre-implementation assessment*, beginning at next year's annual meeting.

6.1.1.3 BYCATCHES OF LARGE WHALES

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 for example bycatches in fishing gear and ship strikes.

The Scientific Committee began to consider this issue in some detail three years ago. 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.

The Committee has reviewed general methods for estimating bycatches. These fall under two headings:

- (1) those based on fisheries data and observer programmes; and
- (2) 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.

Genetic approaches potentially represent a new way of estimating bycatches. The Committee has 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 at this stage. However, for its value to be properly assessed will require further developments in sampling design with input from experts with detailed knowledge of market sampling issues. A proposal for a Workshop on that subject was developed and this Workshop will be held immediately prior to the next annual meeting in Ulsan, Korea. The objectives of the Workshop are:

- (1) to review available methods that have been used to provide estimates of large cetacean bycatches via market samples, including a consideration of their associated confidence intervals in the context of the RMP;
- (2) to provide advice as to whether market-sampling-based methods can be used to reliably estimate bycatch for use in addressing the Commissions objectives regarding total removals over time and, if so, the requirements for such methods.

It was also noted that the Workshop will be interested in the question of markets only insofar as determining whether or not such data can be used to provide reliable estimates of bycatch.

Work to further explore improved bycatch estimation methods for the two approaches noted above is continuing. Improved data reporting for large whale bycatches was also recommended and a pro-forma developed.

6.1.2 Commission discussions

6.1.2.1 GENERAL ISSUES

With respect to the proposed 'Requirements and Guidelines for *Implementation*', Japan expressed strong appreciation to the authors of these guidelines that it believed would help the effective functioning of the *Implementation* process and avoid the long delays that have occurred in the past. It sought confirmation from the Scientific Committee Chair that the approach proposed would not increase risk to stocks. Germany also sought clarification on whether a less conservative approach was now being proposed. In response, the Scientific Committee Chair explained that the approach being proposed is appropriately conservative,

¹² *Rep. Int. Whal. Commn.* 43: 97.

adequately precautionary and consistent with guidance from the Commission in the past. Australia was of the opinion that there are a range of issues related to the RMP that require clarification, e.g. methods for estimating populations, the spatial determination of stocks, harvesting strategies, the establishment of pre-exploitation levels, and whether population models are capable of dealing with shifts in ecosystem regimes. Given the complexity of the issue, the turnover of Commissioners and adherence of new countries to the Convention, Australia proposed that the Chair of the Scientific Committee be invited to make a comprehensive presentation on the RMP and related aspects to the Commission at its 57th Annual Meeting in Ulsan. The UK, Italy and Germany supported Australia's proposal. Iceland appreciated the proposal but believed that it should not delay the Scientific Committee's work. The USA noted that the Committee's proposals are guidelines and as such define a process rather than changing fundamental aspects of the RMP. It hoped that the proposed presentation would not turn into an opportunity to pick apart the RMP. Norway supported adoption of the guidelines and saw no reason to delay their implementation.

6.1.2.2 PREPARATION FOR IMPLEMENTATION

Japan noted that work on western North Pacific Bryde's whales began in 1997 but that there had been delays due to other work of the Committee. It regretted that the *Implementation Simulation Trials* had not been initiated this year.

Iceland expressed concern that limited resources meant that it was not feasible for the Scientific Committee to start two *Implementations* in the same year resulting in a delay of the completion of the *pre-implementation assessment* for North Atlantic fin whales at next year's meeting.

6.1.2.3 ESTIMATION OF BYCATCH

New Zealand welcomed the Scientific Committee's report on this issue and spoke in support of the proposed workshop, as did the UK, Sweden and Australia. Norway, together with Japan, the Republic of Korea, Dominica and Grenada could not support the Committee's strong recommendation for the workshop, believing it to be outside the Commission's mandate and not plausible. The Republic of Korea noted the difficulty in performing market surveys. Instead, it had made efforts to improve bycatch reporting.

6.1.2.4 NORWAY NOTIFICATION

Norway drew attention to its notification to the Scientific Committee, in accordance with existing guidelines, regarding its intention to develop and propose a change to the *CLA* of the RMP for minke whales in the North Atlantic. It gave two scientific reasons for the proposed changes:

- (1) the current *CLA* gives inappropriately small catch limits (compared with, for example, the *SLA* of the AWMP for eastern North Pacific bowhead and gray whales); and
- (2) when the RMP was developed in the 1980s, the precautionary principle was interpreted 'one-sidedly'. It was important to ensure against over exploitation of whale resources. Under a future ecosystem-based management, the precautionary principle must be interpreted 'two-sidedly' in the sense that it is important to avoid not only to harvest too many whales, but also not to harvest too few, given the

plausible resultant impacts on sustainable fishery yields. The UNWDDS (Johannesburg, 2002) encouraged, with regard to exploitation of living marine resources, the application by 2010 of the ecosystem approach. In this context it is important that the operative management procedure for minke whales is a realistic tool for stabilizing stocks at predetermined levels below carrying capacity.

Japan, noting that it believes the current RMP to be too precautionary, sympathised with Norway and looked forward to hearing of progress in its work. St. Kitts and Nevis and St. Lucia also supported Norway. In contrast, Austria, Germany, Switzerland, Brazil, the UK, New Zealand, Italy, the Netherlands, Mexico and Australia all expressed concern. Some viewed this move by Norway to be shaking the foundations of the RMP and called into question the commitment of members to develop a set of mechanisms to manage exploitation of whale resources. Others believed that with respect to incorporation of an ecosystem approach, Norway would be operating under a speculative hypothesis.

Iceland suggested that the Commission should not be having a political debate on a scientific issue. The USA agreed and clarified that at this point Norway is not asking for an amendment to the RMP but simply notifying their intention to invoke a scientific process. Monaco and Sweden agreed, although Sweden noted that implementation of an ecosystem approach does not necessarily mean that resources should be harvested.

6.1.3 Action arising

The Commission noted the report and endorsed its recommendations, although with respect to the recommended bycatch workshop, the reservations of Norway, Japan, Republic of Korea, Dominica and Grenada were noted. The proposal for a presentation on the RMP at IWC/57 was also noted.

6.2 Revised Management Scheme (RMS)

6.2.1 Report on intersessional work

At IWC/55 in Berlin, the Commission agreed to Henrik Fischer's proposal to convene a small group of his choosing to explore ways and possibilities of taking the RMS process forward. He subsequently invited Denmark, Iceland, Ireland, Japan, the Netherlands, Spain, Sweden and the USA to take part. All except Ireland were able to accept. Ireland had to decline due to pressures of work associated with the lead-up to Ireland's presidency of the EU starting in January 2004. The Chair's small group (CSG) met at the Secretariat's offices in December 2003 and again in March 2004. Based on these discussions, Henrik Fischer developed his proposals for a way forward on the RMS (see Annex E). This document was circulated in confidence to Commissioners prior to IWC/56 and then presented and discussed at a private meeting of Commissioners in Sorrento on Friday 16 July 2004. A summary of the Chair's proposed RMS 'package' is provided below (note that items indicated with an asterisk require modification of the Schedule).

Elements of a Proposed RMS 'Package'

1. **RMP***: as agreed by the Scientific Committee and endorsed by the Commission.
2. **A phased-in approach to the resumption of commercial whaling***: for an initial period (e.g. 5

years after the lifting of the moratorium), commercial whaling would only be allowed in waters under national jurisdiction.

3. **National inspection and observation scheme***: as proposed by the EDG (generally, observers and inspectors on all boats where practical) with VMS on very small vessels with <24hr trips and one observer per catcher attached to a factory ship.
4. **Additional catch verification to combat IUU whaling and/or unreported bycatches (NOT to monitor trade)**:
 - National diagnostic DNA registers and market sampling to agreed standards (with outside review) and a procedure to allow checking of samples against the registers*.
 - Resolution urging countries to institute national legislation prohibiting the import of whale products from non-IWC countries as well as from IWC countries that are non-whaling .
 - Documentation up to port of entry if importation from IWC member*.
5. **Compliance***: compliance Review Committee with duties as developed by the RMS Expert Drafting Group and agreed by the Commission, and inclusion of Schedule text as proposed in Berlin: *'The Compliance Review Committee reports on infringements and the seriousness of these infringements to the Commission and advises the Commission what actions, if any, to be taken'*.
6. **Mechanism to apportion RMS costs among Contracting Governments***: costs for national activities should be borne by relevant national governments, while international costs for securing transparency could be allocated in the context of the overall financial contributions scheme.
7. **Measures for the lifting of Paragraph 10(e)***: modify paragraph 10(e) such that it becomes invalid on a specific day whilst ensuring that any whaling operations are undertaken under the full RMS package (N.B. catches other than zero can only be set for species/areas the Scientific Committee provides advice for under the RMP – currently very few).
8. **Whaling under Special Permit**: recognise that it is a Sovereign right under the Convention but develop a Code of Conduct.
9. **Animal welfare considerations**:
 - Explicit recognition of the issue in the Schedule*: *'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.'*
 - Resolution focussing on improving techniques, voluntary provision of data to regular scientific workshops and possible co-operative research programmes.

In his document, the Chair noted that the above 'package' of measures includes, in some way, all but two of the elements that have been discussed recently in the context of the RMS. The exceptions are blanket trade restrictions and sanctuaries. While some form of trade restriction might be appropriate in deterring IUU whaling, he believed that a blanket ban on international trade in whale products would be discriminatory against some countries, against principles of free trade and outside the competence of IWC. With respect to sanctuaries, he considered that each should be

reviewed on its own conservation and management merits and would therefore be difficult to build into any RMS 'package'.

In the absence of Henrik Fischer, the private meeting of Commissioners to discuss his proposals was chaired by Chris O'Grady, Commissioner for Ireland. Henrik Fischer did, however, submit a written statement to Commissioners (see Annex F).

Chris O'Grady reported the outcome of the private meeting of Commissioners to the plenary meeting. He noted that the objective of the meeting was to present and explain the Chair's proposal and that this had been achieved largely thanks to the presentation of Greg Donovan from the Secretariat. He reported that while some Commissioners expressed difficulties with some elements of the Chair's proposed package, there was general agreement that (1) a package approach would be a useful way forward and (2) that the Chair's document formed a good basis for discussion during the Commission plenary. It had also been agreed that the documents circulated to Commissioners in confidence should be made publicly available in response to concerns expressed by some that the intersessional work had lacked transparency. Some criticism had been levelled at the way involvement in the intersessional work had been restricted to certain countries and there was a call from some Commissioners for wider involvement in any future discussions. Finally Chris O'Grady reported that the Commissioners had agreed that substantive discussion on the Chair's proposed RMS package should be left to the plenary and drew attention to the fact that the Chair's proposal would require considerable intersessional activity prior to IWC/57 next year.

6.2.2 Commission discussions and action arising

Discussions were structured by first inviting an initial exchange of views on Henrik Fischer's proposals, then asking for specific comments on the different proposed RMS package elements and then developing a plan for future work.

6.2.2.1 INITIAL COMMENTS

Denmark agreed fully with the sentiments expressed by Henrik Fischer in his statement to Commissioners (Annex F) regarding the RMS process and the need for its early completion and adoption with as broad a support as possible. It agreed that an RMS is needed for both whale conservation and whale management and considered that the Chair's proposal should be the basis for completing this work, while recognising that obstacles remained to be overcome. However, it stressed that the elements included in the proposed RMS package together represent a delicate balance that had been developed in the spirit of compromise and that this balance should not be compromised. Denmark considered that, as proposed by the Chair, there must be a clear link between the adoption of the RMS and the lifting of the moratorium. It considered that if it is not acknowledged that the objective of an RMS is to conserve whale stocks and to manage whaling in practice, not in theory, using one of the most conservative and precautionary systems ever devised for the setting of quotas of any marine resource (i.e. the RMP), then the rationale for continuing the work would be questionable. Denmark acknowledged that how and when this link is activated is open to discussion, but believed that general opposition to this would de-rail the entire process. It also

believed that for the sake of conservation, the moratorium should be lifted and an agreed mechanism implemented to allow for the international management of whaling. It considered that the alternative would be the continued and likely increased level of whaling around the world without agreed international control. It respectfully requested those Contracting Governments that have expressed a concern about linking adoption of the RMS with lifting of the moratorium to explain the nature of their concerns. Denmark believed that without an RMS in place, the Commission would cease to function according to its own Convention, and that many Contracting Governments would be forced to consider seriously the purpose of their continued membership. It therefore urged delegates, as representatives of responsible governments in an international body, to keep the RMS work at the top of the agenda with Henrik Fischer's proposal as the window of opportunity and to provide the resources necessary to have an RMS ready for final consideration at IWC/57 in Ulsan next year.

The USA stated that it wished to make clear that it continues to support the moratorium on commercial whaling, but that it nevertheless remains committed to completing the RMS in a timely fashion. It commended the Chair for his efforts in establishing his small group and thus advancing the RMS process. It considered that without his intervention, it is doubtful whether any progress would have been made since IWC/55. The USA noted that it generally agreed with the Chair's proposed process and saw the need to develop a plan for intersessional work on the RMS. It noted that it could not adopt the proposal in its entirety but was willing to use it as a basis for discussions. It expressed some concerns with the Chair's proposal, particularly with respect to paragraph 10(e) – the moratorium, scientific whaling and cost sharing. It noted the need to include transparency in any future process.

Sweden commented that when it voted in 1982 to introduce the commercial whaling moratorium, it envisaged a 10-year period without whaling in which increased research into the status of whale stocks and the development of an RMS would be carried out. It noted that unfortunately, there had been an increase in whaling outside of IWC control since the moratorium was put into force. Nevertheless, Sweden stressed that it remained committed to completion of the RMS that is now much overdue. It believed that no one, and certainly not the whales, benefit from the present situation and that an RMS is necessary to ensure that whaling will be sustainable and that whale stocks will be restored. Sweden noted that it had therefore accepted gladly the Commission's decision last year to allow Henrik Fischer to establish a small group to facilitate the process towards a new RMS. It noted that in contrast to discussions within the whole Commission that have not always been constructive, its participation in the small group had been a very positive experience, indicating that progress on the RMS is still possible. It hoped that the spirit of co-operation and willingness to seek compromises that had existed among members of the Chair's small group could spread among the whole Commission. Sweden was convinced that the formation of the small group had been the only way forward at the time. However, it now believed that the process should be opened up, provided that this is done in a way that will not reduce efficiency. Sweden supported the Chair's proposal that the RMS should comprise a package, and while his proposals did not fulfil

all of Sweden's requirements, it believed that they contain all the essential elements for an RMS and provide a good framework for further development. Completion of an RMS is a prerequisite to Sweden agreeing to lift the moratorium and it is willing to take an active part in further work. The Netherlands, who stressed that they continued to support the existing commercial whaling moratorium made similar comments.

Japan recalled that when the moratorium on commercial whaling was adopted in 1982, it was adopted on the clear condition that by 1990 at the latest, the Commission would undertake a comprehensive assessment of the effect of this decision on whale stocks and consider modification of the provision and the establishment of catch limits other than zero. It noted that this undertaking, which now includes completion of an RMS, remains unfulfilled. It also noted that it has supported early completion of the RMS and considered that while it has made a number of compromises during discussions, some nations opposed to whaling had made excessive requests regarding certain elements of the RMS thus delaying its completion. In view of this stalemate, Japan had supported and appreciated the establishment of the Chair's small group, of which it had been a member. Japan accepted that the Chair's proposed RMS package represents a compromise and noted that because of this, it is not happy with all elements (e.g. the inclusion of special permits). Nevertheless, it remained committed to taking part in future work which public opinion in Japan considered should be concluded by IWC/57 next year. If this was not achieved Japan noted that it would be faced with having to make a difficult decision.

Spain noted that it too remains committed to continuing the process to develop an RMS based on the Chair's proposal. It did, however, have some concerns especially relating to proposals to lifting the moratorium, scientific whaling and cost sharing.

Iceland considered that the Chair's document and proposals showed that more progress has been made in the last 10 months than in the last 10 years and that therefore the proposals should not be dismissed lightly. Although having been part of the small group, Iceland noted that it dislikes strongly various elements of the Chair's proposal, and suggested that this would be the case for all Contracting Governments. However, it stressed that all parties should recognise that there can be no compromise solution on any other basis. Iceland considered that the Chair's proposal represented the only way forward – beginning again from the status of discussions at IWC/55 would dismantle any chance of reaching a conclusion.

Ireland thanked the Chair and his small group, including the Secretariat, for their work. It regretted that it had been unable to join this group due to pressures of other work. Ireland noted that it supports the early adoption of a robust and effective RMS and the package approach proposed by the Chair. It believed the alternative of addressing the elements of an RMS one by one would be a recipe for confusion and continued division within the Commission. Ireland recalled that since 1995, it has been the author of a compromise proposal aimed at unlocking the paralysis within the Commission regarding adoption of an RMS and that it has consistently called for other Parties within the Commission to come forward with an alternative proposal that would meet with more favour than its own. It noted that the Chair's proposal is the response for which it has been waiting, and, like others, considered that it is an

important and useful basis for moving forward. Although it supported the package approach, Ireland indicated that it could not, at this stage, accept the package put forward by the Chair, although it was open to further discussions. Its concerns with the package proposed centred on three broad issues:

- (1) the link between adoption of an RMS and the lifting of the moratorium;
- (2) that whale meat taken within the initial period (e.g. five years) would not be confined to local consumption; and
- (3) the proposed handling of whaling under special permit.

Nevertheless, Ireland was optimistic that Henrik Fischer's proposals could be used as a useful basis for breaking the log-jam within the Commission regarding adoption of an RMS. It concluded that the only way forward is further compromise from all members of the Commission. Ireland was prepared to contribute to this compromise.

Like Sweden, Switzerland believed that a management regime is needed to bring existing activities under IWC control. It considered that while more work is needed to reach a compromise solution, real progress had been made since last year and that the Chair's proposal provided a good basis for further work. It also considered that the RMS has to be seen as a package of inter-linking elements. Finland, while still supporting the moratorium, commended the work of the Chair and his small group. It too considered the Chair's proposal as a good basis for further work, although it had difficulties with some of the elements as currently included (e.g. costs and scientific permits). Finland believed that a transparent follow-up is needed with extended participation. Oman associated its position with the view expressed by Ireland and Switzerland.

Dominica considered the work reflected in Henrik Fischer's proposal as a valuable step in the quest to finalise the RMS. Like others, it recognised that further work is needed but urged Commissioners to consider objectively the merits of the package approach proposed so that the RMS can be completed at IWC/57. It stressed the need for all parties to compromise. Antigua and Barbuda made similar remarks and hoped that the Commission could adopt a similar openness in future discussions as that shown by the Chair's small group. The Republic of Guinea, St. Lucia, St. Kitts and Nevis, Grenada, Republic of Korea, Morocco and Benin made similar remarks. St. Lucia noted the significant efforts expended in the formation of the Conservation Committee last year, and urged the proponents of that Committee to commit themselves equally to the completion of the RMS along the lines proposed by the Chair.

Monaco believed that a modern and robust RMS is needed as soon as possible in order to restore credibility to the Commission. Like many others, it commended the work of Henrik Fischer and his small group and considered the proposed package of measures to be a useful basis for the construction of a carefully negotiated agreement.

While appreciating the work of the Chair and his small group, Argentina believed the proposal to be unbalanced since the group included neither representatives of countries from the Southern Hemisphere nor representatives from developing countries. It did not consider the Chair's proposal an appropriate basis for further work.

Germany thanked the Chair, his small group and the Secretariat for their work since the Annual Meeting in Berlin. It noted that it would strive for an RMS based on best practices, drawing on the internationally-accepted high standards in regional fishery organisations. Germany viewed the Chair's proposal as being helpful, but identified concerns related to lifting of the moratorium, catch verification, compliance, costs, special permit whaling and animal welfare (see next section). It considered that sanctuaries should be included as part of the RMS package. It believed that further work should be done in a fully transparent way according to a framework defined clearly by the Commission.

Italy complemented the Chair for his work. It noted that Italy continues to support the moratorium but at the same time believes it very important to make progress on the RMS. While it agreed that the proposed package was a useful tool for making progress, it saw problems with the proposal, particularly in relation to the proposed handling of scientific permits. Like Germany, Italy called for future work to be done in a more transparent way.

South Africa identified itself as a Southern Hemisphere developing country having concerns regarding the welfare of whales in its Exclusive Economic Zone (EEZ) and adjacent Southern Ocean. It noted that it is no longer a whaling country and that it has no intention of ever returning to this practice. It reported that it has benefited greatly from whalewatching, considering this form of non-consumptive use as the preferable means by which its people, and poor communities in particular, gain from the presence of whales along its coast. Indeed it asserted its right to non-consumptive use and its right to have a stake, through the IWC, in the management and conservation of whales on the high seas and in the Southern Oceans in particular. It described some specific concerns with Henrik Fischer's proposal which are given in the section below and associated itself with the remarks of Germany. In general terms, South Africa believed that a greater degree of unanimity and convergence is needed among IWC members in relation to scientific advice (e.g. the RMP). It considered that the divergence evident at each Annual Meeting does not bode well for good management.

Brazil noted that it has participated in good faith in the long and difficult discussions on the RMS and had tried to be open and transparent about its two main interests, i.e.

- (1) the construction of an adequate foolproof international inspection and observation scheme to prevent reoccurrence of past abuses and damage caused by legal and illegal whaling operations; and
- (2) the proper discussion of an agreement to respect the rights of coastal states to appropriate whale resources in a given ocean basin through non-lethal means.

It reiterated its view that there should be no more private/closed door meetings on the RMS, and that Contracting Governments should be able to be represented at meetings with a full delegation as governments see fit. It stressed that transparency, full accountability and due respect to the rights of states that appropriate whale resources non-lethally are, in its view, integral aspects of RMS negotiations.

New Zealand associated itself with the remarks of Germany and South Africa. While recognising the Chair's efforts to move the RMS process forward, it considered his proposal to be fundamentally flawed and indicated that it

would oppose it strongly in its present form for both general policy and legal reasons. It would not compromise on its fundamental views but it was willing to continue negotiations. New Zealand drew attention to the fact that the Commission has presided over the calamitous decline in whale stocks and believed that the negligence of the organisation in this matter is clear and palpable. It was this decline that had led to the 1982 decision to establish a commercial whaling moratorium, thereby taking steps to rebuild public confidence. New Zealand did not believe that the world's public was yet ready for the resumption of commercial whaling, and questioned whether the lessons from past mistakes have been adequately learned and heeded. Regarding the future process for RMS discussions, New Zealand proposed that:

- (1) the mandate of any groups established should be to develop proposals without precondition as to their content;
- (2) participation in any groups established should be unrestricted; and
- (3) meeting schedules and venues should be selected to facilitate the greatest number of participants.

New Zealand considered completion of the RMS to be important, and suggested that this be done prior to the lifting of the moratorium. Furthermore, noting that the Convention is nearly sixty years old and that it is showing signs of weakness that come with age, New Zealand believed it to be badly out of date and in need of revision. Without revision, New Zealand considered that the burdens of administering an RMS would be beyond the capacity of the Commission to handle. In its view, the Convention has serious weaknesses compared with modern treaty instruments. It believed these weaknesses could be remedied, given the collective will to do this, but it was New Zealand's view that commercial whaling could not resume unless and until there are appropriate international enforcement mechanisms and an appropriate international dispute settlement mechanism in place. It advocated revision of the Convention by way of a diplomatic conference to negotiate a Protocol.

The UK while appreciating the efforts of Henrik Fischer and his small group, considered that while the Chair's proposal may form the basis for further discussion, like Germany and New Zealand, it doubted whether the proposal, in its present form, is a package that could form the basis of an agreement. The UK accepted however that work should proceed, believed that it should be done in an inclusive manner as possible, and agreed with New Zealand that there should be no preconditions as to its policy content. It also stressed, that if the Commission is to discuss the RMS in Ulsan with a view to reaching a final conclusion, then any draft package should be agreed as early as possible to allow adequate opportunities for public airing.

Australia associated itself with the comments made by South Africa and Germany. While referring to its well-known position that it would not support the resumption of commercial whaling, Australia noted its legitimate interest in ensuring that, in case this should occur, any management scheme developed has been tested against best and improving practice. It asserted its right to be part of an open and transparent process within the Commission regarding development of an RMS.

Kenya noted that it had never been a whaling nation and had no plans to become one. It believed its policy of the non-consumptive use of wildlife is well known, and in this spirit it favoured the continuation of the moratorium and was opposed to the proposed RMS package, despite its progressive intentions. It associated itself with the views expressed by South Africa and New Zealand.

Portugal associated itself with the views expressed by Germany and Ireland. Austria associated itself with the views of Germany, the UK, New Zealand and others. Peru associated itself with Argentina and Brazil. France indicated that while it is opposed to the resumption of commercial whaling, it recognised the work done by the Chair and his small group and awaited the outcome of future work with interest. Mexico supported the statement of South Africa. It also supported the views expressed by Brazil, Argentina and Peru in the sense that the RMS development process has to be more inclusive of geographic diversity, especially countries in the Southern Hemisphere that oppose whaling and are devoted to the conservation of whales. India wanted RMS development to be expedited, but did not support the suggestion that adoption of an RMS should be linked with lifting of the moratorium.

Dominica noted that last year, the Commission gave the Chair the mandate to form a small group of his choosing to work on a way forward. It therefore regretted the remarks made by some delegations regarding what they considered to be a lack of transparency in the intersessional work since the Annual Meeting in Berlin.

6.2.2.2 DISCUSSION OF PROPOSED RMS PACKAGE ELEMENTS

This section collates comments made on specific elements in the Chair's proposed RMS package. It should be noted that absence of comments by countries neither implies acceptance or rejection of the Chair's proposals.

RMP

The USA believed that the version of the RMS to be included in the Schedule should be that version adopted by the Commission by consensus in 1994 that incorporated the tuning level of 0.72 and a protection level of 0.54 adopted by the Commission in 1992. This is in line with the Chair's proposal. Belgium made similar comments.

The UK noted that the Commission had been advised that the RMS linked to the RMP will provide adequate protection to whale stocks and that catch limits would only be set for whale stocks when scientific advice is given on those catch limits. It therefore viewed with concern Norway's proposal to develop its own version of the RMP (see section 6.1.2).

PHASED-IN APPROACH TO COMMERCIAL WHALING

Brazil viewed this proposal to be one of the most unacceptable provisions within the package. It believed it to be inconsistent with the Convention on the Law of the Sea.

Germany sought clarification as to whether the proposal was to initially restrict whaling to within waters of national jurisdiction (that it understood as being normally a 12 mile limit) or to EEZs (i.e. 200 mile limit). Iceland explained that in fact waters under national jurisdiction extend to 200 miles not 12 miles. The USA confirmed that the Chair's proposal was intended to restrict whaling to within 200 miles initially.

As indicated above, Ireland was concerned that whale meat taken within the initial period (e.g. 5 years) would not be confined to local consumption.

China suggested that domestic legislation needed to be taken into account since its legislation prohibits the taking of whales in national waters.

NATIONAL INSPECTION AND INTERNATIONAL OBSERVATION

Australia, supported by the UK considered that inspection as well as observation should be co-ordinated at the international level by the Commission, and that the proposed provisions for use of vessel monitoring systems (VMS) do not reflect current best practice. Belgium believed that VMS should be compulsory for all whaling vessels.

ADDITIONAL CATCH VERIFICATION MEASURES

Sweden considered additional catch verification measures as a very important part of the RMS, believing it crucial that any systems put in place are transparent and allow for independent checking. It recalled the proposed Schedule amendment it and other countries submitted to the Commission at the Annual Meeting in 2002 and suggested that in the absence of alternative proposals to achieve a similar level of transparency in DNA registers, this remained the best option.

The USA indicated its willingness to support establishment of a DNA register with appropriate IWC oversight and catch documentation based on CITES requirements. It noted its concern regarding the status of current stockpiles of whale meat and other products and how these might be accounted for. Although its preference was that such stockpiles be disposed of by a certain date, it could accept having them entered into a DNA registry.

Belgium considered that the proposed DNA register has to be organised on an international basis for it to be effective. Germany agreed. With respect to catch documentation, Germany considered that it is not satisfactory to simply refer to CITES documentation. It considered that a specific system is needed for IWC and that this would require extensive further work.

Australia did not view the Chair's proposal as being current best practice and suggested that the provisions of CCAMLR should be examined.

COMPLIANCE

Germany considered that provisions should be developed that would equate to the highest standards in other international organisations. Belgium believed that provisions regarding compliance needed to be carefully drafted. New Zealand believed that enforcement could not be left to national procedures as they would not work. Rather, New Zealand proposed that international enforcement mechanisms are necessary.

APPORTIONING COSTS

Germany, Spain, Netherlands, South Africa, Finland the UK, Monaco and the USA expressed concerns regarding the Chair's proposals on how to apportion costs of an RMS among Contracting Governments and considered this to be an area where further work is needed. Germany did not believe that there should be cost sharing between all members and those members participating in whaling. It noted that in regional fisheries organisations, it is common practice that the fishing nations have to pay for international oversight (observers). Germany believed this same principle should apply to IWC. Spain made similar remarks. While the UK accepted that there may be certain

central costs resulting from the operation of an RMS which might be appropriate to be borne by IWC's budget as a whole, the UK found it unacceptable that it should be asked to contribute to the costs of enforcement and oversight. The USA, supported by Brazil, believed that the Chair's proposal would result in certain delegations paying a disproportionate share of the total cost of implementing the RMS and called for a more equitable scheme.

Responding to the comparisons made between IWC and other fisheries management organisations in which costs of observers are borne by the fishing nations (user pays), Denmark drew attention to the fact that other fisheries organisations do not require both a national inspector and an international observer to be present on all vessels and neither do they require DNA analyses of every fish caught. Consequently, Denmark believed that a compromise had to be found and indicated its open-mindedness regarding what the solution might be. Iceland associated itself with these comments and added that the fundamental difference between IWC and other fisheries bodies is that the latter do not have some members that wish to prevent others from fishing. It therefore did not consider such comparisons appropriate. China agreed with the remarks of Denmark and Iceland.

South Africa noted that the likelihood of increasing costs to Contracting Governments associated with the proposal is of concern to a country like itself that cannot be a major contributor.

St. Kitts and Nevis indicated that RMS costs must be shared on the basis of equitable principles.

MEASURES FOR THE LIFTING OF PARAGRAPH 10(E)

Denmark, Japan, Norway, St. Lucia, St. Kitts and Nevis, and Grenada all stressed the need to link adoption of an RMS with the lifting of the commercial whaling moratorium. Norway failed to see the logic of discussing the RMS if there is no intention to use it. Japan, St. Kitts and Nevis and Grenada called for simultaneous lifting of the moratorium with adoption of an RMS. (See also Denmark's comments in section 6.2.2.1).

Germany, Brazil, New Zealand, the UK, Australia, Belgium, Monaco, India and Argentina were strongly opposed to linking adoption of an RMS with lifting of the moratorium. Spain and Ireland expressed concern with the Chair's proposal, while the Netherlands called for further elaboration of the phasing in of an RMS package with the phasing out of paragraph 10(e). Brazil believed that discussions on the lifting of paragraph 10(e) should be considered from a geographical as well as time perspective so as to take account of its position on the right of states to use whale resources non-lethally. New Zealand considered that there is no link as a matter of law between adoption of an RMS and lifting of the moratorium - each must be considered on its own merits. It further noted that should the conditions ever be right for lifting the moratorium, this could only happen once an RMS has been adopted. The UK could not see any way in which a package containing both elements will necessarily result in the moratorium only being lifted if an RMS is place without objection. The UK believed that if an objection is raised to the RMS, either at the time of its proposal as a Schedule amendment or subsequently by a government withdrawing from the Convention and re-adhering with a reservation (of which there is a precedent), the RMS should be scrapped and the moratorium immediately put back into force. Australia felt it legitimate for Contracting Governments to have strongly

held views on the nature of a robust management procedure should whaling recommence, while maintaining their opposition to commercial whaling and to the lifting of the moratorium. Australia also questioned whether it would be technically possible to achieve the Chair's proposal, i.e. that paragraph 10(e) would become invalid on a specific day while ensuring that any whaling operations are undertaken under the full RMS package. It noted in particular that this proposal puts constraints on the rights of Parties to the Convention (i.e. the right to object) and it was not clear how this could be managed. In this respect, the Secretariat noted that it had not yet done any further work on this aspect as suggested in the Chair's proposal.

WHALING UNDER SPECIAL PERMIT

Several governments believed that Article VIII of the Convention, allowing Contracting Governments to issue permits for the taking of whales for research purposes had been grossly abused in past years and particularly since the moratorium. Germany, Ireland, South Africa, the UK and New Zealand considered that the voluntary code of conduct proposed by the Chair was insufficient. Germany believed that binding rules are needed to regulate whaling under special permits. Ireland's view was that special permit whaling should cease or at the very least be phased-out, if as proposed, commercial whaling is phased-in. It did not believe that public confidence in IWC's ability to manage whaling would be achieved if whaling under special permit continued at the same time as commercial whaling was resumed. The UK found it unacceptable that any RMS could be put in place without some real control and preferably cessation of permit whaling. New Zealand suggested that special permit whaling is practised for improper and non-scientific motives and believed that the issue needs to be addressed in its own right regardless of whether or not an RMS is approved. New Zealand considered it inconceivable that special permit whaling could be allowed to continue and considered Article VIII to be one of the most abused provisions of the Convention and the one at which greatest criticism is levelled. New Zealand considered that Article VIII should be included in its proposals to revise the Convention (see earlier comments).

While it viewed the proposed voluntary code of conduct as a good-faith effort to address this issue, the USA did not believe it goes far enough. The USA reported that whaling under special permit is a major issue for them and stressed the need for substantive progress in terms of halting or deferring scientific whaling, irrespective of rights under Article VIII. It did not see an easy solution, but noted its preparedness to review any creative proposals for moving forward. Sweden associated itself with these remarks.

Spain, Italy and Finland also expressed concern regarding the Chair's proposal. The Netherlands sought further elaboration. Monaco believed that special permit whaling should be brought under full modern control. Belgium considered that quotas for whaling under special permit should be determined by the RMP.

In response to New Zealand's comments, Japan suggested that if New Zealand considers Japan's activities on special permit whaling to be an abuse of Article VIII, then it had the option of bringing a case to the International Court of Justice. It therefore did not consider that preparation of a Protocol is necessary, but viewed it as a delaying tactic. Iceland believed it was clear that to change the Convention along the lines suggested by New Zealand would require more of a consensus than Iceland considered

politically possible. It suggested that advocating a revision of the Convention as part of the RMS package is, in effect, rejecting an RMS. Norway supported Iceland's views.

ANIMAL WELFARE CONSIDERATIONS

Noting the importance of animal welfare considerations, Germany indicated that provisions requiring the collection of animal welfare data on a regular basis must be included in the Schedule. It also believed that provisions are needed for killing methods that guarantee instantaneous death or insensibility. Belgium considered that animal welfare considerations should be part of the RMS package. The UK viewed as inadequate the Chair's proposals in this respect, suggested that they add nothing to what is currently included in various Resolutions and in requests for data that are sometimes honoured and sometimes not. The UK believed that if the Commission as a body is to sanction the killing of whales, then it has an ethical duty and moral responsibility to have input into the way whales are killed, e.g. specifying the types of equipment, specifying the weather conditions and sea state under which whales may be taken, and insisting on the collection of data on the efficiency of hunting methods. It recognised that some of these statistics may be difficult to obtain, but nevertheless believed them to be an essential part of an RMS. Without them, the UK considered that there would be no guarantee that whale welfare would be respected.

6.2.2.3 DEVELOPMENT OF A PLAN FOR FURTHER WORK

Denmark, on behalf on the other co-sponsors (Ireland, Iceland, Republic of Korea, Japan, Netherlands, Spain, Sweden, Switzerland and the USA) introduced a draft Resolution to proceed expeditiously towards the completion of both the drafting of text and technical details of the RMS, with the aim of having the results ready for consideration and adoption at IWC/57 (see Table 2). Denmark explained that the proposed Resolution tried to build on the increasing trust and determination of Contracting Governments to overcome the deadlock on the RMS that has plagued the Commission for so long. It stressed that crucial to the building of trust is the recognition of the dual role of the Commission to both conserve whale stocks and to manage whaling. This recognition had been the point of departure for the Chair's initiative in developing his proposed RMS package, and Denmark believed that it should be at the heart of the work proposed in the Resolution. Denmark noted that the co-sponsors also recognised the importance of taking account of the key questions and concerns raised in response to the Chair's proposals (drawing attention to the third preambular paragraph of the Resolution) and in particular the need for full transparency and geographical representation. Assuring delegates that the speedy completion, adoption and implementation of the RMS is an issue on which there is full consensus within the Kingdom of Denmark and noting that the Resolution represented a delicate balance of interest, Denmark urged countries to support the proposed Resolution without amendments.

The USA introduced the proposed intersessional plan of action included with the draft Resolution (see Table 2). It noted that over the course of discussions in Sorrento, a general agreement had emerged that progress on completion of the RMS should be facilitated by intersessional work prior to IWC/57. It also noted the Secretariat's paper (IWC/56/36) summarising the further work required based on the Chair's proposal that

demonstrated the need for a mix of activities by some of the Commission's existing sub-groups, such as the RMS Working Group, Scientific Committee and Contributions Task Force, and some new expert groups to advise on technical matters, e.g. in relation to catch verification.

To balance the need for transparency with the need to be able to work efficiently, the plan of action proposed to (1) address the former by reviving the RMS Working Group (that is open to all Contracting Governments and observers) under the Chairmanship of Henrik Fischer and (2) address the latter by establishing a small drafting group under the RMS Working Group. With respect to size, composition and leadership of the small drafting group, the USA proposed that delegations advise the Chair of their interest in serving and that the Commission leave it to the Chair to decide on the group's membership and Chair. It was suggested that the Chair of the Commission should also serve on the small drafting group and that the Secretariat be involved in all groups to provide continuity, expertise, oversight and co-ordination. The USA stressed that the process included in the draft Resolution would require a substantial commitment, i.e. involvement of the Secretariat as described, commitment of delegations to attend intersessional meetings or to provide written views and expansion of the duration of the Annual Meeting so this effort could be accorded the highest priority. And finally it noted that these activities would be counter to prevailing attitudes regarding costs, intersessional work and the priority to be accorded to certain issues.

While thanking Denmark and the USA for their introductions, Australia considered that the proposed Resolution had not, unfortunately, been developed in a way as to be fully inclusive of the interests across the Commission. However, it believed that there was scope to revise the Resolution in a way that could meet the requirements of all parties and suggested that further discussion in plenary be postponed to provide an opportunity for interested governments to discuss possible revisions. The Commission agreed to postpone discussions.

On returning to the issue, Australia introduced a revised draft Resolution (see Table 2), explaining where changes had been made. It believed that the revised proposal, which had been developed by a number of countries, represented a delicate balance and suggested that if it could be adopted by consensus, the Commission would have rebuilt its approach to the RMS.

Dominica indicated that with respect to the last operative paragraph it wished to retain the text in the initial draft, i.e. retaining the words '*with the aim of having the results ready for consideration and adoption at IWC/57*', and accordingly proposed an amendment to this effect. It felt that the revised text would simply encourage further prolongation of discussions. Palau and Iceland spoke in support of Dominica's proposed amendment and noted that as reference to IWC/57 was included in the intersessional plan of action and in the proposed Terms of Reference for the RMS Working Group, they saw no problem with its inclusion in the Resolution itself. The USA and New Zealand spoke in support of retaining the revised version. The USA expressed concern regarding the inclusion of the term 'adoption' since it believed that adoption of an RMS could not be predetermined.

In view of Dominica's concerns, Australia wondered whether it would be acceptable to include text along the following lines: '*agrees to proceed expeditiously towards*

the completion of both the drafting of text and technical details of the RMS according to the attached Intersessional Plan of Work with the aim of having the results ready for consideration at IWC/57'. While Dominica appreciated this suggestion, it could not accept it. As an alternative, Sweden proposed taking text from the Terms of Reference for the RMS Working Group and inserting them in the Resolution, i.e. '*...ready for consideration including for possible adoption at IWC/57*'. Iceland did not believe that Dominica's proposed amendment pre-empted any action by the Commission, but rather simply set an aim. However, if there could not be consensus on Dominica's proposal, then Iceland suggested that Sweden's suggestion provided a way forward. The UK disagreed, believing this to be close to breaching the Commission's Rule of Procedure E.3(b).¹³

On being put to a vote by a show of hands, Dominica's proposed amendment was rejected. Sweden's proposed amendment was accepted by a show of hands. Australia then proposed an amendment to the Resolution as amended by Sweden. It proposed that the third operative paragraph be amended to read '*...with the aim of having the results ready for consideration, including for possible adoption at IWC/57 and/or to identify any outstanding policy and technical issues*', thus including all the text from the RMS Working Group proposed Terms of Reference. While St. Kitts and Nevis expressed concern that Australia's latest proposal may be in breach of the Rules of Procedure, the Commission adopted by consensus the Resolution as amended by Australia. The amended Resolution (Resolution 2004-6) is provided in Annex C. While accepting that consensus had been reached, Denmark noted its unhappiness at having to explain the outcome to Henrik Fischer. It stressed that the amended Resolution must not lead to a repetition of returning to a square-brackets exercise, and that only fine-tuning of the Chair's proposal was needed, nothing more.

7. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

In introducing this item, the Chair explained that given the limited time available at IWC/56, the number of sub-groups that had needed to meet and the fact that there had been a 3-day workshop on Whale Killing Methods and Associated Animal Welfare Issues at last year's meeting, the Advisory Committee had agreed not to schedule a meeting of the Working Group in Sorrento. He noted that this agreement was reached on the understanding that:

- (a) this issue would be placed early on the plenary agenda and given an adequate time allocation;
- (b) Contracting Governments would be asked to provide data and information as requested in a number of Resolutions to the Secretariat for circulation to Contracting Governments well in advance of the plenary; and
- (c) the Working Group would meet at IWC/57 in 2005.

¹³ Rule of Procedure E.3(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.*

Table 2

Draft Resolutions proposed on completion of the RMS.

DRAFT RESOLUTION ON COMPLETION OF THE REVISED MANAGEMENT SCHEME (RMS) Proposed by Denmark <i>et al.</i>	REVISED DRAFT RESOLUTION ON COMPLETION OF THE REVISED MANAGEMENT SCHEME (RMS)
<p><u>Recognising</u> the dual mandate of the IWC for the conservation of whales and the management of whaling according to the 1946 International Convention for the Regulation of Whaling;</p> <p><u>Noting</u> that on this basis, considerable progress has been made in identifying the major elements necessary to reach broad agreement on the RMS, as reflected in the Chairman's Proposal for a Way Forward on the RMS (Doc IWC/56/26);</p> <p><u>Taking note</u> of the comments of Contracting Parties on the Chairman's Proposal at the 56th Annual Meeting of the Commission; and</p> <p><u>Concerned</u> that the failure to reach broad agreement on the RMS in the near future may seriously jeopardise the ability of the IWC to fulfil its responsibility of ensuring the effective conservation of whale stocks and the responsible management of whaling;</p> <p>NOW THEREFORE THE COMMISSION:</p> <p><u>Commends</u> the efforts of the Chairman in providing the basis for further work and discussion towards the finalisation of the RMS, as reflected in document IWC/56/26;</p> <p><u>Agrees</u> to re-establish the Working Group on the RMS with a view to holding an intersessional meeting prior to IWC/57, as outlined in the attached Intersessional Plan of Work; and</p> <p><u>Agrees</u> to proceed expeditiously towards the completion of both the drafting of text and technical details of the RMS according to the attached Intersessional Plan of Work, with the aim of having the results ready for consideration and adoption at IWC/57.</p>	<p><u>Recognising</u> the dual mandate of the IWC for the conservation of whales and the management of whaling according to the 1946 International Convention for the Regulation of Whaling;</p> <p><u>Noting</u> that on this basis, considerable progress has been made in identifying the major elements necessary to reach broad agreement on the RMS, as reflected in the Chairman's Proposal for a Way Forward on the RMS (Doc IWC/56/26);</p> <p><u>Taking note</u> of the comments of Contracting Parties on the Chairman's Proposal at the 56th Annual Meeting of the Commission; and</p> <p><u>Concerned</u> that the failure to reach broad agreement on the RMS in the near future may seriously jeopardise the ability of the IWC to fulfil its responsibilities;</p> <p>NOW THEREFORE THE COMMISSION:</p> <p><u>Commends</u> the efforts of the Chairman in providing a basis for further work and discussion towards finalizing the RMS;</p> <p><u>Agrees</u> to re-establish the Working Group on the RMS with a view to holding an intersessional meeting prior to IWC/57, as outlined in the attached Intersessional Plan of Work; and</p> <p><u>Agrees</u> to proceed expeditiously towards the completion of both the drafting of text and technical details of the RMS according to the attached Intersessional Plan of Work.</p>
<p style="text-align: center;">Intersessional plan of work</p> <p>Sufficient material is available from previous efforts, or will have been developed by the end of IWC 56, that the Commission could proceed to develop appropriate draft text for the RMS working on the basis of the Chairman's proposal (IWC/56/26), his statement (IWC/56/26) and the Secretariat's document on further work (IWC/56/36). The goal of this effort is to have a finalized text of an RMS package ready for adoption at IWC/57. The following iterative process would occur to develop such a text over the intersessional period.</p> <ol style="list-style-type: none"> 1. Commission formally revives the RMS Working Group and agrees to establish a small drafting group under it (see respective terms of reference in Appendices 1 and 2). 2. Secretariat collates and organises available materials. Technical specialist groups identified in IWC/56/36 are set up. 3. Technical specialist groups meet and finish their work before December 2004. 4. Small drafting group meets (one week) in December 2004. 5. Draft text is circulated to delegations for review and comment. Secretariat circulates comments to all delegations and to members of the small drafting group. 6. RMS Working Group convenes in late February – early March 2005 to consider the draft text and submitted comments, and to develop input to the small drafting group for development of the next iteration. 7. The small drafting group meets immediately afterwards to develop the second draft, which the Secretariat circulates to delegates. 8. The RMS Working Group meets for two days during the week prior to the IWC/57 Plenary session to consider the second draft. 9. The results of the RMS Working Group are presented to the Plenary for its consideration at IWC/57. 	<p style="text-align: center;">Intersessional plan of work</p> <p>The Chair's Proposal for a way forward (IWC/56/26), supplemented by his statement (IWC/56/26), other comments made at IWC 56 in relation to the Chair's proposal and the Secretariat's document (IWC/56/36), provides a basis for the development of draft text for the RMS, to clarify policy and technical issues and draft text for the RMS. The goal of this effort is to have clarified outstanding policy and technical issues and, as far as possible, have finalized text of an RMS package ready for consideration at IWC/57. The following iterative process would occur to develop such a text over the intersessional period.</p> <ol style="list-style-type: none"> 1. Commission formally revives the RMS Working Group and agrees to establish a small drafting group under it (see respective terms of reference in Appendices 1 and 2). 2. All Contracting Governments are invited to send comments/positions on key issues to the RMS Working Group. 3. Secretariat collates and organises available materials. Technical specialist groups meet and finish their work before December 2004. 4. RMS Working Group to provide guidance on major policy issues to small drafting group (before December) 5. Small drafting group meets (one week) in December 2004. 6. Draft text is circulated to delegations for review and comment. Secretariat circulates comments to all delegations and to members of the small drafting group. 7. RMS Working Group convenes in early March 2005 to consider the draft text and submitted comments and to develop input to the small drafting group for development of the next iteration. 8. The small drafting group meets immediately afterwards to develop the second draft, which the Secretariat circulates to delegates. 9. The RMS Working Group meets for two days during the week prior to the IWC/57 Plenary session to consider the second draft. 10. The results of the RMS Working Group are presented to the Plenary for its consideration at IWC/57.
<p style="text-align: center;">Appendix 1. Terms of Reference for RMS Working Group</p> <p>The RMS Working Group will have the following responsibilities:</p> <ol style="list-style-type: none"> (3) To complete work on the RMS package, with the goal of having a finalised RMS text ready for adoption at IWC/57. (4) To take account of delegates comments at IWC/56, as well as written submissions from delegates unable to attend the RMS Working Group in person. (5) To provide guidance to, and to review the work of, the Small Drafting Group. 	<p style="text-align: center;">Appendix 1. Terms of Reference for RMS Working Group</p> <p>The RMS Working Group will have the following responsibilities:</p> <ol style="list-style-type: none"> 1. To complete work on the RMS package, with the goal of having a finalised RMS text ready for consideration, including for possible adoption, at IWC/57, and/or to identify any outstanding policy and technical issues. 2. To take account of delegates' comments at IWC/56, as well as written submissions from delegates. 3. To provide guidance to, and to review the work of, the Small Drafting Group. <p>RMS WG to be open to observers.</p>

Cont.

DRAFT RESOLUTION cont.	REVISED DRAFT RESOLUTION cont.
<p align="center">Appendix 2. Terms of Reference for the Small Drafting Group (SDG)</p> <p>Under the auspices of the RMS Working Group, the SDG will have the following responsibilities:</p> <ol style="list-style-type: none"> To prepare a consolidated draft text for the replacement of parts of Chapters V and VI of the current Schedule. To prepare consolidated draft text on other related issues in the RMS package To utilize the Chair's proposal (IWC/56/26) and his statement (IWC/56/28), as a basis for this work. To rearrange, revise and renumber paragraphs in the draft text for Chapters V and VI as appropriate but not to attempt to merge them with other parts of the Schedule. 	<p align="center">Appendix 2. Terms of Reference for the Small Drafting Group (SDG)</p> <ol style="list-style-type: none"> To prepare a consolidated draft text for the replacement of parts of Chapters V and VI of the current Schedule. To prepare consolidated draft text on other related issues in the RMS package. To utilise the Chair's proposal (IWC/56/26) and his statement (IWC/56/28), as a framework for this work. To rearrange, revise and renumber paragraphs in the draft text for Chapters V and VI as appropriate but not to attempt to merge them with other parts of the Schedule. <p>Representation on SDG and Technical Specialist Groups (TSGs): Chair to seek expressions of interest to ensure regional and policy diversity in the groups. The SDG and TSGs should include Governments with adequate regional coverage, and adequate coverage of those For/Against/Neutral on the key issues.</p>

The Chair further noted that a request for information went out to all Contracting Governments, since previous Resolutions call not only for the reporting of data on whales killed and improvements to whaling operations but also for all Contracting Governments to (1) provide appropriate technical assistance to reduce unconsciousness and death in all whaling operations; and (2) to provide relevant data from the killing of other large mammals.

7.1 Reporting on data on whales killed and on improving the humaneness of whaling operations

Denmark and the Russian Federation submitted documents in response to the call for information. These are provided in Annex G. The USA gave an oral report which is summarised in Annex G. Japan did not submit data to the Commission, but did provide information on a bilateral basis. It noted that while it considers this issue to be outside the mandate and scope of the Convention, it has nevertheless worked to improve hunting methods and times to death and has participated in workshops and provided information on a voluntary basis. Japan believed that the data on whales killed should be used by those engaged in whaling to improve the hunts, rather than being used in a non-constructive way by those against whaling. It was disappointed that repeated requests for similar data for terrestrial animals had met with little success.

7.2 Commission discussions and action arising

In the Commission, while appreciation was expressed for the reports submitted there were no specific comments on them.

In response to remarks of Japan, the UK recognised that whale killing data have been used in the past to criticise whaling nations, but stressed that this was not its own intention. The UK sees a need to improve efficiency of the hunts and to reduce times to death. While it is satisfied that efforts are being made by all concerned, the UK believes there is a need for continuous improvement. It did not agree with those who consider animal welfare issues to be outside the mandate of the Convention, and again put forward its view that IWC has a moral obligation to ensure minimum suffering of hunted animals.

Germany noted that animal welfare issues are of vital importance to it, and expressed concern regarding:

- (1) that current whaling methods do not guarantee instantaneous insensibility or death;
- (2) that the data presently collected and submitted to the Commission are of insufficient quality and

completeness to allow a fully-informed assessment of the welfare implications of whaling operations; and (3) that the criteria used to determine death or irreversible insensibility are inadequate.

It regretted that a meeting of the Working Group had not been scheduled in Sorrento, and stressed the need for the group to meet next year. Australia associated itself with Germany's remarks.

The Russian Federation suggested that when countries call for more humane hunts, they should also be prepared to provide help. It noted that following its call for assistance at last year's meeting, only the Netherlands had responded by providing support to a training workshop to be held in Chukotka but also involving the Eskimos of Alaska. It thanked the Netherlands for this support.

Sweden saw the usefulness of comparing data from whaling with data from other hunts, since it believed it important to improve times to death in all hunts. It had therefore tried to gather data on Sweden's moose hunt in which more than 94,000 animals are shot annually. It noted that while no detailed information on times to death are available (there are no official observers of the hunt), information from a questionnaire organised by the hunters association in 1999 had indicated that 75% of animals fell where they were shot and a further 11% fell nearby. Sweden believed that these data suggest that the instantaneous death rate is in the order of 75-86%, i.e. similar to the instantaneous death rate in the Norwegian minke whale hunt. However, Sweden noted that the main concern is the 3.8% (i.e. approximately 3,500 animals) per year that are not found when searched for.

Resolution on whale killing issues

New Zealand introduced a draft Resolution on Whale Killing Issues on behalf of the other co-sponsors (UK, Italy, Germany, Austria, Mexico, South Africa, the Netherlands, Belgium, Brazil, Portugal, Sweden, Spain, India, Argentina, Finland and the USA). It indicated that its own position is that it does not want any whales to be hunted, but that if this is to be done, then those involved should be encouraged to use more humane methods. New Zealand indicated that this is the purpose of the proposed Resolution. It considered that the many variables associated with hunting whales at sea make it difficult to ensure a swift and humane death, as demonstrated by the data submitted over the years to the Working Group. It believed that Article V of the Convention provides the legal mandate to the Commission to address welfare issues, and that it was time that modern animal welfare science should be

employed to improve whale hunts. The proposed Resolution:

- (1) expressed concern that current whaling methods do not guarantee death without pain, stress or distress; that data presently collected and submitted to the Commission are of insufficient quality or completeness for it to make a fully informed assessment of the welfare implications of all whaling operations; and that the criteria currently used to determine the onset of death or irreversible insensibility are inadequate;
- (2) requested the Secretariat to update the data collection form so that Contracting Governments may report data for each whale taken, the killing method used and samples taken;
- (3) requested that the Working Group on Whale Killing Methods and Associated Welfare Issues reconvene at IWC/57 to examine methods for reducing struck and lost rates and to consider the welfare implications of methods used to kill whales caught in nets; and
- (4) requested the Working Group to advise the Commission on: establishing better criteria for determining the onset of irreversible insensibility and death; methods of improving efficiency of whale killing methods; and reducing times to death and other associated welfare issues.

Germany and India spoke in support of the Resolution.

Norway noted that it takes the issue of animal welfare very seriously, agreed that there is a moral responsibility to do the utmost to reduce animal suffering and referred to the work its scientists have done in this area. However, it had problems with the Resolution proposed and considered it unnecessary in view of the outcome of the 3-day workshop held at IWC/55 last year, of which the draft Resolution made no mention. Regarding the operative paragraphs, Norway knew of no situation in which animals are killed (e.g. euthanasia, pets, stunning of livestock, hunting), where it can be guaranteed that every animal will die without pain, stress or distress, since even with the greatest of precautions, mishaps will occur. While noting that in many countries it is considered acceptable that in industrial slaughter houses instant insensibility should be achieved with one shot for 95% of animals killed, Norway indicated that the reality can be very different, reporting that for pigs, this can be 80% and that for bulls it can be as low as 53%. Referring to Sweden's earlier comments on its moose hunt, it suggested that an animal falling where it is shot is not necessarily an indication of instantaneous death. Its own studies had indicated a rate of 20%. Norway also objected to the statement that *'data presently collected and submitted to the Commission are of insufficient quality or completeness for it to make a fully informed assessment of the welfare implications of all whaling operations'*. It noted that Norway had collected detailed data for over 20 years, and that its research had led to not only its own hunting methods being safer and more efficient but also those of other hunting nations through transfer of expertise and technology. It further noted that it has presented annual reports to the IWC on welfare issues for many years and published many papers in scientific journals. It therefore did not believe that there is any problem with access to Norwegian data. Regarding the concern expressed in the proposed Resolution to the current criteria used to determine the onset of death or irreversible insensibility, Norway agreed that there are problems with these criteria

as they are not sufficient to determine the onset of unconsciousness and death exactly, but that provided the data are being collected by competent individuals using the same methods, the criteria can be used to compare different hunting methods and to evaluate the skills of individual whalers. Norway also reported that from neuropathological research it had done, it is evident that the IWC criteria will result in some animals being classified as alive, when in fact they are dead, thus suggesting some overestimation of times to death. Norway therefore considered that its 80% instantaneous death rate should be regarded as a minimum. Finally, Norway requested that the Commission should:

- (1) take note of the substantial information provided by Contracting Governments at the Workshop on Whale Killing Methods held in Berlin last year;
- (2) encourage Contracting Government to continue the co-operative approach agreed to at the Workshop regarding improvements in data collection and reporting, technical developments of killing methods, and criteria and methods to determine death, both operationally and from post-mortem approaches; and
- (3) to employ the best methods available for killing whales, both for purposes of hunting and euthanasia, including stranded whales and whales taken incidentally in fishing operations.

Denmark noted that it supports all efforts to conduct hunting in as humane a way as possible. However, like Norway it thought the proposed Resolution was redundant in view of last year's workshop, and was disappointed that neither the workshop nor past work was mentioned. Japan made similar remarks and asked that the Resolution be withdrawn. Monaco indicated that despite its concern for animal welfare issues, it would have problems in supporting the Resolution as currently proposed as it did not adequately recognise the real efforts and progress made on this issue, particularly by Norway. Iceland associated itself with Norway and appreciated Monaco's remarks. It believed that in some countries, public concern is being directed away from domestic issues to whaling. The Russian Federation associated itself with Monaco and in addition noted that from its perspective, the issue of struck and lost rates is more an issue related to conservation than to humane killing.

The USA noted its support for IWC's long-standing commitment to animal welfare issues, that it has held workshops periodically since 1980 and that it is working closely with others on the criteria used to determine the onset of death or irreversible insensibility.

Sweden was disappointed that it appeared that the Resolution could not be adopted by consensus. Recognising the importance of previous workshops, the Netherlands indicated that it would not have a problem if these were referenced in the Resolution. Austria suggested something similar and the addition of some of Norway's statements. The Chair therefore requested that New Zealand work with Austria, Norway, Sweden and Denmark with a view to revising the proposed Resolution.

On returning to this issue, New Zealand reported that although the cosponsors had consulted widely with others, no agreement had been reached that would enable the Resolution to be passed by consensus. It did, however, propose a minor amendment that would explicitly recognise the significant contribution of Norway in this area.

On being put to a vote, the Resolution was adopted (see Resolution 2004-3, Annex C), there being 29 votes in support of the Resolution and 22 against.

8. SANCTUARIES

8.1 Review of the Southern Ocean Sanctuary

8.1.1 Report of the Scientific Committee¹⁴

The Committee had been asked by the Commission to review the Southern Ocean Sanctuary (SOS) in 2004 and an intersessional working group had been appointed to develop a proposed framework to carry out the review. In summary, the Committee agreed that:

- (1) whales are not effectively protected from whaling in the SOS, because such Sanctuaries apply only to commercial whaling, and because (apart from stocks that migrate to the IOS) whales also migrate outside of the SOS boundaries;
- (2) the boundaries of the SOS were appropriately established for some, but not for all stocks; and
- (3) it was not possible to completely evaluate the effectiveness of the SOS because the scientific objectives are not clear and are not associated with quantifiable performance measures.

The Committee respectfully requested that the Commission considers clarifying the objective(s) of the SOS in order to allow the Committee to discriminate among designs that would, *inter alia*: protect whales; protect whale species diversity; and increase whaling yields outside the Sanctuary. The Committee also developed a series of recommendations that, once the overall objectives of the SOS have been refined, will allow these objectives to be evaluated, and will facilitate evaluation in future reviews.

8.1.2 Commission discussions and action arising

Norway recalled that it did not take part in the voting procedure when the Southern Ocean Sanctuary was established as there was no clear advice from the Scientific Committee. It admitted that although initially sceptical over the proposal for an independent review of the Southern Ocean Sanctuary, it was pleased with its outcome and was disappointed that this appeared to have been watered down in the Scientific Committee report. Norway considered the Southern Ocean Sanctuary to do little for conservation, believed that it should be abolished and that IWC should remain a resource management organisation. Japan made similar remarks, believing that the external review had confirmed its well-known views. It too called for the sanctuary to be abolished. Believing that the Commission's decisions should be based on science, St. Lucia joined the comments of Norway and Japan. Gabon considered that range states should be consulted in the absence of scientific justification.

Australia considered that the Scientific Committee went through a comprehensive and thorough process in the review and respected its outcomes. It believed that the Committee's conclusions raise issues regarding Marine Protected Areas, scientific concepts and IWC sanctuaries, demonstrating that further work is needed. It accepted the Committee's suggestions and regarding the Committee's request for further guidance, volunteered to take the lead in

developing a paper for next year's meeting on this. The UK, Brazil, the USA, Germany, Italy and Belgium associated themselves with Australia's remarks. The USA and Belgium expressed interest in helping to develop a paper. Brazil supported the ongoing process in the Scientific Committee to review sanctuaries and to bring in external expertise. However it stressed that the work should not be misrepresented. The Scientific Committee had not concluded that the Southern Ocean Sanctuary is invalid. Brazil considered sanctuaries to be valid from both scientific and management standpoints, and supports continuation of the existing sanctuaries and creation of new ones. Argentina agreed.

France, recalled that when it initially introduced the proposal in 1994 to create the Southern Ocean Sanctuary, it had focused on two aspects:

- (1) protection of all whale species of the Southern Hemisphere from commercial whaling on their feeding grounds, thus supplementing the protection afforded by the Indian Ocean Sanctuary of whales on their reproductive grounds; and
- (2) to supplement the management measures envisaged as part of the RMS with zones where whales would be completely protected.

In addition, France had believed that creation of this sanctuary would contribute to the recovery of species seriously depleted by decades of industrial whaling, noting that when proposed, no Southern Hemisphere country had opposed it. It had also taken into account that no aboriginal subsistence whaling was conducted within the proposed sanctuary area. Now that the sanctuary was under review, France thought it worthwhile to revisit the initial justifications in light of events since 1994. France acknowledged the efforts over the years to improve management regimes (from the 'blue whale unit' to the New Management Procedure) but noted that scientific uncertainties remain, and that even with such regimes in place, legal quotas had been set too high and illegal exploitation had not been prevented. It also questioned whether, even if a management procedure could be adopted that took account of past mistakes, successful management could be guaranteed. For this reason, France believed that sanctuaries are needed to ensure long-term conservation, and, even if an RMS were to be adopted, indicated that they would be complementary to exploitation allowed elsewhere.

Addressing the criticism that the Southern Ocean Sanctuary lacked a scientific basis, France recalled that the main reason for its creation was not to meet scientific goals (although it was created on the basis of scientific knowledge) but for conservation purposes. It believed that since 1994, a number of elements had emerged to confirm the need for this long-term measure:

- (1) the discovery of new species or sub-species in the sanctuary;
- (2) the discovery of important oscillations in population levels creating difficulties in drawing conclusions regarding the capacity of whale populations to recover;
- (3) uncertainties regarding the population size of minke whales in the Southern Hemisphere;
- (4) other threats to whales, e.g. from pollution, shipping, noise, climate change, incidental catches;

¹⁴ For details of the Scientific Committee's deliberations on this Item see *J. Cetacean Res. Manage.* 7 (Suppl.).

- (5) the difficulty of detecting signs of recovery in whale populations other than humpback and southern right whales;
- (6) the development of marine protected areas and of international ocean conservation bodies;
- (7) the emergence of whalewatching as a form of non-consumptive use of whale resources; and
- (8) a collection of international provisions to safeguard the Antarctic.

France believed these elements also justified the creation of new sanctuaries such as those proposed for the South Atlantic and the South Pacific. It recognised that a sanctuary in which only commercial whaling is prohibited does not correspond to the modern concept of protected areas where all aspects of conservation are included, and believed that evolution of the sanctuary concept within IWC should be one of the Commission's next concerns, particularly in view of the discussions this year in the Scientific Committee.

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

PROPOSED SCHEDULE AMENDMENT

Japan introduced the following proposed Schedule amendment:

'Delete paragraph 7(b) and to add the following sub-paragraph (h) to existing paragraph 10:

(h) Notwithstanding the over provisions of this paragraph, the taking of 2,914 Antarctic minke whales from the Antarctic sector 40°E - 140°W south of 60°S shall be permitted for each of the whaling seasons 2004/05, 2005/06, 2006/07, 2007/08 and 2008/09¹.

* Explanatory note: Adoption of this schedule amendment will require amendment to Table 1 of the Schedule.

¹This provision shall be modified if the Commission, before the 2008/09 season, adopts other catch limits for this stock based on an agreed management procedure.²

The effect of deleting paragraph 7(b) would be to abolish the Southern Ocean Sanctuary.

In justifying the proposed Antarctic whaling, Japan noted that a comprehensive assessment of the Antarctic minke whale populations completed in 1990 showed that the population was healthy with numbers of around 761,000 whales. It further noted that the RMP was completed in 1992 and in the following year, the continuation of an annual catch limit of 2,049-4,490 Antarctic minke whales for 100 years was calculated using the RMP. Yet despite this, IWC has not yet permitted the resumption of commercial whaling on the grounds that the RMS has not yet been completed. Japan believed this delay to be due to the deliberate stalling by some Contracting Governments and because a three-quarter majority is required to implement an RMS. It reported that its research under special permit in Areas IV and V from the 1987/88 season reveals that Antarctic minke whales are abundant, and that the population level has remained stable. Japan therefore believed that a larger catch limit could be established. It went on to describe proposed pelagic whaling operations and provisions for monitoring and control.

Australia opposed Japan's proposed Schedule amendment. It believed that since the proposed takes of minke whales were not based on an agreed abundance estimate (as there is no currently agreed estimate), the credibility of the proposal was brought into question. At the request of Australia, the Scientific Committee Chair

clarified that although Japan's document contained scientific assumptions and calculations based on the RMP and Committee discussions on minke whale abundance, the document had not been submitted to the Scientific Committee as would have been expected. New Zealand's view was that such a proposal should not be submitted before the introduction of an RMS and asked that it be withdrawn. Sweden believed that the Southern Ocean Sanctuary is fully justified and that the moratorium should remain in place until an RMS is agreed. It expressed concern that the Scientific Committee had been by-passed. The UK, Germany, USA, Mexico, Italy, Monaco, France, India, Kenya, Finland, Spain and Chile also spoke against Japan's proposal. The Republic of Korea considered that the discussion on whether or not to continue the Southern Ocean Sanctuary should be postponed to await the outcome of further work. With respect to Japan's proposed takes of whales, the Republic of Korea believed that such a proposal would hinder the development of an RMS and asked that Japan remove this part of its proposal.

St. Kitts and Nevis noted that it had opposed creation of the sanctuary, and that the independent scientific review had discredited it as an effective management tool. Norway supported Japan's proposal to abolish the Southern Ocean Sanctuary, but stressed that it does not intend to harvest whales in the Southern Ocean. Iceland associated itself with Norway's remarks. The Republic of Palau suggested that, coupled with a commercial whaling moratorium that has been in place since 1986, the sanctuary had contributed to the recovery of some species. It therefore believed that the sanctuary had fulfilled its purpose and should be abolished. The Republic of Guinea, Benin and St. Lucia also supported Japan's proposals.

On being put to a vote, the proposed Schedule amendment did not achieve the necessary three-quarter majority for it to be adopted, there being 19 votes in support, 30 against and 2 abstentions.

8.2 Improvements to the review process

8.2.1 Report of the Scientific Committee

The Committee agreed that the inclusion of outside experts in the review process was beneficial and agreed that this should continue. The major improvement to the review process will arise out of the development by the Commission of clearly identified and quantified objectives. The Committee **agreed** to a series of recommendations that, once overall objectives of the SOS have been refined, will allow these objectives to be realised, and will facilitate evaluation in future reviews.

The Committee agreed to the recommendations listed below.

- (1) The purpose(s) of the Sanctuaries should be better articulated through a set of refined overall objectives (e.g. preserving species biodiversity; promoting recovery of depleted stocks; increasing whaling yield). In particular, the relationships between the RMP and any Sanctuary programme should be articulated.
- (2) Appropriate performance measures for Sanctuaries should be developed. These performance measures should link the objectives of a Sanctuary with field monitoring programmes.
- (3) Systematic inventory and research programmes should be established or further developed so as to build the required information base for a Sanctuary

management plan and subsequent monitoring programs.

- (4) A Sanctuary management plan should clearly outline the broad strategies and specific actions needed to achieve Sanctuary objectives (e.g. how to protect $x\%$ of a given feeding area for stock y).
- (5) A monitoring strategy that measures progress toward achieving the Sanctuary objectives should be undertaken. A key component of this monitoring strategy should be the development of tangible indicators to monitor progress.
- (6) Review criteria that reflect the goals and objectives of the Sanctuary (as described above) should be established.
- (7) The Sanctuary management plan should be refined periodically to account for ecological, oceanographic and possible other changes in an adaptive fashion.

8.2.2 Commission discussions and action arising

The Commission noted the report and endorsed its recommendations.

8.3 South Pacific Sanctuary

8.3.1 Proposal to amend the Schedule to establish a sanctuary

For the fifth year¹⁵, Australia and New Zealand proposed to establish a South Pacific Sanctuary 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 indicated that it remains convinced that the creation of a South Pacific Sanctuary is vital to ensure the conservation of whales in the region and drew attention to new and continuing efforts of range states and organisations in this regard. It reported that at a national level, the network of domestic sanctuaries continues to grow, with that of New Caledonia being added to the list since the IWC Annual Meeting last year (the others are Australia, New Zealand, Tonga, Vanuatu, Fiji, Niue, American Samoa, Baker Island, Java Island, Cook Islands and French Polynesia). New Zealand indicated that as a result, whales are now protected over approximately 13.5 million square kilometres, and suggested that if this growth of national sanctuaries continues, around 50% of the area proposed as the South Pacific Sanctuary would be covered by them. It stressed that nothing in the proposed Schedule amendment prejudices the sovereign rights of coastal states under the UN Law of the Sea Convention. At a regional

level, New Zealand reported that states and territories of the South Pacific have continued to express support under various auspices including the South Pacific Regional Environment Programme and the Pacific Island's Forum) for the sanctuary and for whale conservation. It noted that in March 2004, SPREP hosted a workshop to discuss how a regional initiative for marine mammal conservation under the Convention on Migratory Species could enhance existing national measures. The workshop and agreed that a Memorandum of Understanding under CMS should be drawn up with an vision of '*a Pacific Ocean where populations of marine mammals have recovered to healthy levels of abundance, have recovered to their former distribution, and continue to meet and sustain the cultural aspirations of Pacific peoples*'. Stressing that the overwhelming majority of peoples of the region want a sanctuary to be established, New Zealand urged that the proposed Schedule amendment be adopted.

While recognising that some whales in the South Pacific region appear to be recovering well, Australia indicated that scientific information shows that recovery is uneven. For example, Australia noted that despite 30 years of IWC protection, humpback whales have still not reappeared in significant numbers in their former breeding grounds in Fiji, Vanuatu, Samoa or New Zealand. Australia considered that the best way to secure recovery of all populations is to protect them on their breeding grounds and migration routes – which the South Pacific Sanctuary, combined with the Southern Ocean Sanctuary would afford.

8.3.2 Commission discussions and action arising

On a point of order, Iceland indicated that the legality of the proposal should be addressed before any discussion on the proposal itself. It indicated that it did not believe that the proposal met criteria set out in the Convention, particularly in relation to Article V.2 (a), (b) and (d), i.e. that Schedule amendments be: as necessary to carry out the objectives and purposes of the Schedule; based on scientific findings; and take into consideration the interests of consumers of whale products and the whaling industry. Several countries including Norway, Antigua and Barbuda and Japan took a similar view. Australia and New Zealand noted that the same issue was raised last year and had been settled in favour of the proposal's sponsors by a ruling of the Chair. They did not wish to rehearse previous discussions. Noting the previous debate, the Chair ruled in favour of the sponsors.

The UK, France, Sweden, Brazil, Italy, Kenya, Germany, Peru, Argentina, Mexico, Chile, USA and Monaco spoke in support of the establishment of a South Pacific Sanctuary. The Republic of Palau, Norway, Iceland, Denmark, Antigua and Barbuda, St. Kitts and Nevis, Republic of Guinea, Japan, Tuvalu and St. Lucia spoke against. Some noted that a sanctuary is not currently needed given the existing moratorium and that a scientific need has not been sufficiently demonstrated. Others also believed that the creation of sanctuaries is not consistent with the policy of the sustainable use of marine resources.

The proposed Schedule amendment did not attract the required three-quarter majority when put to a vote. There were 26 votes in support, 21 against and 4 abstentions. Several countries explained their vote. Ireland, who had abstained, indicated that they are supportive of sanctuaries in principle but believed that any new proposals should have maximum consensus and, notably, support from

¹⁵ *Ann. Rep. Int. Whal. Comm.* 1999: 10-11; *Ibid.* 2000: 15-17; *Ibid.* 2001: 33-34; *Ibid.* 2003: 24-26.

whaling nations. Switzerland had been instructed to abstain if the proposal was not supported by all states bounded by the proposed sanctuary.

8.4 South Atlantic Sanctuary

8.4.1 Proposal to amend the Schedule to establish a sanctuary

For the fourth year, Brazil introduced its proposal, co-sponsored by Argentina and others, to create a South Atlantic Whale Sanctuary. The amendment proposed was the same as in previous years, i.e., 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 66°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 65°43,6'W; thence due South to Parallel 56°22,8'S; thence to the point Lat 56°22,8'S Long 67°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.'

Brazil noted that the proposed sanctuary incorporates environmental, social and scientific issues and takes account of the regional interests of its neighbouring nations. It explained that the objective of the sanctuary is to enhance the global effort to establish Marine Protected Areas for marine mammals and to complement existing IWC whale sanctuaries. It believed the initiative is justified by the recognition that after centuries of exploitation, most whale species have had their numbers drastically reduced and are only now showing signs of recovering from the edge of extinction, with many still at less than 10% of the pre-whaling population. On World Biodiversity Day, Brazil had re-iterated the importance it attaches to the proposal through a letter from its President to the Heads of State of member nations of the IWC and range states of the South Atlantic requesting support for the sanctuary. The many positive responses encouraged Brazil to resubmit the proposal. Brazil noted that since 1987, it has been proud to be among those countries embracing the principle of non-lethal use of whales as a way to profit sustainably from the species inhabiting its waters and reported that whalewatching has been responsible for an important tourism influx to its coastal regions. It believed that creation of the sanctuary would contribute significantly to fostering international co-operative research among developed and developing countries which would in turn help developing countries to realise the potential of cetacean conservation. It therefore hoped that all developing nations that are range states to the proposed sanctuary would support the proposal. With respect to developed nations, Brazil did not understand how some who take progressive stances on environmental issues in other multilateral fora take a position at the IWC that is in

contradiction with the interests of biodiversity conservation, particularly when those developed countries raise the argument of economic difficulties when whaling is of no real significance for their economies. Ten years after the entering into force of the Convention on Biological Diversity, Brazil believed that the establishment of the South Atlantic whale sanctuary is a fundamental step forward in ensuring recognition of the rights of developing countries to protect and use their resources under their own management regime. It urged member countries to support the proposal.

Argentina noted that the proposal for a South Atlantic Sanctuary has broad-based support from its nationals. Like Brazil, it has developed whalewatching as a new brand of ecotourism that has contributed to the welfare of local communities by opening up new livelihoods and to an increased interest in marine mammal conservation among the public. Argentina believed that the proposed sanctuary will provide a useful tool in the protection of whales in their breeding and feeding grounds as well as on their migration routes and contribute to: recovery of whale populations; protection of biodiversity; research on depleted stocks and their habitats; the promotion of modern educational activities; and the development of environmentally friendly tourism in the region. It noted the co-operative activities among countries of the region on other environmental and conservation-related issues that could serve as an example to others and urged their support on this issue.

8.4.2 Commission discussions and action arising

Iceland noted that the content of its point of order raised in relation to the proposed South Pacific Sanctuary was also applicable to the proposal for a South Atlantic Sanctuary. However, discussion of the proposal proceeded.

South Africa, Australia, Germany, New Zealand, India, Peru, Mexico, Monaco, UK, USA, Chile and Portugal spoke in support of the proposed sanctuary. A number of them congratulated Brazil and Argentina on the further work done. Iceland, Norway, Japan, Republic of Guinea, Antigua and Barbuda, Gabon and St. Lucia spoke against the proposal, with several countries indicating that they did not consider that sufficient scientific justification for the sanctuary had been presented and noted that there is no consensus among the Scientific Committee. The Republic of Guinea, speaking as a range state for the proposed sanctuary, indicated that its priority is to complete the RMS and was against vast ocean areas being closed to commercial whaling in principle. With Japan, it made reference to the consumption of fisheries resources by whales that it considered to be a problem. On this matter, Brazil could not agree that whales are the real problem in declining fish stocks given the high level of fisheries activities in the South Atlantic. It noted that the proposal for the sanctuary has been submitted to the Scientific Committee and that it is paying due consideration to the further work of the Committee in this area. It considered that the Commission should be honest and fair to the public by stating clearly that there will never be consensus from the Scientific Committee for the creation of new sanctuaries since on this issue, it is as polarised as the Commission itself.

As there was clearly no consensus on the proposal the Chair proceeded to a vote. There were 26 votes in support, 22 against and 4 abstentions. The proposed Schedule

amendment to create a South Atlantic Sanctuary was therefore not adopted. Ireland and Switzerland (who both abstained) explained their votes by referring to their statements for the South Pacific Sanctuary proposal. Senegal (who voted against the sanctuary) noted that after many years of being unable to participate actively in the Commission, it had made great efforts to regain its voting rights for this meeting. It wished to inform the Commission that it intended to use its vote responsibly and objectively. It wished to make it clear that Senegal is not participating in IWC as a pro- or anti-whaling nation, but as a fishing nation that believes that all marine resources should be used in a sustainable manner.

9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

Japan reported on the Third Summit of Japanese Traditional Whaling Regions held in Muroto, Kochi prefecture on 30 May 2004. The Summit adopted the 'Muroto Declaration on Traditional Whaling', that has been endorsed by the Japanese government.

9.1 Proposed Schedule amendment for the taking of minke whales in the North Pacific

9.1.1 Introduction by Japan

Japan introduced its proposal to add the following subparagraph (f) under paragraph 10 of the Schedule:

'(f) Notwithstanding the other provisions of this paragraph, the taking of 150 minke whales from the Okhotsk Sea-West Pacific stock shall be permitted for the whaling season in each of the years 2004, 2005, 2006, 2007 and 2008¹.'

Explanatory note: Adoption of this Schedule amendment will require amendment to Table 1 of the Schedule.

¹This provision shall be modified if the Commission, before 2008, adopts other catch limits for this stock based on an agreed management procedure.

This proposal was the same as that introduced last year.

As last year, Japan recalled that it had been sixteen years since the imposition of the moratorium on commercial whaling in Japanese coastal waters and that during this time, it had repeatedly requested an interim relief allocation of 50 minke whales to alleviate the hardships of its small-type coastal whaling communities. It noted that even though the Commission had recognised the severe impacts of the moratorium on the four small-type whaling communities and had agreed to work expeditiously to alleviate their distress, the Commission had rejected these requests. In the meantime, Japan believed that whale abundance has increased, while its coastal fisheries have become impoverished, leading to considerable discontent among fishermen over the competition between fisheries and whales.

Japan again noted:

- (1) that the Scientific Committee's Comprehensive Assessment of the Okhotsk Sea-West Pacific stock of the North Pacific minke whales completed in 1991 showed the stock to be robust;
- (2) that although the RMP had been adopted in 1994 it had not been implemented; and
- (3) that effective monitoring and control measures have been discussed exhaustively for over 10 years and have now turned into unrealistically excessive demands designed to delay completion and implementation of the RMS.

Again as last year, Japan indicated that it wished to resume community-based whaling for the sustainable use of robust whale stocks, the management of fishery resources, and the revitalization of the impoverished community-based coastal whaling communities. It noted that all the edible parts of the harvested whales would be used as food, and a substantive part of them distributed primarily among the four community-based coastal whaling communities and neighbouring areas, as well as Kushiro, where a land station would be built. It considered that the resumption of community-based whaling would promote the local processing industries and stimulate distribution of whale products and tourism, leading to more employment opportunities and a stimulation of the local economy. It also believed that the resumption of community-based whaling would reinstate traditional practices associated with sales of whale meat, and revitalize traditional festivals and rituals of the regions.

Japan gave specifics of the proposed whaling operation (whaling ground, season, catch quota) and monitoring and control provisions.

9.1.2 Commission discussions and action arising

Japan clarified that the proposed takes would be from within its own EEZ.

The UK noted that similar requests from Japan have been discussed over the last several years. In addition to the fact that the proposal undermined the commercial whaling moratorium, the UK was also concerned about the status of the 'J' stock. It could not support Japan's proposal. Monaco expressed concern that the proposed takes would be in addition to those taken under special permit and asked whether the meat from these whales could not be used to satisfy the needs of the four Japanese coastal communities. Like the UK, Sweden viewed the proposal as being inconsistent with the moratorium, considered that it bypassed the Scientific Committee and used a number of incorrect assumptions. The USA, Switzerland, India, New Zealand, Germany, Australia endorsed the remarks of the UK, Monaco and Sweden.

The Republic of Korea expressed sympathy with the Japanese communities involved, but asked whether Japan could delay its request to await progress with the RMS.

St. Vincent and The Grenadines, Dominica, Nicaragua, Republic of Guinea, Russian Federation, Senegal, St. Lucia, Benin, Antigua and Barbuda and China understood and recognised the traditional rights and needs of Japan's coastal communities and supported Japan's proposed Schedule amendment. Several of them recognised the proposal's scientific merits. The Republic of Guinea noted that aboriginal subsistence quotas have been granted for the USA and the Russian Federation with respect to bowhead and gray whales and asked for equal treatment for Japan's coastal whaling communities. The Russian Federation believed that Monaco's suggestion to use meat from whales taken under scientific permit to satisfy the needs of the four Japanese coastal communities ignored the 9,000-year cultural tradition of these peoples to harvest their own whales – it is not simply an issue of providing protein. It noted that voting against Japan's proposal would be voting against a long cultural tradition and urged that the matter not be brought to a vote. The Republic of Palau believed the suggestion of the Russian Federation should be pursued and a compromise found. Monaco indicated that it would be willing to support the proposal if Japan agreed to stop its

scientific permit takes. Denmark and Côte d'Ivoire also did not see why the matter should be rushed. However, as there was clearly no consensus on this, several countries urged the Chair to proceed to a vote.

Japan noted that it was willing to reduce the proposed take of minke whales from 150 to 100 and to reduce the period of the quota to three years. This amended proposal was put to a vote. There were 19 votes in support, 26 against and one abstention. The proposed Schedule amendment was therefore not adopted.

9.2 Proposed Resolution on Japanese Community-Based Whaling

9.2.1 Introduction by Japan

Stressing that the proposed Resolution was nothing to do with its previous quota request (see section 9.1.1), Japan indicated that it was again seeking the Commission's commitment to work expeditiously to solve the problems caused by the cessation of minke whaling. It noted that the spirit of the Resolution is very similar to that first adopted at the IWC Annual Meeting in Kyoto in 1993. The draft Resolution did, however, refer to the outcome of recent Summits of Japanese Traditional Whaling Communities and Declarations issued from them. The draft Resolution proposed that the Commission (1) reaffirms its commitment to work expeditiously to alleviate the distress caused by the cessation of minke whaling to the communities of Abashiri, Ayukawa, Wadura and Tajii; and (2) welcomes the initiatives of the Government of Japan to resolve this matter.

The proposed Resolution was co-sponsored by Antigua & Barbuda, Belize, Benin, Cote d'Ivoire, Dominica, Gabon, Grenada, Republic of Guinea, Iceland, Mauritania, Mongolia, Nicaragua, Norway, Republic of Palau, Panama, Russian Federation, St. Kitts and Nevis, St. Lucia, St. Vincent and The Grenadines, Solomon Islands, Suriname, and Tuvalu.

9.2.2 Commission discussions and action arising

The UK noted that in discussions under item 9.1, parallels had been drawn between the requests of Japan for a quota of minke whales and the position of aboriginal subsistence whalers. The UK did not believe that this was appropriate, partly because the peoples of the four Japanese communities are reasonably prosperous, but more particularly because the Commission has never received the kind of 'needs' information that could promote discussion on the aboriginal need for these communities. The UK reminded the meeting that after IWC/54 in Shimonoseki, some Contracting Governments suggested that a way forward on Japanese coastal whaling might be for Japan to develop a proposal allowing for non-commercial whaling. No such proposal had been received. Consequently, although the UK was ready to reaffirm sympathy for the position of the communities, it could not endorse the Resolution as Japan had not actually taken the necessary initiatives. New Zealand and Germany endorsed these comments.

The USA indicated that it could not adopt the Resolution as written, and proposed that the operative paragraphs be revised to read: (1) reaffirms its commitment to work expeditiously to alleviate the continued difficulties caused by the cessation of minke whaling to the communities of Abashiri, Ayukawa, Wadura and Tajii; and (2) encourages IWC members to co-operate towards a Resolution of this

matter. Japan thanked the USA for its proposal and indicated it could accept the revisions.

The Chair asked if the Resolution could be adopted by consensus. Sweden explained that it could support the Resolution as revised by the USA on the understanding that the intention was 'to finish the RMS in order to be able to initiate an agreed process for setting possible quotas that might alleviate the continued difficulties caused by the cessation of minke whaling...'. It stressed that it did not seek further revision of the Resolution.

The Resolution, revised as proposed by the USA, was then adopted by consensus (Resolution 2004-2, Annex C).

9.3 Proposed Schedule amendment for the taking of Bryde's whales from the Western Stock of the North Pacific

9.3.1 Introduction by Japan

As last year, Japan introduced a proposed Schedule amendment to add the following sub-paragraph (g) under paragraph 10:

(g) Notwithstanding the other provisions of this paragraph, the taking of 150 Bryde's whales from the Western Stock of the North Pacific shall be permitted for the whaling season in each of the years 2004, 2005, 2006, 2007 and 2008¹.

Explanatory note: Adoption of this Schedule amendment will require amendment to Table 2 of the Schedule.

¹This provision shall be modified if the Commission, before 2008, adopts other catch limits for this stock based on an agreed management procedure.

Explaining the rationale for its proposal, Japan again noted that the western North Pacific stock of Bryde's whale was classified as an initial management stock (IMS) or a sustained management stock (SMS) when the moratorium was placed on commercial whaling and that present abundance is estimated at 23,751, according to the Scientific Committee's Comprehensive Assessment completed in 1996. It considered the stock to be very robust. As with its proposal relating to minke whales discussed under section 9.1, Japan referred to the fact that the RMP has been adopted but not implemented and that an RMS has still not been agreed despite discussions over many years. It again noted that work on the development of *Implementation Simulation Trials* has made little progress within the Scientific Committee. Nevertheless, by applying the RMP together with an appropriate monitoring and control regime (which it described), Japan believed that sustainable whaling on this stock of Bryde's whales could be achieved and the impoverished coastal communities revitalised as a result.

9.3.2 Commission discussions and action arising

Nicaragua supported Japan's proposal. Sweden referred to its remarks made under section 9.1 and indicated that they were also applicable to this request. It further noted that work on the *Implementation Simulation Trials* for this stock of Bryde's whales has only just begun. Switzerland agreed with Sweden, emphasising that the moratorium is still in place.

On being put to a vote, Japan's proposed Schedule amendment failed to achieve the necessary three-quarter majority, there being 22 votes in support, 29 against and 2 abstentions.

10. SCIENTIFIC PERMITS

Japan gave a short PowerPoint presentation on its JARPA and JARPN II programmes.

10.1 Report of the Scientific Committee¹⁶

10.1.1 Improvements to review procedures

Last year, the Committee had noted that the existing guidelines, which had developed over a number of years, inevitably include some duplication and overlap within the broad headings used. With the aim of providing a proposal to the Commission on restructuring the guidelines, it agreed to revisit this issue in a year in which there is no major new scientific permit proposal to review. Although the Committee considered a number of options this year, there was no consensus to change the current procedures.

10.1.2 Review results from existing permits

JAPAN: SOUTHERN HEMISPHERE (JARPA)

The Committee received a number of reports of work undertaken as part of the recent field season of JARPA as well as documents using some or all of the JARPA data collected thus far. These were considered where relevant to the main Scientific Committee agenda.

JAPAN: NORTH PACIFIC (JARPNII)

The Committee reviewed the results of the second full year of the JARPN II programme reviewed last year¹⁷. A total of 150 common minke, 50 Bryde's, 50 sei and 10 sperm whales were taken. There was considerable disagreement over the value and conclusions that could be drawn over the two-year feasibility study (and see section 10.1.3 below).

ICELAND: NORTH ATLANTIC

Most of the discussion at the 2003 meeting centred on the proposal for a two-year feasibility study in Icelandic waters involving the taking of 100 common minke whales, 100 fin whales and 50 sei whales. The stated goal was to improve understanding of the biology and feeding ecology of important cetacean species in Icelandic waters for better management of living resources based on an ecosystem approach. It includes multiple specific objectives with different priorities for the different species. For common minke whales the primary specific objective is to increase the knowledge of the species' feeding ecology in Icelandic waters. For fin and sei whales the primary specific objective is the study of biological parameters during the apparent increase in population size in recent decades. These objectives are the basis for the proposed sample sizes. Other research objectives include studies of population structure, pollutants, parasites and pathogens, and the applicability of non-lethal methods. 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.

In 2003, a total of 37 common minke whales had been taken. The Committee briefly considered the preliminary results of analyses presented. It noted that no permits had been issued for fin and sei whales which had been part of the proposal it had reviewed last year.

10.1.3 Review of new or continuing proposals

JAPAN: SOUTHERN HEMISPHERE

The Committee briefly discussed the JARPA proposal. This was the final year of a 16-year programme. Progress had been fully reviewed in 1997¹⁸. The Committee agreed that

it will undertake a full review of the JARPA programme when the complete set of results are available following the completion of the 16-year programme, i.e. some time after the 2005 annual meeting of the Committee.

JAPAN: JARPN II

Most of the discussion at this year's meeting centred on the proposal for a JARPN II programme. The stated goals (to obtain information to contribute to the sustainable use of marine living resources in the western North Pacific via sub-projects on feeding ecology and ecosystems; monitoring of environmental pollutants in cetaceans and the marine ecosystem; further elucidation of stock structure) remain unchanged. A total of 220 common minke whales (100 from the offshore survey and 120 from the coastal survey), 50 Bryde's whales (offshore survey), 100 sei whales (offshore survey) and 10 sperm whales (offshore survey) will be sampled in sub-areas 7, 8, and 9. Regarding the coastal survey component, 60 common minke whales will be sampled in each of the early season and the late season. There was considerable disagreement within the Committee over most aspects of this 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 means.

ICELAND: NORTH ATLANTIC

The Committee noted that the proposal remains the same as last year, except that the schedule for taking 200 minke whales in two years has been revised. The revised schedule implies that the sample of 200 minke whales will be completed in 2006.

The objectives, methodology and arrangements for participation by scientists from other countries remain unchanged from the original proposal. The revised plan for sampling minke whales reduces the numbers of whales sampled per year in 2004 and 2005.

10.2 Commission discussions and action arising

As the meeting was running seriously behind schedule, Australia, with the agreement of other co-sponsors (Argentina, Brazil, Finland, France, Germany, Italy, Mexico, Monaco, the Netherlands, New Zealand, Portugal, San Marino, South Africa, Spain, Sweden, Switzerland, UK and the USA), withdrew a proposed draft Resolution that *inter alia* called on Japan to halt its research whaling in the Southern Ocean Sanctuary. The co-sponsors stressed that this withdrawal should not be interpreted as a reduction in their concern on this matter and requested that the record refer to a similar Resolution adopted last year (i.e. Resolution 2003-3¹⁹). Australia went on to note that during the 15 years over which JARPA has taken place, some 6,500 whales had been killed despite the fact that there has been no comprehensive assessment under peer review and no agreed abundance estimate for the stocks targeted. It believed that a full and comprehensive review of the outcome of the JARPA programme is needed before further work is contemplated and that any further research should employ non-lethal techniques. The UK and Germany associated themselves with these remarks.

New Zealand referred to the concern it has expressed for many years over scientific permit whaling, believing that the development of modern techniques such as molecular genetics have rendered lethal whale research redundant.

¹⁶ For details of the Scientific Committee's deliberations on this Item see *J. Cetacean Res. Manage.* 7 (Suppl.).

¹⁷ *J. Cetacean Res. Manage.* 5 (Suppl.).

¹⁸ *Rep. Int. Whal. Commn.* 48: 95-105.

¹⁹ *Ann. Rep. Int. Whaling Comm.* 2003: 103.

Furthermore, it did not believe that the research being done by Japan and Iceland to support fisheries management, rather than whale management, could be justified on moral or ethical grounds and questioned whether the research programmes would meet the ethical requirements of these countries domestic legislation. New Zealand did not dispute the right under Article VIII of the Convention for governments to issue special permits for research whaling, but was of the opinion that this right is being abused. Brazil also acknowledged these rights but considered that the current level of research whaling amounts to commercial-scale operations. It appealed to Japan to reconsider issuing permits to take whales in the Southern Ocean Sanctuary. Argentina associated itself with the remarks of New Zealand and Brazil. Sweden agreed with the moral/ethical argument put forward by New Zealand. It was also opposed to PowerPoint presentations during the plenary, preferring to have documents presented during the plenary with presentations outside the meeting room.

Italy suggested that an overlap between the diet of cetaceans and fish does not necessarily point to competition for food since this depends on the availability of a particular resource. It believed that catching whales to look at stomach contents is a too simplistic way to look at ecosystem trophodynamics. Rather it is necessary to apply complex models, which it did not believe had been done. The USA noted its strong opposition to the scientific permit whaling programmes that it believed had no quantifiable objectives. Like others, Monaco expressed concern regarding the escalation of scientific permit whaling and noted that in the last few years there has been a wealth of information published illustrating that problems with declining fisheries are due to massive over-fishing rather than competition between whales and fish. The UK made similar remarks. Switzerland was against the culling of whales on the assumption that they are in competition for fishery resources and associated itself with the comments of Italy and Monaco. The Netherlands associated itself with earlier remarks, particularly those of Australia, Sweden and Switzerland.

Japan, the Republic of Korea, Norway, St. Kitts and Nevis, Iceland and Dominica spoke in support of research programmes under special permit. Japan noted that it publishes the results from its research programmes in an open manner and that it would welcome scientists from New Zealand and other countries at its own planned JARPA review meeting. Contrary to the view of New Zealand, it did not believe its research under special permit to be either unethical or immoral. The Republic of Korea noted that some of its scientists had taken part in Japan's JARPN II programme and thanked Japan for this opportunity to co-operate. It believed that the results from the work would improve both fisheries and whale management. Norway stressed the importance of taking an ecosystem-based approach to the management of marine living resources and referred to on-going co-operation in this area with Iceland and Japan. It stressed that this type of research requires some time to yield useful results, noting that sufficient information for use in ecosystem modelling approaches had only been obtained in its own programme after some 10 years. It commended Japanese scientists on the interesting preliminary results from JARPN II. St. Kitts and Nevis suggested that those governments holding the view that alternative approaches to lethal whale research exist should develop their own research programmes to

demonstrate this. It supported the work of Japan and urged them to continue. Iceland noted the agreement in various international fora that an ecosystem approach should be applied to the management of marine living resources. As part of the marine ecosystem, it believed that whales must be included in multi-species modelling for ecosystem-based management and that the only way to get information on feeding ecology with the accuracy necessary for such modelling is to look at stomach contents. It therefore considered such research important. Furthermore, Iceland indicated that it does not believe that there is anything wrong or unethical in taking animals from abundant stocks for scientific research. It does not take the view that some animals are more equal than others. Dominica welcomed the debate on this agenda item. It supported the remarks of Norway and Iceland and the continuation of research activities from which countries like itself without the capability for running such programmes could benefit. Referring to Iceland's comment on ecosystem management, Australia noted that this does not mean ecosystem manipulation which it believed seemed to be the objective of some of the existing research programmes.

Finally, the Chair of the Scientific Committee clarified that the Committee would continue to use existing guidelines to review future scientific permit research proposals and that it would not include work to revise the process as part of its standing agenda.

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

11. ENVIRONMENTAL AND HEALTH ISSUES

11.1 Integration of environmental concerns with other Scientific Committee work and habitat-related issues

11.1.1 Report of the Scientific Committee

There is an increasing awareness that whales should not be considered in isolation but as part of the marine environment; detrimental changes to their habitat may pose a serious threat to whale stocks. The Committee has examined this issue in the context of the RMP and agreed that the RMP adequately addresses such concerns. However, it has also emphasised that the species most vulnerable to environmental threats might well be those reduced to levels at which the RMP, even if applied, would result in zero catches. Over a period of several years, the Committee has developed two multi-national, multi-disciplinary research proposals. One of these, POLLUTION 2000+ 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 other, SOWER 2000 (IWC, 2000) aims to examine the influence of temporal and spatial variability in the physical and biological Antarctic environment on the distribution, abundance and migration of whales. Progress reports on both of these programmes were considered at this year's meeting.

Given the emergent threat of anthropogenic sound on cetaceans and other elements of marine ecosystems and also the potential for the Committee to assist in the development and interpretation of studies aimed at elucidating the potential impacts of anthropogenic noise on cetaceans, the Committee held a mini-symposium at this year's meeting, with presentations on the following topics:

- (a) the effects of anthropogenic noise on marine animals and the possible synergistic effects between ambient ocean noise levels and other environmental stressors;
- (b) physical acoustics and ambient noise in the ocean;
- (c) audition and the physiology of hearing in cetaceans and the effects of intense sounds on cetacean hearing; and
- (d) whale communication behaviour.

In conclusion, the Committee noted with great concern the impact on large whales in critical habitats of exposure to seismic sound pulses, particularly with respect to severely threatened populations such as the western gray whale. It agreed that there is now compelling evidence implicating that military sonar has a direct impact on beaked whales in particular. It also agreed that evidence of increased sounds from other sources, including ships and seismic activities, were cause for serious concern. The potential for cumulative or synergistic effects of sounds, as found in other taxa, with non-acoustic anthropogenic stressors was noted. A number of detailed recommendations were made concerning beaked whales and military sonar, mitigation and monitoring protocols with respect to seismic operations, and general recommendations on anthropogenic noise.

The Committee was pleased to hear that the intersessional Workshop on Habitat Degradation will take place in November 2004 at the University of Siena, Italy. The Committee also forwarded this year's SOCER (State of the Cetacean Environment Report) to the Commission.

The Committee also agreed that it was important to integrate work on environmental concerns with that of the other Sub-committees. It noted that next year's symposium on sea ice would be a joint venture with the IA (in-depth assessments) and BRG (bowhead, right and gray whales) Sub-committees.

11.1.2 Commission discussions and action arising

The UK believed that environmental concerns are paramount in the conservation and management of cetaceans and considered that the greatest threat to cetaceans is the degradation of their environment through chemical pollution, commercial fisheries and global environmental changes. Noting that the effects of noise pollution are a growing concern, the UK endorsed the Scientific Committee's comprehensive recommendations on this issue. It also applauded the Committee's work on other habitat degradation issues and looked forward to the outcome of the habitat degradation workshop. It believed the ongoing work on chemical pollution under POLLUTION 2000+ to be important in relation to conservation and consumption of cetaceans and encouraged its continued funding. The UK supported the steps being taken to integrate environmental concerns with other parts of the Scientific Committee's agenda but noted that the issues of noise and chemical pollution are agreed priority areas for the Standing Working Group on Environmental Concerns. Finally it thanked the editors of the SOCER report. New Zealand, Germany and Australia associated themselves with the remarks of the UK. Referring to the SOCER report, Australia noted the steps it is taking to protect the Great Barrier Reef and was pleased to see that the report next year will include a review of Antarctic cetacean issues.

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

11.2 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.

11.3 Health issues

There were no issues raised under this item.

12. WHALEWATCHING

12.1 Report of the Scientific Committee²⁰

In 2000, the 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. The Committee developed this further at the 2004 meeting. The primary topic considered was a review of the results from the Workshop on the Science for Sustainable Whalewatching held in Cape Town, 6-9 March 2004. The Committee endorsed a number of recommendations from the Workshop concerning:

- (1) the value of experimental studies to measure the impacts of whalewatching;
- (2) new approaches and quantitative studies of relevance to the Scientific Committee;
- (3) further development of a framework for the management of whalewatching similar in concept to those codified in the FAO Code of Conduct for fisheries;
- (4) use of the precautionary approach in the absence of information of possible damaging effects of whalewatching;
- (5) use of case studies to promote broad conclusions about assessing impacts of whalewatching on different taxonomic groups at a variety of life history stages;
- (6) the development of whalewatching guidelines based on criteria that are simple, practical and objectively measurable under field conditions; and
- (7) further development of the IWC's 1997 General Principles for the Development of Regulatory Frameworks for Whalewatching (see www.iwc.office.org).

The Committee also reviewed whalewatching guidelines and regulations, and new information on dolphin feeding and 'swim-with' programmes.

12.2 Commission discussions and action arising

New Zealand, Brazil, the UK, Australia, Germany, Italy, Argentina, the USA and Spain supported the Scientific Committee's work in this area and in particular thanked South Africa for hosting the whalewatching management workshop. They endorsed the workshop's recommendations and expressed regret that there is still disagreement regarding the competency of Commission on this issue which they believed did fall within its mandate. Several

²⁰ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 7 (Suppl.).

countries noted that whalewatching is an ideal way to achieve optimal use of whale resources with New Zealand and Australia providing information on the contribution of whalewatching to their economies. Brazil ask the convenors of the Scientific Committee to give due attention to the funding of Invited Participants who could contribute to this debate. South Africa thanked the UK for its financial contribution to the workshop.

Norway noted that it supports whalewatching, has several whalewatching activities in northern Norway and sees no conflict between whalewatching and whaling. Its own experience is that they can benefit from each other. Iceland made similar remarks. Japan also believed that whalewatching and whaling can co-exist, but considered that the collection of data for scientific research from the former has limitations. It believed that whalewatching is outside the scope of the Convention. The Republic of Palau associated itself with the remarks of Norway, Iceland and Japan. The Republic of Korea noted that a recent effort to establish some whalewatching activities had failed because of conflict with fishing grounds.

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

13. CO-OPERATION WITH OTHER ORGANISATIONS

13.1 Report of the Scientific Committee²¹

The Scientific Committee received reports of its co-operation with 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), IATTC (Inter-American Tropical Tuna Commission); ICCAT (International Commission for the Conservation of Atlantic Tuna), CCAMLR (Convention for the Conservation of Antarctic Marine Living Resources), Southern Ocean GLOBEC, NAMMCO (North Atlantic Marine Mammal Commission), FAO - Sub-committee on Fish Trade); PICES (North Pacific Marine Science Organisation); IUCN (International Union for the Conservation of Nature) and ECCO (Eastern Caribbean Cetacean Commission).

The Scientific Committee Chair drew particular attention to the part of its report dealing with co-operation with IUCN. He noted that in response to a request from IUCN, the Committee had reviewed its list of recognised species, including a critique of the status of the new Bryde's whale species *Balaenoptera omurai*. The Committee agreed that inclusion of the species in the IWC list of recognised species would be premature at present. It recommended that the Bryde's whale complex continue to be listed under the name *B. edeni* on a provisional basis and that research to resolve the uncertainties be undertaken. In particular, the Scientific Committee recommended that the Government of India be requested to facilitate collection and genetic analysis of a bone sample from the holotype specimen of *B. edeni* in Calcutta so that the taxonomy and nomenclature can be resolved.

13.2 Commission discussions and action arising

The Commission noted the report from the Scientific Committee and endorsed its recommendations. There were no other reports.

The Commission noted that the 13th Conference of the Parties to CITES would be held in Bangkok between 2 and 14 October 2004. It agreed that IWC should be represented at the meeting but left it to the Advisory Committee to decide who the representative should be.

RESOLUTION ON POSSIBLE SYNERGIES WITH THE GLOBAL ENVIRONMENT FACILITY

Mexico, who introduced this draft Resolution on behalf of the other co-sponsors (Argentina, Belize, Brazil, Chile, Nicaragua, Panama, Peru and South Africa), explained that the Global Environment Facility (GEF) is primarily a financial mechanism designed to facilitate and direct financial resources into agreed areas of international environmental concerns. It noted that many international environmental Conventions (like the Convention on Biodiversity) work directly with GEF and was sure that many IWC delegates would be familiar with the GEF and its work. Noting that the Commission has limited resources to fund scientific work and that certain priority areas for some members continue to receive little or no funding, the Resolution's sponsors believed that it would be worth exploring with the GEF possible synergies, including funding.

After interventions from Dominica, Kenya and Ireland, the operative paragraphs of the draft Resolution were amended to read:

'NOW THEREFORE THE COMMISSION:

DIRECTS the Secretariat to establish high level contact with the Secretariat of the Global Environment Facility and to:

explore possible synergies and their possible utility of the GEF to the IWC, and investigate, *inter alia*, possible avenues for the utilisation of GEF funding for IWC related projects, with specific regard to:

- (i) Assistance for developing countries for scientific research and policies for scientific research, as directed by the IWC.
- (ii) The utility in joint projects seeking funding with other international organisations, such as, *inter alia*, the Convention on Biological Diversity, the Convention on Migratory Species, the World Heritage Convention, and the Ramsar Convention on Wetlands,
- (iii) An examination of the modalities that the GEF seeks to satisfy and whether IWC projects, now or in the future, could be made to fit such objectives.

The Secretariat shall report back to the 57th IWC meeting on these matters.'

Switzerland pointed out that GEF's organisational structure identifies a GEF representative in each country, known as a focal point. It believed that if a country has a particular project for which they seek funding, it should approach GEF through the appropriate focal point. It indicated that it would abstain if the draft Resolution was put to a vote.

Norway sought clarification on the type of projects that might be undertaken in the proposed co-operation with GEF. Mexico stressed that for the moment the sponsors simply wished to begin to explore possibilities, but that from its own perspective, it would be interested in projects on issues such as bycatch and whalewatching. South Africa gave the example of aerial surveys of right whale populations. Norway suggested that perhaps the draft Resolution would best be discussed under agenda Item 15 on the Conservation Committee. The Republic of Korea questioned whether a Resolution is needed if all that is intended at this stage is for the Secretariat to contact GEF and explore possibilities. Japan found the proposal relating

²¹ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 7 (Suppl.).

to joint projects unclear and believed that they probably would refer to areas that Japan did not consider of high priority for the Commission. It did not see any need to explore co-operation with GEF. Australia found the intention of the draft Resolution clear (i.e. to explore possible synergies) and considered that the developing countries sponsoring it deserved the Commission's support.

Responding to Norway, the Chair indicated that he did not think that it would be appropriate to refer this matter to discussions associated with the Conservation Committee given that that Committee is still in its early stages. The sponsors agreed. On being put to a vote the Resolution was adopted (Resolution 2004-5, Annex C), there being 30 votes in support, 8 against and 14 abstentions.

14. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT

14.1 Small cetaceans

14.1.1 Report of the Scientific Committee

Despite disagreement within the Commission over the management responsibilities of the IWC with respect to small cetaceans, it has been agreed that the Scientific Committee can study and provide advice on them. As part of this programme, the Committee has reviewed the biology and status of a number of species and carried out major reviews of significant directed and incidental catches of small cetaceans.

In 2001, the Government of Japan had indicated that it would no longer co-operate with the Committee on small cetacean related matters. In 2002, the Committee referred to the great value of the information provided by the Government of Japan on the status of small cetaceans in previous years and respectfully requested that the Government of Japan reconsider its position on this matter and resume the valuable contribution of Japanese scientists to its work on small cetaceans. Unfortunately, this has not yet happened.

This year, the primary topic considered was the franciscana. The franciscana is found along the Atlantic coasts of Brazil, Uruguay and Argentina, from approximately 18° to 42°S. The Committee reviewed available information on stock structure, abundance, life history, ecology, incidental catches and status. It made a number of research recommendations given the paucity of information for some areas. Bycatch in gillnet fisheries occurs throughout the range of the franciscana. The Committee expressed its concern that in some areas, annual removal rates due to bycatch were between about 1.6 and 3.3% exceeding the 1% removal level determined by the Committee as sufficient to warrant concern regarding the status of small cetaceans.

The Committee referred to its endorsement of the concept of a series of regional Workshops with the general objectives of developing a short- and long-term approach to the successful management and mitigation of the cetacean bycatch problems in a region, building upon work already undertaken by the Committee (see section on Regional Workshops).

The Committee also reviewed progress on previous recommendations it had made, particularly those concerning the critically endangered baiji (*Lipotes*

vexillifer) and vaquita (*Phocoena sinus*). The Committee received some information from China and welcomed the initiatives being taken, although it noted that the prospects for the baiji remain extremely poor.

The Committee has followed with considerable interest progress on conservation of the highly endangered vaquita; several members of the Committee also serve on the International Committee for the Recovery of the Vaquita (CIRVA). This year the Committee reviewed the report of the third meeting of CIRVA. The Committee reiterated its endorsement of the fundamental conclusions drawn by CIRVA - that the current grave conservation status of this species is due to fisheries bycatch. The Committee noted at least six records of bycatch in the past seven months and, in general, was disheartened by the lack of any substantial progress in reducing bycatches since last year's meeting. Therefore, the Committee urged the Government of Mexico to implement the previous recommendations of CIRVA and to take immediate action to eliminate the bycatch of this species in the northern Gulf of California.

The Committee has had considerable involvement in the assessment of the harbour porpoise (*Phocoena phocoena*) in the North Atlantic and has worked closely with ASCOBANS in the formulation of conservation programmes. This year the Committee reviewed and endorsed plans for the project *Small Cetaceans of the European Atlantic and North Sea*, or SCANS-II, which has three primary objectives: to update estimates of abundance from the original SCANS survey area and to obtain estimates for previously unsurveyed areas; to develop a management framework for assessing the impact of bycatches and setting safe bycatch limits; and to develop methods for monitoring small cetacean populations during periods between major decadal surveys.

The Committee also reiterated previous advice concerning the need to minimise or eliminate anthropogenic direct removals or threats to habitat of the Irrawaddy dolphin and the Ganges river dolphin.

In the light of new evidence, the Committee repeated its concern over the catches and quotas for some stocks of white whales and narwhals, particularly in Greenland, east Hudson Bay and the Russian Arctic. The Committee repeated previous requests for all Governments to submit relevant information on direct and incidental catches of small cetaceans in their national progress reports and for improved information on stock identity and abundance.

14.1.2 Commission discussions and action arising

Switzerland noted that the Scientific Committee had reinforced the recommendations it made last year concerning narwhals and white whales and informed the Commission that the CITES Animals Committee has subjected narwhals to significant trade review. Switzerland also explained that the CITES proposal on Irrawaddy dolphins deals with international trade and not bycatch or direct removals for national use. Germany, the UK and Sweden associated themselves with Switzerland's remarks. With respect to Irrawaddy dolphins, the UK drew attention to the Scientific Committee recommendation that all direct removals should cease until affected populations have been assessed to which it attached considerable importance. The UK further noted that the Scientific Committee has reviewed some but not all of the actions from past Resolutions on small cetaceans, and that the table of estimates of abundance and catches is incomplete. It was

particularly concerned regarding the absence of information on directed takes of Dall's porpoise noting that the Scientific Committee in the past has indicated that takes were unsustainable. Australia associated itself with the UK's remarks on Dall's porpoise but particularly wished to highlight the Committee's concerns regarding the West Greenland stock of whale whales and narwhals. It believed that the Commission should also express serious concern given the statement that continued hunting at recent levels 'may result in the extinction of West Greenland narwhals in the near future'. New Zealand and Finland associated themselves with the remarks of Switzerland, the UK and Australia.

With respect to the recommendations on the West Greenland narwhal, Denmark referred to its well-known position that small cetaceans are outside the competence of the IWC.

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

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. Examination of this concept in the context of management plays an important role in much of the 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. The Committee has noted that it is important in any application of stock structure methods, to examine the sensitivity of conclusions to different *a priori* decisions about the definition of initial units, to ascertain which population structure hypotheses to examine.

A specialist Workshop to examine the use of simulation testing to assess the performance of methods to identify population structure was held in January 2003 and discussed at the annual meeting later that year. The Workshop developed a suitable simulation framework to allow evaluation of genetic methods used in inferring population structure both in general terms (the issue is of great relevance to conservation and management outside the IWC) and from a specifically IWC viewpoint (particularly in an RMP/AWMP context).

It was recognised that such a complex project must proceed in an iterative fashion and the Workshop concentrated on specifying the various modular tasks needed for Phase I of the process (*c.f. Initial Exploration Trials* in the AWMP process), for which some results might be expected within a year, while also identifying the types of scenarios that would need to be covered in Phase II and beyond. The Workshop report was published in *J. Cetacean Res. Manage.* 6(Suppl.). This year the Committee reviewed progress under Phase I of the TOSSM project (Testing Of Spatial Structure Models). It was pleased to see that great progress had been made on the most challenging module, i.e. the development and validation of a program to simulate realistic genetic datasets. Preliminary testing of various methods under certain simple scenarios will begin during the intersessional period.

DNA TESTING

This item is discussed in response to Commission Resolution 1999-8²². The Committee considered a report on the public sequence archive GenBank (National Center for Biotechnology Information, <http://www.ncbi.nlm.gov/>). The Committee recommended that members be urged to deposit sequences to be used in a published report in GenBank and include the GenBank accession numbers in publications, whether or not this is required by the journal (the Guide for Authors for the *Journal of Cetacean Research and Management* will be modified accordingly). It further recommended that similar practices be established for public archiving of non-sequence genetic data, such as microsatellite loci, primers, alleles, and profiles, where feasible. Such data are not presently accepted by GenBank, and some research may be necessary to identify a suitable archive. One potential provisional venue is the websites maintained by most major journals for supplementary data and information accompanying published papers.

The Committee welcomed the information on the status of the Norwegian minke whale DNA-register covering the years 1997-2002. It was noted that progress has been made toward achieving a fully diagnostic register; no samples were missing for the 625 whales landed in 2002. The number of missing samples in earlier years ranged from 3 to 11. No samples were reported from stranded whales.

No information on collection and archiving of samples in Japan was available to the Committee. It was noted that provision of a progress report on collection and archiving of samples would assist the Committee in meeting its terms of reference as assigned by the Commission.

PUBLICATIONS

The year 2004 was another productive year with respect to the IWC's scientific publications.

The IWC website now includes a downloadable file containing well over 6,500 references to documents that have been presented to the Committee since 1969. The file lists all of the documents by meeting and includes information on whether and where they have been published. The Committee reiterated the importance of Committee members urging their respective institutes and colleagues to subscribe to the *Journal* and to submit high quality papers to it. The success of the *Journal* will be greatly increased as it becomes established in more institutional libraries.

The Committee stressed the vital contribution the *Journal* makes to the work of the Committee and to the wider issues of the management and conservation of whales.

14.2.2 Commission discussions and action arising

Referring to the Scientific Committee report on (1) progress with the collection and archiving of samples from catches and bycatches and (2) reference databases and standards for a diagnostic register of DNA profiles, Sweden noted that while a report had been received from Norway, no reference was made to information from Japan. It asked whether there was an explanation for this omission. The Scientific Committee Chair noted that a request to Japan for information had been made but that nothing had been received.

²² *Ann. Rep. Int. Whaling Comm.* 1999: 55.

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 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 the Committee's workload; and
- (3) budget discussions in the full Committee.

14.3.1.1 RMP

As last year, this Sub-committee will concentrate on general issues as well as preparations for *Implementation*. The priority topics will be in priority order:

General issues

- (1) finalise the guidelines and requirements for implementing the RMP;
 - (a) develop the thresholds for defining 'acceptable', and 'borderline' performance for classifying the performance of RMP variants for *Implementation Simulation Trials*.
 - (b) develop a list of agreed stock structure archetypes (in conjunction with SD, as necessary);
- (2) further develop the 'simple model filter';
- (3) finalise the issue of spatio-temporal considerations; and
- (4) finalise the issue of the CATCHLIMIT program for running it in a trials situation.

Implementation process

- (1) conduct an intersessional workshop to allow the Committee to be in a position to complete the *pre-implementation assessment* for western North Pacific Bryde's whales; and
- (2) review progress on the development of stock structure hypotheses as part of the *pre-implementation assessment* for North Atlantic fin whales.

14.3.1.2 AWMP

The priority topics for this Sub-committee are:

- (1) Greenland *SLA* development:
 - (a) the 2004 aerial survey;
 - (b) genetics simulation studies; and
 - (c) *SLA* exploration and development;
- (2) undertake annual review of catch data and management advice for minke and fin whales off Greenland;
- (3) undertake annual review of catch data and management advice for humpback whales off St. Vincent and The Grenadines; and
- (4) initiate planning for a bowhead whale *Implementation Review*.

14.3.1.3 BOWHEAD, RIGHT AND GRAY WHALES (BRG)

Given the workload of BRG anticipated during the 2005 meeting, a priority item was agreed concerning southern right whales (see below). The Sub-committee will therefore:

- (1) review any new information on bowhead whale stock identity;
- (2) undertake annual review of catch data and management advice for ENP gray whales;
- (3) undertake annual review of catch data and management advice for BCB bowhead whales;
- (4) participate in a joint symposium on the effects of high latitude (Arctic and Antarctic) sea ice on cetaceans;
- (5) undertake annual review of the status of the western North Pacific stock of gray whales;
- (6) undertake a review of new information on southern right whales; and
- (7) if there is time: review new information on small stocks of bowhead and northern right whales.

14.3.1.4 IN-DEPTH ASSESSMENT (IA)

The topics of this Sub-committee, in order of priority, will be:

- (1) estimate abundance of Antarctic minke whales;
- (2) participate in a joint symposium on the effects of high latitude (Arctic and Antarctic) sea ice on cetaceans;
- (3) review workshop report on SOWER cruise plans beyond 2004/05;
- (4) begin work on an in-depth assessment of western North Pacific common minke whales, with a focus on J stock, assuming the availability of an abundance estimate for this stock;
- (5) continue to examine reasons for differences between minke abundance estimates from CPII and CPIII; and
- (6) brief review of report from an anticipated non-IWC sponsored workshop on sperm whales.

14.3.1.5 BYCATCHES AND OTHER ANTHROPOGENIC REMOVALS (BC)

This Sub-committee will, as its highest priority:

- (1) further review methods to estimate bycatch based on fisheries data and observer programmes;
- (2) further review methods to estimate bycatch based on genetic data, especially results from the workshop; and
- (3) empirical analysis of the functional relationship of bycatch levels to fishing effort and to population abundance.

It is intended that the following topics will be priority items in 2006 given work expected to be completed by 2006 by other Sub-committees; thus in 2005 if there is time it may also briefly consider:

- (4) information and methods on estimates of cetacean mortality caused by vessel strikes; and
- (5) information and methods on estimates of cetacean mortality caused by other human activities.

14.3.1.6 SOUTHERN HEMISPHERE WHALES OTHER THAN ANTARCTIC MINKE WHALES (SH)

Priority items in order will be:

- (1) complete in-depth assessment of Southern Hemisphere humpback whales with a focus on the C, D and E stocks:
 - (a) investigate the distribution and allocation of historic catches to
 - (i) proposed sub-areas of breeding grounds and
 - (ii) from Antarctic Peninsula to Stocks A and G;
 - (b) update the tables summarising the present state of knowledge and work required to continue a

Comprehensive Assessment of SH humpback whales;

- (c) further investigation and clarification of proposed sub-areas for stocks on the breeding grounds; and

- (2) preparation for assessment of blue whales in 2006.

14.3.1.7 ENVIRONMENTAL CONCERNS (E)

Priority items will be:

- (1) sea ice and whale habitat: a joint special session with IA and BRG;
- (2) review of the report of the Habitat Degradation Workshop.

It will also receive progress reports on:

- (3) POLLUTION 2000+: finalise Phase 1 and prepare for Phase 2;
- (4) Southern Ocean collaboration: planning and coordination of IWC participation and report back;
- (5) SOCER: review of Arctic and Antarctic cetacean issues;
- (6) Arctic issues: report on potential for future collaboration;
- (7) issues related to impacts of anthropogenic noise on cetaceans; and
- (8) issues related to habitat concerns.

14.3.1.8 STOCK DEFINITION (SD)

The priority items will be:

- (1) review progress on the TOSSM project;
- (2) continue review of statistical and genetic issues related to population structure (including DNA quality issues);
- (3) possible definitions of unit-to-serve and the implications for management;
- (4) progress on use of tagging data in studying population structure; and
- (5) review list of stock structure archetypes provided by RMP.

14.3.1.9 WHALEWATCHING (WW)

The two major priority items will be:

- (1) assessing the possible population level impacts of whalewatching on whales;
- (2) development of the scientific foundation of whalewatching guidelines.

In addition, the following lesser priority items in order will be:

- (3) review of published whalewatching guidelines and regulations;
- (4) reports of the Intersessional Working Groups;
- (5) review of risks to cetaceans from whalewatching vessels (high-speed and others); and
- (6) review of potential impacts of swim-with programmes.

14.3.1.10 SMALL CETACEANS (SM)

The Committee agreed that the priority items will be:

- (1) review of status of the finless porpoise;
- (2) review progress on previous recommendations; and
- (3) review incidental catches and takes of small cetaceans by country.

14.3.1.11 SCIENTIFIC PERMITS (P)

The priority items will be:

- (1) review research results from existing permits (including plans for a major review of the JARPA programme); and
- (2) review plans for new and continuing permit proposals.

14.3.1.12 DNA

The priority items will be:

- (1) review genetic methods for species, stock and individual identification;
- (2) collect and archive tissue samples from catches and bycatch; and
- (3) reference databases and standards for diagnostic DNA registries.

14.3.2 Commission discussions and action arising

The Republic of Korea welcomed the Scientific Committee proposal to look at the status of finless porpoise at next year's meeting. While it noted that its position is that management of small cetaceans is outside the competence of IWC, it would nevertheless ask its scientists to contribute to this review.

Japan believed that too much of the Scientific Committee's time is spent on items that Japan believes are lower priority and outside the mandate of the Commission (e.g. whalewatching, small cetaceans, environmental concerns), detracting from more important items such as in-depth assessments, work on the RMP, etc. It requested that if these lower priority items continue to be included on the Scientific Committee's agenda, that the Committee Chair and Vice-Chair prioritise the time allocated to different items. Japan noted that it shares the concern expressed by the Scientific Committee that the RMP is becoming unworkable, particularly in view of the outcome of the RMP *Implementation* for North Pacific minke whales. It believed that a significant part of the problem is due to the unnecessarily high tuning level used in the RMP and the fact that the RMP is generic rather than species or case specific. Japan considered that the Commission should give high priority to discussing these issues together with developing a management procedure that included ecosystem considerations. Finally it believed that the Scientific Committee should take a consistent approach to how it deals with uncertainty, e.g. in the RMP and in the AWMP and in determining stock structure. From this intervention, Australia understood Japan to be expressing a fundamental problem with the generic nature of the RMP and noted that this view is of concern.

Germany drew attention to the work on bycatch and in particular to the Committee's recommendation for a workshop on the use of market sampling to estimate bycatch. It considered it important that steps are taken to develop both short- and long-term approaches to solving or at least mitigating the cetacean bycatch problem. It believed that this should be done through regional workshops under the auspices of IWC in co-operation with regional organisations like ASCOBANS and ACCOBAMS. Sweden, Australia, Italy, New Zealand, Spain and Finland associated themselves with these remarks. Germany also informed the Commission that the European Union had recently adopted a regulation with measures to minimise cetacean bycatch through:

- (1) a ban on drift nets;
- (2) an obligation to use pingers in the gill net fishery; and
- (3) an obligation to have scientific observers on pelagic trawlers.

PROPOSAL TO REALLOCATE FUNDING

On behalf of the 23 co-sponsors²³, Grenada introduced a proposal to redistribute the funding allocated to the proposed workshop on the use of market sampling to estimate bycatch across a number of other Scientific Committee activities that the proposers considered to be of higher priority but which were not fully-funded in the F&A Committee recommendations (i.e. the international workshop on North Pacific Byrde's whales, the AWMP developers fund, the estimation of abundance of Antarctic minke whales and SOWER 2004/05). Grenada explained that the proposal's sponsors had serious concerns over the utility of using market sampling to provide a better estimate of bycatch than can be gained from onboard observer programmes and by monitoring animals taken in set nets and traps that enter the market. They believed that the precision of the DNA mark/recapture method is quite low, meaning that it could not be used to account for total catches over time for purposes of the RMP. Furthermore, these countries considered that the market-based genetic methodology cannot be used in any case for estimating bycatch in countries where bycaught animals do not enter the market, even though these represent the majority of countries who have fisheries that are likely to take whales as bycatch. The proposers believed that the bycatch workshop could be put off without ill effect, while the other high priority items deserve to be completed as expeditiously as possible.

Austria, Australia, the UK and New Zealand spoke against this proposal, noting in particular that the Scientific Committee's recommendation for the bycatch workshop had already been discussed on two earlier occasions (in the F&A Committee and see section 6.1). Austria noted that should the proposal be adopted, it would feel obliged to revisit allocation across all projects, particularly those which currently have attracted no funding.

On a point of order, Sweden supported by Kenya, moved to adjourn the debate on this item. This motion was carried by a show of hands. On being put to a vote, the proposal to reallocate funding was not adopted, there being 19 votes in favour, 26 against and 2 abstentions.

14.4 Adoption of the Report

The Commission adopted the Scientific Committee report and its recommendations, including the future work plan.

15. CONSERVATION COMMITTEE

The meeting of the Conservation Committee took place on the afternoon of Wednesday 14 July and the morning of Thursday 15 July 2004. It was chaired by Horst Kleinschmidt (South Africa and Vice-Chair of the Commission). Delegates from 26 Contracting Governments participated. A summary of the Committee's discussions is included below. The full Sub-committee report is available as Annex H.

15.1 Report of the Conservation Committee

15.1.1 General discussion

As this was the inaugural meeting of the Conservation Committee, the Chair had invited members to address general issues relating to the establishment and purpose of the new Committee before turning to specific agenda items. There was consensus that all members of the IWC should be and were committed to conservation, and that the new Committee should not supervise or duplicate the work of any other bodies of the Commission. However, a range of views were expressed about the appropriateness or otherwise of the steps taken to establish the Conservation Committee and it was agreed that efforts since IWC/55 to improve the level of communication between members in disagreement were important.

Many of the co-sponsors of Resolution 2003-1, by which the Committee was established, stated that the new body should be viewed as pro-conservation, not anti-whaling. These members recognised that the Convention provides for both conservation and management of whale stocks, and believed that the establishment of the Conservation Committee did not prevent the fulfilment of either of these objectives. The conservation of whale stocks was in the common interest.

These members held the view that the establishment of the Committee would not alter or in any way impinge upon the attributions or work of any of the Commission's active bodies, nor would it change any of the functions or terms of reference of such bodies, or of the Commission itself. Rather, the primary objective in setting up the Conservation Committee in their view was to rationalise the Commission's work on that part of its agenda that deals with conservation issues, as well as to institutionalise and better distribute the Commission's workload. They emphasised that the Conservation Committee would not have any supervisory function over the work of the Scientific Committee, which has its agenda and terms of reference clearly established by the Commission.

Those who had supported the establishment of the Committee looked forward to the Committee improving the way the IWC met its responsibility for managing whales by addressing issues not only from the perspective of whaling. To date, conservation issues had been typically addressed late in the plenary, and the Committee would allow such issues to be discussed in detail several days before the plenary. The Committee could provide advice and guidelines on conservation-related functions that were currently dispersed, and serve as a central node to identify and prioritise topics. This might prevent overload on other bodies of the Commission.

Other members, who had opposed Resolution 2003-1, indicated that they still had reservations about the establishment of the Committee, especially because in their view it took the objective of the 'conservation of whale stocks' out of the context of the objective of making possible 'the orderly development of the whaling industry'. They were committed to the sustainable use of natural resources, and viewed completion of a Revised Management Scheme to prevent over-exploitation as a higher priority conservation measure than items that might be addressed under a Conservation Committee. Their participation in the first meeting should not be construed as change of position on the Resolution. These members stated that the process used at IWC/55 to create a new body made no attempt to bring the members of the IWC together:

²³ Antigua and Barbuda, Belize, Benin, Dominica, Gabon, Republic of Guinea, Japan, Republic of Korea, Mauritania, Mongolia, Morocco, Nicaragua, Norway, Republic of Palau, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and The Grenadines, Senegal, Solomon Islands, Suriname, Tuvalu.

a mechanism to address those conservation issues which are capable of attracting widespread support ought not to have been promoted in a manner which did not effectively consult nearly half of the members of the IWC. Some efforts to discuss alternative language had been rejected out of hand, which was not conducive to open and fair dealings.

Those who had opposed the establishment of the Committee noted that, even if nothing in Resolution 2003-1 defined conservation narrowly, the wording of the Resolution and its appendix of past decisions of the Commission made it clear that the initiative would alienate nearly half of the members of the IWC. Nonetheless, members present who had opposed the process had decided to attend the first meeting, expecting a change to the name of the Committee and amendment of the original Resolution, in order to reciprocate their goodwill.

The Committee discussed the question of how to define 'conservation', and particularly whether that should be construed as including 'sustainable use'. It was noted that various definitions were available, both from dictionaries (though there was no equivalent term in some languages), and in the texts and agreements of other treaties. While it was agreed that conservation was of interest to all members, and that further discussion on its definition would be worthwhile, a definitive answer was beyond the capacity of the Committee's first meeting. Some indicated that they had envisaged the Committee addressing issues that did not fit the remit of 'sustainable use', while others would welcome further discussion on this.

It was noted that many members of the Commission were absent. This could be viewed as an indication of dissatisfaction with the process by which the Committee was established. Supporters of the Committee indicated that they were engaged in a constructive dialogue with some of the absent members, in the interest of seeking broad participation, and hoped that the Committee's report might demonstrate to them the value of the Committee.

15.1.2 Relationship between the Conservation Committee and other bodies within the Commission

It was recognised that relationships between the Conservation Committee and other bodies within the Commission will be vital to the success and effectiveness of the new Committee and that relationships should be based on the principle of complementarity, not duplication.

The Committee agreed that interactions with the Scientific Committee would occur in the same way that the Scientific Committee interacts with other subsidiary bodies already established by the Commission. As with the Aboriginal Subsistence Whaling Sub-committee and the first meeting of the Conservation Committee, the Chair of the Scientific Committee would attend and provide information on scientific matters that are germane to that body's work.

Relationships with the Technical Committee were also addressed. Some members viewed the reference to 'conservation' in the Rules of Procedure that relate to the Technical Committee as evidence of potential overlap with the Conservation Committee. It was noted that Rule of Procedure M7 might need to be changed to avoid duplication of functions. The alternative view was that appropriate delegation of responsibility could ensure complementarity: the Commission could refer to the Technical Committee the development of proposed

management measures that the Commission considered for adoption into the Schedule (i.e. matters pertaining to Article V), while referring to the Conservation Committee the development of the conservation agenda and related proposed recommendations (i.e. matters pertaining to Article VI).

15.1.3 Proposed Terms of Reference, working methods and funding considerations

Resolution 2003-1 contained three terms of reference for the Conservation Committee:

- (1) the preparation and recommendation to the Commission of its future Conservation Agenda;
- (2) the implementation of those items in the Agenda that the Commission may refer to it;
- (3) making recommendations to the Commission in order to maintain and update the Conservation Agenda on a continuing basis.

Many felt that these should guide the initial work of the Committee and that additional terms should be developed if and when required. Further drafting work should proceed in an open process under the auspices of the Commission as a whole or its Chair. Others who would prefer alternative terms of reference or who had not commented were encouraged to make specific proposals.

In light of the concerns raised by those who had opposed Resolution 2003-1, a small group was formed to examine the language of the Resolution and further discuss terms of reference, outside of the Committee meeting. The group discussed concepts of conservation, ways to move forward after Resolution 2003-1, and terms of reference. It agreed to the importance of addressing conservation in the IWC and to respect different views on whaling. Furthermore the group offered for discussion a collection of possible ways forward, including different ways of defining the concept of conservation, and various alternatives, including Resolutions, that could clarify the work of the new Committee (see Annex H, Appendix 3).

The Committee agreed to hold annual meetings, in line with the practice of other committees and working groups. The Conservation Committee would not normally 'meet' interessionally, other than by e-mail correspondence when necessary.

Paragraph 8 of Resolution 2003-1 charged the Committee with beginning to explore the possibility of a trust fund to make resources available both to the Commission and to Contracting Governments to implement research related to the Conservation Agenda. Discussion indicated it was premature to discuss this in detail and that in any case it would be up to the Commission to decide whether to establish such a fund.

15.1.4 Consideration of items to fall under the auspices of the Conservation Committee

The Committee recognised the value of establishing a list of items to address as part of the 'extensive conservation agenda' mentioned in its founding Resolution. The following were proposed as initial items of common interest: endangered species and populations; human impacts (e.g. noise, vessel strike, bycatch, entanglements, strandings); habitat protection for cetacean conservation; whalewatching best practice guidelines; reporting systems for strandings, entanglements and bycatch; legal and regulatory arrangements for cetacean conservation.

Some countries argued that the list is too general and too extensive. These countries argued that conservation issues are very important, but only for a small number of species and stocks of large whales. Many species and stocks of large whales are either quite numerous or rapidly growing, and for these, in their opinion, the items on the list above are not important for conservation.

Of the conservation-related items currently addressed by the Scientific Committee, the following were identified as most germane to the work of the Conservation Committee: highly endangered species and populations; scientific research related to development of techniques for improved assessment of status and mitigation measures to potential threats where identified; incidental takes of cetaceans including assessment of problems at the population level and development and evaluation of mitigation measures; non-consumptive utilisation of cetaceans; whales and their environment, with an emphasis on population level effects and interaction with interpreting abundance estimates; sanctuaries, in particular their value to the monitoring and recovery of depleted populations; scientific advice relevant to enforcement and compliance with conservation measures; collaboration with other organisations; voluntary submission of national reports on cetacean conservation.

15.1.5 Collaboration with other organisations

Through Resolution 2003-1, the Conservation Committee was directed 'to explore how the Commission can co-ordinate its conservation agenda through greater collaboration with a wider range of other organisations and conventions'. It was noted that the Committee could centralise collaboration, maintain an overview of those who serve as ambassadors for the IWC, and identify opportunities for new and improved collaborations. The Memorandum of Understanding between CMS and IWC was noted and a member of the CMS Secretariat indicated that CMS looks forward to continuing to work closely with IWC.

15.1.6 Development of a Conservation Agenda

The Committee viewed its discussion of terms of reference, relationships with other bodies, and items to fall under its auspices as the first steps towards the development of a conservation agenda. Some delegations considered it premature to enter into substantive discussions until a conclusion has been reached regarding the nature of the Conservation Committee. Other delegations disagreed with this and felt it was appropriate to start substantive discussions at this time.

15.2 Commission discussions and action arising

Austria, The Netherlands, Sweden, France, Australia, Mexico, Germany, New Zealand, the USA, Peru, Spain, the UK, Monaco, Oman and Finland all welcomed the report from the Conservation Committee, indicated their continued support for the Committee and looked forward to further intersessional work. Many congratulated the Chair on his preparation and management of the meeting and many stressed the need for wider participation from IWC members. Austria expressed the hope that constructive work could be done to save some of the most endangered species. The Netherlands drew attention to the report from the small group established within the Conservation Committee (see Appendix C, Annex H) and suggested that the Commission endorse the proposed way forward, i.e. that further discussions on the expectations of the work of

the Conservation Committee should be continued under the responsibility of the IWC or its Chair to ensure that all views will be taken into account. Sweden was of the opinion that the Conservation Committee should start work on substantive matters at IWC/57 next year and indicated that it would work with others to ensure that concrete work does take place.

Iceland welcomed the apparent new-found willingness to discuss the nature of the Conservation Committee and expressed the hope that the preparatory work that should have been done last year to engage all members of the Commission would now be done. It believed this is necessary before the Committee enters into any substantive discussions.

Japan drew attention to the controversy surrounding the establishment of the Conservation Committee at the meeting in Berlin last year²⁴ and continued to be against it. Along with many other Commission members, Japan believed that the current objectives of the Conservation Committee are not in line with the dual objectives of the Convention, i.e. the conservation and management of whale resources. It further noted that it will not attend any meetings of the Committee unless its name and objectives are changed to include sustainable use of whale stocks. Dominica reaffirmed its position of last year and reserved its rights not to participate in the work of the Conservation Committee.

The Commission adopted the report of the Conservation Committee noting the reservations of Japan and Dominica.

16. CATCHES BY NON-MEMBER NATIONS

There were no contributions or discussion under this item.

17. FUTURE SUSTAINABLE WHALING

This new item had been included on the agenda at the request of Japan.

17.1 Introduction by Japan

Japan introduced, using a PowerPoint presentation, a document entitled '*The centennial of Antarctic whaling – from the history of over-harvesting to the creation of new sustainable whaling*'. The paper addressed:

- (1) lessons from the past as a guide to the future;
- (2) the status of Antarctic whaling;
- (3) an overview of Antarctic whaling from 1904 to 2004;
- (4) Japanese whaling in the Antarctic – its characteristics as compared to the whaling by other nationals – including sections on the importance of whale meat in Japanese Antarctic whaling (which compared how Norway, the UK, the USSR, the Netherlands and Japan used whale products, i.e. for oil, animal food, human consumption and other), and continuity of Japan's whaling culture from its traditional whaling to Antarctic whaling;
- (5) failures of the past to manage large whales in the Antarctic – a meaningful lesson to make whaling successful in future;
- (6) how international legal instruments prescribe the need for full utilisation of whales; and
- (7) some aspects of future whaling.

Japan gave the following as the main points regarding how whaling should be conducted in the future.

²⁴ *Ann. Rep. Int. Whaling Comm.* 2003: 7-10.

- (1) Setting of the catch limits with which the sustainability and the optimum utilisation of whale stocks are to be achieved is critical. The RMP must be structured to meet the original objectives. It is a management tool that is intended to achieve three objectives:
 - (a) assurance to maintain the whale population at a safe level;
 - (b) long term sustainability of whaling;
 - (c) all possible risks are to be avoided. It might be necessary to improve the RMP to enhance these three factors in order to achieve optimum utilisation of whale resources.

Further, research effort needs be strengthened with a view to implementing multi-species management, through which all the components of marine ecosystem, including large whale stocks, can be rationally used in a well-balanced manner.

- (2) Scientific research as an integral part of whaling operations: As the realisation and pursuit of sustainable whaling is dependent and based on healthy whale populations, it is imperative that reliable scientific data should be made available. With this as a basis for the new sustainable whaling in future, unbiased scientific data collection must accompany whaling operations. For the purpose of achieving the sustainability of whale stocks and whaling activities at the same time, scientific research aspects should be incorporated as a part of whaling operations even if it is more burdensome to the efficiency of commercial operations or the pursuit of maximum profit. The successful results from the JARPA demonstrate that such research activities would make a significant contribution to our understanding and monitoring of the marine ecosystem and environment. Using whale management as a core to the ecosystem approach to the management of ocean resources, the potential for optimum utilisation of whales and other marine living resources can be enhanced.
- (3) A full utilisation of catches made possible by human consumption of whales as food: A prime characteristic of Japanese whaling is that whales are regarded as a valuable food resource that must be fully used, not be wasted. This characteristic has been evidenced throughout the history of whaling in Japan, from the pre-modern whaling in the Edo Era to Antarctic whaling and the current research take of whales under the JARPA. The full utilisation of whales taken and the thought that whales are gifts bestowed by heaven to sustain humans are two sides of the same coin. The fact that respect to the whales' souls has been religiously manifested in many areas and in various periods of history in Japan gives a special feature to whaling culture in Japan. In considering the future of whaling activities, it seems quite beneficial to re-evaluate these aspects of full utilisation in Japanese whaling culture as a moral bulwark against the over-harvesting of resources, such as whales. This is ethically legitimate in the Japanese culture, and should be promoted in environmentally friendly societies.
- (4) International contribution: Only abundant and robust whale stocks distributed in the Antarctic Ocean including Antarctic minke whales, estimated by the Scientific Committee of the IWC at 760,000 animals, will be harvested under the operation of new

sustainable whaling. Sustainable utilisation of such rich resources is open to all nations subject to their rights and obligations under international law. However, at least at present, it seems that only Japan has the will and capacity to harvest the abundant whale stocks in the Antarctic. Therefore, it is our strong suggestion that, when Japan will commence this new whaling in the Antarctic Ocean, Japan should consider voluntarily using a part of any profit from the whaling activities to benefit the world's interests. This would provide other members of international community, especially developing countries, with the opportunity to benefit from the rich whale resources in the Antarctic. We hope that other countries will participate in new sustainable whaling and thus promote the noble purpose and objective of the ICRW.

Japan expressed the hope that this renewed approach to whaling would be welcomed.

17.2 Commission discussions and action arising

Norway noted that the information presented by Japan on Norway's use of whale products (i.e. mainly for oil) was correct but that it applied only to products from whales caught in the Antarctic. During the period 1945 to 1972, Norway was not using whales caught in the Antarctic for human consumption. However this was not the case with whales caught elsewhere. Norway stressed its long tradition of using whale meat for human consumption extending back to Medieval times using minke whales and some other species along Norway's coast. This tradition continues to this day, although of course the technology for taking whales has changed.

Referring to item (4) above, Australia stressed that there is no currently agreed Scientific Committee abundance estimate for Antarctic minke whales.

Regarding Japan's request that this item be kept on the agenda and anticipating future PowerPoint presentations, the UK respectfully suggested that in view of the already crowded agenda, this item be dealt with as a side event, e.g. during a coffee or lunch break. The Chair responded that the Secretary and Advisory Committee would consider, before the next Annual Meeting, how best to handle PowerPoint presentations.

18. INFRACTIONS, 2003 SEASON

The Infractions Sub-committee met on 14 July with delegates from 30 Contracting Governments. The Sub-committee's Chair, Sung Kwon Soh (Korea), summarised the group's discussions. The full report is given in Annex I.

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.

The summary of catches by IWC member nations in the 2003 and 2003/2004 seasons is available as Annex J.

18.1 Report of the Infractions Sub-committee

18.1.1 *Infractions reports from Contracting Governments*

Infractions reports for 2003 were received from Denmark, St. Vincent and The Grenadines, the USA, the Russian Federation and the Republic of Korea. Only the USA and the Republic of Korea reported infractions.

The USA reported two infractions in 2003, which occurred during an aboriginal subsistence hunt, when a female bowhead whale accompanied by a calf was taken. The female was landed whilst the status of the calf was unknown. The taking of cow-calf pairs is prohibited in Eskimo hunting tradition, and also under the regulations both of this Commission and of the AEW (Alaska Eskimo Whaling Commission) Management plan. The AEW has primary enforcement responsibility under a cooperative agreement with the Government of the USA. Following a hearing, the AEW Commissioners concluded that the crew had not acted with proper caution and rescinded the bowhead subsistence captain's registration for two years.

The Republic of Korea reported that the Ministry of Maritime Affairs and Fisheries and the marine police of Korea had exposed five illegal catches of minke whales in 2003 and had taken judicial and administrative measures (see Annex I, Appendix 3). Four of the cases were deliberate, the catches being taken covertly with a spear by small fishing vessels. The fifth case was that of a dead whale found floating with spearheads stuck into it. The Korean authorities perceive these incidents to be a result of poachers trying to make money. The Government of Korea does not think poaching to be a major problem since all suspect poachers are listed and their movements watched by the police. The bycatch reporting system has proved useful in discriminating between illegal catches and bycatches. In addition, the authorities have continued to strengthen public awareness of poaching activities through the mass media. The Government of Korea will continue its efforts to bring an end to these illegal activities. The Republic of Korea clarified that it is not permitted to carry harpoons on fishing vessels.

18.1.2 Surveillance of whaling operations

Information submitted by the USA, the Russian Federation and St. Vincent and The Grenadines indicated that 100% of their catches were under direct national inspection. Denmark (Greenland) reported on quota monitoring.

Following questions from New Zealand and the UK concerning internal legal requirements in Denmark for collection of DNA samples and actions in the event of the samples not being provided, Denmark reported that it was mandatory to supply samples, and that it had written to all municipal authorities in Greenland to inform them of this fact.

New Zealand considered that failure to collect samples should be reported as an Infraction since Article IX of the Convention requires each Contracting Government to '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' and Paragraph 29(b) of the Schedule requires samples to be collected.

Denmark did not agree with New Zealand's interpretation, as Paragraph 29(b) refers to small type whaling and not to aboriginal subsistence whaling. Denmark will try to take appropriate measures to ensure samples are collected in the future, but it considered that missing samples are not infractions in the sense of Article IX of the Convention. In addition, it would help if the hunters knew the samples would be put to good use, as at present many samples seem to be stored in freezers but not

analysed. The Department of Fishing and Hunting will continue its efforts to collect samples.

New Zealand reiterated its opinion that collection of samples is obligatory under Para 29(b) of the Schedule and that failure to do so is an offence that should be reported as an infraction, particularly in view of the definition of 'small type whaling' in the Schedule and the strong language used by the Scientific Committee to express its concerns on this matter.

Following a suggestion from the Chair, New Zealand and Denmark agreed to discuss this matter further on a bilateral basis.

The UK noted that a bowhead whale was reported to have been killed in Greenland on 25 April 2004²⁵.

Australia expressed concern that since a new law had been enacted by Japan in 2001 allowing whales caught in nets to be killed, that the numbers of bycatch in Japan had increased dramatically, from 29 in 2000 to 79 in 2001, 109 in 2002 and to 125 in 2003. They cautioned that this could be considered an active hunt. Japan considered the question was not relevant to the Infractions Sub-committee. Rather, the Scientific Committee is the right forum for such discussions and Japan had provided information on bycatch to that Committee. It would respond directly to Australia on this issue if asked.

The UK noted that other countries e.g. Iceland and Korea also have significant levels of bycatch. It recognised that some other countries have a different opinion as to whether bycatch should be regarded as an infraction. However, the UK believed that everyone should agree that numbers of bycaught whales should be taken off any quota and, since the quota was zero, bycatch constituted an infraction.

18.1.3 Checklist of information required or requested under section VI of the Schedule

The following information was provided:

Denmark: Information on date, position, species, length and sex is collected for between 83-100% of the catch, depending on the item. Other biological data and information on killing methods and struck and lost animals are also collected.

USA: Information on date, species, position, length, sex, whether a foetus is present, killing method and numbers struck and lost is collected for between 97-100% of the catch depending on the item. Biological samples are collected for about 50% of animals.

Russian Federation: Information on date, species, position, length, sex, whether a foetus is present, killing method and numbers struck and lost is collected for 100% of the catch.

St. Vincent and The Grenadines: Information on date, species, position, length, sex, killing method and numbers struck and lost is collected for 100% of the catch.

Norway: the required information has been submitted to the Secretariat as noted in the Scientific Committee report²⁶.

²⁵ Denmark responded to a first question, which related to 2003, and said that no bowhead had been killed in 2003. It did not respond to the question of 2004 during the meeting, but subsequently reported that a bowhead whale had been seen in fishing nets in 2004 but that it had not been killed.

²⁶ *J. Cetacean Res. Manage.* 7 (Suppl.).

18.1.4 Submission of national laws and regulations

A summary of national legislation supplied to the Commission was prepared by the Secretariat. The UK and the USA applauded St. Vincent and The Grenadines for adopting domestic legislation that governs the aboriginal take of humpback whales. Australia expressed similar sentiments and enquired whether the regulations met the requirements of Schedule Para 13b(4). The Secretariat believed that they do and noted that the regulations were available if Australia wished to confirm this.

18.1.5 Other matters

The Secretariat had received no reports from Contracting Governments on availability, sources and trade in whale products and no comments were made during the meeting.

The UK referred to six northern bottlenose whales killed in the Faroe Islands in 2002 and noted that the Scientific Committee had expressed concern over the status of this stock in the 1970s. The UK asked a series of questions requesting details of the incidents. It noted that this species is included in Schedule Table 3 with a zero catch limit, and believed that the killing of these whales constituted an infraction.

Denmark responded that six whales had died as a result of stranding and that such events were not infractions. Denmark has provided information on similar events on a bilateral basis on many occasions in the past and would be happy to do so again.

The UK repeated that, because the species is in the Schedule, the reasons for the kills need to be documented.

Australia notified the Sub-committee of an alleged incident that occurred in 2004 in which a whale of unknown species was caught by an Australian fishing vessel, and the vessel returned to port with whale meat on board. The allegation has been referred to the Australian Federal Police for investigation. Australia will inform the IWC of the outcome of this matter once further details are available

18.2 Commission discussions and action arising

The UK noted that in the Sub-committee it had raised the issue of the killing of six Northern bottlenose dolphins in the Faroe Islands and asked for details of these incidents. It had been informed by the representative of the Faroese government that (a) the matter was no concern to the UK and (b) that the whales had stranded. The UK expressed concern with this response since it had heard from another source in the Faroes that stranded animals are normally successfully and relatively easily returned to the sea. It questioned why this had not been done in this case and why the kills were authorised. Germany associated itself with these remarks. Denmark did not respond. Japan considered the matter to be outside the competence of IWC. New Zealand disagreed.

The Commission took note of and adopted the Sub-committee's report.

19. LEGAL ADVICE IN RELATION TO THE IWC

19.1 Proposal regarding legal advice in relation to the IWC

As a first step in exploring how legal advice should be sought in the future, last year the Commission agreed that the Secretariat should investigate how other Conventions deal with legal issues and the sort of legal issues they have faced. This paper was provided as background information.

In addition, the Netherlands (who had first brought this matter to the attention of the Commission at the 5th Special Meeting of the Commission in October 2002²⁷) introduced a paper that set out options on how to address future legal issues that may arise within IWC. It had prepared the paper to help to maintain momentum on this issue and to facilitate discussions. The options included:

- (1) appointment of a legal officer;
- (2) establishment of a legal committee;
- (3) putting together a roster of legal experts;
- (4) recourse to external legal advice on an ad hoc basis; and
- (5) access to existing international judicial institutions.

The Netherlands noted that the options were not mutually exclusive and that an optimal legal function may require the selection of a mix of options. The paper did not include options for the settlement of disputes that may arise between Parties to the Convention or in connection with compliance with the Convention by Parties.

The Netherlands invited comments on the proposed options and the formulation of alternatives with the aim of the Commission taking an informed decision that would assist future deliberations. However, recognising that time remaining at this 56th Annual Meeting was short, the Netherlands proposed that its paper be referred to the F&A Committee at its meeting next year. The Netherlands remained convinced that establishing a mechanism for dealing with legal issues would help to depolarise and depoliticise debate and contribute to confidence building among countries.

19.2 Commission discussions and action arising

New Zealand welcomed the papers from the Secretariat and the Netherlands which reflected careful research and thought. New Zealand re-iterated its view that the 1946 Convention is deficient in its legal mechanisms and that legal issues would continue to cause difficulties with the work of the Commission. Its preferred approach in resolving the situation would be through a diplomatic conference that would have the goal of bringing the Convention's legal instrument up to date through the adoption of a Protocol covering a range of matters as raised under item 6.2 on the RMS. It accepted that consensus on such an approach would be illusive at present, and in the mean time noted the sovereign right of member states to determine their views on legal issues. That being said, New Zealand took the view, and would support, the Commission seeking legal advice, although the source of such advice would have to be carefully determined. Australia associated itself with these remarks.

Noting that FAO has a fairly substantial legal section, India suggested that early consultation with them may be helpful. Sweden, the USA, Argentina, Antigua and Barbuda also welcomed the paper from the Netherlands and supported the proposal to explore the matter further in the F&A Committee. Sweden found the options put forward in the paper interesting and believed that Option 1, appointment of a legal officer within the Secretariat, might be a good way to proceed. Argentina and Antigua and Barbuda expressed concern about the potential costs of this option, with Antigua and Barbuda suggesting that Option 2, establishment of a legal committee might be the best

²⁷ *Ann. Rep. Int. Whaling Comm.* 2003: 137-148.

approach at least in the first instance. Argentina stressed that the role of any legal adviser(s) or committee should be simply to provide advice, since it is the Commission that takes decisions. In view of the discussions on the RMS, the USA suggested that the F&A Committee also consider the need and role of a parliamentarian. Norway also welcomed the papers but was of the view that unless and until a new arbitration clause is included in the Convention (through a diplomatic conference), it is the sovereign right of member states to regulate their own obligations within the Convention. It therefore saw no need to investigate the matter further at this stage.

Noting Norway's comments, the Chair proposed that the issue be referred to the F&A Committee at IWC/57 as proposed by the Netherlands. The Commission agreed.

20. ADMINISTRATIVE MATTERS

Agenda items 20-22 covering administrative and financial matters were considered first by the Finance and Administration (F&A) Committee that met on Friday 16 June 2004 under the chairmanship of Halvard Johansen (Norway). Delegates from 35 Contracting Governments attended the meeting. The F&A Committee report is attached as Annex K.

20.1 Annual Meeting arrangements and procedures

20.1.1 *Need for a Technical Committee*

The Technical Committee (TC) has not met since in IWC/51 in 1999. However, the F&A Committee recommended that the need for the TC be kept under review and remain on the agenda since it may have a role to play when the RMS is completed and catch limits set.

The Commission agreed.

20.1.2 *Use of simultaneous translation*

Through Resolution 2003-4 adopted at IWC/55, the Commission had decided to establish a Working Group to explore the implications for the provision of technical components for simultaneous interpretation and to make recommendations on how provision of technical components for simultaneous interpretation may be provided at the IWC to accommodate the needs of contracting parties for whom English is a second language. Members of the Working Group comprised Antigua and Barbuda, Benin, France, Gabon, Republic of Guinea, Japan, Senegal, Spain and the Secretariat.

The Working Group proposed the following.

- Initially facilities for three languages would be provided (French, Spanish and Japanese). Japanese was proposed since most Japanese delegates speak in their mother tongue at the meetings. French and Spanish were proposed since, out of IWC's membership as of 2 July 2004, 15 countries are French-speaking and 16 countries are Spanish-speaking. In addition, requests have been made in the past for interpretation into these languages. It was further proposed that provision for additional languages could be considered at a later date (e.g. after two years).
- Initially, to help reduce costs, the technical set-up used would be that where headsets would be provided only for those national delegations using simultaneous interpretation, but with a view to moving toward the

usual set up where headsets are provided to all delegates.

- Initially simultaneous interpretation would be provided only for the Commission plenary. Provision at other meetings (i.e. Commission sub-groups and private Commissioners' meetings) could be considered at a later date (e.g. after two years). It would seem prudent, both financially and technically to have a phased approach to provision of simultaneous interpretation.
- The Commission would meet most of the costs through an increase in the budget provision for the Annual Meeting (approx. 2% initially). If costs are in excess of this, then the host government would cover additional expenses. In the case where the Annual Meeting is arranged by the Secretariat in the UK (in the absence of an offer from a Contracting Government), the Working Group proposed that any additional costs to provide simultaneous interpretation equipment be met by drawing on the Commission's reserves.

The F&A Committee welcomed the Working Group report, recognised the importance of this issue and agreed that some action should be taken to facilitate the participation of delegates for whom English is not their first language so as to put all member countries on the same footing. There was general agreement that the costs of providing the technical facilities for simultaneous interpretation should be met by the Commission, although a suggestion was made that the Commission may also wish to seek voluntary contributions to support this provision.

Some F&A Committee members supported the approach proposed by the Working Group, although the view was expressed that if possible (e.g. by restricting the number of languages for which interpretation facilities would be provided to two rather than three), it would be desirable to extend provision of simultaneous interpretation facilities to the Commissions sub-groups (not including the Scientific Committee) and to the private Commissioners' meetings. Others felt that, with the increasing membership and increasing number of languages spoken by members, it would be appropriate for the Commission to take broader steps, allocating a higher percentage of the budget so as to provide, for example (and perhaps even in time for IWC/57 in Ulsan), interpretation for a greater number of languages and the translation of documents - as is the case in some other intergovernmental organisations. A number of members, however, expressed concern regarding the proposal to include translation of documents before the implications, particularly of cost, could be properly assessed. They did not believe there was sufficient time to make this assessment during IWC/56.

After a further exchange of views, the Committee agreed to recommend the following compromise to the Commission:

- (1) That the Committee acknowledges the importance of facilitating the effective participation of all Contracting Governments in the work of the Commission and that no government should be disadvantaged by language;
- (2) That in the first instance, equipment facilities for the provision of simultaneous interpretation be provided for French and Spanish for the Commission's sub-groups (but not the Scientific Committee), the Commission plenary and private Commissioners' meetings. This would come into effect in time for IWC/57 in Ulsan next year.

- (3) That the budget provision for the Annual Meeting would be increased by 2%, as recommended by the Working Group.
- (4) That the Secretariat should work intersessionally, with a small Task Force (composition to be decided), to develop cost estimates and implications for the provision of document translation at Annual Meetings and to report to the F&A Committee at IWC/57 in Ulsan for possible decision-making.

The Commission agreed to this approach.

20.2 Amendments to the Rules of Procedure and Financial Regulations

20.2.1 Election of the Chair and Vice-Chair of the Commission

Japan had introduced to the F&A Committee the following proposals concerning Rules of Procedure F.1 and G.1:

Amendment of Rule F. 1: that the text be amended such that the Chair may be elected from among the Commissioners and Alternate Commissioners. The specific text of this proposal is that line 1 of rule F. 1. be amended to read: ***The Chair of the Commission shall be elected from time to time from among the Commissioners and Alternate Commissioners and shall...***

Amendment of Rule G. 1: that the text be amended such that the Vice-Chair may be elected from among the Commissioners and Alternate Commissioners. The specific text of this proposal is that line 1 of rule G. 1 be amended to read: ***The Vice-Chair of the Commission shall be elected from time to time from among Commissioners and Alternate Commissioners and...***

In the Committee, a number of governments indicated that while they appreciated and understood the motivation behind the proposed amendments, they considered – as pointed out when this same matter was raised at IWC/54 in Shimonoseki – that the proposal was contrary to Article III.2 of the Convention and therefore illegal.

Japan noted this position. It indicated that it did not wish to pursue the matter any further with the Committee but noted that it may raise it in the Plenary. Japan subsequently withdrew the proposal and there was no discussion in Plenary.

20.2.2 Appointment of the Chair and Vice-Chair of the Scientific Committee

At the 2002 Scientific Committee meeting, the Scientific Committee developed a proposed procedure and amendment to the Rules of Procedure for the Scientific Committee regarding the appointment of its Chair and Vice-Chair. At its meeting this year, the Scientific Committee proposed that a second paragraph be added to Rule of Procedure C.5 of the Scientific Committee Rules of Procedure as follows (proposed new text in ***bold italics***):

C. Organisation

5. The Committee shall elect from 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.

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates. Under normal circumstances, the Vice-Chair will become Chair at the end of his/her term, and a new Vice-Chair will then be elected. If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes, and the vote counts shall not be reported or retained.

The Scientific Committee proposal was reviewed by the Heads of Delegation to the Scientific Committee. They reconfirmed by consensus the Committee's support for its earlier position regarding secret ballots and agreed that the proposed Rule of Procedure should be revised to indicate that it was expected that the Vice-Chair would become Chair at the end of his/her term unless he/she declined. They therefore recommended that the following amended text be put forward to the Commission via the F&A Committee for adoption (proposed new text ***bold italics***):

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates. ~~Under normal circumstances,~~ The Vice-Chair will become Chair at the end of his/her term (***unless he/she declines***), and a new Vice-Chair will then be elected. ***If the Vice-Chair declines to become Chair, then a new Chair must also be elected.*** If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes, and the vote counts shall not be reported or retained.

The Commission adopted the proposal.

20.3 NGO participation

20.3.1 NGO participation and Rules of Procedure

In September last year, the Secretariat had been approached by a representative of one of the large environmental NGOs regarding changes that a number of NGOs would like to rules of NGO accreditation in particular but also in their level of participation in Commission affairs. The Secretariat had brought this matter to the attention of the Advisory Committee to seek advice on the best way to proceed. The Advisory Committee agreed that this issue should be brought to the attention of the F&A Committee via a paper outlining the issues raised and the potential implications of these. The focus of the paper was on NGO participation in the Commission and its sub-groups excluding the Scientific Committee. The Advisory Committee had suggested that the F&A Committee have a general discussion on the matter this year and that if changes were suggested, decisions could be taken at IWC/57 next year, as appropriate

The Advisory Committee's discussion document addressed the four following issues:

- (1) removal of the requirement that non-governmental organisations maintain offices in more than three countries;
- (2) allowing accredited NGOs to send up to [five?] representatives to IWC meetings as observers with the possibility of all observers being in the meeting room at any one time;
- (3) revising the fee structure for NGOs, such that the effect of the changes listed above is fee-neutral (cost-neutral?) in the year of its introduction and that thereafter, fees should not in general increase by more than such an amount as is necessary to keep pace with inflation in the UK (as host country to the IWC);
- (4) formally confirming the right of NGO representatives to speak at IWC meetings, but with some limitation on the number of interventions that could be made.

The document stressed that, should the Commission decide to consider whether, and if so how, its Rules of Procedure might be amended to accommodate the wishes of some

NGOs for more active participation, certain requirements are paramount, i.e. that changes in the rules should not:

- impede the orderly and timely conduct of business in meetings of the Commission or its subsidiary bodies;
- result in an increase in the IWC's costs nor a diminution in its income;
- significantly increase either the number of NGO observers present at meetings, nor the volume of documentation which the IWC Secretariat is required to produce to accommodate them.

Given the discussions in the F&A Committee, its Chair concluded that IWC is already transparent since it is open to observers from non-member governments, other intergovernmental organisations, NGOs and in the case of the plenary, also to the media. He noted that some members had serious concerns regarding the granting of speaking rights to NGOs, but suggested that further consideration might be given to items (1) to (3) above. The F&A Committee agreed to his proposal that the Secretariat work with the Advisory Committee intersessionally to explore how items (1)-(3) might be implemented and to report to the F&A Committee next year, together with any recommendations as appropriate. It was understood that it will be necessary for the Secretariat to consult with NGOs on this issue and it was agreed that the issue of speaking rights be set aside for the time being. The Committee also supported the suggestion that if Contracting Governments do not consider the pre-conditions listed under the three bullet points above cover all of their concerns, they should be invited to contribute proposals for further pre-conditions that would help in limiting/better defining NGO attendance.

The Commission endorsed the approach proposed by the F&A Committee.

20.3.2 *NGO code of conduct*²⁸

On Wednesday 21 July, the Chair reported to Plenary that a number of Commissioners had brought to his attention press releases and media interviews in which certain NGOs had made allegations regarding vote buying within IWC. One such press release had been made available to participants via the tables provided for the distribution of non-official documents. The Chair noted that a number of private meetings of Commissioners had been held to discuss this matter and to consider what, if any, action might be appropriate. While he noted that the Commission has traditionally welcomed the contributions of NGOs at its meetings, it considered that attendance carries certain responsibilities. On behalf of the Commission, the Chair expressed extreme concern regarding the circulation of unsubstantiated allegations that had caused offence to many Contracting Governments and urged all NGOs to behave with due and proper respect to all member Governments. He also noted the disruption to the Commission meeting caused by such allegations both in Sorrento and at IWC/55 in Berlin. As a result, the Chair reported that the Commission intends to develop a Code of Conduct for NGOs that would focus on NGO activities during the Annual Meeting and that could, if appropriate, include provisions related to the loss of accreditation. A working group convened by Iceland (members: Dominica; Japan; the Netherlands; New Zealand; St. Kitts and Nevis; Sweden; and the USA) had been established to develop this

Code of Conduct that would hopefully be ready for review by the whole Commission at IWC/57 next year.

21. FORMULA FOR CALCULATING CONTRIBUTIONS

At its meeting last year, the Commission agreed that the Contributions Task Force should meet again prior to IWC/56 to try to finalise a proposal for a revised contributions formula. A meeting had been scheduled for May 2004. However, given the intersessional work of the Commission and its potential implications for any revised contributions formula, Henrik Fischer believed that it would be prudent to delay further work of the Task Force until these implications could be assessed. Consequently, while continuing to recognise the high priority the Commission gives to the development of a revised contributions formula, it was decided, after consultation with the Task Force members and with the Advisory Committee, to postpone the Task Force meeting.

In the F&A Committee, while recognising the sense of postponing the May 2004 Task Force meeting, a number of delegations stressed the importance of completing expeditiously the work on a revised financial contributions formula. There was also some discussion regarding Chair of the Task Force, given that Daven Joseph (Antigua and Barbuda) was no longer Commissioner or representing Antigua and Barbuda. There was some debate as to whether Chairs are appointed as individuals or as countries and whether Task Force Chairs should be appointed by the Commission or elected by the group itself. Noting these different views, the new Commissioner for Antigua and Barbuda was invited to convene a meeting of Task Force members to elect a Chair. Following a short meeting, the convenor was able to report that by consensus, the Task Force recommended that, if the Commission so wishes, the Task Force continue with the Commissioner for Antigua and Barbuda (Anthony Liverpool) as Chair and with the Commissioner for Argentina (Eduardo Iglesias) as Vice-Chair.

The Commission noted the F&A Committee report and endorsed its recommendations regarding the Chair and Vice-Chair of the Contributions Task Force. St. Vincent and The Grenadines expressed appreciation for the work that the Contributions Task Force had done and urged expeditious completion of its work. It fully supported retaining the Interim Measure adopted at IWC/54 in Shimonoseki for calculating financial contributions until a replacement is available. The new Task Force Chair noted his commitment to ensuring the Task Force completes its work in a timely manner and hoped that significant progress will be made by the Annual Meeting next year. St. Lucia associated itself with the remarks of St. Vincent and The Grenadines and the Task Force Chair.

Resolution to take into account the special position of very small countries in calculating financial contributions

Monaco and San Marino introduced a proposal to transfer their two countries from capacity-to-pay Group 3 to Group 2 under the Interim Measure. It was also proposed that this transfer have no effect on the contribution of Contracting Governments belonging to capacity-to-pay Group 1.

Under the Interim Measure, Contracting Governments are allocated into one of four 'capacity-to-pay' groups depending on their GNI and GNI per capita as follows:

²⁸ This was not a matter discussed by the F&A Committee.

Group 1 – countries with GNI < US \$10 billion and GNI/capita < US\$ 10,000;

Group 2 – countries with GNI > US \$10 billion and GNI/capita < US\$ 10,000;

Group 3 – countries with GNI < US\$ 1,000 billion and GNI/capita > US\$ 10,000;

Group 4 – countries with GNI > US\$ 1,000 billion and GNI/capita > US\$ 10,000.

Financial contributions are initially calculated using the 'old' formula. Group 1 and 2 countries were then given a 50% and 25% discount for the years 2002/03 and 2003/04 which was further reduced in 2004/05 by 25% and 10% respectively. The shortfall is distributed according to the following proportions: whaling countries 10%, Group 3 countries 30%, Group 4 countries 60%.

Monaco explained that the aim of the proposal was to correct an anomaly in the Interim Measure caused by an overestimation of the capacity-to-pay of very small countries. It suggested that Monaco qualified for this status as it has an area of only two square kilometres and a population of only 32,000. Most of the population are expatriates who, because no tax is levied, contribute nothing to the GNI of Monaco. It also noted that Monaco's GNI (some 1.3 billion US\$) is one of the lowest of those countries that are members of IWC. With such a GNI, Monaco is not able to sustain a military force or a navy, has only seven embassies around the world and can participate in only a limited number of international organisations of which the IWC is obviously one. Since adhering to the Convention in 1982, Monaco felt that it has contributed its fair share to resources and to debate and had hosted a number of meetings. However, it noted that since the introduction of the Interim Measure, Monaco's financial contributions had increased from around £15,000 to over £25,000 putting a strain on the extent to which it has been able to participate in meetings. Monaco did not believe that it should be placed in Group 3 simply because it has many wealthy expatriates and suggested that it and San Marino (for the same reasons) be transferred to Group 2. Monaco added that if the Commission rejected the proposal, it would likely not be able to participate for much longer. It called for adoption of the proposal by consensus.

San Marino associated itself with the statements of Monaco.

France, Iceland, UK, Australia and New Zealand indicated that they could support the proposal. Argentina was sympathetic with the proposal but expressed concern that this would lead to other countries requesting re-allocation to a different capacity-to-pay group. It indicated, however, that it would not block a consensus. Norway expressed similar concerns and believed that the groupings should not be changed at this time. It suggested that the proposal be postponed to await the outcome of the work of the Task Force. Dominica also did not see the need to set such a precedent in view of the work of the Task Force. The USA noted that the problem described by Monaco is only one of several problems associated with the Interim Measure. It hoped therefore that the Commission would give a mandate to the Task Force to complete its work and submit a comprehensive formula to the Commission at IWC/57. Spain associated itself with the remarks of the USA. The UK did not believe that the Task Force could complete its work until an agreement had been reached regarding apportioning of costs associated with a future

RMS. Japan associated itself with the remarks of the USA and others and asked the sponsors if they would withdraw their proposal and await the outcome of the work of the Task Force. Monaco declined as there is no guarantee that the Task Force would complete its work as early as suggested.

The proposal was adopted on being put to a vote (Resolution 2004-4, Annex C). There were 20 votes in support, 15 against and 17 abstentions. The Chair suggested that the Task Force give some consideration to defining what is meant by 'very small countries'. Monaco suggested that Group 2 countries be those with GNI < 5 billion US\$.

While congratulating Monaco and San Marino on the outcome, Ireland explained that it had abstained as it was concerned that such a move would set a precedent, with other countries making different cases for re-allocation of capacity-to-pay group. It urged the Task Force to complete its work. The USA associated itself with Ireland, and again called for the necessary mandate to be given to the Task Force. There was no further discussion on this matter. Switzerland who had abstained, associated itself with Ireland and the USA.

22. FINANCIAL STATEMENTS AND BUDGETS

The F&A Committee had received the report of the Budgetary Sub-committee that had worked intersessionally and had met during IWC/56 with Jean-Pierre Plé (USA) as Chair. The Budgetary Sub-committee had reviewed the provisional statement for 2003/2004 and proposed budgets for 2004/2005 and 2005/2006.

22.1 Review of provisional financial statement, 2003/2004

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

During the F&A Committee, the Secretariat had reported that approximately 90% of financial contributions for the Financial Year 2003/04 had been received by the due date for settlement (28 February 2004). It had noted that the charging of penalty interest of 10% for late payments and the loss of voting rights provided a strong incentive for members to pay on time. In the Committee, concern was expressed by some that the 10% penalty interest charge presented difficulties to developing countries. The fixed rate of 10% interest was questioned at a time when market rates of interest are much lower. Dominica raised this issue during the Commission meeting and indicated that it planned to propose amendments to the Rules of Procedure next year.

22.2 Consideration of estimated budgets, 2004/2005 and 2005/2006

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

- (1) adopted the proposed budget for the 2004/2005 financial year (Annex L), including a 2% increase in provision for the Annual Meeting to take account of costs associated with simultaneous interpretation (see section 20.1.2) and the provision for research expenditure (Annex M); the reservations of Norway, Japan and Germany were noted (see Annex K);
- (2) agreed that for the 2005 Annual Meeting the registration fee for non-government observers be set at £590 and that the media fee at £35; and
- (3) noted the forecast budget for 2005/2006.

The USA noted that the outcome of discussions on the RMS and the intersessional plan of activity agreed as part of Resolution 2004-6 (Annex C), had cost implications that needed to be considered in relation to the budget for the next financial year (2004/05). The Secretary noted that the budget proposed had anticipated a certain level of intersessional activity of the RMS, and that apart from the RMS Working Group meeting scheduled to take place before December 2004, all other activities should be covered. She suggested that a Contracting Government may wish to host the first meeting of the RMS Working Group.

22.3 Secretariat offices

Last year, the Commission had agreed to the Budgetary Sub-committee's recommendation that the Secretariat explore a range of alternatives to its existing premises including:

- (1) continuing to rent the Red House;
- (2) purchasing the Red House or another suitable property in Cambridge or elsewhere in the UK; or
- (3) relocation of the Secretariat to another member country.

The background to these recommendations is that the cost of the Secretariat represents a significant percentage of the IWC's budget (i.e. £958k out of £1,623k of operating expenditure - as per the 2002-03 audited accounts). The rental of Red House (i.e. £69k) represents 4.3% of the £1,623k of operating expenditure, while salaries, and allowances (i.e. £622k) represent 38% of the £1,623k of expenditure.

The Secretariat's report examined the criteria for relocation within the UK and overseas and the associated variables (rents, wind-up costs, set-up costs, transition costs, loss of expertise and effects on organisational effectiveness etc). It reached the conclusions given below.

- Currently there are savings to be made from relocating the IWC abroad, both in terms of lower rental costs and local salaries. The savings however may be sensitive to currency/economic fluctuations. Savings in expenditure in the early years of relocation could easily revert to additions to expenditure in later years.
- Over the transition period it is possible that transition costs (e.g. paying rent on two properties – if relocation occurred before the current lease expired) would equal or even exceed cost savings.
- If the current lease is continued until 2009, the rent will be capped at around £ 73,700 per annum from June 2005. This will give stability to costs and still provide a competitive rent in relation to alternative sites in the Cambridge area.
- The renewal of the lease in 2009 offers the chance to re-negotiate the current terms. The current lease only allows increases in rent. The chance to reduce the rent and allow rent decreases at each 5-yearly rent review could be explored.
- The focus of much of this paper has been on the relative costs of property and the relative costs of operating in various parts of the world. The costs associated with losing staff with the operational expertise and relationships that have been developed over many years should also be taken into consideration.
- The volatility of international markets make budgeting over a long time frame problematic. An effective

Secretariat needs stability to function effectively and so its location should be considered within a long-term perspective. A country that can offer a stable cost base allied to operational effectiveness should give an acceptable balance between value and performance in the face of fluctuations in the world economy.

Recognising that:

- (1) rent of the The Red House is not an excessive cost;
- (2) expertise within the Secretariat would be lost if the Secretariat were moved away from the Cambridge area; and
- (3) that there is still over five years until the current lease expires

the F&A Committee endorsed the Sub-committee's recommendations that the Secretariat explore alternatives within the Cambridge area, including those listed below.

- Ask the NASCO (North Atlantic Salmon Conservation Organisation) Secretariat in Edinburgh, Scotland how it managed to purchase its Headquarters building in terms of funding and what effect their status as an International Organisation had in buying property. (Financing any purchase would have to be carefully considered in the context of minimising the effects on Financial Contributions).
- Near the date of renewal of the lease, examine whether there might be any scope for the owners of Red House to 'gift' the property to the IWC. This might be an option if the inheritance tax status of the owner made this option advantageous.
- Keep the property market in Cambridge under active review to allow the early assessment of rental or purchase alternatives.
- If new property was acquired, to assess the possibility to renting part of that property as a means of minimising total property costs.

The Commission endorsed these recommendations.

22.4 Budgetary Sub-committee rota

At IWC/54 in Shimonoseki, 2002, the Commission adopted a rota for membership of the Budgetary Sub-committee. In summary:

- using the same country groupings as the Interim Measure for Financial Contributions²⁹, membership comprises:
 - 2 members from Group 1;
 - 2 members from Group 2;
 - 2 members from Group 3; and
 - Japan, USA + one other from Group 4;
- membership is for 2 years (except for Japan and the USA who have a 'permanent' place since they are likely to be the two highest paying contributors under almost any formula for the calculation of financial contributions for the foreseeable future being the highest payers now and probably in the future);
- any member that declines to serve to be replaced by the next member in alphabetical sequence within its Group;

²⁹ It is recognised that these country groupings were developed solely for the purposes of the Interim Measure for calculating financial contributions and may need revision when a new formula is adopted.

- new members of the Commission to be fitted into the cycle at the nearest alphabetical point after they have had a period in which to familiarise themselves with the organisation;
- the appointment of the Sub-committee Chair should be handled by the Chair of the Commission and the Advisory Committee.

At IWC/55 last year, the Commission agreed that the Secretariat review the current rota system with a view to:

- (1) making it more attractive for countries to serve on the Sub-committee;
- (2) providing greater continuity;
- (3) improving the process for selection of the Sub-committee Chair; and
- (4) reporting back to the Budgetary Sub-committee for further action as appropriate.

At its meeting this year, the Sub-committee reviewed a variety of options put forward by the Secretariat for consideration regarding items (1) to (3) above and recommended to the F&A Committee that the following be incorporated into the membership rota system:

To encourage participation in the Sub-committee:

- A. When inviting countries to serve, stress not only the importance of the work of the Sub-committee (it really does make the job of the F&A Committee much easier and more efficient), but also that the workload is not high - either intersessionally or at Annual Meetings. The Sub-committee is only active during the period from March to when the annual meeting is held – and this only involves responding to documents/proposals from the Secretariat. All intersessional work is done by email/fax and no meetings are involved. At annual meetings, the Sub-committee generally meets for only 1-2 sessions.
- B. Undertake to schedule meetings of the Budgetary Sub-committee when other Commission sub-groups are not meeting and try to avoid scheduling the Budgetary Sub-committee at the beginning of the series of Commission sub-group meetings (because not all delegations arrive in time to otherwise participate).
- C. Keep the four economic groups, but add two ‘open seats’ (i.e. for any interested countries) as a fifth category. Countries filling the two open seats would need to be identified and agreed at the meeting of the Finance and Administration Committee. Formalise the current informal arrangement allowing Contracting Governments not members of the Budgetary Sub-committee to attend meetings as observers.

To provide greater continuity:

- D. Extend the term of members from 2 to 3 years.
- E. Appoint not only a Sub-committee Chair but also a Vice-Chair. Under normal circumstances, the Vice-Chair would replace the outgoing Chair. This would have the effect of two Sub-committee members serving for either four years (under the current system) or six years if the term of all members was extended as proposed in D above.

Improving the process for the selection of the Sub-committee Chair and Vice-Chair

- F. That the Sub-committee elects its own Chair (as is the case in other Commission sub-groups – and indeed the Commission itself);

The Commission endorsed these recommendations. It also agreed that:

- Germany and Norway be invited to take the ‘open seats’ commencing immediately following IWC/56;
- the Budgetary Sub-committee provide clearer guidelines for its operation (i.e. term for the ‘open seats’ and status of observers from Contracting Governments not on the Sub-committee) and to report back its conclusions to the F&A Committee next year.

The proposed rota for the budgetary Sub-committee for 2004/05 onwards is given in the F&A Committee report (Annex K).

22.5 Other matters

In the F&A Committee, Brazil briefly drew attention to its concern regarding the costs incurred to Contracting Governments, especially those of developing countries, of sending delegations to Annual Meetings, particularly given the length of the meeting series. It hoped that host governments and the Secretariat would take account of these concerns when determining the timing and location of Annual Meetings. This was supported by a number of other governments. The Committee took note of this concern and drew it to the attention of the Commission.

23. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE

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

Resolution on the frequency of meetings of IWC

On behalf of the other sponsors (Australia, Belgium, France, Germany, Italy, Kenya, Monaco, Norway, San Marino, Spain, South Africa and Switzerland), Ireland introduced a draft Resolution to, *inter alia*:

- (1) accept the principle of IWC meetings being held less frequently than regular Annual Meetings, coupled with ensuring that intersessional meetings do not increase as a counter balance;
- (2) create a working group to investigate (by correspondence) and make recommendations to IWC/57 on the implications of less frequent meetings;
- (3) use the working group recommendations as a basis for a detailed Resolution at IWC/57 and a change in the Rules of Procedure of the Commission at IWC/58; and
- (4) apply the principle of less frequent meetings after IWC/58 in 2006.

Ireland noted that that the increasing burden of Annual Meetings in terms of costs and personnel has been discussed on previous occasions and that the suggestion of less frequent meetings is not a new one. It drew attention to other Conventions dealing with fisheries, biodiversity and the environment who organise their affairs effectively on the basis of biennial or triennial meetings and hoped that the draft Resolution could be adopted by consensus.

The UK expressed its willingness to consider the proposal for less frequent meetings in principle, but noted that less than annual meetings might cause difficulties if the Commission adopts an RMS and starts to set catch limits. It noted that other Conventions with biennial or triennial meetings are set-up rather differently than IWC, with, in many cases, Sub-committees being established to do the bulk of the work. By contrast, the ICRW requires actions to

be taken by the Commission. It therefore was not generally in favour of the proposal. South Africa appreciated these remarks but urged that the issue be pursued fully.

The USA was not opposed to considering less frequent meetings, but suggested a number of amendments to the draft Resolution to: (1) propose that the principle of less frequent meetings be 'explored' rather than 'accepted'; and (2) delete reference to the draft Resolution and changes to Rules of Procedure. Ireland indicated that it could accept these amendments and suggested that as a result, reference to implementation of less frequent meetings be applied after IWC/58 be deleted. The other co-sponsors agreed to these changes.

Denmark could agree to explore the issue, but like others, suggested that less frequent meetings might not be practical if an RMS was adopted and catch limits had to be set.

Dominica welcomed the proposal but suggested that a clause be inserted to urge that work on the RMS proceed expeditiously during the intersessional period leading up to IWC/57 next year.

Iceland and Japan indicated that they could not support the proposal at present, believing it to be premature. Iceland considered that it might delay adoption and implementation of an RMS. Japan believed that work on the RMS should be completed first and that for the time being, it is necessary for the Commission to meet annually. Kenya saw no connection with the RMS and urged that the proposal be adopted by consensus. Chile was against the proposal for more practical reasons. It believed: (1) that intersessional activity would increase and that it would have difficulties in finding the funds necessary to enable it to be involved; and (2) that its Government would force a reduction in annual contributions (since meetings would no longer be held annually). In response to Chile's second remark, Ireland suggested that less frequent meetings should lead in any case to either a freezing or a reduction in financial contributions.

Although Iceland, Japan, Chile and Argentina were not in favour of the proposal, they indicated that they would not block consensus. The Resolution, amended as described above, was then adopted, noting the concerns of these countries (see Resolution 2004-7, Annex C).

24. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

24.1 57th Annual Meeting, 2005

The Republic of Korea reported that IWC/57 will be held at the Lotte Hotel in Ulsan during the period 30 May to 24 June 2005 – the exact timing to be decided by the Commission.

The Secretary introduced a provisional schedule for the meeting, noting in particular that given Resolution 2004-6 on Completion of the RMS, two days had been allocated for a meeting of the RMS Working Group, and the meeting of the Commission had been extended from four days to five. The Commission agreed with the timing proposed, i.e. that the Scientific Committee meet from 30 May to 10 June (with a pre-meeting on sea ice and whale habitat and a workshop on the use of market sampling to estimate bycatch taking place in the period 27-29 May), the Commission sub-groups in the period from 13 to 17 June, and the Commission from Monday 20 to Friday 24 June 2005.

24.2 58th Annual Meeting, 2006

The Commission had received two offers to host the Annual Meeting in 2006; one from France, the other from St. Kitts and Nevis. As neither country was able to offer to host a meeting in a subsequent year, the location of IWC/58 was put to a vote by secret ballot. There were 27 votes for St. Kitts and Nevis, 25 for France and 1 abstention. The 2006 meeting will therefore be held in St. Kitts and Nevis.

24.3 Other

Spain indicated its willingness to host the Annual Meeting in 2007 but indicated its flexibility regarding the year. Kenya indicated that it intended to offer to host the meeting in 2008, but like Spain, was willing to be flexible.

25. ELECTION OF THE CHAIR AND VICE-CHAIR

At last year's meeting, Henrik Fischer (Denmark) and Carlos Dominguez Diaz (Spain) were elected as Chair and Vice-Chair respectively for a 3-year term. However, as Carlos Dominguez Diaz was unable to continue as Vice-Chair a replacement had to be elected. Horst Kleinschmidt (Commissioner for South Africa) and Minoru Morimoto (Commissioner for Japan) were proposed. On being put to a vote by secret ballot, Mr Kleinschmidt was elected. He received 26 votes. Mr Morimoto received 25 and there were two abstentions. It was agreed that Mr Kleinschmidt's appointment would be for three years.

26. ADVISORY COMMITTEE

At last year's meeting, the Commissioners from Dominica and the UK were elected onto the Advisory Committee to replace the Commissioners from St. Lucia and the USA respectively. Since St. Lucia had remained on the Advisory Committee for three years (instead of the usual two years as stipulated in Rule of Procedure M.9), the Commission agreed that Dominica should serve on the Advisory Committee for one year only – its term ending at IWC/56. At IWC/56, the Commission reappointed Dominica to serve on the Advisory Committee for a further two years.

27. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

A summary of decisions and actions required is provided at the beginning of this report.

28. OTHER MATTERS

On behalf of the Commission, the Chair warmly thanked the Government of Italy for hosting the 56th Annual Meeting and for providing such a magnificent location and venue. He also extended his thanks to Mr Morimoto for his support as Vice-Chair, the Secretariat, the interpreters and the staff of Studio Ega who had helped in meeting organisation.

Several countries expressed deep appreciation to both the Chair and Vice-Chair for managing in an extremely efficient and accommodating way what they considered to be a very good meeting.

The meeting was closed at 17.10 on Thursday 22 July 2004.

29. AMENDMENTS TO THE SCHEDULE

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

Annex A

Delegates and Observers Attending the 56th Annual Meeting

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

Antigua & Barbuda

Anthony Liverpool (C)
Colin Murdoch (AC)
Joanne Massiah

Argentina

Eduardo Iglesias (C)
Raúl Comelli (AC)
Miguel Iniguez (AC)

Australia

Conall O'Connell (C)
Stephen Powell (AC)
Marina Tsirbas
Nicola Beynon
Pam Eiser

Austria

Andrea Nouak (C)
Michael Stachowitsch (AC)
Antje Helms (S)

Belgium

Alexandre de Lichtervelde (C)
Xavier Leblanc (AC)
Koen Van Waerebeek

Belize

Ismael Cal (C)
Beverly Wade (AC)

Benin

Yaba Bantole (C)
Sogan Simplicite
Lucie Kouderin (I)

Brazil

Maria Teresa Pessôa (C)
Régis Pinto de Lima (AC)
José Truda Palazzo (AC)
Rômulo José Fernandes Barreto de
Mello
Marcia Engel

Chile

Mariano Fernández (C)
Francisco Devia
Aldunate (AC)

China

Liu Xiaobing (C)
Xiao Jianguo
Luo Ming
Shen Wenjuan (I)

Côte d'Ivoire

Jeanson Anvra Djobo (C)
Andre Kouakou Kouassi (AC)
Adjoumani Kouassi Kobenan

Denmark

Ole Samsing (C)
Amalie Jessen (AC)
Kate Sanderson (AC)
Simon Olsen
Leif Fontaine
Ole Heinrich
Michael Kingsley
Kim Mathiasen
Maj Friis Munk
Kelly Berthelsen (I)

Dominica

Lloyd Pascal (C)
Andrew Magloire (AC)

Finland

Esko Jaakkola (C)
Risto Rautiainen (AC)
Penina Blankett

France

Jean-Georges Mandon (C)
Martine Bigan
Vincent Ridoux

Gabon

Guy Anicet Rerambyath (C)
Rosalie Avomo (AC)

Germany

Peter Bradhering (C)
Matthias Berninger (AC)
Marlies Reimann (AC)
Wolfgang Hoelscher-
Obermaier
Andreas von Gadow
Karl-Hermann Kock
Petra Deimer

Grenada

Gregory Bowen (C)
Justin Rennie (AC)
Clariss Charles
Frank Hester (I)

Republic of Guinea

Ibrahima Sory Toure (C)
Amadou Telivel Diallo (AC)
Sidiki Diane (I)

Hungary

Mária Pánczél (C)

Iceland

Stefan Asmundsson (C)
Asta Einarsdottir (AC)
Gunnar Palsson (AC)
Jon Gunnarsson
Gisli Vikingsson
Kristjan Loftsson

India

Himachal Som (C)
Sampat Singh Bist (AC)

Ireland

Chris O'Grady (C)

Italy

Giuseppe Ambrosio (C)
Giuseppe Notarbartolo Di
Sciara (AC)
Paolo Galoppini (AC)
Caterina Fortuna
Michele Alessi
Rosa Caggiano
Domitilla Senni (S)
Massimiliano Rocco (S)
Domitilla Pulcini (S)
Lorenza Conti (S)

Japan

Minoru Morimoto (C)
Toshiyuki Iwado (AC)
Masayuki Komatsu (AC)
Akira Nakamae (AC)
Kiyoshi Ejima
Keishiro Fukushima
Gabriel Gomez Diaz
Dan Goodman
Mutsuo Goto
Hiroshi Hatanaka
Yoshimasa Hayashi
Noriyoshi Hattori
Masato Hayashi
Isamu Hidaka
Yasuo Iino
Hajime Ishikawa
Makoto Ito
Eiko Kaneta
Atsushi Kato
Hidehiro Kato
Chikao Kimura
Tadamasa Kodaira
Yoshikazu Kojima

Motohiko Kondo
 Konomu Kubo
 Akihiro Mae
 Susumu Miura
 Joji Morishita
 Takanori Nagatomo
 Keiichi Nakajima
 Shuya Nakatsuka
 Futoshi Nishiyama
 Seiji Ohsumi
 Kayo Ohmagari
 Itsunori Onodera
 Hirohiko Shimizu
 Yoshihiro Takagi
 Hirohito Takahashi
 Tokuichiro Tamazawa
 Sunao Taura
 Ichiro Wada
 Daishiro Yamagiwa
 Kazuo Yamamura
 Hideo Inomata (S)
 Mihoko Takagi (S)
 Rieko Motouchi (S)
 Mikiko Inoue (I)
 Rei Kawagishi (I)
 Midori Ota (I)
 Akiko Tomita (I)

Kenya

Sam Weru (C)
 Connie Maina (AC)

Republic of Korea

Ki Hiok Barng (C)
 Sung Kwon Soh (AC)
 Zang Geun Kim (AC)
 Oh Seuyng Kwon
 Jae Taek Park
 Chang Moyeng Byen
 Hyon Min Yoon (I)
 Byang Soo Jun (S)
 Byung Hee Park (S)
 Ji Chun Kim (S)
 Bu Ho Jin (S)
 Kyu Hwa Sim (S)
 Hyung Mun Choi (S)
 Dong Ik Choi (S)
 Si Sang Song (S)

Mauritania

Sidi Mohamed Ould Sidina (C)
 Ba Abou Sidi (AC)
 Sidi Ould Aly (AC)

Mexico

Exequiel Ezcurra (C)
 Lorenzo Rojas-Bracho (AC)

Monaco

Frederic Briand (C)

Mongolia

Ts. Damdin (C)
 P. Naranbayer

Morocco

Abdessla Fahfouhi (C)
 Abdelaziz Zoubi

Netherlands

Giuseppe Raaphorst (C)
 Henk Eggink (AC)
 Anne-marie van der Heijden (AC)
 Peter Reijnders
 Rene Lefeber (S)

New Zealand

Geoffrey Palmer (C)
 Chris Carter (AC)
 Alan Cook (AC)
 Mike Donoghue (AC)
 Nigel Fyfe (AC)
 Chris Anderson
 Alexander Gillespie
 Simon Lambourne
 Wally Stone

Nicaragua

Miguel Marenco (C)

Norway

Bengt Johansen (C)
 Turid Eusebio (AC)
 Halvard Johansen (AC)
 Jorhill Andreassen
 Hild Ynnesdal
 Lars Walløe
 Egil Øen
 Nina Buvang Vaaja (S)
 Jan Skjervø (S)
 Bjørn Hugo Bendiksen (S)

Oman

Ibrahim Said Al-Busaidi (C)

Republic of Palau

Kuniwo Nakamura (C)
 Victorio Uherbelau (AC)

Panama

Rogelio Santamaria (C)
 Epimenides Diaz

Peru

Roberto Seminario (C)

Portugal

Edgar Afonso (C)
 Marina Sequeira

Russian Federation

Valentin Ilyashenko (C)
 Valery Knyazev (AC)
 Rudolf Borodin (AC)
 Ivan Slugin (S)
 Vladimir Etylin (S)
 Gennady Inankeuyas (S)
 Alexander Borodin (S)
 Olga Ipatova (I)
 Olga Gogoleva (I)

Saint Kitts and Nevis

Ian Liburd (C)
 Daven Joseph (AC)
 Joseph Simmonds

Saint Lucia

Ignatius Jean (C)
 Vaughn Charles (AC)

Saint Vincent and The Grenadines

Edwin Snagg (C)
 Raymond Ryan (AC)

San Marino

Dario Galassi (C)

Senegal

Ndiaga Gueye (C)

Solomon Islands

Sylvester Diake (C)
 Paul Maenuu

South Africa

Horst Kleinschmidt (C)
 Herman Oosthuizen
 Chris Badenhorst

Spain

Carmen Asencio (C)

Suriname

Jaswant Sahtoe (C)
 Deuwerkaas Jairam (AC)

Sweden

Bo Fernholm (C)
 Stellan Hamrin (AC)
 Martin Attorps (AC)
 Thomas Lyrholm (AC)
 Anna Roos (AC)

Switzerland

Thomas Althaus (C)
 Martin Krebs (AC)

Tuvalu

Panapasi Nelesone (C)
 Nikolasi Apinelu (AC)

UK

Richard Cowan (C)
 Trevor Perfect (AC)
 Laurence Kell (AC)
 Rob Bowman (AC)
 Ben Bradshaw (AC)
 Geoff Jasinski (AC)
 Kath Cameron
 Denise Hart
 Jenny Lonsdale
 Mark Simmonds

USA

Rolland Schmitt (C)
 William Hogarth (AC)
 William Brennan (AC)
 Michael Tillman
 Robert Brownell
 Jean Pierre-Plé
 Thomas Napageak
 Dave Sones
 Nancy Azzam
 Chris Yates
 Stanley Speaks (S)
 Roger Eckert (S)
 Scott Smullen (S)
 Emily Lindow (S)
 Gary Rankel (S)
 George Ahmaogak (S)
 Harry Brower Jr. (S)
 Keith Johnson (S)
 Shannon Dionne (S)
 Debra Larson (S)
 Dave Whaley (S)
 Brad Smith (S)
 Federica Signoretti (S)
 Amy Frankel (S)
 Todd Bertloson (S)

Chair of Scientific Committee

Doug DeMaster

NON-MEMBER GOVERNMENT OBSERVERS**Canada**

Patrice Simon

Czech Republic

Pavla Hycova

Slovakia

Henrieta Baloghova
 Milan Paksi

INTERGOVERNMENTAL ORGANISATION OBSERVERS**ACCOBAMS**

Marie-Christine Van Klaveren

CITES

Willem Wijnstekers

ECCO

Horace Walters
 Nigel Lawrence

IUCN

Justin Cooke

NAMMCO

Grete Hovelsrud-Broda
 Charlotte Winsnes

UNEP/CMS Secretariat

Marco Barbieri

NON-GOVERNMENTAL ORGANISATION OBSERVERS**ACOPS**

Patrick Ramage
 Irene Donadio (I)

Alaska Cambridge Group

Mare Core
 John Tichotsky (Alt)

All Japan Seamen's Union

Yoji Fujisawa

American Cetacean Society

Katy Penland

American Friends Service Committee

Robert Suydam
 Charlotte Brower (Alt)

Animal Care International

Nicolas Entrup

Animal Kingdom Foundation

Margi Prideaux

Animal Welfare Institute

Susan Tomiak
 Ben White (Alt)

Antarctic and Southern Ocean Coalition (ASOC)

Emanuela Marinelli

Association of Traditional Marine Mammal Hunters of Chukotka

Edward Zdor
 Gennady Inankeuyas (Alt)
 Liz Beiswenger (I)
 John Tichotsky (I)

Barrow Arctic Science Consortium

Gennady Zelensky
 Keith Hill (Alt)
 Mary Core (Alt)

Biodiversity Action Network East Asia (BANEA)

Ayako Okubo

Campaign Whale

Andy Ottaway
 S Dawes (I)

Canadian Marine Environment Protection Society

Annelise Sorg
 Doug Imbeau (I)

Care for the Wild

Barbara Maas

Caribbean Conservation Association

Joth Singh
 Andrée Griffith

Center for Respect of Life and Environment

Kitty Block

Cetacean Society International

Heather Rockwell

Citizen's Institute for Environmental Studies

Yeyong Choi
 Taeyoung Moon (Alt)

Conservacion De Mamiferos Marinos De Mexico A.C.

Beatriz Bugada
 Laura Rojas (Alt)
 Yolanda Alaniz (I)

Cousteau Society

Clark Lee Merriam

David Shepherd Conservation Foundation

Sue Fisher

Dolphin and Whale Action Network

Nanami Kurasawa

Dolphin Connection

Deb Adams

Earth Island Institute

Mark Palmer
 David Rinehart (Alt)

Earth Voice

Betsy Dribben
 Naomi Rose (Alt)

Eastern Caribbean Coalition for Environmental Awareness (ECCEA)

Lesley Suttly

Ecodetectives

Ralf Sonntag

Environmental Consultants & Associates

Karen Steuer

Environmental Investigation Agency

Clare Perry
 Rosemary Lonsdale (Alt)

Eurogroup for Animal Welfare
Philip Lymbery

European Bureau for Conservation & Development
Despina Symons

Florida Caribbean Conservation Coalition
Alberto Szekely

Fondation Brigitte Bardot
Brice Quintin
Stephanie Roche (I)

Friends of the Earth International
Ma Yong-UN

Friends of Whalers
Alan Macnow
Tse Fungwong (I)

Fundación Cethus
Marta Hevia

Gesellschaft zum Schutze der Meeressäuger e.V. GSM
Birgith Sloth

Global Guardian Trust
Yasuyuki Teruki
Toshikazu Miyamoto (I)

Greenpeace International
John Frizell

Group to Preserve Whale Dietary Culture
Komei Wani

High North Alliance
Rune Frovik
Laila Jusnes (Alt+I)
Jan Odin Olavsen (Alt)
Tom Joran Olavsen (Alt+I)

Humane Society International
Patricia Forkan
Naomi Rose (Alt)

Indigenous World Association
Jessica Lefevre
Taqluk Hepa (Alt)

International Association for Religious Freedom
Craig George
Charlotte Brower (Alt)

International Environmental Advisors
Junko Sakurai
Yusuke Inoue (I)

International Dolphin Watch
Philippa Brakes

International Fund for Animal Welfare
Fred O'Regan
Christine Jones (Alt)
Gaia Angelini (I)

International Institute for Environment and Development
Duccio Centili

International League for the Protection of Cetaceans
Leslie Busby

International Marine Mammal Association
Vassili Papastavrou

International Marine Researchers
Thilo Maack

International Ocean Institute
Sidney Holt

International Primate Protection League
Ashley Mispion
Ross Lonsdale

International Transport Workers' Federation
Suezo Kondo
Yuji Iijima (I)

International Wildlife Coalition
Daniel Morast
Elsa Cabrera (I)

International Work Group for Indigenous Affairs
Petra Rethmann

Inuit Circumpolar Conference
Aqaluk Lynge

Inuit Circumpolar Conference Env. Comm.
Erna Lynge

IWMC World Conservation Trust
Eugene Lapointe
Janice Henke (Alt)
Helene Lapointe (I)

Japan Fisheries Association
Jay Hastings

Japan Small-Type Whaling Association
Ito Nobuyuki

Japan Whale Conservation Network
Naoko Funahashi

Japan Whaling Association
Toru Yamamoto

Minority Rights Group
Mark Major

Monitor
Craig Van Note

Natural Resources Defense Council
Joel Reynolds

Nordic Council for Animal Welfare
Ann-Carin Torrissen
Anne Westen (I)

North Star League
Vladimir Melnikov
Piers Vitebsky (Alt)
John Tichotsky (I)

Project Jonah
Daniel Owen

Robin des Bois
Charlotte Nithart

RSPCA
Laila Sadler

Safety First
Tomoko Kajiki

Sino Cetacean International Institute
Grace Gao

Survival for Tribal People
Taqluk Hepa

TEN
Shigeko Misaki

Werkgroep Zeehond
Geert Drieman

Whale & Dolphin Conservation Society
Georgina Davies
Annika Winter (I)

Whale & Dolphin Watch Australia
Frank Future

Whale Cuisine Preservation Association
Maki Noguchi
Yoko Shimozuru (I)

Whales Alive

Darren Kindleysides

**Women's International League for
Peace and Freedom**

Maggie Ahmaogak

**World Society for the Protection of
Animals**

Peter Davies

Leah Garces (Alt)

Women's Forum for Fish

Yuriko Shiraishi

Akiko Sato (I)

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

Sigrid Lüber

Annalisa Bianchessi (I)

WWF International

Sue Lieberman

Annex B

Agenda

1. INTRODUCTORY ITEMS
 - 1.1 Welcome Address
 - 1.2 Opening Statements (IWC/56/OS)
 - 1.3 Secretary's Report on Credentials and Voting Rights
 - 1.4 Meeting Arrangements
 - 1.5 Review of Documents (IWC/56/1)
 - preparation for implementation (western North Pacific Bryde's whales, North Atlantic fin whales)
 - bycatch
2. ADOPTION OF THE AGENDA (IWC/56/2)
3. SECRET BALLOTS
(*Chair's Report of the 55th Annual Meeting, Section 3*)
 - 3.1 Proposal to amend Rule of Procedure E.3 (d)
 - 3.2 Commission discussions and action arising
4. WHALE STOCKS
(*Chair's Report of the 55th Annual Meeting, Section 6*)
 - 4.1 In-depth assessment of western North Pacific common minke whales
 - 4.1.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - 4.1.2 Commission discussions and action arising
 - 4.2 Antarctic minke whales
 - 4.2.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - 4.2.2 Commission discussions and action arising
 - 4.3 Southern Hemisphere whales other than minke whales
 - 4.3.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - 4.3.2 Commission discussion and action arising
 - 4.4 Other small stocks – bowhead, right and gray whales
 - 4.4.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - 4.4.2 Commission discussion and action arising
 - 4.5 Other
5. ABORIGINAL SUBSISTENCE WHALING
(*Chair's Report of the 55th Annual Meeting, Section 7*)
 - 5.1 Aboriginal subsistence whaling scheme
 - 5.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee (IWC/56/Rep 3)
 - 5.1.2 Commission discussions and action arising
 - 5.2 Aboriginal subsistence whaling catch limits
 - 5.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee (IWC/56/Rep 3)
 - 5.2.2 Commission discussions and action arising
 - 5.3 Revision of Schedule paragraph 13 (IWC/56/4)
 - 5.3.1 Report of the Aboriginal Subsistence Whaling Sub-committee (IWC/56/Rep 3)
 - 5.3.2 Commission discussions and action arising
 - 5.4 Other
6. REVISED MANAGEMENT SCHEME (RMS)
(*Chair's Report of the 55th Annual Meeting, Section 9*)
 - 6.1 Revised Management Procedure (RMP)
 - 6.1.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - general issues
- 6.1.2 Commission discussions and action arising
- 6.2 Revised Management Scheme
 - 6.2.1 Chair's report on intersessional work
 - 6.2.2 Commission discussions and action arising
- 6.3 Other
7. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES
(*Chair's Report of the 55th Annual Meeting, Section 8*)
 - 7.1 Reporting on data on whales killed and on improving the humaneness of whaling operations (IWC/56/5-8)
 - 7.2 Commission discussions and action arising
8. SANCTUARIES
(*Chair's Report of the 55th Annual Meeting, Section 10*)
 - 8.1 Review of the Southern Ocean Sanctuary
 - 8.1.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - 8.1.2 Commission discussions and action arising and possible Schedule amendment proposal
 - 8.2 Improvements to the sanctuary review process
 - 8.2.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - 8.2.2 Commission discussions and action arising
 - 8.3 South Pacific Sanctuary
 - 8.3.1 Proposal to amend the Schedule to establish a sanctuary (IWC/56/9)
 - 8.3.2 Commission discussions and action arising
 - 8.4 South Atlantic Sanctuary
 - 8.4.1 Proposal to amend the Schedule to establish a sanctuary (IWC/56/10)
 - 8.4.2 Commission discussions and action arising
 - 8.5 Other
9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING
(*Chair's Report of the 55th Annual Meeting, Section 11*)
 - 9.1 Proposal to amend the Schedule
 - 9.2 Commission discussions and action arising
10. SCIENTIFIC PERMITS
(*Chair's Report of the 55th Annual Meeting, Section 12*)
 - 10.1 Report of the Scientific Committee (IWC/56/Rep 1)
 - 10.1.1 Improvements to review procedures
 - 10.1.2 Review of results from existing permits
 - 10.1.3 Review of new or continuing proposals
 - 10.1.4 Other
 - 10.2 Commission discussions and action arising
11. ENVIRONMENTAL AND HEALTH ISSUES
(*Chair's Report of the 55th Annual Meeting, Section 13*)
 - 11.1 Integration of environmental concerns with other Scientific Committee work
 - 11.1.1 Report of the Scientific Committee (IWC/56/Rep 1)

- 11.1.2 Commission discussions and action arising
- 11.2 Habitat-related issues
- 11.2.1 Report of the Scientific Committee (IWC/56/Rep 1)
- POLLUTION 2000
 - SO-GLOBEC/CCAMLR
 - State of the Cetacean Environment (SOCER)
 - Arctic issues
 - Anthropogenic noise
 - Habitat degradation workshop
- 11.2.2 Commission discussions and action arising
- 11.3 Reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals
- 11.4 Health Issues - Commission discussions and action arising
- 11.5 Other
12. WHALEWATCHING
(*Chair's Report of the 55th Annual Meeting, Section 5*)
- 12.1 Report of the Scientific Committee (IWC/56/Rep 1)
- 12.2 Commission discussions and action arising
13. CO-OPERATION WITH OTHER ORGANISATIONS (IWC/56/11)
(*Chair's Report of the 55th Annual Meeting, Section 14*)
- 13.1 Report of the Scientific Committee (IWC/56/Rep 1)
- 13.2 Other reports
- 13.3 Commission discussions and action arising
14. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT
(*Chair's Report of the 55th Annual Meeting, Section 15*)
- 14.1 Small cetaceans
- 14.1.1 Report of the Scientific Committee (IWC/56/Rep 1)
- 14.1.2 Commission discussions and action arising
- 14.2 Other activities
- 14.2.1 Report of the Scientific Committee (IWC/56/Rep 1)
- 14.2.2 Commission discussions and action arising
- 14.3 Scientific Committee Future Work Plan
- 14.3.1 Report of the Scientific Committee (IWC/56/Rep 1)
- 14.3.2 Commission discussions and action arising
- 14.4 Adoption of the Report
15. CONSERVATION COMMITTEE
(*Chair's Report of the 55th Annual Meeting, Section 4 and Resolution 2003-1*)
- 15.1 Report of the Conservation Committee (IWC/56/Rep 5 and IWC/56/12)
- 15.2 Commission discussions and action arising
16. CATCHES BY NON-MEMBER NATIONS
(*Chair's Report of the 55th Annual Meeting, Section 16*)
- 16.1 Commission discussions and action arising
17. FUTURE SUSTAINABLE WHALING – FULL UTILISATION OF HARVESTED WHALES
- 17.1 Introduction by Japan
- 17.2 Commission discussions and action arising
18. INFRACTIONS, 2003 SEASON
(*Chair's Report of the 55th Annual Meeting, Section 17*)
- 18.1 Report of the Infractions Sub-committee (IWC/56/Rep 4)
- 18.2 Commission discussions and action arising
19. LEGAL ADVICE IN RELATION TO THE IWC
(*Chair's Report of the 55th Annual Meeting, Section 18*)
- 19.1 Secretary's report on how other Conventions deal with legal issues (IWC/56/13)
- 19.2 Commission discussions and action arising
20. ADMINISTRATIVE MATTERS
(*Chair's Report of the 55th Annual Meeting, Section 19*)
- 20.1 Annual Meeting arrangements and procedures
- 20.1.1 Report of the Finance and Administration Committee (IWC/56/Rep 2)
- Need for a Technical Committee
 - Use of simultaneous translation
- 20.1.2 Commission discussions and action arising
- 20.2 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
- 20.2.1 Report of the Finance and Administration Committee (IWC/56/Rep 2)
- 20.2.2 Commission discussions and action arising
21. FORMULA FOR CALCULATING CONTRIBUTIONS
(*Chair's Report of the 55th Annual Meeting, Section 20*)
- 21.1 Report of the Finance and Administration Committee (IWC/56/Rep 2)
- 21.2 Commission discussions and action arising
22. FINANCIAL STATEMENTS AND BUDGETS (IWC/56/14)
(*Chair's Report of the 55th Annual Meeting, Section 21*)
- 22.1 Review of the provisional financial statement, 2003/2004
- 22.1.1 Report of the Finance and Administration Committee (IWC/56/Rep 2)
- 22.1.2 Commission discussions and action arising
- 22.2 Consideration of estimated budgets, 2004/2005 and 2005/2006
- 22.2.1 Report of the Finance and Administration Committee (IWC/56/Rep 2)
- 22.2.2 Commission discussions and action arising
- 22.3 Other
- 22.3.1 Report of the Finance and Administration Committee (IWC/56/Rep 2)
- 22.3.2 Commission discussions and action arising
23. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE (IWC/56/Rep 2)
24. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS
- 24.1 57th Annual Meeting, 2005 (IWC/56/15)
- 24.2 58th Annual Meeting, 2006
- 24.3 Other
25. ADVISORY COMMITTEE
26. SUMMARY OF DECISIONS AND REQUIRED ACTIONS
27. OTHER MATTERS

Annex C

Resolutions Adopted during the 56th Annual Meeting

Resolution 2004-1

RESOLUTION ON THE WESTERN NORTH PACIFIC GRAY WHALE

CONCERNED that the IUCN listed the western gray whale as ‘critically endangered’ in 2000 because of its geographic and genetic isolation combined with the small population size of about 100;

FURTHER CONCERNED that the Scientific Committee has noted that only 23 reproductive females are known;

NOTING that the Scientific Committee in 2004 strongly agreed that the evidence that this population is in serious danger of extinction is compelling;

RECALLING that in 2001 the Commission passed a Resolution (Resolution 2001-3) calling on range states and others to actively pursue all practicable solutions to eliminate anthropogenic mortality in the western North Pacific gray whale stock and to minimise anthropogenic disturbances in the migration corridor and on their breeding and feeding grounds;

DEEPLY CONCERNED by the report of the 2004 Scientific Committee that states that the recovery and growth of the population appear to be hindered by a variety of biological difficulties and that the onset of oil and gas development programs is of particular concern with regard to the survival of this population;

NOTING the management recommendations of the 2004 Scientific Committee that as a matter of absolute urgency measures are taken to protect this population and its habitat off Sakhalin Island;

NOTING that although there already was independent scientific advice, there is, nevertheless, a continued need for expert and independent scientific advice on the effects that oil and gas development projects might have on the western North Pacific gray whale stock;

NOTING that in recent years significant resources and effort in studying the western North Pacific gray whale stock near Sakhalin Island, and that in view of the uncertainty over the possible negative impacts on the population and its habitat by current oil and gas activities, this kind of research and monitoring must be continued in greater detail as oil and gas activities increase in scale; and

FURTHER NOTING that the International Whaling Commission is internationally recognised as having competence for the management and conservation of whale stocks, has a wealth of scientific knowledge and expertise and has been reviewing research on the western gray whale population off Sakhalin Island since 1995;

NOW THEREFORE THE COMMISSION:

CALLS UPON range states and others to be mindful of Resolution 2001-3 when contemplating exploration projects in and around Sakhalin Island and to continue to observe the recommendations to actively pursue all practicable actions to eliminate anthropogenic mortality in this stock and to minimise anthropogenic disturbances in the migration corridor and on breeding and feeding grounds;

ENDORSES all conclusions and recommendations of the 2004 Scientific Committee concerning western gray whales including that:

- (1) ‘as a matter of absolute urgency that measures be taken to protect this population and its habitat off Sakhalin Island’;
- (2) ‘strongly recommends that the ongoing Russian-US and Russian and Republic of Korea national programmes on western gray whale research and monitoring continues and expands into the future’;
- (3) ‘strongly recommends that all range states develop or expand national monitoring and research programmes on western gray whales’;
- (4) ‘strongly recommends that in situations when displacement of whales could have significant demographic consequences, seismic surveys should be stopped.’

REQUESTS that the Secretariat urgently offers its services and scientific expertise to the organisations concerned with oil and gas development projects and potential exploration projects in the Sakhalin area, and provides them with the findings of any relevant research and Scientific Committee reports;

FURTHER REQUESTS that the Secretariat makes every effort to actively participate and provide advice and expertise at any international expert panels convened to consider the impacts on the western gray whale of oil and gas development projects in and around Sakhalin Island; and

FURTHER REQUESTS that the Commission request all the range states to develop, begin or continue scientific research programmes on the migration, distribution, breeding, population assessment and other research of the entire range of the western gray whale.

Resolution 2004-2**RESOLUTION ON JAPANESE COMMUNITY-BASED WHALING**

WHEREAS, since 1986, the International Whaling Commission has repeatedly discussed in-depth the importance of the history and culture of Japanese traditional whaling at its various working groups and the Commission itself;

WHEREAS the International Whaling Commission, recognising the socio-economic and cultural needs of the four community-based whaling communities in Japan (Abashiri, Ayukawa, Wadoura and Taiji), 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 2001-6);

WHEREAS, more recently, the Summits of Japanese Traditional Whaling Communities were held in three consecutive years in Japan (Nagato, Yamaguchi in 2002, Ikitsuki, Nagasaki in 2003, and Muroto, Kochi in 2004) and they have further examined the long-lasting whaling history and culture which are deeply rooted in various places of Japan, not only in four community-based whaling communities but also throughout Japan;

WHEREAS the Summits acknowledged that archaeological findings have shown that the ancient Japanese could have started to utilise beached whales at least 9,000 years ago, could have begun active hunting of dolphins and porpoises at least 5,000 years ago, and could

have launched grand-scale active hunting of large whales at least 2,000 years ago;

WHEREAS the Summits emphasised that, among others, holding the philosophy and having skills to utilise whales fully was and is the core essence of the Japanese whaling culture;

WHEREAS the Declarations adopted at the Summits (the 2002 Nagato Declaration, the 2003 Ikitsuki Declaration, and the 2004 Muroto Declaration) pledged that Japanese time-honoured whaling traditions and culture are to be passed onto the future generations; and

WHEREAS various UN conventions, treaties, and other documents upheld the importance of sustainable use of natural resources in general and the significance of continued customary resource use for communities;

NOW THEREFORE BE IT RESOLVED THAT THE COMMISSION:

REAFFIRMS the Commission's commitment to work expeditiously to alleviate the continued difficulties caused by the cessation of minke whaling to the communities of Abashiri, Ayukawa, Wadoura and Taiji, and

ENCOURAGES IWC members to co-operate towards a resolution of this matter.

Resolution 2004-3**RESOLUTION ON WHALE KILLING ISSUES**

RECOGNISING that welfare considerations for cetaceans killed for food is of international concern;

NOTING that Article V.1.f of the International Convention for the Regulation of Whaling empowers the Commission to amend the Schedule 'to adopt regulations with respect to the conservation and utilisation of whale resources by fixing ... types and specifications of gear and apparatus and appliances which may be used', and that the Commission has exercised this welfare mandate through modification of the schedule and adopting 15 resolutions on welfare aspects of whaling which have established several technical fora for addressing welfare issues;

RECALLING that the IWC has defined 'Humane Killing' as 'Death brought about without pain, stress, or distress perceptible to the animal. That is the ideal. Any humane killing technique aims first to render an animal insensitive to pain as swiftly as technically possible. In practice this cannot be instantaneous in the scientific sense' (IWC/33/15 & IWC/51/12) and that, in order to determine whether these criteria are met, various data must be collected from whaling operations;

FURTHER RECOGNISING that the IWC criteria used to determine death or irreversible insensibility are inadequate; while also recognising that the IWC Working Group and Workshops on Whale Killing Methods are

attempting to develop criteria to more adequately determine death or irreversible insensitivity both operationally and from post-mortem approaches;

NOTING that the efficiency of killing methods is influenced by many factors including the calibre of the weapon used, the nature of the ammunition, the target area of the whale, the angle of the shot, the proximity of the whale to the vessel, the accuracy of the gunner, prevailing weather conditions and sea state, including sea ice, and the size and species of the whale targeted;

NOTING FURTHER that data collection requirements are not being met in some hunts, while appreciating that efforts have been made by some member nations to provide available data;

RECALLING that Contracting Parties should make reasonable attempts to release alive, with the minimum harm possible, whales that have been incidentally captured (IWC Resolution 2001-4), but that the Commission has not considered the welfare implications of this practice nor the killing methods that might be employed if the whale cannot be released;

NOTING WITH CONCERN that the number of whales struck in some hunts can have significant welfare implications, while appreciating the efforts of certain member nations, especially Norway, to improve the

humaneness of their hunts through weapons improvement programs and increased hunt efficiency;

NOW THEREFORE THE COMMISSION:

EXPRESSES CONCERN, in light of its mandate and long-standing commitment to address welfare issues, that current whaling methods do not guarantee death without pain, stress or distress; that data presently collected and submitted to the Commission are of insufficient quality or completeness for it to make a fully informed assessment of the welfare implications of all whaling operations; and that the criteria currently used to determine the onset of death or irreversible insensibility are inadequate;

REQUESTS THE SECRETARIAT to update the data collection form for the reporting of data in order that contracting governments may report data for each whale taken, the killing method used and samples taken;

REQUESTS the IWC/57 annual meeting to reconvene the Working Group on Whale Killing Methods and Associated Welfare issues, to examine methods for reducing struck and lost rates in whaling operations and to consider the welfare implications of methods used to kill whales caught in nets;

REQUESTS the Working Group on Whale Killing Methods and Associated Welfare Issues to advise the Commission on:

- establishing better criteria for determining the onset of irreversible insensibility and death;
- methods of improving the efficiency of whale killing methods; and
- reducing times to death and other associated welfare issues.

Resolution 2004-4

PROPOSAL TO TAKE INTO ACCOUNT THE SPECIAL POSITION OF VERY SMALL COUNTRIES IN CALCULATING FINANCIAL CONTRIBUTIONS

NOTING that contracting parties should contribute financially to the Commission in a fair and equitable manner;

RECOGNISING that two contracting parties that currently belong to capacity-to-pay Group 3, according to the Interim Measure for calculating contributions, are very small countries with a very small population, and thus a much smaller Gross National Income than the other countries that belong to that Group;

ALSO RECOGNISING that in all other international organisations the special position of these two countries is properly taken into account in the calculation of financial contributions; and

RECOGNISING further that taking account of the special position of these countries within the IWC should not affect the financial contributions of those contracting parties that have the least capacity to pay, and thus belong to Group 1 according to the Interim Measure for calculating contributions;

NOW THEREFORE THE COMMISSION:

DECIDES that, under the Interim Measure for calculating contributions, Monaco and San Marino are transferred from capacity-to-pay Group 3 to Group 2; and

FURTHER DECIDES that this transfer shall have no effect on the contribution of contracting parties that belong to capacity-to-pay Group 1.

Appendix 1

Current Capacity-to-Pay Grouping under 'Interim Contribution Measure'

Group 1	Group 2	Group 3	Group 4
GNI less than \$10 billions and GNI/capita less than \$10,000	GNI greater than \$10 billions and GNI/capita less than \$10,000	GNI less than \$1,000 billions and GNI/capita greater than \$10,000	GNI greater than \$1,000 billions and GNI/capita greater than \$10,000
Antigua & Barbuda	Argentina ±	Australia	France
Belize	Brazil ±	Austria	Germany
Benin	Chile	Belgium	Italy
Dominica	China, People's Republic of ±	Denmark	Japan
Gabon	Costa Rica	Iceland	UK
Grenada	Côte d'Ivoire	Ireland	USA
Guinea, Republic of	Hungary	Monaco *	
Mauritania	India ±	Netherlands	
Mongolia	Kenya	New Zealand	
Nicaragua	Korea, Republic of ±	Norway	
Palau, Republic of	Mexico ±	Portugal	
Senegal	Morocco	San Marino *	
St. Kitts and Nevis	Oman	Spain	
St. Lucia	Panama	Sweden	
St. Vincent and The Grenadines	Peru	Switzerland	
Solomon Islands	Russian Federation ±		
Suriname	South Africa ±		
Tuvalu			

±GNI > \$100 billions; *GNI < \$2 billions.

Resolution 2004-5**RESOLUTION ON POSSIBLE SYNERGIES WITH THE GLOBAL ENVIRONMENT FACILITY**

COGNIZANT of the need to have strong supporting relationships with other international bodies that deal with subject matter with a strong overlapping interest;

RECOGNISING Paragraph 121 of the 2002 Plan of Implementation from the World Summit on Sustainable Development which called for an 'Institutional Framework for Sustainable Development' which would be strengthened by:

Increasing effectiveness and efficiency through limiting overlap and duplication of activities of international organizations, within and outside of the United Nations system, based on their mandates and comparative advantages.

APPRECIATIVE of the International Whaling Commissions long standing interactions with, *inter alia*, CITES, CMS & CCAMLR;

DESIROUS to support synergies between overlapping conventions so as to improve mutually reinforcing scientific, administrative, policy and financial assistance objectives;

CONSCIOUS of the need to fully support the respective primacy of each organisation;

NOW THEREFORE THE COMMISSION:

DIRECTS the Secretariat to establish high level contact with the Secretariat of the Global Environment Facility and to:

explore possible synergies and their possible utility of the GEF to the IWC, and investigate, *inter alia*, possible avenues for the utilization of GEF funding for IWC related projects, with specific regard to:

- (i) assistance for developing countries for scientific research and policies for scientific research, as directed by the IWC;
- (ii) the utility in joint projects seeking funding with other international organizations, such as, *inter alia*, the Convention on Biological Diversity, the Convention on Migratory Species, the World Heritage Convention, and the Ramsar Convention on Wetlands;
- (iii) an examination of the modalities that the GEF seeks to satisfy and whether IWC projects, now or in the future, could be made to fit such objectives.

The Secretariat shall report back to the 57th IWC meeting on these matters.

Resolution 2004-6**RESOLUTION ON COMPLETION OF THE REVISED MANAGEMENT SCHEME (RMS)**

RECOGNISING the dual mandate of the IWC for the conservation of whales and the management of whaling according to the 1946 International Convention for the Regulation of Whaling;

NOTING that on this basis, considerable progress has been made in identifying major elements necessary to reach broad agreement on the RMS, as reflected in the Chairman's Proposal for a Way Forward on the RMS (Doc IWC/56/26);

TAKING NOTE of the comments of Contracting Parties on the Chairman's Proposal at the 56th Annual Meeting of the Commission; and

CONCERNED that the failure to reach broad agreement on the RMS in the near future may seriously jeopardise the ability of the IWC to fulfil its responsibilities;

NOW THEREFORE THE COMMISSION:

COMMENDS the efforts of the Chairman in providing a basis for further work and discussion towards finalising the RMS;

AGREES to re-establish the Working Group on the RMS with a view to holding an intersessional meeting prior to IWC/57, as outlined in the attached Intersessional Plan of Work; and

AGREES to proceed expeditiously towards the completion of both the drafting of text and technical details of the RMS according to the attached Intersessional Plan of Work with the aim of having the results ready for consideration, including for possible adoption, at IWC/57, and/or to identify any outstanding policy and technical issues.

INTERSESSIONAL PLAN OF WORK

The Chair's Proposal for a way forward (IWC/56/26), supplemented by his statement (IWC/56/28), other comments made at IWC/56 in relation to the Chair's proposal and the Secretariat's document (IWC/56/36), provides a basis for the development of draft text for the RMS, to clarify policy and technical issues and draft text for the RMS. The goal of this effort is to have clarified outstanding policy and technical issues and, as far as possible, have finalised text of an RMS package ready for consideration at IWC/57. The following iterative process would occur to develop such a text over the intersessional period:

1. Commission formally revives the RMS Working Group and agrees to establish a small drafting group under it (see respective terms of reference in Appendices 1 and 2).
2. All Contracting Governments are invited to send comments/positions on key issues to the RMS Working Group.
3. Secretariat collates and organises available materials. Technical specialist groups meet and finish their work before December 2004.
4. RMS Working Group to provide guidance on major policy issues to small drafting group (before December 2004).
5. Small drafting group meets (one week) in December 2004.
6. Draft text is circulated to delegations for review and comment. Secretariat circulates comments to all delegations and to members of the small drafting group.
7. RMS Working Group convenes in early March 2005 to consider the draft text and submitted comments and to develop input to the small drafting group for development of the next iteration.
8. The small drafting group meets immediately afterwards to develop the second draft, which the Secretariat circulates to delegates.
9. The RMS Working Group meets for two days during the week prior to the IWC/57 Plenary session to consider the second draft. The results of the RMS Working Group are presented to the Plenary for its consideration at IWC/57.

Appendix 1

Terms of Reference for RMS Working Group

The RMS Working Group will have the following responsibilities:

1. To complete work on the RMS package, with the goal of having a finalised RMS text ready for consideration, including for possible adoption, at IWC/57, and/or to identify any outstanding policy and technical issues.
2. To take account of delegates' comments at IWC/56, as well as written submissions from delegates.
3. To provide guidance to, and to review the work of, the Small Drafting Group.

RMS Working Group to be open to observers.

Appendix 2

Terms of Reference for the Small Drafting Group (SDG)

Under the auspices of the RMS Working Group the SDG will have the following responsibilities:

1. To prepare a consolidated draft text for the replacement of parts of Chapters V and VI of the current Schedule.
2. To prepare consolidated draft text on other related issues in the RMS package.
3. To utilise the Chair's proposal (IWC/56/26) and his statement (IWC/56/28), as a framework for this work.
4. To rearrange, revise and renumber paragraphs in the draft text for Chapters V and VI as appropriate but not to attempt to merge them with other parts of the Schedule.

Representation on SDG and Technical Specialist Groups (TSGs): Chair to seek expressions of interest to ensure regional and policy diversity in the groups. The SDG and TSGs should include Governments with adequate regional coverage, and adequate coverage of those For/Against/Neutral on the key issues.

Resolution 2004-7**RESOLUTION ON THE FREQUENCY OF MEETINGS OF THE
INTERNATIONAL WHALING COMMISSION**

AWARE that the Rules of Procedure of the International Whaling Commission (IWC) provide for a regular Annual Meeting of the Commission, and that the positions of Chair and Vice-Chair of the IWC shall serve for a period of three years;

NOTING that other international Conventions dealing with fisheries, species, biodiversity and the environment organise their affairs very effectively on the basis of biennial or triennial meetings;

CONCERNED that the costs of the annual meetings of the IWC are increasing from year to year;

NOTING that many Contracting Parties, especially from developing countries, have difficulty in meeting the high costs of attending annual meetings of the Commission;

NOW THEREFORE THE COMMISSION HEREBY DECIDES:

That the principle of meetings of the IWC being held less frequently than regular Annual Meetings be explored;

That, in applying this principle, the intention should be to avoid holding more frequent inter-sessionary meetings as a counter-balancing measure;

That a working group be established by the Commission to investigate and make recommendations on the implications of less frequent meetings of the IWC;

That, in its deliberations, the working group should have particular regard to the implications of less frequent meetings for the term of office of the Chair and Vice-Chair of the Commission; for the work of the other Committees of the IWC; and, with specific regard to the deliberations of the Scientific Committee, that the group should examine whether the current pattern of holding annual meetings should be maintained in the initial years of the new arrangements at least;

That the working group should report to IWC/57 in Ulsan, Republic of Korea.

Annex D

Report of the Sub-Committee on Aboriginal Subsistence Whaling

Wednesday 14 July 2004, Sorrento, Italy

1. INTRODUCTORY ITEMS

The meeting took place at the Hilton Sorrento Palace Hotel, Sorrento, Italy on 14 July 2004. A list of participants is given in 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 Election of Chair

Andrea Nouak (Austria) was elected Chair.

1.2 Appointment of Rapporteur

Alexander Gillespie (New Zealand) was appointed as rapporteur.

1.3 Review of documents

The documents for discussion included:

IWC/56/AS1 Revised Draft Agenda.

IWC/56/AS2 Documentation to IWC on Greenland Whaling, 1979-2003.

IWC/56/4 Report of the Small Working Group Reviewing Schedule paragraph 13 Regarding ASW Provisions: Proposals to Amend the Schedule.

IWC/56/Rep 1 Report of the Scientific Committee, Items 8 and 9.

IWC/54/5, Appendix 4. The Aboriginal Whaling Management Procedure - Possible Text. (*Ann. Rep. Int. Whaling Comm.* 2002: 74-75).

2. ADOPTION OF THE AGENDA

The adopted agenda is given as Appendix 2.

3. ABORIGINAL SUBSISTENCE WHALING SCHEME

3.1 Aboriginal Whaling Management Procedure (AWMP)

3.1.1 Report of the Scientific Committee

3.1.1.1 GRAY WHALES (IWC/56/REP 1, ITEM 8.2)

The Chair of the Scientific Committee's Standing Working Group on the Development of an Aboriginal Whaling Management Procedure, Greg Donovan (hereafter Chair of the SWG), reported on the Scientific Committee's work in this regard. Last year, he had informed the Sub-committee that the Scientific Committee expected to be able to recommend a *Strike Limit Algorithm (SLA)* for eastern North Pacific gray whales to the Commission at the present

meeting. This will be the second *SLA* that the Scientific Committee has recommended in the development process. Because the Committee were making a major recommendation, the Chair of the SWG gave a thorough presentation of the work of the Committee on this issue over the whole development process. The full presentation is available upon request to interested delegations as an electronic file or as a printout of the slides used. He also noted that as in previous years, he is happy to discuss any issues raised with interested parties. What follows is a very short summary of the key points made in the presentation. Full details of the Scientific Committee's work can be found in IWC/56/Rep 1, Item 8 and Annex E.

The Scientific Committee began addressing aboriginal subsistence management procedures in the early 1990s after completion of the RMP. In 1994, the Commission formally instructed the Scientific Committee to work on the development of an aboriginal whaling management procedure (Resolution 1994-4). The Commission had reiterated the objectives of such a scheme as to:

- (1) ensure risks of extinction are not seriously increased (highest priority);
- (2) enable harvests in perpetuity appropriate to cultural and nutritional requirements; and
- (3) maintain stocks at highest net recruitment level and if below that ensure they move towards it.

The advantages (to both the management body and the users) of a management procedure over '*ad hoc*' management were stressed, as was the value of computer simulations to try out potential candidate procedures. The simulation trial structure is designed to test procedures against the inevitable uncertainty in scientific knowledge about the whales and their environment.

The Commission agreed in 1998 that the eventual aboriginal whaling scheme (which includes both the scientific and non-scientific aspects of management) would include both generic and case-specific elements. In particular, it was agreed that *SLAs* (the way in which the need requests forwarded by the Commission to the Scientific Committee are evaluated to determine whether they are acceptable from the point of view of the risk-related objectives given above - it is assumed for the purposes of trials that all strikes result in death) could be case-specific and introduced to the AWS as they became available. The Scientific Committee had agreed that it would proceed with the data-rich fisheries first, i.e. the bowhead and gray whale hunts. In 2002 it proposed the *Bowhead SLA*. Throughout the process, the Scientific Committee placed great emphasis on feedback from the Commission and hunters via the Commission's Aboriginal Whaling Sub-committee, and each year the Chair of the SWG has made a detailed presentation of the development process, requested advice on various matters and been available for consultation with interested delegations and individuals.

The candidate procedures for the gray whale case were tested for a broad range of uncertainty in a variety of factors, including: changes in *MSYR* and *MSYL*; model uncertainty; time dependent changes in carrying capacity, natural mortality and productivity; episodic events; stochasticity; survey bias and variability; survey frequency and errors in the historic catch series. The overall performance of candidate *SLAs* was judged by a combination of an examination of the detailed conservation and need satisfaction statistics for each of the *Evaluation Trials* and *Robustness Trials* and human integration of these results in the context of the relative plausibility each member assigns to the individual trials.

Two procedures performed equally well in the trials, one was the J-B2 and the other was the GUP2¹ based on J-B2 and D-M2 procedures. The Scientific Committee therefore had examined other features that may be used to separate the two *SLAs*. Recalling the discussions about the value or otherwise of the 'unified' (averaging) approach when recommending the *Bowhead SLA*, the Committee noted that the GUP approach includes a built-in check and balance system in that if one of the component *SLAs* behaves poorly for a particular scenario, this effect may be balanced by the other *SLA* and vice versa. Averaging has also been recommended by MCDM² experts as an appropriate method. It again followed this philosophical approach and agreed that the GUP2 *SLA* fully met the Commission's management objectives. It also noted that it might be possible to 'polish' the GUP2 *SLA* and its two constituent *SLAs* further. However, the Committee agreed that it should not expend resources unnecessarily in further attempting to achieve some hypothetical level of 'perfection'. It strongly believed that these resources should be dedicated to addressing the serious issue of the Greenland fisheries for fin and minke whales, for which the Committee has never been able to provide management advice.

In conclusion, the Scientific Committee unanimously recommended that the GUP2 *SLA* (hereafter the '*Gray whale SLA*') be forwarded to the Commission. It believes that this *SLA* meets the objectives of the Commission set out in 1994 (IWC, 1995) and represents the best scientific advice that the Committee can offer the Commission with respect to the management of the Eastern North Pacific stock of gray whales.

In making this recommendation, the Scientific Committee noted the integral importance of *Implementation Reviews* to the whole process. Regular *Implementation Reviews* would occur every five years and normally involve at least reviews of information:

- (1) required for the *SLA* (i.e. catch data, abundance estimates); and
- (2) to ascertain if the present situation is as expected and within tested parameter space.

In addition, to enable swift reaction to new information that gives rise to serious concern, *Unscheduled Implementation Reviews* can be called. He provided a number of examples as to possible 'triggers' for such early reviews. There are a variety of possible outcomes of *Implementation Reviews*, including:

- (a) the continuation of use of the *SLA*;
- (b) the setting of a zero strike limit;

- (c) the running of further simulation trials;
- (d) the undertaking of a new census immediately; or
- (e) a combination of some of the above.

The Chair of the SWG thanked Eva Dereksdóttir, Kjartan Magnússon, Sue Holloway (néé Johnston) and Doug Butterworth (incidentally all Invited Participants) for the enormous amount of work and thought they had put into the development process. He also specifically thanked Cherry Allison and André Punt for the tremendous support they provided. He noted that this was the second *SLA* that had been developed by the SWG under the auspices of the Scientific Committee and he thanked them as a whole for the atmosphere of co-operation was always been present, even when there are genuine scientific differences of opinion at the various stages of the development process. He believed that a continuation of this mode of working will be essential if the SWG is to address successfully the most difficult case it has faced, that of the Greenland fisheries.

DISCUSSION AND RECOMMENDATIONS

In response to a question from Sweden about what might happen if no surveys occur for longer than a 10-year period, the Chair of the SWG referred to the discussions on the AWS that had been presented two years ago and are available in *Ann. Rep. Int. Whal. Commn. 2002: 74-75*. In summary, the 'grace period' process would be evoked whereby, unless an agreed abundance estimate was forthcoming, then the block limit for the following block would be half that for the present block, after which it would revert to zero. In response to a question from the UK about the appropriateness of the GUP2 approach, the Chair of the SWG reiterated that, as in the case of the *Bowhead SLA*, the Scientific Committee noted that from an MCDM perspective the *Gray Whale SLA* is a perfectly valid approach and it noted the benefits of the inbuilt check-balance by merging two quite different procedures.

In conclusion the Sub-committee endorsed the report and recommendations of the Scientific Committee.

3.1.1.2 GREENLANDIC FISHERIES (IWC/56/REP 1, ITEMS 8.3, 8.4)

The Chair of the SWG reminded the meeting that an urgent need for a Greenland Research Programme had been first identified in 1998. This is primarily due to the lack of recent abundance estimates and the poor knowledge of stock structure. It will be extremely difficult, if not impossible, to develop an *SLA* for the Greenlandic fisheries that will satisfy all of the Commission's objectives without such information. This is particularly important in the light of the Scientific Committee's grave concern at its inability to provide management advice for these fisheries.

He separated out this item into four main issues: stock structure; abundance estimates; biological data and *SLA* development. With respect to the former, the problem was that although the available information suggested that the animals found off West Greenland did not comprise either separate fin or common minke whale stocks, the identity and size of the complete stocks is unknown. The Committee has agreed to follow a two-step process to further the essential work needed to provide information suitable for management; namely an initial simulation study to focus appropriate genetic analyses.

¹ Grand Unified Procedure.

² Multiple criteria decision-making.

In this regard, he noted that the Scientific Committee has previously strongly recommended that genetic samples be taken for all of the catch. However, the numbers for 2003 were very low (12 minke whale and 1 fin whale), even though it is mandatory under local regulations to return a sample from each whale that is caught. The Committee expressed disappointment at the lack of progress in obtaining genetic samples, although it noted new procedures were in place. It repeated its strong recommendation that samples for genetic analysis be collected from the catch as a matter of very high priority. It urged the Commission to encourage the Government of Denmark and the Greenland Home Rule authorities to assist with logistical and, if necessary, financial support. Finally, it encourages Greenlandic scientists to investigate other potential sources of samples. It also welcomed the news that some 50 samples are available from the eastern USA and Canada and it urged that these be analysed.

With respect to abundance estimates, the Chair of the SWG noted that, last year, the Committee had strongly recommended that a traditional aerial cue-counting survey be carried out in summer 2003 in Greenland. For logistical and financial reasons it had not been possible to undertake such a survey, but some valuable experimental work had been carried out in 2003 that had been fully discussed. Greenlandic scientists presented a plan for a full aerial photographic (not cue-counting) survey this summer. The Committee had noted the great need for new abundance estimates and, in order to facilitate presentation of appropriate analyses as quickly as possible, had established an intersessional advisory group. The Chair of the SWG noted that the difficult environmental conditions (notably fog and high winds) in Greenland made the undertaking of successful surveys problematic.

The catch data for 2003 were: 6 landed fin whales (2M and 4F), with 3 struck and lost; 178 landed West Greenland common minke whales (58M, 117F, 3 unknown sex) and 7 struck and lost; and 13 landed East Greenland common minke whales (1M, 11F, and 1 unknown sex). An analysis of recent catch data will be provided to the next Committee meeting.

In terms of developing an *SLA*, the Chair of the SWG was pleased to report that three papers, albeit preliminary, had been presented and that these will help to provide a framework for future work. The differences between the relatively 'easy' data-rich cases of the bowhead and gray whales and the data-poor Greenlandic cases, may warrant a different approach to the examination of the trade-off between risk and need satisfaction and the Committee will develop such a statistic to add to the list of those it normally considers. The issues will be considered in depth at the next SWG meeting.

The SWG had also considered how best to proceed with the development of one or more *SLAs* for Greenlandic aboriginal whaling, given the continuing uncertainties about stock structure, abundance, and mixing in the region. One approach would be to postpone *SLA* development until more and better data become available. The SWG rejected this approach, instead believing that *SLA* development was a matter of considerable urgency. The SWG intended to develop the best *SLA(s)* it could given the data available, and noting the potential of the simulation approach to help identify appropriate data collection programmes, it recognised that it might become necessary to improve the *SLA(s)* at future *Implementation Reviews* when more

information is available. The Committee had endorsed this approach. The Chair of the SWG advised that issues related to management advice would be presented under later Agenda Items (4.3 and 4.4).

3.1.2 Discussion and Recommendations

After this exchange of views, the Chair summarised that the Sub-committee endorsed all recommendations of the Scientific Committee on these items.

New Zealand stated that what has occurred with regard to data provision by Greenland is unsatisfactory. New Zealand suggested that the Commission has an obligation to probe what has caused this situation and what can be done about it. The annual take of fin and minke whales has created serious difficulties, and Scientific Committee has been unable to provide scientific advice. Despite the Scientific Committee's efforts, very little has been achieved to improve the knowledge of the Greenland stocks. New Zealand was concerned that this year, Greenland reported to the Scientific Committee that they had only provided one genetic sample from six fin whales taken. New Zealand questioned whether it is now time to impose restrictions on the catch quota for Greenland. They then asked Denmark what explanations they had and how they intended to remedy this situation, which given the Scientific Committee advice, is a very urgent one.

Denmark responded that information on the importance of returning samples has been given to the hunters. Only one sample from a fin whale, and 12 from minke whales have been returned in 2003. The Home Rule Government regrets the low number of samples collected. For the 2004 season, letters and phials have been sent to the municipalities, and when issuing licenses, the municipal officers hand out phials to the hunters. The Home Rule Government also works to improve the collection of samples in cooperation with the hunters association and by making a press release, so that the information is conveyed. The UK expressed its concern with this response. The UK recognised that the policing of the hunt was difficult, but stated that the conditions under which ASW is enabled to take place in Greenland are known to the hunters, and were included in licences. The UK felt that non-compliance with conditions required more than a slap on the wrist.

3.2 Aboriginal Whaling Scheme (AWS)

3.2.1 Report of the Scientific Committee (IWC/56/Rep 1, Item 8.2.6)

The Chair of the SWG noted that at the 2002 meeting, the Committee had developed generic scientific aspects of an aboriginal whaling management scheme that would be used in conjunction with the case specific *SLAs*. (These had been reported in detail to this Sub-committee but no agreement had been reached on these by the Commission.) This year, as last, the Committee again recommends these to the Commission. They are specified in *Ann. Rep. Int. Whal. Commn. 2002: 74-75*. The Chair of the SWG will be happy to spend time explaining these further with interested delegations at any time.

3.2.2 Discussion and recommendations

Australia recognised that the focus of discussion was on science, but sought to register its concern over whaling management regimes. This Sub-committee should give equal attention to management considerations as to the scientific considerations. The USA stated that they have previously expressed concerns over certain provisions of

the AWS and that their reservations should continue to be noted.

After this exchange of views, the Sub-committee endorsed the recommendations of the Scientific Committee on these items.

4. ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

4.1 Bering-Chukchi-Beaufort (B-C-B) Seas stock of bowhead whales

4.1.1 Report of the Scientific Committee (IWC/56/Rep 1, Item 9.1)

The Chair of the SWG noted that this year, the Scientific Committee had undertaken an in-depth assessment of the B-C-B bowhead whales. Considerable focus had been given to the question of stock structure and a number of papers were presented that were facilitated by the provision of data under the Committee's new data availability agreement. The Committee agreed that substantial progress has been made in investigating possible stock or population structure among B-C-B bowheads but that there is insufficient information at this stage to fully support or fully refute the hypothesis of a single stock; in fact it is premature to reject any of the hypotheses, or even to draw conclusions about their relative plausibility. The Committee was pleased to receive information on an extensive research programme to address this issue further.

The Scientific Committee also received information on traditional assessment methods, not to provide management advice *per se* but as a way of examining whether 'reality' was still within the parameter space tested in the trial structure of the *Bowhead SLA*. It was noted that stock structure issues applied equally to these methods as to the use of the *Bowhead SLA*.

Catch information was provided for 2003 by the USA: a total of 41 bowhead whales were struck resulting in 35 animals landed. The efficiency (the ratio of the number landed to the number struck) of the hunt was 85%, which is higher than the average efficiency over the past 10 years (77%). Of the 35 landed whales, 17 were females and the sex was not determined for one whale. Of the 17 females, 5 were presumably mature (>13.4m in length). Three of these large females were closely examined; two had recently given birth and the other was not pregnant.

In addition, there was a Russian harvest of three male bowhead whales in Chukotka waters.

In terms of management advice, the Scientific Committee agreed that the future *Implementation Review* of bowhead whales will include stock structure issues as a major component. This *Implementation Review* will examine the robustness of the *Bowhead SLA* with respect to plausible stock hypotheses via simulation trials. If shown to be necessary, this may result in changes to the *Bowhead SLA*. Such an *Implementation Review* will begin at the 2006 Annual Meeting, with a view to ensuring that management advice at the 2007 meeting is based on the best science then available. The Committee also recommended that a report on the progress of the research programme should be provided each year to the Scientific Committee and it encourages cooperative research amongst the various interested research groups.

The Scientific Committee also noted:

- (1) the continuing increase in the abundance estimates derived from the census under the recent catch limits and record high calf counts;
- (2) the spatio-temporal distribution and opportunistic nature of the hunt and the low numbers of whales struck annually in St. Lawrence Island and Chukotka; and
- (3) the development of an extensive research programme that will address questions of stock structure and allow the formulation of one or more plausible stock structure hypotheses.

Given these factors, the Committee agreed that the *Bowhead SLA* remains the most appropriate tool for providing management advice for this harvest, at least in the short-term, and consequently the results from the *Bowhead SLA* (see IWC/56/Rep 1, Item 9.1.4) indicate that no change is needed to the current block quota for 2003-2007.

4.1.2 Discussion and recommendation

The USA noted the collaborative efforts of US scientists with scientists of other countries, particularly Russia, Norway and Japan. They also noted the recommendation of the Scientific Committee on the need for additional research on the bowhead stock identity issue. The USA is committed to undertaking this research so that by 2007, when the bowhead quota is next reviewed, its management will be based upon the best science available at that time.

Japan asked the USA if it could provide Japan with the baleen plates of bowhead whales caught by the Alaskan hunters. In response, the USA agreed to discuss this issue with Japan outside of the Sub-committee. The Russian Federation stated that during this IWC meeting the USA and Russia intend to sign a Memorandum of Understanding and also intend to start work in 2004 on genetic research, as well as biological research. Russia intends to engage in as much joint research as is possible, although it noted that CITES requirements may impose difficulties on what is possible. Switzerland drew the attention of the Sub-committee to the fact that at COP 12 of CITES in Santiago (Chile), a resolution was adopted aiming at facilitating transboundary movement of sensitive biological samples such as scientific research materials for conservation purposes, and that the CITES Management Authorities should be made aware of IWC transboundary issues if the need arises.

After this exchange of views, the Sub-committee endorsed the recommendations of the Scientific Committee on these items.

4.2 North Pacific Eastern stock of gray whales

4.2.1 Report of the Scientific Committee (IWC/56/Rep 1, Item 9.2)

Twenty-two Chukotka aboriginal whaling organisations submitted requests for harvesting a total of 167 gray whales. However, according to permit regulations of the Russian Federation Ministry of Natural Resources, only 135 permits for gray whales were distributed among aboriginal whaling organisations and native settlements. A total of 126 gray whales (70 males and 56 females) were taken in 2003 and two gray whales were struck and lost.

New information on calf counts from the northbound migration and the breeding lagoons in Mexico was presented. The Committee was encouraged to hear that calf production remains at the mid-range of pre-1999 levels

(after low levels in 1999, 2000, 2001). In 2002, the Scientific Committee had carried out an in-depth assessment of the Eastern North Pacific stock of gray whales and agreed that a take of up to 463 whales per year is sustainable for at least the medium term (~30 years), and is likely to allow the population to remain above *MSYL*. No information was presented this year to change that advice. The Committee was also pleased to receive the *Gray Whale SLA*, noting that this now represents its best look for providing management advice.

4.2.2 Discussion and recommendations

There was no discussion on this item. The Sub-committee endorsed the recommendations of the Scientific Committee.

4.3 and 4.4 Minke whale stocks and West Greenland stocks of fin whales off Greenland

4.3.1 and 4.4.1 Report of the Scientific Committee (IWC/56/Rep 1, Item 8.5)

The Chair of the SWG reported that this was an important issue in the Scientific Committee's deliberations this year. As it has stated on many occasions, the Committee has never been able to provide satisfactory management advice for either the fin or minke whales off Greenland. This reflects the lack of data on stock structure and abundance and is the reason for the Committee to first call for the Greenland Research Programme in 1998. He noted that the Commission's financial contributions to the programme had been aimed at testing the feasibility of large-scale biopsy sampling and satellite telemetry in order to try to obtain information on both abundance and stock structure. Unfortunately, for a number of reasons, these both proved unsuccessful. He clarified that the Commission's funds had not been used towards aerial surveys, noting that these are considerably more expensive than the Commission normally provides funds for.

The Scientific Committee stressed that its inability to provide any advice on safe catch limits 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 520-2,100). That for West Greenland minke whales dates from 1993 and is 8,371 (95% CI 2,400 – 16,900).

Obtaining adequate information for management must be seen as of very high priority by both the national authorities and the Commission. The Committee urged the Commission to encourage the Government of Denmark and the Greenland Home Rule authorities to provide the necessary logistical and financial support. Without such adequate information, the Committee will not be able to provide safe management advice in accord with the Commission's management objectives, or develop a reliable *SLA* for many years, with potentially serious consequences for the status of the stocks.

The Scientific Committee recommended that every effort be made to ensure that the number of samples collected from the catch in 2004 will be very considerably higher than in 2003 and close to 100%. It also strongly recommended that these and all existing samples held in Greenland be analysed as soon as possible in accordance with guidance to be given by the intersessional working group.

The Scientific Committee drew attention to the grace-period provision that it had agreed previously in the context

of a general aboriginal whaling scheme (although it has not yet been accepted by the Commission) associated with agreed *SLAs*. As shown in IWC/54/5 Appendix 4, under such a provision, catch limits would begin to be phased out 10-14 years after an abundance estimate was last obtained and catches would revert to zero at the end of the five-year period during which the catch limit would have been half the previous block. The Committee has not previously suggested that such a grace-period should have started for fin whales. However, it drew attention to the fact that if it had, such a period would now be nearing completion.

It is with great concern that the Scientific Committee advised the Commission that in the absence of an agreed abundance estimate for fin whales arising out of the 2004 survey, it will likely recommend immediately that the take of fin whales off West Greenland be reduced or eliminated. If, as hoped, an abundance estimate is obtained, the Committee will review this next year in its formulation of management advice.

4.3.2 and 4.4.2 Discussion and recommendations

The Chair summarised that the situation is serious especially for fin whales, and that a reduction of the quota might be considered.

With regard to the financial questions, Denmark explained that the Home Rule Government has given financial support for survey projects between DKK 1.2-1.4 million annually for the years 2002-2004. Between 1998-2003, a total of 301 samples have been collected making it about 50 per year. 166 samples have been analysed in 2003. There are 200 samples in the freezers to be analysed. Results from the samples have been published in the *Marine Ecology Progress Series*. There has been disappointingly little discussion of these results in the SWG, but Greenland hopes to receive some guidance from the SWG on the best directions for future analyses. Greenland is therefore looking forward to a project to be undertaken this winter, in cooperation with the SWG. A simulation study of possible connections between minke whale stocks will provide guidelines that will guide the analysis of the samples in the freezers and the coming samples. On the question of reduction of the current quota of fin whales, Greenland suggested that the Scientific Committee is not the right body to decide such a reduction. Greenland suggested it would be strange if quotas would be reduced due to bad weather this August and expressed their hope that the weather was with them in August. In conclusion, the Greenland Home Rule Government stated that it intended to increase its efforts to gain more samples as recommended in cooperation with the hunters organisation. The UK noted Denmark's remarks with interest but stated that this was not the first time this problem had arisen. The Scientific Committee recommendations were in the strongest terms the UK had seen. The UK felt that the Commission would need to agree to take action on the quota if data were not made available. Australia concurred with the UK in noting that the Scientific Committee wording was unprecedented, and suggested that the Scientific Committee concerns should be reinforced by this Sub-Committee.

Argentina expressed concern because the sex ratio of the Greenland's minke hunt is highly female biased: on average, 72% of all minke whales killed in Greenland since 1986 were female. Argentina asked Greenland why it believes the bias occurs and what might be the solution to

this problem? Denmark answered that this kind of question has been raised before. Nevertheless, they explained again that sex selection is impossible to enforce in Greenland due to both weather and ocean conditions.

New Zealand questioned whether the answer given by Denmark was sufficient. They noted that the information given showed a high female sex bias (72% for all minke whales caught in Greenland and 92% for East Greenland minke whales since 1996). New Zealand was concerned that the preferential removal of females could significantly affect the regenerative capacity of the stock. It would be helpful for Greenland to provide information on the date, location and sex of every whale taken, to show precisely what is going on. These issues raise fundamental questions of accountability that go to the centre of the integrity of the legal instrument under which the Commission operates. The time for accountability has arrived.

Germany stated that more information about what was going on was required, and were appreciative that this matter will be followed up next year. They also appreciated the strong recommendations given by the Scientific Committee relating to the failure of abundance estimates. Germany suggested that this is clearly a matter which the Commission has to follow up on.

The UK expressed its concern about sex bias, and remarked that if a degree of sex bias was inevitable, it raised some very important questions about the sustainability of the hunt. Switzerland agreed with the UK, suggesting that if the harvest is overtly biased on females, questions of sustainability must arise.

With respect to the female bias in the catch, the Chair of the SWG clarified that it is common for minke whales to segregate both geographically and temporally by sex in the North Atlantic. The sex bias in the catch is longstanding and earlier attempts to model the animals off West Greenland showed that if the minke whales found there comprised a complete stock they would already have become extinct. The sex bias in the catch probably reflects the sex ratio in the waters there and not any selectivity by whalers (which in any case is not possible). He noted that the Committee was expecting a paper on recent catches (both geographical and temporal by sex) at its next meeting.

Greenland explained that the information on the seasonal distribution of the harvest suggests northward movement in early part of hunting season and a southern movement in the autumn, so that the hunting season, which is in any case short, is even shorter in the northern part of the area of distribution of minke whales in West Greenland. Analysis has not so far shown differential distribution of the two sexes. They suggested that knowledge of this bias is long standing and not recent. This bias suggests that this is probably a part of a larger stock, whose boundaries are uncertain.

After this exchange of views, the Sub-Committee endorsed the recommendations of the Scientific Committee on these items.

4.5 North Atlantic humpback whales off St. Vincent and The Grenadines

4.5.1 Report of the Scientific Committee (IWC/56/Rep 1, Item 8.6)

The Chair of the SWG reported that in recent years, the Scientific Committee has examined the stock structure of humpback whales in the North Atlantic. It is most plausible

that the animals from St. Vincent and the Grenadines are part of the West Indies breeding population (ca. 10,750 in 1992). However, further data to confirm this are desirable and the Committee repeated previous recommendations that every effort be made to obtain photographs and genetic samples from St. Vincent and the Grenadines. The Scientific Committee was disappointed not to receive information on whether or not any catches had been taken last year. There were no scientists from St. Vincent and the Grenadines present at the meeting and no national progress report had been submitted. However, it noted that the genetic analyses of at least three samples from caught animals is being conducted. It was also pleased to hear that sightings cruises are taking place in the region and looked forward to receiving a report in the future.

The Commission has adopted a total block catch limit of 20 for the period 2003-2007. The Scientific Committee agreed that if the humpback whales are part of the West Indies breeding population, this catch limit will not harm the stock.

4.5.2 Discussion and recommendations

The UK did not dispute the Scientific Committee recommendations, but urged the need for further data. The UK suggested that if not identified as part of the West Indies stock, there could be ramifications on the stock. Australia understood that St. Vincent and the Grenadines passed new whaling regulations in December 2003, and asked whether a copy of this legislation had been submitted to the Secretariat as is required, and whether it had been found to be consistent with the draft legislation presented to the IWC. The Chair of the SWG indicated that this matter was usually dealt within in the Infractions Sub-committee, but he would investigate this situation. The Chair noted that St. Vincent and the Grenadines were not present.

5. SCHEDULE PARAGRAPH 13

The Chair drew attention to Document IWC/56/4 and asked the Russian Federation to introduce the item. The Russian Federation explained that at IWC/55 in Berlin last year, they had drawn attention to what it considered anomalies in the way that the Chukotka peoples are treated compared with other aboriginal groups and proposed changes to the Schedule to address these inconsistencies. However, after discussions within the Aboriginal Subsistence Whaling Sub-committee and in the Commission, the Russian Federation agreed to withdraw its proposed Schedule amendments and to work intersessionally on this issue. To this end, the Commission agreed that a small group (comprising of the Russian Federation, Denmark, Australia and the USA, working with the Secretariat) should work intersessionally by email to review Schedule paragraph 13 to determine how consistency in approach to ASW operations could be achieved and to propose a Schedule amendment for review and decision-making at IWC/56. A report from this group, together with proposed Schedule revisions is available as IWC/56/4.

The SWG agreed that all the provisions governing aboriginal subsistence whaling operations are understood to be, and should be, included in paragraph 13 of the Schedule. Should the Commission decide to harmonise the ASW Schedule language, the group recommends considering the creation of one option concerning the prohibition on the taking of calves and whales accompanied by calves. A new sub-paragraph could be inserted in the

general principles governing this form of whaling to read as follows:

'13. (a) (4) It is forbidden to strike, take or kill calves or any whale accompanied by a calf.'

The Small Group agreed that nothing in the Russian Federation's proposal to amend Schedule paragraph 13 was intended to allow for commercialisation of aboriginal subsistence whaling. The native peoples never harvested whales for commerce. The native peoples use the predominant portion of the products for their own needs and only an insignificant part is exchanged or used for transactions with other communities.

The words 'when the meat and products of such whales are to be used exclusively for local consumption' in sub-paragraphs 13(b)1, 13(b)2, 13(b)3 and 13(b)4 means that some transaction beyond the aboriginal whaling communities under the current Schedule language are acceptable. The definition of aboriginal 'subsistence use' was adopted by the Cultural Anthropology panel of the IWC Meeting of Experts on Aboriginal/Subsistence Whaling in February 1979 (IWC Special Issue 4, 1982) and provided that:

- (1) the personal consumption of whale products for food, fuel, shelter, clothing, tools or transportation by participants in the whale harvest;
- (2) the barter, trade or sharing of whale products in their harvested form with relatives of the participants in the harvest, with others in the local community or with persons in locations other than the local community with whom local residents share familial, social, cultural or economic ties. A generalised currency is involved in this barter and trade, by the predominant portion of the products from such whales are ordinarily directly consumed or utilised in their harvested form within the local community; and
- (3) the making and selling of handicraft articles from whale products, when the whale is harvested for the purposes defined in (1) and (2) above.

The Russian Federation indicated that the words '...the aborigines whose traditional aboriginal subsistence and cultural needs have been recognised,' in sub-paragraph 13(b)(2) is not related to the right of native peoples in taking gray whales, but, rather, to the right of native peoples in using harvested gray whales. These kind of limitations in the use of meat and products of whales do not exist in the other sub-paragraphs of Paragraph 13. A representative of the Chukotka native peoples explained that the existing condition leads to paradoxical situations where in different villages, even in the same village, and even for the same person, people have different rights in using legally harvested gray and bowhead whales. This situation violates human rights and discriminates against native peoples of Chukotka.

It was agreed by the Small Group that aboriginal communities in Chukotka, which have a quota to take gray whales and bowhead whales, have equal rights to other aboriginal communities that have Aboriginal Subsistence Whaling quotas to use the meat and products of these whale species.

The Small Group noted that the proposal to delete the words – 'whose traditional aboriginal subsistence and cultural needs have been recognised' – from Schedule sub-

paragraph 13(b)(2) was intended to reflect this equality of rights.

The Russian Federation noted that any limitations of human rights of entire peoples, especially minority native peoples, are an extremely delicate question, with great ethical and political implications. In relation to these issues, the Russian Federation asked the delegations of Contracting Governments to be politically correct in their discussion, and expressed a preference that the ASW Sub-committee recommend that the Commission include an item on its agenda to adopt the Report of the Small Group and adopt the proposal to amend the Schedule paragraph 13 by consensus.

5.1 Discussion and recommendations

The Chair summarised that the proposal suggests a new Para 13(a)4, a deletion of the relevant sentences in Para 13(b) as well as the deletion of the phrase 'whose traditional aboriginal subsistence and cultural needs have been recognised'.

The USA thanked the Russian Federation for their leadership of the small group. They noted that although the group represented different views, they had reached consensus on the report, and encouraged the Sub-Committee to accept the report in the same spirit. The UK congratulated the Small Group on its work. Although the UK generally had no difficulty with the report it was uneasy about the suggested solution. The UK fully accepted that the rights of Chukotka people should be exactly the same as other indigenous peoples, regardless of the whales taken, but stressed the obligation to ensure that for ASW operations the products are in large measure, or totally, used for the people whose needs have been acknowledged. As such, the UK would be inclined to delete the 'objectionable' part from the end of the paragraph, and put it at the top of the section, so as to apply equally to all indigenous whaling operations. Australia emphasised the need for the Russian Federation to explain to the Commission precisely how the current Schedule provisions discriminate against the native peoples of Chukotka in practice. Australia also pointed out that recommending adoption of the report, is not the same as accepting the Schedule amendments.

Grenada expressed support for the proposal by the Russian Federation in as much as it is aimed at producing a more uniform code for ASW, thereby qualifying equality and respecting human rights for each of the four ASW operations. However, with regard to the stated aim of providing equality of rights the wording of the proposed Amendment of the paragraph 13 of the Schedule, Grenada wondered why only St. Vincent and the Grenadines of the four ASW operations is required to conduct whaling according to national legislation. Does this mean that the other three ASW schemes are not required to follow national laws? The Chair of the SWG replied that it was his understanding that all nations have to enact national laws, in accordance with the Convention. Grenada then stated that in the interests of uniformity, fairness and human rights either the sentence singling out of St. Vincent and the Grenadines should be deleted, or the requirement to whale according to national legislation should be inserted into the appropriate subsections of paragraph 13 (b)(1),(2) and (3) for each of the four ASW schemes.

Austria raised a question of clarification on the striking of the phrase 'whose traditional aboriginal subsistence and cultural needs have been recognised.' Whilst it may be correct to strike that here, where does this sentiment remain anchored in the International Convention for the Regulation of Whaling (ICRW)? Does striking it mean that all future, new applications for aboriginal quotas no longer need to demonstrate that they fulfil these criteria? New Zealand agreed with Austria and felt that Russia had made a compelling case, and that Russia ought not to be subject to the problems outlined here. The issue, however, is whether the current proposed drafting will provide the required results. New Zealand suggested that a possible solution would be to place the phrase on the recognition of need at the top of paragraph 13, as an over-riding principle for all IWC-approved ASW operations. New Zealand stated that the recognition of cultural need was at the heart of the aboriginal whaling, and that the language that it was proposed to delete had been included as a result of the Makah quota request and was needlessly confused by the allocation of a block quota.

The USA responded to the intervention from the UK by stating that the phrase in question is not necessary, and the position of the USA is that the Commission itself recognizes needs when it approves a quota request. The USA noted, in response to the intervention by New Zealand, that the Commission recognised the needs of the Makah Tribe in both 1997 and 2002 when it approved requests for quotas put forth on their behalf.

The Republic of Guinea expressed their support for the Russian Federation's proposal. Australia explained that it was their understanding that appropriate tests of need should continue be applied. Japan stated that it could support the sentiments contained in the proposal but had some questions on it. The first question was why the proposed 13(a)(4) states 'any whale accompanied by a calf'. It should, in the Japan's view, be 'female' whale. The second question was how to define the cultural needs. It stated that Japan has long-standing cultural needs for whales dating back to 9,000 BC and that those needs had been satisfied through commercial whaling and are being satisfied to some extent by the byproducts from research whaling activities which is perfectly legal under the ICRW. Australia noted the fine balance of this report, and the need to treat this matter with some delicacy. Australia suggested that the proposals by Japan could upset this balance. Benin expressed their support for the Russian Federation and invited the Committee to review the proposals of the Russian Federation.

The Chair concluded that the Sub-Committee takes note of the report IWC/56/4 and records that the issue had not been fully resolved. She reminded the Sub-Committee that the Russian Federation's new proposal is a Schedule Amendment and has to be officially proposed in the Plenary to be either adopted by consensus or, if this is not possible, a three quarters majority vote.

The Russian Federation did not agree with the Chair's conclusion and qualified that the issue was resolved in the Sub-Committee.

The Small Group recommended that the report and the proposal to amend the Schedule be put forward to the Plenary. The Sub-Committee supported this recommendation.

While there may not have been consensus in the Sub-Committee, the Russian Federation pointed out that based on the interventions there seemed to be agreement that there exists a problem of unequal rights among native people and that this problem should be resolved. The Russian Federation noted that since this is an aboriginal subsistence issue it should be resolved by consensus and that no one should provoke voting on an aboriginal question. The UK stated that it had not proposed the additional sentence(s), merely that between now and Plenary, it would need to reflect on whether they were necessary or not.

Australia pointed out that despite these discussions, there is no disagreement with the report. Australia further noted that no alternative text has been put forward for the report itself. Nonetheless, it was still an open question whether members should support a Schedule amendment text.

Japan raised the question why St. Vincent and the Grenadines were not represented on the Small Working Group. Australia explained this was because it was a small volunteer group, and St. Vincent and the Grenadines had not volunteered.

The Chair repeated that the issue will have to be brought forward to the Plenary and recommended that the respective countries meet to discuss some of the proposed modifications before the Plenary.

6. OTHER MATTERS

There were no other matters raised.

The Chair thanked the Sub-committee for its constructive and efficient work.

7. ADOPTION OF REPORT

The Report was adopted at 17:00 on Friday 16 July 2004 by correspondence.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda

Anthony Liverpool

Argentina

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Australia

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Belgium

Koen Van Waerebeek
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Joji Morishita
Shuya Nakatsuka
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Republic of Korea

Chang Myeng Byen
Zang Geun Kim
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Panama

Epimenides M. Diaz

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Inankeuyas Gennady
Olga Gogoleva
Olga Ipatova
Valery Knyazev
Ivan Slugin
John Tichotsky

St. Lucia

Vaughn Charles

Solomon Islands

Sylvester Diake
Paul Maenu

South Africa

Herman Oosthuizen
Horst Kleinschmidt

Spain

Santiago Lens
Carmen Asencio

Switzerland

Tom Althaus

UK

Richard Cowan
Geoff Jasinski
Laurence Kell
Jenny Lonsdale
Trevor Perfect
Mark Simmonds

USA

Nancy Azzam
Roger Eckert
Robert Brownell
Keith Johnson
Nathan Pamplin
Jean Pierre Plé
Gary Rankel
Rolland Schmitten
Dave Sones
Michael Tillman
Chris Yates
Brad Smith
Thomas Napageak
George Ahmaogak

Chair of Scientific Committee

Doug DeMaster

Secretariat

Nicky Grandy
Greg Donovan

Appendix 2**AGENDA**

1. Introductory items
 - 1.1 Appointment of Chair
 - 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 Scheme (AWS)
 - 3.2.1 Report of the Scientific Committee
 - 3.2.2 Discussion and recommendations
 4. 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. Schedule Paragraph 13
 6. Other matters
 7. Adoption of the Report
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Annex E

Chair's Proposals for a Way Forward on the RMS

SUMMARY OF CHAIR'S PROPOSAL FOR AN RMS 'PACKAGE'

A small group comprising myself [Henrik Fischer], Denmark, Iceland, Japan, the Netherlands, Spain, Sweden, the USA and the Secretariat met twice in Cambridge. Based on the very constructive discussions held, I would like to bring a proposal forward for consideration by the whole Commission on how to take us forward towards an RMS. I believe that an effective RMS is essential both for the wise management and conservation of whale stocks; the present stalemate is not conducive to either.

The proposal included in this document and summarised below is based on the principle of compromise and respect of the various viewpoints held by Commission members within a framework that ensures that the rules and regulations of the Commission are obeyed and seen to be obeyed in an efficient and cost-effective manner. This will involve use of both the Schedule and voluntary measures such Resolutions and codes of conduct (issues requiring Schedule text are shown with an asterisk below).

ELEMENTS OF A PROPOSED RMS 'PACKAGE'

1. **RMP***: as agreed by the Scientific Committee and endorsed by the Commission.
2. **A phased-in approach to the resumption of commercial whaling***: for an initial period (e.g. 5 years after the lifting of the moratorium), commercial whaling would only be allowed in waters under national jurisdiction.
3. **National inspection and observation scheme***: as proposed by the EDG (generally, observers and inspectors on all boats where practical) with VMS on very small vessels with < 24hr trips and one observer per catcher attached to a factory ship.
4. **Additional catch verification to combat IUU whaling and/or unreported bycatches (NOT to monitor trade)**:
 - national diagnostic DNA registers and market sampling to agreed standards (with outside review) and a procedure to allow checking of samples against the registers;*
 - resolution urging countries to institute national legislation prohibiting the import of whale products from non-IWC countries as well as from IWC countries that are non-whaling; and
 - documentation up to port of entry if importation from IWC member*.
5. **Compliance***: Compliance Review Committee with duties as developed by the RMS EDG and agreed by the Commission, and inclusion of Schedule text as proposed in Berlin:

'The Compliance Review Committee reports on infringements and the seriousness of these infringements to the Commission and advises the Commission what actions, if any, to be taken'.

6. **Mechanism to apportion RMS costs among Contracting Governments***: costs for national activities should be borne by relevant national governments, while international costs for securing transparency could be allocated in the context of the overall financial contributions scheme.
7. **Measures for the lifting of Paragraph 10(e)***: modify paragraph 10(e) such that it becomes invalid on a specific day whilst ensuring that any whaling operations are undertaken under the full RMS package (N.B. catches other than zero can only be set for species/areas the Scientific Committee provides advice for under the RMP – currently very few).
8. **Whaling under Special Permit**: recognise that it is a Sovereign right under the Convention but develop a Code of Conduct.
9. **Animal welfare considerations**:
 - Explicit recognition of the issue in the Schedule*:

'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.'

- Resolution focusing on improving techniques, voluntary provision of data to regular scientific workshops and possible co-operative research programmes.

This 'package' of measures includes, in some way, all but two of the elements that have been discussed recently in the context of the RMS. The exceptions are blanket trade restrictions and sanctuaries. While some form of trade restriction might be appropriate in deterring IUU whaling, I believe that a blanket ban on international trade in whale products would be discriminatory against some countries, against principles of free trade, and outside the competence of IWC. With respect to sanctuaries, each should be reviewed on its own conservation and management merits and would therefore be difficult to build into any RMS 'package'.

If the Commission reacts favourably to my proposals in Sorrento, recognising that they are of course open to discussion, then I believe it should be possible to have firm proposals ready for adoption at the meeting in 2005. This will however require substantial intersessional activity of both a technical and policy nature.

PREFACE TO CHAIR'S PROPOSALS – WHY AN RMS IS NEEDED

The 1946 International Convention for the Regulation of Whaling clearly gives IWC a dual mandate, i.e. both the conservation and the management of whaling and whale stocks; these are not mutually exclusive but directly inter-related. It is for the following reasons that I believe that an RMS is essential for the credibility of the IWC.

It is a fact that whales are being caught by some IWC members. While recognising and respecting the different views on whaling held by member nations, from the point of view of conservation and wise management, it is best that whaling is managed using a scientific, consistent and fair approach. The highly migratory behaviour of the large whales makes international co-operation on management essential and the IWC is best placed to fulfil this management role. However, at present our organisation is not generally seen to be working effectively and indeed the present polarised views and actions are, I believe, detrimental to conservation.

The IWC Scientific Committee spent several years developing the RMP - the most advanced method for the conservation and management of a natural resource. This procedure was developed specifically for baleen whales with the aim of maintaining all whale stocks at healthy levels and avoiding the problems identified with past scientific management approaches, particularly by taking scientific uncertainty specifically into account in accordance with the Precautionary Principle. As already mentioned, this approach was agreed by the Commission in 1994 but has not yet been implemented. If implemented

today, the RMP would only allow catches of some stocks of minke whales. It would not result, contrary to popular opinion in some countries, in a 'free for all' on all stocks of all whale species.

As has been recognised since at least 1992, effective conservation and management measures developed using the RMP must be accompanied by a modern supervision and control system (i.e. the RMS) that ensures that those measures are not only obeyed, but are seen to be obeyed. However, despite some nine years of discussions, agreement on the RMS has still not been reached.

I strongly believe that if the IWC is to fulfil its role in the conservation and management of whale stocks and to avoid past errors, real effort must be made to complete the RMS expeditiously. To do this parties must respect the views of others, and in that light, develop a package of measures that is as broadly acceptable as possible whilst meeting the agreed objectives in the most practical and cost effective manner. Building on the progress made in a number of important areas and working in good faith, it should be possible to rapidly complete this work, thereby ensuring the conservation and management of whale stocks for the future, restoring the credibility of the IWC as an effective organisation and providing an example of how modern natural resource management should be carried out. Failure to put an RMS in place will jeopardise the future of the IWC and serves neither the interests of whale conservation nor management.

CHAIR'S PROPOSALS FOR A WAY FORWARD ON THE RMS

1. INTRODUCTION

Following the adoption of the 'moratorium' on commercial whaling in 1982, that came into effect in 1986, the Scientific Committee spent several years developing the Revised Management Procedure (RMP). The RMP is a conservative scientific method for determining safe catch limits that explicitly takes scientific uncertainty into account. The Commission adopted the RMP in 1994, but agreed that it would not be implemented until a Revised Management Scheme (RMS) was completed. In addition to the RMP, the RMS was to include measures to ensure that regulations were obeyed, primarily via an updated and revised national inspection and International Observer Scheme (IOS). Subsequent discussions of what the RMS should contain have included the need for catch verification measures in addition to those within an IOS and the collection of animal welfare data. Additionally, related issues such as limiting catches to waters under national jurisdiction, trade restrictions, scientific permits, sanctuaries and the relationship between completion of the RMS with Schedule paragraph 10(e) have also been discussed – many of these having been introduced as part of the 'Irish Proposal' brought forward in 1997 as a way to help overcome the impasse that developed within IWC following adoption of the moratorium.

Many Contracting Governments have spent considerable time and effort over the years on RMS discussions. Despite the fact that progress has been made in some areas, particularly with the inspection and observation scheme, there has been no progress in others and hence no overall agreement. This has led to increasing frustration among Contracting Governments and accusations as to who was responsible for the delay. At last year's Annual Meeting in Berlin, a private meeting of Commissioners was neither able to make recommendations regarding possible components of an RMS or on how to take the RMS process further.

During the plenary meeting, the Commission did, however, agree to my proposal to convene a small group of my choosing to explore ways and possibilities of taking the RMS process forward. I subsequently invited Denmark, Iceland, Ireland, Japan, the Netherlands, Spain, Sweden and the USA to take part. All except Ireland were able to accept. Ireland had to decline due to pressures of work associated with the lead-up to Ireland's presidency of the EU starting January 2004.

The 'Chair's Small Group' (CSG) met at the Secretariat's offices in December 2003 and again in March 2004. The discussions were very productive and based on their outcome, I would like to bring some thoughts and

proposals forward for consideration by the whole Commission. I was heartened that the CSG operated in a spirit of openness with a desire to understand the differing points of view on RMS-related issues, without assigning dishonest or underhand motives where there was disagreement. All recognised the current problems within the Commission stemming from a lack of mutual trust and agreed that it was vital that these are overcome if the Commission is to fulfil its mandate. Similarly, there was widespread recognition that all must be willing to compromise to reach an agreement that is broadly acceptable; any compromises must of course still enable the objectives of the RMS (see below) to be met.

In the Preface to this document, I have explained why I believe an RMS is needed. In the following pages I reiterate the framework and objectives against which an RMS should be developed, review the major obstacles to completing the RMS that remained at the Berlin meeting, including general ideas on how they might be overcome, outline a possible RMS 'package' and touch on possible next steps. I use the phrase RMS 'package' since it is clear from past discussions that resolution of the RMS will necessarily involve the inclusion of some elements not strictly related to ensuring that regulations are obeyed and seen to be obeyed.

2. THE FRAMEWORK AND OBJECTIVES FOR DEVELOPING AN RMS

For several years leading up to and including the meeting of the RMS Working Group at IWC/53 in London, discussions on the RMS had focused on trying to make progress largely through revisions to draft Schedule language (i.e. a 'square bracket exercise'). This meant that Schedule language was debated in isolation rather than within a framework looking at the RMS as a 'whole'. This approach changed with the establishment of the Expert Drafting Group (EDG) at IWC/53 when a framework was developed that established objectives for an RMS. This framework has provided an objective way to develop and evaluate proposals, and has been instrumental during the development of the proposals I outline in this document.

The EDG framework

The EDG agreed that the primary objectives of any IOS scheme are to:

- (1) ensure that the rules and regulations of the Commission are obeyed;
- (2) ensure that the rules and regulations of the Commission are seen to be obeyed;
- (3) report to the Contracting Government any infractions of those rules and regulations; and
- (4) report to the Commission any infractions of those rules and regulations.

In developing a scheme to meet these objectives, account must be taken of:

- (1) certain desired features of any credible combined scheme, including that it be to the extent possible robust, independent, transparent and based on best practice;
- (2) the need for the scheme to be as simple, practical and cost-effective as possible, concomitant with meeting its objectives; and
- (3) the nature of likely future operations (whilst noting that any scheme must be sufficiently generic to be able to incorporate new vessels, etc. without modification).

The following progression was used to structure its discussions:

- (1) identify the nature of the regulation or information required;
- (2) determine appropriate method(s) to monitor the regulation;
- (3) assess efficiency and practicality of method(s);
- (4) select most appropriate;
- (5) determine whose responsibility to ensure method is used and who uses it;
- (6) determine reporting hierarchy; and
- (7) determine who pays.

Using this approach, the drafting of Schedule text is left until considerable agreement has been reached on a particular issue or indeed on the whole RMS 'package'.

3. OBSTACLES TO COMPLETING AN RMS AND HOW THEY MIGHT BE OVERCOME

The elements that have been discussed as possible components of an RMS and related issues are given in the table below. The status of discussions on all elements and issues as of the 55th Annual Meeting in Berlin is summarised in Document IWC/56/COMMS 3.

Main potential elements of the RMS

Scientific

RMP – including:

- survey guidelines; and
- total catches over time.

Non-scientific

Chapter V: Supervision and Control:

- vessels, points of landing, processing plants;
- national inspection schemes;
- International Observer Scheme;
- verification of catch data;
- costs; and
- oversight/compliance.

Chapter VI: Information Required:

- scientific information; and
- animal welfare data.

Related issues under discussion

- relationship with paragraph 10(e);
- limiting catches to national waters;
- trade restrictions;
- Special Permits; and
- sanctuaries.

There is consensus within the Commission that the RMS should at least include the RMP (including the agreed survey guidelines¹ and together with provisions to adjust catch limits to account for other human-induced mortalities to ensure that removals over time do not exceed limits set

¹ In Resolution 1996-6, the Commission agreed to accept as a component part of the RMS the 'Requirements and Guidelines for Conducting Surveys and Analysing Data within the Revised Management Scheme'. Since then, the Guidelines have been revised slightly by the Scientific Committee and the RMP text has been revised to include the following paragraph: the only estimates of abundance acceptable for use in the Catch Limit Algorithm are those obtained in accordance with the most recent version of the 'Requirements and Guidelines for Conducting Surveys and Analysing Data within the Revised Management Scheme'.

by the RMP²), an inspection and observation scheme, some form of compliance monitoring and a mechanism to apportion costs of any RMS among member countries. However, lack of agreement remains concerning not only the details of some of these 'agreed' elements (particularly the cost-sharing arrangement) but also on which other elements should be included as part of the 'package'.

The major obstacles now remaining are:

- the relationship between the RMS and Paragraph 10(e);
- whether additional catch verification measures beyond those provided by the inspection and observation scheme are necessary;
- how RMS costs should be apportioned among member countries;
- whether commercial catches should be limited (at least initially) to waters under national jurisdiction;
- whether restrictions should be placed on international trade;
- whether animal welfare data should be collected;
- whether there should be any link/relationship between the RMS and special permits; and
- whether there should be any link/relationship between the RMS and sanctuaries.

Section 3 below summarises the status of discussions on these particular issues up to and including IWC/55 and presents ideas emerging from discussions within the CSG on how obstacles may be overcome.

3.1 The RMS and Schedule paragraph 10(e)

The issue

The most important obstacle revolves around the relationship between the RMS and Schedule paragraph 10(e). To date the views expressed on this relationship have ranged from:

- (1) agreement on the RMS should result in simultaneous deletion of paragraph 10(e) from the Schedule and catch limits other than zero should be established based on the advice of the Scientific Committee; to
- (2) even though an RMS is agreed, paragraph 10(e) should remain until such time as the Commission takes action to remove it.

Rationales for these opinions varied from the view that an RMS is meaningless if no whaling is allowed on stocks for which the RMP would set a catch limit other than zero, through a lack of trust that countries may object to one or more provisions of an RMS and thus not be bound by them, to the view that whaling should not be allowed but that an RMS should be in place in case a three-quarter majority is in favour.

Towards resolution

Aside from the view of some member governments that commercial whaling is always unacceptable, the primary concern that has been expressed is that if adoption of the RMS is simultaneous with the lifting of the moratorium, there is a possibility that a whaling nation might exercise its right to object to one or more of the RMS provisions and thus be able to whale legally but outside the RMS. However, as noted at the October 2002 private Commissioners' meeting on the RMS, practical ways to

address this concern can be found, e.g. the addition of a clause to paragraph 10(e) such that it becomes invalid on a specific day, provided that no objections to the RMS provisions have been received. During discussions within the CSG, there was a general feeling that a simple provision that meant that even a single objection (be it from either a pro- or anti-whaling country) could frustrate a widespread agreement to the twin objectives of lifting paragraph 10(e) and ensuring that whaling occurs under a full RMS was not acceptable. Further thought is needed to design a provision that ensures that these twin objectives are met.

3.2 Catch verification

The issue

The National Inspection and International Observer Scheme (IOS) as foreseen by the EDG (IWC/54/RMS 1) will provide for the checking of catches taken by authorised vessels under the jurisdiction of IWC member countries. However, some governments have proposed that additional catch verification measures, such as DNA registers/market sampling and/or catch documentation are necessary. At the October 2002 private meeting of Commissioners, it was noted that some form of catch verification can provide additional valuable information in the context of:

- RMP requirements with respect to total catches/human-induced mortalities over time – especially with regard to non-IOS monitored mortalities such as bycatches, IUU fishing etc; and
- the questions of ensuring that regulations both are obeyed and are seen to be obeyed.

A working group on catch verification was therefore established to explore the matter further. The working group met in Antigua in April 2003 (IWC/55/COMMS 3) and reached broad agreement on the following issues:

- the Inspection and Observation Scheme (IOS) would satisfy the requirements that the regulations are obeyed and are seen to be obeyed for registered IWC operations;
- there are advantages in an RMP context, to some additional catch verification (e.g. with respect to IWC illegal vessels, non-IWC vessels with and without export to IWC countries, and other removals such as illegal (i.e. unreported) bycatch);
- DNA/market sampling (DNA/MSS) systems and catch documentation schemes (CDS) share many of the same attributes but differ in terms of cost, ease of fraud and instant checking – however, while there are no features of a CDS that cannot be fulfilled by a DNA/MSS, the reverse is not true;
- if DNA registers are used there is no need to have a single IWC registry (i.e. national registries could be continued) provided common standards (techniques and laboratories) are met;
- if a DNA/MSS is used, some form of audit at all stages is necessary from the perspective of transparency;
- any market sampling would require careful design; and
- if DNA registers are used, samples for testing must be submitted via governments or appropriate intergovernmental organisations to avoid fraudulent claims.

The working group did not agree on:

² At IWC/52 the Commission endorsed text on total catches over time – see section 3.7.

- whether both DNA registers and a Catch Documentation Scheme (CDS) might be needed. Some thought application of both systems would be duplicative, others that they would be complementary. However, in the absence of a specific proposal, there has been some confusion over what is intended in relation to the form and scope of any CDS, e.g. should it be to the point of import or through to the consumer (product labelling); and
- the need for, and level of, international/independent oversight of a DNA/MSS if used – and who might provide such oversight.

Towards resolution

No further progress was made during IWC/55, but considerable time was spent discussing catch verification by the CSG. From these discussions it is clear that the objectives of a catch verification scheme are to ensure that:

- (1) IWC commercial catch limits (and other regulations) are not exceeded by member countries; and
- (2) total anthropogenic removals (direct catches and bycatch) are not exceeded (both in terms of IWC and non-IWC countries) – this involves obtaining information on their levels.

The aim is NOT to monitor trade *per se*.

For vessels registered by Contracting Governments, the EDG's IOS proposal will provide internationally verified information on all aspects of the catch (including quota monitoring) required by the IWC (position, sex, date etc.). However, for vessels from IWC member countries operating illegally or vessels from non-member countries (i.e. IUU whaling) there clearly will be no inspectors/observers and consequently other measures will be needed to detect/deter such operations. Similarly, measures would be needed to detect/deter unreported bycatches.

Given the above, the CSG broadly recognised the value of some combination of the following additional catch verification measures:

- diagnostic DNA registers and market sampling – against the background that national registers meeting the requirements of the Scientific Committee are already in place in Japan and Norway;
- some form of catch documentation – recognising that at present, whale products require CITES export/import permits and that these should be taken into account in the development of any further documentation;
- national regulations only allowing importation of whale products from other IWC countries with DNA registers – recognising that while regulations about trade in whale products are outside the IWC's remit, there is some precedent since the Commission did adopt a Resolution at its 31st Annual Meeting in 1979 that resolved, among other things that 'all member nations shall cease immediately any importation of whale meat products from, and the export of whaling vessels and equipment to non-member countries and operations'. Japan already has national legislation prohibiting the import of whale meat from non-IWC member countries as well as from IWC countries that are non-whaling. It also prohibits importation of whale meat from whales taken in violation of IWC regulations.

PROCEDURE FOR CHECKING SAMPLES

An agreed specified system for submitting samples to the register(s) for 'checking' must also be developed to prevent fraudulent claims of illegal products being found. Under this system it is proposed that:

- (1) samples must be submitted via national governments or appropriate intergovernmental organisations with proof of origin of the samples; and
- (2) analysis must follow agreed techniques in approved laboratories.

3.3 Costs

The issue

There is general agreement that there should be an element of cost-sharing, i.e. that some of the costs of an RMS should be paid by the Commission who would then recover these costs through a 'factor' in the financial contributions assessed from Contracting Governments. The October 2002 private Commissioners' meeting established a small working group to explore and recommend to the Commission how this 'factor' might be defined, and in particular how a fair balance between the interests of whaling and non-whaling countries could be determined. The working group met in Antigua in May 2003 (IWC/55/COMMS 4). It agreed that there were four main elements to the costs of an RMS:

- (1) national inspectors;
- (2) international observers;
- (3) vessel monitoring systems; and
- (4) catch verification.

Cost estimates were developed for each element, although in relation to catch verification, estimates could only be developed for DNA registers/market sampling since no definite proposal for a Catch Document Scheme had been made.

The working group did not reach agreement on how costs might be apportioned among Contracting Governments, although there was general agreement that the costs of national inspectors should be paid by the flag state (with the exception where, as foreseen in the EDG proposal for the IOS, an individual acts as both national inspector and international observer when it may be appropriate for some cost sharing).

The working group also did not reach agreement on RMS costs and the overall financial contributions scheme. Two options were considered:

- (a) factor them into the financial contributions scheme; or
- (b) have them as a separate budget item.

The group did agree, however, that addressing the issue of RMS costs should not undermine the principles guiding the work of the Contributions Task Force (CTF) and its efforts to date, particularly with respect to reduced costs for developing countries.

The working group believed it had achieved as much as it could given the uncertainties involved.

In Berlin, Commissioners noted the usefulness of having broad cost estimates for the observer scheme and DNA registers/market sampling, even if both entailed considerable assumptions. All members recognised that the costs were significant in terms of the IWC budget, although some believed they were not large in the 'market' context. As with catch verification, there was no agreement

in the Commissioners' meeting as to whether sufficient progress on this issue had been made, although the meeting noted that it is difficult to discuss the question of overall costs in isolation from the question of who shall pay.

Towards resolution

The issue of costs and how they might be apportioned was touched on during the discussions of the CSG, but was not discussed extensively. The group felt that the major cost elements of the RMS would be associated with:

- national inspectors;
- international observers;
- DNA registers and market sampling; and
- some sort of (trade) document scheme.

VMS was not included in this list since the small group is proposing that VMS is only required on small boats making only day-trips and with room for neither an inspector or observer aboard (see Section 5 and Appendix 1).

While further discussions are necessary about how costs are apportioned, the CSG considered that further consideration could be based on the general principle that costs for national activities be borne by relevant national governments, while international costs for securing transparency could be allocated in the context of the overall financial contributions scheme - as indicated in the following table.

Cost element	Who pays
National inspectors	Appropriate member countries
International observers	The Commission, in accordance with a Financial Contributions Scheme
VMS	Appropriate member countries
DNA registers + market sampling:	
set-up and running of systems	Member countries with DNA registers
oversight/review of national systems	The Commission, in accordance with a Financial Contributions Scheme
Checking	The country requesting the checking

3.4 Restricting whaling to national waters/area limitations

The issue

The proposal to restrict whaling to within EEZs, at least for a limited period prior to allowing 'full' whaling, was made principally as a measure to boost public confidence in IWC's ability to manage whaling successfully following the overexploitation of the past. While this proposal has been supported by some, possible difficulties have been raised by others. For example, some consider that a blanket closure of the high seas to exploitation may be contrary to UNCLOS. Concerns have also been expressed that in the present atmosphere of mistrust, any time-limit provision may be reminiscent of the 1990 'deadline' in paragraph 10(e) (i.e. that the restrictions would not be lifted at the appointed time). Others have noted that restricting catches to national waters in some circumstances would reduce yield and would be even more cautious than the already extremely cautious RMP. Finally some have observed that such a provision may also increase supervision and control difficulties since small-scale coastal activities can be more difficult to monitor than large-scale offshore operations.

Towards resolution

During the October 2002 Commissioners' RMS meeting, there had been the suggestion that the concept of area restrictions could be included as a recommendation embodied within a Resolution rather than a Schedule requirement and it was agreed to consider this approach further at a later date. During discussions of the CSG, the view was expressed that some sort of phased-in approach to commercial whaling could be useful and that this might be achieved through initial area limitations in the context of RMP *Implementations*, such that in the first five years after the lifting of paragraph 10(e), catches are restricted to within national waters.

3.5 Trade restrictions

The issue

The proposal is to restrict trade in the meat and products of whales taken to local consumption only (i.e. no international trade to be allowed). Its reasons were two-fold:

- (1) that past trade pressures were partly responsible for overexploitation of whale resources; and
- (2) as part of the 'confidence-building' exercise.

Although initially proposed as a permanent measure, Ireland had indicated more recently that it could be time-limited.

Although there has been some support for this proposal, strong opposition has also been voiced. Those opposing the proposal believe that such a ban is:

- (a) discriminatory against countries with small populations;
- (b) against principles of free trade; and
- (c) outside the competence of IWC.

They believed that public confidence should be built via other mechanisms.

Towards resolution

The potential problems with a blanket ban on all international trade were recognised by the CSG. However, it was noted that under some circumstances, certain trade measures might be appropriate, for example to combat IUU fishing, as is done by some fisheries management bodies (such as CCAMLR and ICCAT).

3.6 Animal welfare data

The issue

Currently, information on animal welfare (weapons used, time-to-death, etc.) is provided to the Commission on a voluntary basis. Some years ago however, the UK, with support from other member governments, proposed that the collection of animal welfare data should be a requirement of the RMS and included in the Schedule. It proposed a list of data to be collected. Other governments have raised three difficulties with this issue:

- (1) the competency of IWC to address animal welfare;
- (2) whether or not such information is necessary; and
- (3) lack of trust.

With respect to the last point, some countries have noted that even the discussion of the data currently provided voluntarily are used in a wholly negative manner by some, rather than being used for constructive discussion on how to improve killing methods. Given this experience, they

believed that the *status quo* of voluntary reporting should be continued.

Towards resolution

During discussions within the CSG, it was recognised that despite the opposing views, animal welfare is clearly an issue that needs to be addressed. The group noted that the principle that whaling should not inflict unnecessary suffering had already been agreed in discussions concerning the potential revised Schedule (see paragraph 13 of IWC/54/RMS 2). Two additional suggestions were made. One was that collection of data should not be considered mandatory as part of the ‘package’, but facilitated by including in the duties of international observers an item along the lines that they should ‘collect such data that the Commission from time to time might request’. These data would not necessarily be the full list proposed by the UK. The other suggestion that received broad support, was that rather than requiring collection of comprehensive animal welfare data on all whaling vessels as a Schedule requirement under ‘Information Required’, there could be dedicated well-designed scientific programmes to improve whale killing methods, with the results being discussed at scientific workshops.

3.7 Special permits

The issue

In addition to area and trade restrictions, some have called for the phasing out of whaling under special permit. This aspect was touched upon briefly at the October 2002 private Commissioners’ meeting. At that meeting, different views were expressed as to the need for any link/relationship between scientific permit catches and the RMS. While some Contracting Governments continue to support scientific whaling and its value for management and other important issues, others believe it to (1) be no longer necessary and (2) to be taking place on a larger scale than foreseen when the Convention was negotiated. Nevertheless, the right under Article VIII of the Convention for Contracting Governments to take whales for research purposes under scientific permit is not disputed and the suggestion was made at the October 2002 meeting that some sort of voluntary code of practice could be developed governing the conduct of scientific whaling. It was envisaged that this would not form part of the RMS but would be a document to which the IWC and others could refer.

Towards resolution

The concept of a voluntary Code of Conduct as a way to address the concern some governments have with special permit whaling was taken further during the discussions within the CSG. It was suggested that such a code might include certain features that research programmes should have and that it would need to be developed by scientists. This code might also increase the level of participation of scientists from other countries in the design and conduct of the research programmes. This could include, for example, holding an international workshop before designing a given research programme to improve the scientific review process and to avoid the research proposals, currently presented for review to the Scientific Committee a relatively short time before being implemented, being seen as a *‘fait accompli’*.

The CSG identified two scenarios exist for special permit catches: (1) special permit catches upon

species/stocks for which an RMP *Implementation* has been completed; and (2) those for which no *Implementation* has been completed. In the former case, the RMP explicitly takes into account catches under special permit by taking them off the ‘commercial’ catches as follows:

‘Catch limits calculated under the Revised Management Procedure shall be adjusted downwards to account for human-induced mortalities caused by aboriginal subsistence whaling, scientific whaling, whaling outside IWC, bycatches and ship strikes.

Each such adjustment shall be based on an estimate provided by the Scientific Committee of the size of the adjustment required to ensure that total removals over time from each population and area do not exceed the limits set by the Revised Management Procedure. Total removals include commercial catches and other human-induced mortalities caused by aboriginal subsistence whaling, scientific whaling, whaling outside IWC, bycatches and ship strikes, to the extent that these are known or can reasonably be estimated.’ (*Ann. Rep. Int. Whaling Comm.* 2000: 32).

While a ‘code of conduct’ would be applicable for the first scenario, it would be particularly appropriate for the second.

3.8 Sanctuaries

The issue

The Irish Proposal called for sanctuaries to be respected, and concern is often expressed by some regarding the whaling that is occurring within existing sanctuaries. Others consider that sanctuaries within the IWC context are playing a different role than in other fora, i.e. they are seen as a way to achieve a global ban on commercial whaling rather than as a management tool. During discussions within the CSG, there was a suggestion that the existing IWC sanctuaries could be reviewed in the context of certain Marine Protected Areas (e.g. that had core areas, areas of limited use, etc), but in the end the general view was that sanctuaries would be a difficult issue to build into any ‘package’ and that it would be best to stick to the *status quo*.

4. DEVELOPING AN RMS ‘PACKAGE’

Given the discussions held to date on the RMS, including the constructive and positive discussions held within the CSG, I believe the time is right for the Commission to make real and directed progress towards an RMS. The Preface to this document outlines what I believe is an incontrovertible case for the timely adoption of an RMS from the twin standpoints of conservation and wise management. I recognise that this will require an atmosphere of trust and mutual understanding that has appeared to be lacking in recent IWC meetings. I have been encouraged and heartened by the constructive nature of discussions within the CSG despite the very different opinions held on a number of key issues. Given that, I have developed what I believe to be a fair and realistic proposal for the essential ingredients of an RMS package for consideration now by the whole Commission. The proposal is, of course, open to discussion. As its cornerstone is the RMP that I believe still represents the most advanced and well-tested scientific approach to the management of natural resources; it is considerably more conservative than measures that we all accept in other national and international management regimes. Inevitably, not every detail of this package will satisfy every member nation – that is inherent in the concept of compromise. However, in my proposal I have endeavoured to respect to the extent possible the various viewpoints held by Commission

members within a logical framework that ensures that the rules and regulations of the Commission are not only obeyed but also seen to be obeyed in an efficient and cost-effective manner.

4.1 Elements to include in the RMS 'package'

Following from the above, I would like to commend to the Commission the following as elements to include in an RMS 'package'. Some elements are appropriate to be incorporated as part of the Schedule, while others could be best addressed using voluntary measures such as Resolutions and codes of conduct. However, the proposal is for a package as a whole; it is the combination of all of these elements that I believe best meets the objectives for the RMS agreed by the EDG. It is my hope that such a package will be able to receive broad support from Commission members.

Elements to be incorporated as part of the Schedule

- The RMP (including survey guidelines and provisions for total catches over time).
- A phased-in approach to commercial whaling.
- A national inspection and International Observer Scheme.
- Additional catch verification measures.
- Compliance.
- A mechanism to apportion RMS costs among member countries.
- Measures for the lifting of Schedule paragraph 10(e).

Elements to be dealt with primarily via Resolutions and similar measures

- Whaling under special permit.
- Animal welfare considerations.

This 'package' of measures includes, in some way, almost all of the elements that have been discussed recently in the context of the RMS. The exceptions are blanket trade restrictions and sanctuaries. As indicated earlier, while noting that some trade restrictions might be appropriate in the context of deterring IUU whaling, I recognise the strength of the view that a blanket ban on international trade in whale products would:

- (1) be discriminatory against countries with small populations;
- (2) be against principles of free trade; and
- (3) be outside the competence of IWC.

In addition, such a ban would not appear to further the conservation and wise management of whale stocks in addition to the RMS package proposed. With respect to sanctuaries, these are provided for under the Convention and should be reviewed on their conservation and management merits. They would therefore be difficult to build into any RMS 'package'.

An outline of the different elements and an indication of where significant further work is required is provided in the next section.

4.2 Description of RMS 'package' elements

4.2.1 The RMP

The RMP as agreed by the Scientific Committee and endorsed by the Commission should be used to set commercial whaling catch limits. In effect all catches will be zero until the Scientific Committee has completed an *Implementation* for a particular species and area. The

Committee cannot begin an *Implementation* without instructions from the Commission. In the present atmosphere of mistrust, safeguards are needed to ensure that non-scientific methods are not used to delay/prevent *Implementation* work (in either the Commission or the Committee) as well as to ensure that it is carried out with appropriate scientific rigour.

FURTHER WORK

The Scientific Committee is already working on guidelines relating to the level of information needed to begin and complete an *Implementation* as well as the time such a process should take. I have asked the Secretariat to explore (with appropriate members of the Scientific Committee) how such provisions could be built into the RMP (and thus into the Schedule).

4.2.2 A phased-in approach to the resumption of commercial whaling

I believe that some sort of phased-in approach to commercial whaling could be useful in building public confidence in the IWC's ability to manage whaling and conserve whale stocks. This is not to imply either that the RMP is not safe or that there will be immediate widespread whaling on all species around the world. I suggest that the best approach would be by phasing-in the areas in which commercial whaling would be allowed and propose that when whaling resumed, it would initially (e.g. for a 5-year period) be within waters under national jurisdiction of member countries. Safeguards would be needed to make sure that this would only be a temporary measure, such as a clear sunset clause in the Schedule text. One option for such text might be:

'Notwithstanding the catch limits by Small Area shown in Table 2, whaling will be restricted to waters under the national jurisdiction of the relevant Contracting Governments until 1 January 200X. After that date, this restriction will no longer be in effect.'

4.2.3 A national inspection and International Observer Scheme

This would be as proposed by the EDG (where, in general, observers and inspectors are placed on all boats where practical), and include the proposals made by the CSG on VMS and observers on catcher vessels (see Annex), i.e. VMS on very small vessels with < 24hr trips and one observer per catch vessel attached to a factory ship.

4.2.4 Additional catch verification measures (involves Schedule amendments and a Resolution)

I propose that additional catch verification measures involving national diagnostic DNA registers/market sampling systems and import controls should be included in the RMS to ensure that IWC removal limits are not exceeded by IUU whaling and/or unreported bycatches.

DNA REGISTERS/MARKET SAMPLING

DNA registers/market sampling systems should form the major part of the catch verification system. They should have the following attributes:

- national diagnostic DNA register for each whaling country or group of countries (to agreed specifications) to avoid redundancy and additional costs; and
- designed market sampling system (to agreed specifications).

TRANSPARENCY

While DNA registers and market sampling (DNA/MSS) will meet the objective of regulations being obeyed, a level

of transparency attached to these systems is required to meet the objective that regulations are seen to be obeyed. There are varying interpretations of the competency of the Commission with regard to international trade and the monitoring of domestic markets and, even though the objective of the catch verification scheme is not concerned with the monitoring of trade *per se*, any arrangement for securing the transparency of the catch verification system must take this into account to be broadly acceptable.

Transparency could be obtained in a number of ways. For example, the IWC Scientific Committee has already reviewed the specifications for the existing national registers and approved them. Formal specifications could thus be drawn up by the Committee in conjunction with those involved in the existing registers. National governments could agree voluntarily to provide relevant updated information on the registers. Similarly, national governments could allow outside review of the design of domestic market sampling programmes and protocols for voluntary submission of data. Further discussion on this matter is required (e.g. the nature of the outside review and the composition of any expert groups).

FURTHER WORK

Specifications for the DNA/MSS need to be developed and agreed, as does a system to provide transparency/oversight. For the former it is likely that an expert group will need to be established to develop proposals for review by the Scientific Committee and the Commission. For the latter, the Secretariat has been asked to draft a discussion paper outlining a series of options.

A system for submitting samples to the register(s) for 'checking' must be developed to prevent fraudulent claims of illegal products being found. In developing such a system, consideration must be given to whether such samples are checked against the national registers themselves, or whether Contracting Governments should provide the genetic profiles of each individual whale in their registers in confidence to an outside body in a pre-specified electronic format (a small technical group would be required to develop detailed specifications). The latter would allow the comparisons to be compared independently from the national database. Such a system could provide a simple yes/no answer to whether a sample is from an animal in a diagnostic register.

NO IMPORTATION OF WHALE PRODUCTS FROM NON-IWC COUNTRIES OR FROM ILLEGAL OPERATIONS

Preventing the import of whale products from non-IWC countries or from illegal operations of boats registered in IWC countries is an essential element of the catch verification approach. I suggest that this is done in two ways:

- a Resolution agreeing that Contracting Governments will institute national legislation prohibiting the import of whale products from non-IWC countries as well as from IWC countries that are non-whaling (such legislation already exists in some countries such as Japan); and
- a system of catch documentation to the point of entry/landing.

With respect to the latter it is clear that some form of documentation will be required by national governments at the point of entry to show that the products come from whales caught legally by an IWC country. Whale products not accompanied by such a document would not be allowed

to be imported. While it is the responsibility of national governments to decide what documentation they would require when products are being imported, it would be valuable to develop an IWC *pro forma* that takes into account (1) the FAO harmonised trade document and CITES documentation (which is currently required), and (2) sensitivities regarding IWC's competency to address trade issues.

I do not believe that documentation/product labelling once a product has entered an IWC country is necessary given other measures in place.

FURTHER WORK

A new Resolution concerning national legislation prohibiting the import of whale meat from non-IWC countries as well as from IWC countries that are non-whaling needs to be drafted. The Secretariat has been asked to review existing relevant Resolutions and to draft a consolidated version.

With respect to catch documentation, the Secretariat has been asked to examine CITES documents and the FAO proposal for a harmonised trade document with the view to developing an IWC *pro forma* if considered necessary.

4.2.5 Compliance

A Compliance Review Committee would be established with the duties as developed by the EDG and agreed by the Commission (IWC/54/7 and IWC/55/COMMS 2). Under the Convention, it is clear that it is the responsibility of relevant Contracting Governments and not the IWC to impose penalties and I propose that the recommendations of the Compliance Working Group from IWC/55 be followed, i.e. that the following text be included in the Schedule: 'The Compliance Review Committee reports on infringements and the seriousness of these infringements to the Commission and advises the Commission what actions, if any, to be taken'.

4.2.6 Apportioning RMS costs among Contracting Governments

Clearly more discussion is needed on how RMS costs should be apportioned, but I recommend that it is based on the general principle that costs for national activities be borne by relevant national governments, while international costs for securing transparency could be allocated in the context of the overall financial contributions scheme - as indicated below.

Cost element	Who pays
National inspectors	Appropriate member countries
International observers	The Commission, in accordance with a Financial Contributions Scheme
VMS	Appropriate member countries
DNA registers and market sampling:	
set-up and running of systems	Member countries with DNA registers
oversight/review of national systems	The Commission, in accordance with a Financial Contributions Scheme
Checking	The country requesting the checking

FURTHER WORK

This is an issue that needs further discussion, as does the relationship with the work of the Contributions Task Force. The Commission has always recognised the interaction between the work of the Task Force and RMS cost discussions, but until now, the Task Force has been asked to develop a contributions formula that does not take future RMS costs into account. However, if the Commission

reacts favourably to my proposals for an RMS 'package', there will be significant implications for any revised contributions formula. Consequently, while the development of a revised contributions formula remains high priority for the Commission, I believe that it would be prudent to delay further work of the Task Force until the Commission has discussed the RMS in Sorrento and assessed any implications for the work of the Task Force. The Task Force had been scheduled to meet before IWC/56 to try to finalise a proposal for a revised contributions formula. However, given the above and after consulting with the Task Force members and the Advisory Committee it has been decided to postpone the Task Force meeting.

4.2.7 Measures for the lifting of Schedule paragraph 10(e)

I do not believe that trying to finalise an RMS in isolation of discussions on paragraph 10(e) is appropriate, and consider that a way of linking agreement on an RMS with the lifting of paragraph 10(e) needs to be found. My preferred approach is to modify paragraph 10(e) such that it becomes invalid on a specific day whilst ensuring that any whaling operations are undertaken under the full RMS package as adopted by the Commission.

FURTHER WORK

Developing appropriate text to achieve this is not a simple task, and the Secretariat has been asked to develop some possible Schedule text and scenarios for consideration.

4.2.8 Whaling under special permit

Recognising:

- (1) the right of governments under the Convention to issue special permits;
- (2) concern expressed by some regarding scientific whaling; and
- (3) the need to obtain as broad a consensus as possible on the RMS 'package'.

I believe that an appropriate approach would be to develop a voluntary 'code of conduct' for whaling under special permit as part of the RMS 'package'. Such a code might include certain features that research programmes should have, e.g. with respect to appropriate abundance estimates, improved participation of scientists from other countries in the design, review and conduct of research programmes, e.g. through international intersessional workshops.

FURTHER WORK

A draft code of conduct needs to be developed. I suggest that the group within the Scientific Committee that is

already working to consolidate existing guidelines is requested to develop recommendations for such a code.

4.2.9 Animal welfare considerations

The differing opinions among Contracting Governments over the competency of IWC to address animal welfare issues should be recognised and taken into account.

I suggest that animal welfare considerations be addressed primarily through an initiative (perhaps by Resolution) to focus discussions within the Commission on improving the techniques to kill whales, based on (1) voluntary reporting of data as discussed at the Workshop in Berlin; and (2) the voluntary provision of information from existing research programmes (and/or the development of a co-operative research programme) at regular (e.g. triennial) specialist workshops).

In addition, the importance of taking animal welfare considerations into account should be explicitly recognised in the Schedule through the inclusion of text along the following lines:

'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.'

5. POSSIBLE NEXT STEPS

A private Commissioners' meeting on the RMS is scheduled for the afternoon of Friday 16 July 2004 in Sorrento. This meeting will provide an opportunity for me to present and explain the rationale behind my proposals, for Commissioners to provide feedback and for the Commission to discuss next steps. I believe that the objective of these steps should be to work towards developing a draft final proposal for adoption at the meeting in 2005.

If the Commission wishes to take the work forward along the lines I propose, this will require substantial intersessional activity of both a technical and policy nature prior to the 2005 Annual Meeting. A number of intersessional meetings will be needed and could include a meeting of the CSG, meetings (2-3) of expert groups tasked with developing necessary details on certain aspects (as indicated above) and a private Commissioners' meeting. I believe that the intersessional work would best be progressed through private meetings. However, recognising the need for transparency to the wider IWC community and beyond, provision for an open meeting on the RMS (e.g. the RMS Working Group) should be included in the meeting schedule for IWC/57.

Appendix 1

Recommendations from the Chair's small RMS group concerning the International Observer Scheme

The small RMS group was able to address the two issues outstanding regarding the International Observer Scheme, i.e.:

1. Whether VMS is required on all vessels or, as proposed by the EDG, only on category (a) vessels, i.e. vessels that operate day trips (< 24 hours) only, carry out no substantial flensing on board and can accommodate neither a national inspector nor an international observer. For these vessels, the EDG agreed that a combination of VMS data transmitted in real-time to an observer at the point of landing is acceptable.

2. Whether, for pelagic operations, there should be observers on board each catcher vessel in addition to observers on board each factory ship.

The Chair's small RMS group recommends that:

- VMS is only required on category (a) vessels.
 - One international observer would be deployed on each catcher boat attached to a factory ship. It was noted that as experience is gained, it may eventually be decided that observers are only needed on the factory ship.
-

Annex F

Statement from Henrik Fischer, Chair of the Commission, to the Private Meeting of Commissioners/Alternate Commissioners on the 16th July 2004

First of all I would like to express my deep regret and disappointment at not being able to attend and Chair the 56th Annual Meeting and in particular in being unable to present my proposal on the RMS to you in person and to work with you all to seek agreement on a way forward. I hope however, that you will permit me to communicate, via this statement, the great importance I give to completion of the RMS and what I would like the discussions on the RMS in Sorrento to achieve.

Given the lengthy discussions held to date on the RMS, and especially the constructive and positive discussions held within my small RMS group since last year's meeting in Berlin, I believe the time is right for the Commission to make real and directed progress towards an RMS. I fear that failure to put an RMS in place may not only jeopardise the future of the IWC, but perhaps more importantly serve neither the interests of whale conservation nor management – the dual mandates of our Convention.

The Preface to my proposal (IWC/56/COMMS 2) outlines what I believe is an incontrovertible case for the timely adoption of an RMS from the twin standpoints of conservation and wise management. I won't repeat the case here, but ask you to consider it very carefully indeed. I recognise that the completion and timely adoption of the RMS will require an atmosphere of trust and mutual understanding among member governments that has often appeared to be lacking in recent IWC meetings. However, I was encouraged and heartened by the constructive nature of discussions within my small group, despite the very different opinions held on a number of key issues, and hope that this spirit of co-operation and willingness to seek compromises will continue into the private Commissioners' meeting and indeed all aspects of the Commission's work this year.

I have developed what I believe to be a fair and realistic proposal for the essential ingredients of an RMS package

for consideration now by the whole Commission. Inevitably, not every detail of this package will satisfy every member nation – that is inherent in the concept of compromise. However, I have endeavoured to respect, to the extent possible, the various viewpoints held by Commission members within a logical framework that ensures that the rules and regulations of the Commission are not only obeyed but also seen to be obeyed in an efficient and cost-effective manner.

The proposal is, of course, open to discussion. However, as the package includes, in some way, almost all of the elements that have been discussed recently in the context of the RMS, the exception being blanket trade restrictions and sanctuaries (for reasons explained in my document), I strongly urge you to concentrate on refinements to the package and not, unless deemed necessary by the great majority of Contracting Governments, entertain suggestions that would involve major changes and reconstruction of the entire package. If refinements and changes are considered necessary – and there no doubt will be some – then I believe it is essential to have a clear explanation of why they are needed, following the approach that I have used for my proposal.

If there is a generally favourable reaction to my proposals for an RMS, then I believe it should be possible to have firm proposals ready for adoption at the meeting in 2005. This will require substantial intersessional activity of both a technical and policy nature prior to the 2005 Annual Meeting.

In conclusion, I sincerely hope that you will be able to broadly accept my proposal for an RMS package and agree to the necessary intersessional activities. Once again, I stress my view that failure to put a workable RMS in place will serve neither the interests of whale conservation nor management – the dual mandates of our Convention.

Annex G

Information Provided by Contracting Governments regarding Whale Killing Methods and Associated Welfare Issues

DENMARK (GREENLAND)

1. Summary of Activities Related to the Action Plan on Whale Killing Methods (based on Resolution 1999-1)

Contracting Government	Denmark (Greenland)
Season	2003
Area	Greenland
Fishery type (e.g. commercial, aboriginal subsistence, scientific permit)	Aboriginal subsistence

Summary of primary and secondary whale killing methods used
(Note that the appropriate Method No. should be used throughout the form)

Method No.	Brief description of method (e.g. penthrite grenade, 'cold' grenade, rifle of stated calibre, etc). Put the most commonly used method first. Insert more rows if necessary.	Used as: (state whether primary killing method, secondary, or both)
1	Penthrite grenade	Primary (142 in West Greenland)
2	Rifle (minimum 30.06 cal. (7.62 mm) and cal. .375 or cal. 458	Primary (52 in West Greenland + 13 in East Greenland)

Summary of criteria used to indicate unconsciousness and death

[Include brief description here] Criteria: when the whale does not move and the flippers are immovable. Number of whales killed instantly are whales reported killed within 1 minute.
--

Summary of information providers

Percentage of data provided by:	
• Inspectors	0%
• Scientists	0%
• Hunters	100%
• Other (please specify)	0%

Summary of hunt

Item	Species 1 <i>Minke whale - West Greenland</i>		Species 2 <i>Minke whale - East Greenland</i>		Species 3 <i>Fin whale</i>	
	No.	%	No.	%	No.	%
Whale killing methods						
• Total no. killed (all methods summed)	185		13		9	
• Total killed using Method 1 only	133	72			9	100
• Total killed using Method 2 only	52	28	13	100		
• Total killed using Method 3 only						
• Total needing secondary harpoon or other secondary killing method						
• If bullets used:						
- minimum number						
- maximum number						
- median number						
Time to unconsciousness/death (TTD)*						
• Total for which information recorded	179		13	100	7	78
• Total estimated TTD to be instant	36		2	15	1	20
• Maximum estimated TTD	300 min.		60 min.		720 min. ¹	
• Mean time to TTD	14 min.		31 min.		114 min. ¹	
• Median Time to TTD	8 min.		25 min.		10 min.	
Other information						
• Total targeted and missed						
• Total struck and lost	7		1		3	

¹The time to death of 720 minutes of one struck and lost fin whale was caused by bad weather conditions and the breaking of the harpoon string. When excluding this one whale the average time to death was 13 minutes.

*NB: The Resolution asks for TTD information for each whale not killed instantly. Please append these data, e.g. as Table or histogram. [none]

Any other relevant information e.g. with information on technical assistance given to other fisheries or with respect to new studies to (a) improve methods and TTD, (b) develop new criteria for TTD. [none]

2. Report on improvements in ASW in Greenland

Referring to Resolution 1997-1 on improving the humanness of aboriginal subsistence whaling, the Greenland Home Rule Government would like to report the following on the process of improvements:

- The harpoon-cannon renovating programme finished in 1998. 71 harpoon cannons were well functioning and safe. 37 vessels with a mounted harpoon cannon were active in the 2003-season, and approx. 575 skiffs were used in the collective hunt.
- A seminar on renewable resources was held 9-11 October 1998 in KATUAQ, the Greenlandic cultural centre in Nuuk. Representatives from all relevant Greenlandic parties were gathered to discuss future ways for sustainable harvest, the situation of the living natural resources, hunting ethics, sharing the resources, etc.
- On 9-11 February 1999 the North Atlantic Marine Mammal Commission (NAMMCO) held a workshop on hunting methods used for hunting marine mammals in NAMMCO member countries. As the workshop was held in Nuuk, Greenland, several Greenlandic hunters participated in this workshop and had the opportunity to share information on hunting methods with other hunters and whalers.
- From March to September 2000 several courses on the handling and instruction of the use of the new Norwegian penthrite grenade (Whale Grenade-99) were held for about 150 whalers, wildlife officers and the Greenland Trade Company (distributor of the grenade in Greenland). The whalers representing the 71 vessels with a mounted harpoon cannon. The courses were arranged in cooperation with Dr. Egil Ole Øen and the Greenland Home Rule ship consultant Mr Peter Siegstad and the Department of Industry.
- The harpoon-cannons are inspected every second year, thereby reducing the risks for the hunters to a minimum and maximising the efficiency when killing whales.
- In November 2001, NAMMCO held a weapons and ammunition workshop in Sandefjord, Norway, on ballistics related to hunting in the NAMMCO member countries of relevant mammals and marine mammals, including minke whales and fin whales.
- In January 2003, NAMMCO held a conference titled 'Users Knowledge and Scientific Knowledge in Management Decision Making' on how both user knowledge and scientific knowledge can be incorporated into management decisions. The recommendations and conclusions from the Conference will form the basis to further the work of integrating user knowledge into the management decision making process.
- From April to August 2003, 9 courses on the handling and instruction of the use of the Norwegian penthrite grenade (Whale Grenade-99) were held for about 75 whalers. The courses were arranged in cooperation with consultant Mr Peter Siegstad and the Department of Fisheries and Hunting.

3. A note regarding information encouraged in Resolution 1999-1

The following text contains comments to Resolution 1999-1 regarding the operative paragraphs 2-5:

Ad 2: Number of whales killed by each method:

- In West Greenland, the total minke whale quota was 190, including a carry-over quota. 135 (reallocation 133) minke whales were allocated to vessels with harpoon cannons and 55 (reallocation 57) to the collective hunt. In East Greenland, the quota of 15 minke whales was allocated to the collective hunt, including a carry-over quota.
- In West Greenland, the municipal collective hunt quota on minke whales varied from 2 to 6 animals. The municipal quota to vessels with harpoon cannons was a free quota. 37 of 65 vessels were active in 2003. The 2003 quota and catch of minke whales and the number of vessels with harpoon cannons can be seen in Appendix 1.
- In West Greenland, 133 minke whales were killed by harpoon whereas 52 minke whales were killed in the collective hunt. In East Greenland 13 minke whales were killed in the collective hunt.
- The fin whale quota of 19 animals was set free for vessels mounted with harpoon cannons. In the 2003 season, 9 fin whales were killed.

Number and proportion of total whales killed instantaneously; time-to-death for each animal not killed instantly:

- 36 minke whales were reported killed within 1 minute, the average time to death for minke whales was 14 minutes. 1 fin whale was reported killed within 1 minute. The average time to death for fin whales was 114 minutes, this caused by one struck and lost whale with a time to death of 720 minutes due to bad weather conditions and the breaking of the harpoon string. When excluding this one whale the average time to death was 13 minutes.

Number of whales targeted and missed; number of whales struck and lost:

- See Appendix 1.

Calibre of rifle used and number of bullets used:

- In the collective hunt on minke whales, a minimum of 30.06 cal. (7.62 mm) rifle and cal. .375 or cal. .458 are used. It is not an obligation to report the number of bullets used. It will require many resources to collect information from approx. 575 skiffs.

Methods used to determine unconsciousness/time to death:

- The information collected from the hunters is not scientifically based. There is an instruction on how to determine the time to death in the regulation; from the first shot to the time when the hunter measures that the whale is dead.

Ad 3: Development of more accurate indicators for determining the time to death other than cessation of movement:

- Greenland is lacking the assistance from veterinarians who, in a professional manner, are capable of collecting data on the time to death, and of developing more accurate indicators for determining the time to death.

Ad 4: 'Recognises the difficulty, in some aboriginal subsistence hunts, of obtaining time to death information....'

- See the comments in point 3.

Ad 5: 'Encourages all Contracting Governments to provide appropriate technical assistance to reduce cruelty in aboriginal subsistence whaling.'

- Greenland has a very good working relationship with the Norwegian government allowing Greenland to import the new whale grenade. Furthermore, Greenland gets very good assistance from Dr. Egil Ole Øen concerning the introduction and instruction of how to use the newly developed penthrate grenade used in the minke whale and fin whale hunt.
- Greenland also seeks advice on how to improve hunting gear and methods through the very fruitful working relationship via NAMMCO which arranged a workshop on hunting methods in February 1999, and a workshop on marine mammals: weapons, ammunition and ballistics, in November 2001.

4. Status for Greenland Action Plan on Whale Hunting Methods, 2003

Implementation of the Greenland Action Plan on Whale Hunting Methods was described in IWC/46/AS3. Recent development in Greenlandic Whaling was furthermore presented in IWC/49/AS3, IWC/51/WK6, IWC/51/WK7, IWC/51/WK8.

With reference to the 10 point Revised Action Plan recommended from the workshop on Whale Killing Methods, 1995, the status for the Greenland Action Plan on Whale Hunting Methods in 2003 is summarised as follows.

Re. Rev. Action Plan point 2: Continue improving accuracy of delivery of penthrate grenade harpoons, including assessment of refined sighting equipment suitable for rapid action under conditions encountered at sea. Support and encourage the development and implementation of programmes to provide training in the safe handling and effective use of killing devices including the penthrate grenade and in other aspects of the hunt.

In close co-operation with the Greenlandic Trade Company (Pilersuisoq A/S) detonating penthrate grenades are distributed according to the issued licenses on 14 places for sale throughout the whaling season. In the period 1991-1994, 147 persons (fishermen and hunters, distributors and shipyard workers) have passed the course in safe handling and firing of the detonating grenade and other hunting

equipment. A further 48 persons finished the course in 1999.

The overhaul programme for the harpoon cannons was successfully concluded in 1998. In 2003 there were 65 harpoon cannons on the West coast of Greenland authorised to apply for a license to go whaling. The harpoon cannons are inspected every 2 years - reducing the risks for the hunters to a minimum and maximising the efficiency when killing whales.

From March to September 2000, 9 courses were held in Greenland on the handling and instruction in the use of the new Norwegian Whale Grenade-99. All persons who completed a course on the 1985-whale grenade proto-type and newcomers were offered places on the new course which included information on how to keep the harpoon cannons in good shape. The course also included items mentioned in the Action Plan points 2, 3, 4 and 8.

From April to August 2003 an additional 9 courses on the handling and instruction of the of the Norwegian penthrate grenade (Whale Grenade-99) were held for about 75 whalers. The course also included items mentioned in the Action Plan points 2, 3, 4 and 8.

Re. Rev. Action Plan point 3: Continue to review constraints on shooting distance and relative orientation of vessel and whale and encourage reducing times to death.

Shooting distances and shooting angle are dealt with in the course in safe handling and firing of the detonating grenade. Furthermore, maintenance of the harpoon cannons is reviewed.

Re. Rev. Action Plan point 4: Continue to review the effectiveness of secondary killing methods with a view to reducing time to death in whales and encourage the application of the most effective methods.

In fin whaling the secondary killing methods is - like the first - the penthrate grenade, while in the hunt for minke whales a minimum of a 30.06 cal. (7.62 mm) rifle has proven sufficient. Some hunters use cal. .375 or cal. .458 as well.

Re. Rev. Action Plan point 8: Encourage the collection and presentation of struck and lost rates and standardised time to death records in aboriginal subsistence catches of whales and undertake the assessment of requirements for controls on the use of rifles to kill unsecured whales.

In 1992, the Greenland Home Rule Government introduced time to death in the self-reporting system for catch reports in the hunt for fin and minke whales. The regulations and catch report system are also reviewed in the course on the handling of the penthrate grenade.

Re. Rev. Action Plan point 9: Encourage the incorporation of data collection and reduction of struck and lost rates in the initiatives in Greenland relating to the beluga and narwhal hunts.

The Greenland Home Rule Government and Denmark does not recognise IWC competence on small cetacean issues, and consequently Greenland will not provide any information as to point 9.

Appendix 1

2003 QUOTA ALLOCATION TO INDIVIDUAL MUNICIPALITIES

The numbers in the quota columns are given before 1 April, and reallocations of not-used licenses took place 30 August and 15 October. Consequently, the quota of each municipality can vary from the actual total catch.

Municipality	Harpoon cannon quota	Collective hunt (rifle) quota	Total quota	No. of harpoon cannons	Settlements without harpoon cannons	Harpoon cannon strikes	Collective strikes	Total strikes
Nanortalik		6		1	6	7	7	14
Qaqortoq		4		4	4	26	5	31
Narsaq		2		3	2	23	4	27
Paamiut		3		6	1	8	3	11
Nuuk		5		8	1	21	3	24
Maniitsoq		5		8	1	16	4	20
Sisimiut		4		9	2	20	5	25
Kangaatsiaq		5		5	4	1	3	4
Aasiaat		4		4	2	4	1	5
Qasigiannuit		2		3	1	0	2	2
Ilulissat		4		10	4	2	3	5
Qeqertarsuaq		4		3	1	5	5	10
Uummannaq		5		1	6	0	5	5
Upernavik		2		0	6	0	2	2
West Greenland total	135	55	190	65¹	35	133	52	185
Tasiilaq	0	12	12	0	-	0	13	13
Ittoqqortoormiit	0	3	3	0	-	0	0	0
East Greenland total	0	15	15	0	-	0	13	13

Note: 7 struck and lost (Sisimiut: 3; Qasigiannuit: 1, 2; Qeqertarsuaq: 3). ¹ 4 boat owners with 2 harpoon cannons each.

RUSSIAN FEDERATION

(On next page)

RUSSIAN FEDERATION

1. Summary of Activities Related to the Action Plan on Whale Killing Methods (based on Resolution 1999-1)

Contracting Government	Russian Federation
Season	2003
Area	Chukotka waters
Fishery type (e.g. commercial, aboriginal subsistence, scientific permit)	Aboriginal subsistence

Summary of primary and secondary whale killing methods used
(Note that the appropriate Method No. should be used throughout the form)

Method No.	Brief description of method (e.g. penthrite grenade, 'cold' grenade, rifle of stated calibre, etc). Put the most commonly used method first. Insert more rows if necessary.	Used as: (state whether primary killing method, secondary, or both)
1	Harpoon with float	
2	Darting gun	
3	Rifle (various)	

Summary of criteria used to indicate unconsciousness and death

<i>[Include brief description here]</i>
Criteria: Visual determination of unconsciousness and death. Rifles are utilised for control (final defining) shot that guarantees death.

Summary of information providers:

Percentage of data provided by:	
• Inspectors	100%
• Scientists	Approximately 50%
• Hunters	100%
• Other (please specify)	

Summary of hunt

Item	Species 1 <i>Gray whale</i>		Species 2 <i>Bowhead whale</i>		Species 3 <i>[insert name]</i>	
	No.	%	No.	%	No.	%
Whale killing methods						
• Total no. killed (all methods summed)	126		3			
• Total killed using Method 1 only	0		0			
• Total killed using Method 2 only	0		0			
• Total killed using Method 3 only	0		0			
• Total needing secondary harpoon or other secondary killing method	126**	100	3 [#]	100		
• If bullets used:						
- minimum number	8		50			
- maximum number	97		60			
- median number	36.9		55			
Time to unconsciousness/death (TTD)*						
• Total for which information recorded						
• Total estimated TTD to be instant						
• Maximum estimated TTD	50 mins		40 mins			
• Mean time to TTD	28.7 mins		30 mins			
• Median Time to TTD						
Other information						
• Total targeted and missed						
• Total struck and lost	2					

**Gray whales: the harpoon (Method 1) and rifles (Method 3) were used in the kill of all 126 whales. In addition, the darting gun was used in the kill of 66 (52%) of these whales.

[#]Bowhead whales: The harpoon (Method 1) and darting gun (Method 2) were used to kill all 3 whales. In addition, the rifle (Method 3) was used in the kill of 2 of the whales.

*NB The Resolution asks for TTD information for each whale not killed instantly. Please append these data, e.g. as Table or histogram. [none]

Other: Any other relevant information e.g. with information on technical assistance given to other fisheries or with respect to new studies to (a) improve methods and TTD, (b) develop new criteria for TTD: [See table above]

UNITED STATES OF AMERICA

Data provided on 2003 Bowhead Subsistence Hunt

- In 2003, 35 bowhead whales were landed. All of those whales were taken using the traditional hand-thrown darting gun harpoon with the traditional shoulder gun used as the secondary killing method.
 - Thirty-one whales were landed using darting gun harpoons firing a traditional black powder projectile. Four whales were taken in Barrow using the penthrite projectile that the AEWG has been working with Dr. Egil Øen of Norway to develop.
 - Six whales were struck and lost. Therefore, for 2003, the rate of efficiency of the hunt was 85%. This rate is much higher than the previous year, but as we have explained previously, weather and ice conditions play a significant role in determining the efficiency of the aboriginal bowhead whale hunts.
 - It should be noted in this regard that historically the rate of efficiency in this hunt was 50%. However, the AEWG made a commitment to this Commission to increase the hunt's efficiency rate to an annual average of 75%. As with every other commitment it has made, the AEWG has not only fulfilled this promise, in recent years, it has exceeded 75% as an annual average.
 - Two initiatives of the AEWG have been largely responsible for this dramatic improvement in efficiency as well as an increase in the humaneness of this hunt. First, the AEWG early on instituted a practice at its annual meetings whereby the more experienced and successful captains share their hunting techniques with each other and with the younger and less experienced hunters. This 'Hunting Efficiency Workshop' is conducted using a replica of a bowhead whale so that participants can actually demonstrate techniques.
 - The Whaling Captains' Associations in individual villages conduct similar workshops each year to that village's bowhead subsistence hunt.
 - The second AEWG initiative to help improve the efficiency and humaneness of this hunt is the 'Weapons Improvement Program' overseen by the AEWG's 'Weapons Improvement Committee' which is comprised of hunters, weapons experts and scientists. It is through this Program and under the supervision of the Weapons Improvement Committee that the AEWG has achieved success in adapting the penthrite-exploding projectile for use in the traditional hand-held darting gun.
 - Environmental conditions for the spring and fall hunt are treacherous and cause difficulty for subsistence hunters to determine time to death with precision. During the spring, the bowhead subsistence hunt is conducted from the edge of the shore-fast ice and in the spring ice lead system. Crews use small hand-made canoes (*umiags*) consisting of sealskin stretched over a wooden frame and designed to hold four to six people.
 - In light of the circumstances of this hunt, it can be seen that in the bowhead subsistence hunt, visual observations simply cannot yield an accurate estimate of time-to-death.
 - The AEWG has made extraordinary efforts over the years to cooperate with the Commission. This commitment continues. Therefore, working with the scientists at the North Slope Borough Department of Wildlife Management, the AEWG is preparing to collaborate with researchers at the Norwegian School of Veterinary Medicine on the development of techniques to recover brain tissue samples from landed bowhead whales. As in Norway, these tissue samples would be used to study brain trauma caused by the detonation of the penthrite projectile. The AEWG hopes to follow the success of Norway in using this information as a basis for estimating time to death in the bowhead subsistence hunt.
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Annex H

Report of the Conservation Committee

Wednesday 14 July and Thursday 15 July 2004, Sorrento, Italy

1. INTRODUCTORY ITEMS

The meeting took place at the Hilton Sorrento Palace Hotel, Sorrento, Italy on the afternoon of 14 July and the morning of 15 July 2004 and was chaired by Horst Kleinschmidt (South Africa). A list of participants is given in Appendix 1.

1.1 Convener's opening remarks

Horst Kleinschmidt (South Africa) welcomed delegates and observers to the inaugural meeting of the Conservation Committee. He indicated that, upon the recent withdrawal from the Commission of Carlos Dominguez Diaz (Spain), who had agreed to convene the Committee, the IWC Chair had invited him to convene the Committee.

1.2 Election of Chair

Horst Kleinschmidt (South Africa) was elected Chair.

1.3 Appointment of rapporteur

Stephen Powell (Australia) was appointed rapporteur.

1.4 Review of documents

The following documents were relevant to the discussions of the Committee:

- IWC/56/CC1: Revised Draft Agenda
- IWC/56/CC2: Overview of collaboration with other organisations (Secretariat)
- IWC/56/CC3: A proposal for voluntary national reports on cetacean conservation (Brazil)
- IWC/56/CC4: Statement regarding the Scientific Committee (DeMaster and Donovan)
- IWC/56/12: Funding considerations in relation to the Conservation Committee (Secretariat)
- Appendix 3: Report of the small group on the Conservation Committee
- Appendices I and II of CMS (CMS)

2. ADOPTION OF THE AGENDA

The agenda, as given in Appendix 2, was adopted without amendment.

As this was the inaugural meeting of the Conservation Committee, the Chair invited members to address general issues relating to the establishment and purpose of the new Committee before turning to specific agenda items. There was consensus that all members of the IWC should be and were committed to conservation, and that the new Committee should not supervise or duplicate the work of any other bodies of the Commission. However, a range of views were expressed about the appropriateness or otherwise of the steps taken to establish the Conservation Committee. It was agreed that efforts since IWC/55 to improve the level of communication between members in disagreement were important.

Many of the co-sponsors of Resolution 2003-1, by which the Committee was established, stated that the new body should be viewed as pro-conservation, not anti-whaling. These members recognised that the Convention provides for both conservation and management of whale stocks, and believed that the establishment of the Conservation Committee did not prevent the fulfilment of either of these objectives. The conservation of whale stocks was in the common interest.

These members held the view that the establishment of the Committee would not alter or in any way impinge upon the attributions or work of any of the Commission's active bodies, nor would it change any of the functions or terms of reference of such bodies, or of the Commission itself. Rather, the primary objective in setting up the Conservation Committee in their view was to rationalise the Commission's work on that part of its agenda that deals with conservation issues, as well as to institutionalise and better distribute the Commission's workload. They emphasised that the Conservation Committee would not have any supervisory function over the work of the Scientific Committee, which has its agenda and terms of reference clearly established by the Commission.

Those who had supported the establishment of the Committee looked forward to the Committee improving the way the IWC met its responsibility for managing whales, by addressing issues not only from the perspective of whaling. To date, conservation issues had been typically addressed late in the plenary, and the Committee would allow such issues to be discussed in detail several days before the plenary. The Committee could provide advice and guidelines on conservation-related functions that were currently dispersed, and serve as a central node to identify and prioritise topics. This might prevent overload on other bodies of the Commission.

Other members, who had opposed Resolution 2003-1, indicated that they still had reservations about the establishment of the Committee, especially because in their view it took the objective of the 'conservation of whale stocks' out of the context of the objective of making possible 'the orderly development of the whaling industry.' They were committed to the sustainable use of natural resources, and viewed completion of a Revised Management Scheme to prevent over-exploitation as a higher priority conservation measure than items that might be addressed under a Conservation Committee. Their participation in the first meeting should not be construed as change of position on the Resolution.

These members stated that the process used at IWC/55 to create a new body made no attempt to bring the members of the IWC together: a mechanism to address those conservation issues which are capable of attracting widespread support ought not to have been promoted in a manner which did not effectively consult nearly half of the members of the IWC. Some efforts to discuss alternative

language had been rejected out of hand, which was not conducive to open and fair dealings.

Those who had opposed the establishment of the Committee noted that, even if nothing in Resolution 2003-1 defined conservation narrowly, the wording of the Resolution and its appendix of past decisions of the Commission made it clear that the initiative would alienate nearly half of the members of the IWC. Nonetheless, members present who had opposed the process had decided to attend the first meeting, expecting a change to the name of the Committee and amendment of the original Resolution, in order to reciprocate their goodwill.

The Committee discussed the question of how to define 'conservation,' and particularly whether that should be construed as including 'sustainable use'. It was noted that various definitions were available, both from dictionaries (though there was no equivalent term in some languages), and in the texts and agreements of other treaties. While it was agreed that conservation was of interest to all members, and that further discussion on its definition would be worthwhile, a definitive answer was beyond the capacity of the Committee's first meeting. Some indicated that they had envisaged the Committee addressing issues that did not fit the remit of 'sustainable use,' while others would welcome further discussion on this.

It was noted that many members of the Commission were absent. This could be viewed as an indication of dissatisfaction with the process by which the Committee was established. Supporters of the Committee indicated that they were engaged in a constructive dialogue with some of the absent members, in the interest of seeking broad participation, and hoped that the Committee's report might demonstrate to them the value of the Committee.

3. DEVELOPMENT OF TERMS OF REFERENCE AND WORKING METHODS

3.1 Relationship between the Conservation Committee and other bodies within the Commission

Relationships between the Conservation Committee and other bodies within the Commission will be vital to the success and effectiveness of the new Committee. Relationships should be based on the principle of complementarity, not duplication.

The Chair of the Scientific Committee introduced IWC/56/CC4, expressing the view that the actions and recommendations of the Conservation Committee will be of considerable interest to the Scientific Committee, and vice versa. The statement indicates that the proceedings of all of the Scientific Committee's sub-committees and working groups have relevance to conservation.

It was clarified that the paper was not discussed at or endorsed by the Scientific Committee. Rather, it was presented by DeMaster and Donovan to aid the Conservation Committee's discussions. The issue of relationships with the Conservation Committee had not been placed on the agenda of the Scientific Committee because it was not clear how this could occur until the 2004 meeting gave such guidance. Members viewed the table of conservation-related items addressed by the Scientific Committee as helpful (see Item 4.1 below), and some noted that the Conservation Committee presented an opportunity for the Commission to address the conservation-related

advice provided by the Scientific Committee more fully than in the past.

The Committee agreed that interactions with the Scientific Committee would occur in the same way that the Scientific Committee interacts with other subsidiary bodies already established by the Commission. As with the Aboriginal Subsistence Whaling Sub-committee and the first meeting of the Conservation Committee, the Chair of the Scientific Committee would attend and provide information on scientific matters that are germane to that body's work.

Relationships with the Technical Committee were also addressed. Some members viewed the reference to 'conservation' in the Rules of Procedure that relate to the Technical Committee as evidence of potential overlap with the Conservation Committee. Rule of Procedure M7 might need to be changed to avoid duplication of functions. The alternative view was that appropriate delegation of responsibility could ensure complementarity: the Commission could refer to the Technical Committee the development of proposed management measures that the Commission considered for adoption into the Schedule (i.e. matters pertaining to Article V), while referring to the Conservation Committee the development of the conservation agenda and related proposed recommendations (i.e. matters pertaining to Article VI). There were also other views on these issues.

3.2 Proposed terms of reference

Resolution 2003-1 contained three terms of reference for the Conservation Committee:

- (1) the preparation and recommendation to the Commission of its future Conservation Agenda;
- (2) the implementation of those items in the Agenda that the Commission may refer to it; and
- (3) making recommendations to the Commission in order to maintain and update the Conservation Agenda on a continuing basis.

Many felt that these should guide the initial work of the Committee. The Committee should begin its work under these terms, and should develop additional terms if and when required. Further drafting work should proceed in an open process under the auspices of the Commission as a whole or its Chair.

Others who would prefer alternative terms of reference or who had not commented were encouraged to make specific proposals. Terms of reference for committees were typically brief, while the list of items to be addressed in the standing agenda of the Committee, generated separately, would be much more detailed.

In light of the concerns raised by those who had opposed Resolution 2003-1, a small group was formed to examine the language of the Resolution and further discuss terms of reference, outside of the Committee meeting. The group comprised the Netherlands (Chair), Australia, Iceland, Republic of Korea, Mexico, New Zealand and South Africa, and discussed concepts of conservation, ways to move forward after Resolution 2003-1, and terms of reference. The group agreed to the importance of addressing conservation in the IWC and to respect different views on whaling. Furthermore the group offered for discussion a collection of possible ways forward, including different ways of defining the concept of conservation, and various alternatives, including resolutions, that could

clarify the work of the new Committee, including addressing its connection to Resolution 2003-1 (Appendix 3). This discussion should be in an open process and should be open to all IWC members. Should intersessional discussion be required, this should occur via correspondence rather than intersessional meetings.

3.3 Proposed working methods

The Committee agreed to hold annual meetings, in line with the practice of other committees and working groups. The Conservation Committee would not normally meet intersessionally, other than by e-mail when necessary.

3.4 Funding considerations

Paragraph 8 of Resolution 2003-1 charged the Committee with beginning to explore the possibility of a trust fund to make resources available both to the Commission and to Contracting Governments to implement research related to the Conservation Agenda. Discussion indicated it was premature to discuss this in detail yet. Further, it would be up to the Commission to decide whether to establish such a fund.

The Committee noted that the Secretariat had, as requested, prepared a report on funding considerations, *inter alia* the implementation of Resolutions 1998-6 on Funding of Work on Environmental Concerns and 1995-5 on the Funding of High Priority Scientific Research. This report was available to the Conservation Committee as well as to the Commission (IWC/56/12).

4. CONSIDERATION OF ITEMS TO FALL UNDER THE AUSPICES OF THE CONSERVATION COMMITTEE

The Committee recognised the value of establishing a list of items to address as part of the 'extensive conservation agenda' mentioned in its founding Resolution. The following were proposed as initial items of common interest:

- endangered species and populations;
- human impacts (e.g. noise, vessel strike, bycatch, entanglements, strandings);
- habitat protection for cetacean conservation;
- whalewatching best practice guidelines;
- reporting systems for strandings, entanglements and bycatch; and
- legal and regulatory arrangements for cetacean conservation.

Some countries argued that the list is too general and too extensive. These countries argued that conservation issues are very important, but only for a small number of species and stocks of large whales. Many species and stocks of large whales are either quite numerous or rapidly growing, and for these, in their opinion, the items on the list above are not important for conservation.

4.1 Scientific issues

Of the conservation-related items currently addressed by the Scientific Committee (listed in IWC/56/CC4), the following were identified as most germane to the work of the Conservation Committee:

- highly endangered species and populations;
- scientific research related to development of techniques for improved assessment of status and mitigation measures to potential threats where identified;
- incidental takes of cetaceans including assessment of problems at the population level and development and evaluation of mitigation measures;
- non-consumptive utilisation of cetaceans;
- whales and their environment, with an emphasis on population level effects and interaction with interpreting abundance estimates;
- sanctuaries, in particular their value to the monitoring and recovery of depleted populations;
- scientific advice relevant to enforcement and compliance with conservation measures;
- collaboration with other organisations; and
- voluntary submission of national reports on cetacean conservation (IWC/56/CC3).

4.2 Collaboration with other organisations

The Conservation Committee is directed 'to explore how the Commission can co-ordinate its conservation agenda through greater collaboration with a wider range of other organisations and conventions.' Paper IWC/56/CC2 described the major existing points of cooperation between the Commission and other organisations and conventions, which include reciprocal observer arrangements on scientific committees. The Committee could centralise collaboration, maintain an overview of those who serve as ambassadors for the IWC, and identify opportunities for new and improved collaborations.

Under this item, the Committee agreed to invite Marco Barbieri of the Secretariat to the Convention on Migratory Species (CMS), to which many IWC members belong, to address this issue. Mr Barbieri reported that CMS has been following with interest the development of the new Committee and looks forward to continuing to work closely with the IWC. A CMS-IWC Memorandum of Cooperation is in place.

5. DEVELOPMENT OF A CONSERVATION AGENDA

The Committee viewed its discussion of terms of reference, relationships with other bodies, and items to fall under its auspices as the first steps towards the development of a conservation agenda.

Brazil and Argentina proposed, through paper IWC/56/CC3, to seek voluntary reports from Contracting Governments on national actions on cetacean conservation, to provide information to subsidise a conservation agenda, in the terms of non-whaling cetacean management. In response to concerns that this might need further work, the Committee agreed to include this topic in those items under 4.1 above. Some delegations considered it premature to enter into substantive discussions, until a conclusion has been reached regarding the nature of the Conservation Committee. Other delegations disagreed with this and felt it was appropriate to start substantive discussions at this time.

6. ADOPTION OF THE REPORT

The Committee adopted the report at 09:25 on Saturday 17 July 2004.

Appendix 1**LIST OF PARTICIPANTS****Argentina**

Raul Comelli
Eduardo Iglesias
Miguel Iñiguez

Australia

Nicola Beynon
Pam Eiser
Connell O'Connell
Stephen Powell

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Alexandre de Lichtervelde
Koen Van Waerebeek

Brazil

Regis Pinto de Lima
Marcia Engel
Jose Truda Palazzo Jr.

Chile

Francisco Devia Aldunate

Denmark

Ole Heinrich
Amalie Jessen
Kim Mathiasen
Maj Friis Munk
Ole Samsing
Leif Fontaine

Finland

Esko Jaakkola

France

Vincent Ridoux

Germany

Peter Bradhering
Wolfgang Dinter

Karl-Herman Kock
Marlies Reimann

Iceland

Stefan Asmundsson
Ragnar Baldursson
Asta Einarsdottir
Gisli Vikingsson

Ireland

Christopher O'Grady

Italy

Giuseppe Notarbartolo di Sciara

Republic of Korea

Chang Myeng Byen
Zang Geun Kim
Oh Seung Kwon
Sung Kwon Soh

Mexico

Exequiel Ezcurra Real de Azua
Lorenzo Rojas Bracho

Monaco

Frederic Briand

Netherlands

Henk Eggink
Giuseppe Rapphorst
Anne-Marie van der Heijden

New Zealand

Chris Anderson
Mike Donoghue
Nigel Fyfe
Al Gillespie
Geoffrey Palmer

Norway

Halvard Johansen
Lars Walløe

Russian Federation

Rudolf Borodin
Valentin Ilyashenko

South Africa

Horst Kleinschmidt
Herman Oosthuizen

Spain

Carmen Asencio
Santiago Lens

Sweden

Bo Fernholm

Switzerland

Tom Althaus

UK

Richard Cowan
Geoff Jasinski
Laurence Kell
Jenny Lonsdale
Trevor Perfect
Mark Simmonds

USA

Nancy Azzam
Robert Brownell
Carole Carlson
Roger Eckert
Thomas Napageak
Gary Rankel
Jean Pierre Plé
Nathan Pamplin
Rollie Schmitt
Brad Smith
Michael Tillman
Chris Yates

Secretariat

Nicky Grandy
Greg Donovan

Appendix 2**AGENDA**

1. Introductory items
 - 1.1 Convener's opening remarks
 - 1.2 Election of Chair
 - 1.3 Appointment of rapporteur
 - 1.4 Review of documents
2. Adoption of the Agenda
3. Development of terms of reference and working methods
 - 3.1 Relationship between the Conservation Committee and other bodies within the Commission
 - 3.2 Proposed terms of reference
 - 3.3 Proposed working methods
 - 3.4 Funding considerations
4. Consideration of items to fall under the auspices of the Conservation Committee
 - 4.1 Scientific issues
 - 4.2 Collaboration with other organisations
5. Development of a conservation agenda
6. Other matters
7. Adoption of the report

Appendix 3

REPORT OF THE SMALL GROUP ON THE CONSERVATION COMMITTEE

Participants: Australia, Iceland, Mexico, Netherlands (Chair and rapporteur), New Zealand, Republic of Korea, South Africa

Purpose of meeting

On request of the Conservation Committee (CC) meeting of 14 July 2004, to collect views with respect to the expectations of the work of the CC and to report back to the Committee.

The Chair identified the following subjects for discussion:

- concepts of conservation;
- ways to move forward after Resolution 2003-1;
- terms of reference of the CC; and
- possible way forward after reporting back to the CC.

Context in which we collected views

The group agreed to exchange views and opinions in an open manner, meaning no negotiation, respecting each other feelings, accepting all views expressed by the members of the informal group and defining the most broad range of options. It was discussed and accepted that existing different views with regard to whaling should be respected in trying to define common ground and possible ways to move forward.

1. Concepts of conservation

DISCUSSION

Everybody agreed with the importance of addressing conservation in the IWC.

It was further noted that the purpose of conservation can be looked at from different angles. One view is that conservation, unlike preservation, does not exclude sustainable use; another view is that conservation does not necessarily imply sustainable use but serves all kinds of purposes. A third view is that it explicitly includes sustainable use.

COLLECTED OPTIONS

- (a) Define a specific IWC definition of conservation.
- (b) Define conservation in relation to its different purposes: both preservation as well as sustainable use.
- (c) Everyone can have their own interpretation of conservation without a fixed definition.
- (d) No definition of conservation, but make explicit reference that it includes sustainable use.
- (e) No definition of conservation, but make explicit reference that it includes sustainable use, specifying it by mentioning whaling, whale watching etc.
- (f) No definition of conservation, but simply define a group of agenda-ideas which the committee could look at, e.g. starting with non-controversial issues like the most endangered species.

- (g) A definition of conservation that is limited in specifying that conservation serves the purposes of the convention.

It was recognised that different combinations of above mentioned concepts could be made.

2. Ways to move forward with Resolution 2003-1

DISCUSSION

Everyone recognised that Resolution 2003-1 is a legal fact. It was further recognised that it is necessary to move beyond the existing *status quo* and to look at building bridges.

COLLECTED OPTIONS

- (a) Accepting the *status quo* by which the CC moves forward under the present conditions.
- (b) Drafting of a resolution with an instruction for work of the CC without reference to Resolution 2003-1.
- (c) Drafting of a resolution in which it is clear that the work of the CC has no link with 2003-1.
- (d) Drafting of a resolution with an instruction for work of the CC and which replaces 2003-1.
- (e) Drafting of a resolution with an instruction for work of the CC which refers to all previous resolutions (instead of only to the ones in Annex I of 2003-1) and which recognises that conservation serves the purposes of the Convention.
- (f) Drafting of a resolution which reconfirms the Conservation Committee and includes reference to a work plan.

Above mentioned options can be combined with the different options regarding the concept of conservation.

3. Terms of reference

DISCUSSION

Defining a ToR at this stage does not serve the purpose of the open discussion started on the functioning of the CC.

It was concluded that further drafting work on a ToR should proceed in an open process under auspices of the IWC or its Chair.

4. Possible way forward after reporting to the CC

DISCUSSION AND CONCLUSION

It was agreed that further discussions on the expectations of the work of the CC should be continued under the responsibility of the IWC or its Chair to ensure that all views will be taken into account in the further discussions.

Appendix 4

A PROPOSAL FOR VOLUNTARY NATIONAL REPORTS ON CETACEAN CONSERVATION

Submitted by Brazil

Introduction

The establishment of a Conservation Committee of the International Whaling Commission has opened new possibilities for the IWC to promote international cooperation and provide adequate advice for interested national governments on issues related to cetacean management and conservation.

To better assess the progress currently been made by national governments, identify cooperation opportunities and help develop the Conservation Agenda, it would be very useful to gather and analyse information provided by the governments themselves on the status of cetacean conservation and management initiatives they may wish to forward to the IWC. A parallel can be drawn with the National Progress Reports on Cetacean Research, which since their introduction in 1973 have been very useful as a Scientific Committee tool. In order to fulfil its mandate effectively, the Conservation Committee will likewise depend on the submission of information by Contracting Governments on progress with cetacean conservation.

Paragraph 31 of the Schedule already obliges Contracting Governments to transmit to the Commission copies of all their official laws and regulations relating to whales and whaling, and changes in such laws and regulations. Although this requirement is not limited to whaling-related measures, in practice not all members have transmitted their non-whaling laws and regulations affecting cetacean conservation, and these could be covered under a national cetacean conservation report. Issues such as the establishment of cetacean-related marine or freshwater protected areas, and particular management activities that could be of interest to other States facing similar challenges or willing to cooperate through either bilateral or international exchanges.

Even landlocked States, and other States with limited cetacean fauna, can and do contribute to cetacean conservation, for example through assistance with capacity building in cetacean conservation, especially in cooperation with developing States, as well as through active participation in biodiversity-related conventions other than the IWC.

National Cetacean Conservation Reports would be submitted annually for consideration by the Conservation Committee, and could subsidise its operational agenda as priority items of interest for member States are identified.

Brazil is mindful of the differing views and concerns regarding the initial operation of the Conservation Committee, and having taken these into account, would like to propose that the National Cetacean Conservation Reports be requested on a voluntary basis.

Proposal

We propose that a request be adopted by the Commission for the annual submission, on a voluntary basis, of National Cetacean Conservation Reports by Contracting

Governments from 2005 onwards, to be considered by the Conservation Committee, and added to the IWC website.

These Reports should follow the format proposed in Adjunct 1 and contain information on:

- laws, regulations and other measures affecting the conservation of cetaceans;
- planning, design and designation/establishment of marine or freshwater protected areas of particular interest to cetacean conservation;
- information on whalewatching operations, its scale, target species and pertinent management issues;
- particular governmental programmes to enhance the conservation of endangered species and populations;
- data pertinent to the nature and scale of threats to cetacean conservation in their waters, and measures taken to address such threats, including, where appropriate, a summary of cooperation needs;
- systems in place for reporting of cetaceans injuries and mortality including stranding networks, incidental catch and collisions reporting frameworks;
- national activities pertaining to regional and bilateral agreements with other States relating to cetacean conservation;
- assistance to other States, especially to developing states, in the field of cetacean conservation, listing where appropriate future assistance opportunities that may become available; and
- any other information that the Conservation Committee may from time to time specify for inclusion.

The first such report should be submitted by interested parties to the Conservation Committee prior to the 57th Annual Meeting, and contain a comprehensive summary of existing laws, regulations and other measures in effect relevant to the conservation of cetaceans, and of the cetacean conservation work of the last few years. Subsequent annual reports need only contain new information.

Groups of Contracting Governments which have participated in cetacean conservation-related activities under the purview of regional organisations or agreements (such as CMS agreements) should seek to invite the organisation to submit a Cetacean Conservation Report documenting the relevant measures taken by that organisation.

The international organisations listed in Resolution 2003-1 (CMS, CCAMLR, IMO, IUCN, UNEP) should also be invited to submit regular information to the Conservation Committee on cetacean conservation issues and actions related to their field of work, preferably along the lines of the topics submitted to National Cetacean Conservation Reports.

Adjunct 1**Proposed Template for National Cetacean Conservation Reports**

Country:

National Governmental Authority submitting the Report (full contact information)

1. Legal developments (laws, regulations and other regulatory measures related to cetaceans).
 2. Information on whalewatching operations (scale, target species/populations and relevant management issues).
 3. Current Government programs related to cetacean conservation.
 4. Current threats to cetacean conservation and management measures taken/proposed.
 5. Reporting systems for cetacean injuries/mortality/strandings.
 6. International cooperation activities (includes bilateral or multilateral cooperation, assistance and funding programs and appropriate contact information, and other international activities of the Country submitting the Report).
 7. Other (at the discretion of the Authority submitting the Report).
-

Annex I

Report of the Infractions Sub-Committee

Wednesday 14 July 2004, Sorrento, Italy

1. INTRODUCTORY ITEMS

The meeting took place at the Hilton Sorrento Palace Hotel, Sorrento, Italy on 14 July 2004. A list of participants is given in 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

Sung Kwon Soh (Korea) was elected Chair.

1.2 Appointment of Rapporteur

Cherry Allison (Secretariat) was appointed rapporteur.

1.3 Review of documents

The following documents were available to the Sub-Committee.

IWC/56/Inf

1. Revised Draft Agenda
2. Secretariat: Expanded Revised Draft Agenda
3. Secretariat: National Legislation Details Supplied to the IWC
4. [Draft] Secretariat: Summary of Infraction Reports Received by the Commission in 2003
5. Quota monitoring on minke and fin whale hunting in Greenland, 2003

2. ADOPTION OF THE AGENDA

The Chair noted that in the past some delegations, including Norway and Japan, had referred to the terms of reference of this Sub-Committee and had stated their belief that Item 7.1, covering stockpiles of whale products and trade questions, was outside the scope of the Convention. Consequently, they had proposed that this item be deleted. Other delegations, including the USA and New Zealand had not agreed with this view. Nevertheless, as in previous years, it was agreed that an exchange of views might be useful and the draft agenda was adopted unchanged (Appendix 2).

3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2003

The Secretariat introduced IWC/56/Inf 3, the draft summary of infraction reports received by the Commission in 2003, which is given as Appendix 3 to this report.

The USA, on behalf of the Alaska Eskimo Whaling Commission, reported that 35 bowhead whales were landed in 2003, with 6 struck and lost. As explained in previous years, the weather and ice conditions play a significant role in determining the efficiency of the spring hunts. The USA reported two infractions in 2003, which occurred during an

aboriginal subsistence hunt, when a female bowhead whale accompanied by a calf was taken. The female was landed whilst the status of the calf was unknown. The taking of cow-calf pairs is prohibited in Eskimo hunting tradition, and also under the regulations both of this Commission and of the AEW Management plan. The AEW has primary enforcement responsibility under a cooperative agreement with the Government of the USA. Following a hearing, the AEW Commissioners concluded that the crew had not acted with proper caution and rescinded the bowhead subsistence captain's registration for two years. Further details are given in Appendix 3.

The Republic of Korea reported that the Ministry of Maritime Affairs and Fisheries and the marine police of Korea had exposed five illegal catches of minke whales in 2003 and had taken judicial and administrative measures as listed in Appendix 3. Four of the cases were deliberate, the catches being taken covertly with a spear by small fishing vessels and the fifth case was that of a dead whale found floating with spearheads stuck into it. The Korean authorities perceive these incidents to be a result of poachers trying to make money. The Government of Korea does not think poaching to be a major problem since all suspect poachers are listed and their movements watched by the police. The by-catch reporting system has proved useful in discriminating between illegal catches and by-catches. In addition, the authorities have continued to strengthen public awareness of poaching activities through the mass media. The Government of Korea will continue its efforts to bring an end to these illegal activities.

Switzerland asked whether it was legal for small harpoons to be carried on fishing vessels, as were reported to have been used in three of the infractions reported by the Republic of Korea. Korea replied that it was not permitted to carry harpoons on fishing vessels.

4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Reports submitted by the USA, the Russian Federation and St. Vincent and The Grenadines stated that 100% of their catches were under direct national inspection. Denmark (Greenland) reported on quota monitoring in IWC/56/Inf 5.

Following questions from New Zealand and the UK concerning internal legal requirements in Denmark for collection of DNA samples and actions in the event of the samples not being provided, Denmark reported that it was mandatory to supply samples, and that it had written to all municipal authorities in Greenland to inform them of this fact.

New Zealand considered that failure to collect samples should be reported as an Infraction since Article IX of the Convention requires each Contracting Government to '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' and Para 29b of the Schedule requires samples to be collected.

Denmark did not agree with New Zealand's interpretation, as Para 29b refers to small type whaling and not to aboriginal subsistence whaling. Denmark will try to take appropriate measures to ensure samples are collected in the future, but it considered that missing samples are not infractions in the sense of Article IX of the Convention. In addition, it would help if the hunters knew the samples would be put to good use, as at present many samples seem to be stored in freezers but not analysed. The Department of Fishing and Hunting will continue its efforts to collect samples.

New Zealand reiterated its opinion that collection of samples is obligatory under Para 29b of the Schedule and that failure to do so is an offence that should be reported as an infraction, particularly in view of the definition of 'small type whaling' in the Schedule and the strong language used by the Scientific Committee to express its concerns on this matter.

Following a suggestion from the Chair, New Zealand and Denmark agreed to discuss this matter further on a bilateral basis.

The UK noted that a bowhead whale was reported to have been killed in Greenland on 25 April 2004¹.

Australia expressed concern that since a new law had been enacted by Japan in 2001 allowing whales caught in nets to be killed, that the numbers of bycatch in Japan had increased dramatically, from 29 in 2000 to 79 in 2001, 109 in 2002 and to 125 in 2003. They cautioned that this could be considered an active hunt. Japan considered the question was not relevant to the Infractions Sub-Committee. Rather, the Scientific Committee is the right forum for such discussions and Japan had provided information on bycatch to that Committee. It would respond directly to Australia on this issue if asked.

The UK noted that other countries e.g. Iceland and Korea also have significant levels of bycatch. It recognised that some other countries have a different opinion as to whether bycatch should be regarded as an infraction. However, the UK believed that everyone should agree that numbers of bycaught whales should be taken off any quota and, since the quota was zero, bycatch constituted an infraction.

5. 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 and sex is collected for between 83-100% of the catch,

depending on the item. Other biological data and information on killing methods and struck and lost animals are also collected.

USA: Information on date, species, position, length, sex, whether a foetus is present, killing method and numbers struck and lost is collected for between 97-100% of the catch depending on the item. Biological samples are collected for about 50% of animals.

Russian Federation: Information on date, species, position, length, sex, whether a foetus is present, killing method and numbers struck and lost is collected for 100% of the catch.

St. Vincent and The Grenadines: Information on date, species, position, length, sex, killing method and numbers struck and lost is collected for 100% of the catch.

Norway: the required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/56/Rep 1).

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of national legislation supplied to the Commission is given in Table 1. The UK and the USA applauded St. Vincent and The Grenadines for adopting domestic legislation that governs the aboriginal take of humpback whales. Australia expressed similar sentiments and enquired whether the regulations met the requirements of Schedule Para 13b(4). The Secretariat believed that they do and noted that the regulations were available if Australia wished to confirm this.

7. OTHER MATTERS

7.1 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; and
- 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.

No reports were received by the Secretariat on these resolutions and no comments were made during the meeting.

¹ Denmark responded to a first question, which related to 2003, and said that no bowhead had been killed in 2003. It did not respond to the question of 2004 during the meeting, but subsequently reported that a bowhead whale had been seen in fishing nets in 2004 but that it had not been killed.

Table 1
National legislation details supplied to the IWC.¹

Country	Date of most recent material	Country	Date of most recent material
Antigua & Barbuda	None	Monaco	None
Argentina	1984	Mongolia	None
Australia	2000	Morocco	None
Austria	1998	Netherlands, The	1978
Benin	None	New Zealand	1992
Brazil	1987	Norway	2000
Canada	1983	Oman	1981
Chile	1983	Palau, Republic of	None
China, People's Republic of	1983	Panama	None
Costa Rica	None	Peru	1984
Denmark (including Greenland)	1998	Portugal	None
Dominica	None	Russian Federation	1998
Ecuador	None	San Marino	None
Finland	1983	Saint Kitts & Nevis	None
France	1994	Saint Lucia	1984
Gabon	None	Saint Vincent & The Grenadines	2003
Germany	1982	Senegal	None
Grenada	None	Seychelles	1981
Guinea	None	Solomon Islands	None
Iceland	1985	South Africa	1998
India	1981	Spain	1987
Ireland	2000	Sweden	1987
Italy	None	Switzerland	1983
Japan	1983	Tonga	None
Kenya	None	UK	1981
Korea, Republic of	1985	USA	1995
Mexico	2001		

¹Up to the middle of June 2004. Dates in the table refer to the date of the material not the date of submission. ²Member 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. ³Information on which pieces of legislation have been provided by the member countries is available on request from the Secretariat.

7.2 Other

The UK referred to six northern bottlenose whales killed in the Faroe Islands in 2002 and noted that the Scientific Committee had expressed concern over the status of this stock in the 1970s. The UK asked a series of questions requesting details of the incidents. 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 responded that six whales had died as a result of stranding and that such events were not infractions. Denmark has provided information on similar events on a bilateral basis on many occasions in the past and would be happy to do so again.

The UK repeated that, because the species is in the Schedule, the reasons for the kills need to be documented.

Australia notified the Sub-Committee of an alleged incident that occurred in 2004 in which a whale of unknown species was caught by an Australian fishing vessel, and the vessel returned to port with whale meat on board. The allegation has been referred to the Australian Federal Police for investigation. Australia will inform the IWC of the outcome of this matter once further details are available.

No other issues were raised under this item.

8. ADOPTION OF REPORT

The report was adopted 'by post' on 18 July 2004.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Raul Comelli
Miguel Iñiguez

Australia

Nicola Beynon
Pam Eiser
Connall O'Connell
Stephen Powell

Austria

Andrea Nouak
Michael Stachowitsch

Belize

Beverly Wade

Benin

Sogan Simplicie
Bantole Yaba

Brazil

Marcia Engel
Regis Pinto de Lima
Jose Truda Palazzo

Denmark

Leif Fontaine
Ole Heinrich
Amalie Jessen
Kim Mathiasen

Maj Friis Munk
Ole Samsing
Kate Sanderson

Dominica

Andrew Magloire
Lloyd Pascal

Finland

Esko Jaakkola

Germany

Peter Bradhering
Marlies Reimann

Grenada

Frank Hester
Justin Rennie

Iceland

Stefan Asmundsson
Ragnar Baldursson
Asta Einarsdottir
Kristjan Loftsson

Ireland

Chris O'Grady

Italy

Rosa Caggiano
Riccardo Rigillo

Japan

Toshiyuki Iwado
Atsushi Kato
Mysayuki Komatsu
Minora Morimoto
Joji Morishita
Shuya Nakatsuka
Seiji Ohsumi
Midori Ota
Akiko Tomita

Republic Of Korea

Chang Myeng Byen
Zang Geun Kim
Oh Seung Kwon
Sung Kwon Soh (Chair)

Mexico

Lorenzo Rojas Bracho

Monaco

Frederic Briand

Netherlands

Henk Eggink
Giuseppe Raaphorst
Anne-Marie van der Heijden

New Zealand

Chris Anderson
Mike Donoghue
Nigel Fyfe
Al Gillespie
Geoffrey Palmer

Norway

Halvard Johansen
Egil Øen
Jan Skjervø
Hild Ynnesdal

Russian Federation

Rudolf Borodin
Vladimir Etylin
Inankeuyas Gennady
Olga Gogoleva
Valentin Ilyashenko
Olga Ipatova
Ivan Slugin
John Tichotsky

Saint Kitts and Nevis

Joseph Simmonds

Solomon Islands

Sylvester Diake
Paul Maenuu

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

Sweden

Bo Fernholm
Anna Roos

Switzerland

Tom Althaus

UK

Richard Cowan
Geoff Jasinski
Laurence Kell
Jenny Lonsdale
Trevor Perfect
Mark Simmonds

USA

George Ahmaogak
Nancy Azzam
Harry Brower Jr.
Robert Brownell
Roger Eckert
Keith Johnson
Thomas Napageak
Jean Pierre Plé
Gary Rankel
Rollie Schmitt
Brad Smith
Michael Tillman
Chris Yates

Secretariat

Cherry Allison
Greg Donovan

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. Infractions reports from Contracting Governments, 2003
 4. Surveillance of whaling operations
 5. Checklist of information required or requested under Section VI of the Schedule
 6. Submission of national laws and regulations
 7. Other matters
 - 7.1 Reports from Contracting Governments on availability, sources and trade in whale products
 - 7.2 Other
 8. Adoption of the report
-

Appendix 3

SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION IN 2003

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 (IWC/56/Rep 1). Catch and associated data for commercial and scientific permit catches were submitted to the IWC Secretariat (IWC/56/Rep 1). 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
Denmark							
West Greenland	Fin	2	4	6	3	9	None
	Minke	58	117	178 ¹	7	185	None
	Humpback			1			1 ³
East Greenland	Minke	1	11	13 ²	1	14	None
St. Vincent and The Grenadines							
	Humpback	1	0	1	0	1	None
USA							
	Bowhead	17	17	35 ²	6	41	2 ⁴
Russian Federation							
	Gray	70	56	126	2	128	None
	Bowhead	3	0	3	0	3	None
Republic of Korea							
	Minke			5			5 ⁵

¹Includes 3 animals of unknown sex.

²Includes 1 animal of unknown sex.

³On 12 August 2003, the wildlife officer in the municipality of Ilulissat reported that a male humpback whale calf of length 9.5m had been wounded in a rifle hunt and could not be rescued. After authorisation from the Department of Fisheries and Hunting the whale was killed by a harpoon vessel and meat, blubber and qiporaq was distributed to institutions in Ilulissat. The incident was reported to the police who informed the department that they consider the incident as unsolved due to lack of possibilities of further investigation.

⁴On approximately May 25, 2003, a female bowhead whale was taken in the Beaufort Sea off Barrow, Alaska, by the crew of an Alaska Eskimo Whaling Commission (AEWC) registered bowhead subsistence captain. On taking the whale, the crew realized it was accompanied by a calf, which then swam away. The USA has elected to report two infractions as the disposition of the calf is unknown. The taking of a whale calf or a cow accompanied by a calf is prohibited by Alaskan Eskimo hunting tradition. Such a taking is also prohibited by the AEWC management plan for the bowhead subsistence hunt and by the regulations of the IWC. The AEWC considers the taking of a whale calf or a cow with a calf to be a very serious infraction. Under the AEWC Management Plan, a captain whose crew takes a calf or a cow accompanied by a calf may have his AEWC registration revoked for up to five whaling seasons or be subject to a fine of up to \$10,000. On May 30, 2003, the Commissioners of the AEWC convened a hearing to receive testimony from the members of the crew and from the members of other crews who were in the vicinity when the whale was taken. While testimony indicated that the taking might have been accidental, the Commissioners concluded that the crew knew a cow-calf pair was in the vicinity and did not act with proper caution under the circumstances. Therefore, the Commissioners voted to rescind the bowhead subsistence captain's registration with the AEWC for two years (four seasons) beginning with the fall 2003 bowhead subsistence hunt. The AEWC also confiscated the baleen taken from the whale and donated it to a local organisation that supports Native artists. Under the U.S. Whaling Convention Act, it is illegal for anyone who is not a registered captain with the AEWC, or a member of the crew of a registered captain, to hunt bowhead whales. Anyone attempting to take a bowhead whale without being properly registered with the AEWC, or being a crew member of a registered captain, is subject to penalties under U.S. law.

⁵The Government of the Republic of Korea reported 5 illegal direct catches of minke whales by its nationals in Korean waters in 2003. It identified and confirmed these as infractions. The details are as follows:

- i) A minke whale of length 4m was caught on 23 April 2003 by a fishing vessel permitted for offshore pot fisheries. The take was done covertly with a small harpoon at about 19 nautical miles off the port of Onsan. Penalty: the meat and fishing gear were confiscated, a fine of 7 million won imposed and the fishing licence and seamanship licence revoked. The matter is under appeal.
- ii) A minke whale of length 5m was caught on 25 April 2003 by a fishing vessel permitted for offshore gillnet fisheries. The take was done covertly with a small harpoon at about 15 nautical miles off the port of Jungja. The meat was transported by another fishing vessel. Penalty: the meat and fishing gear were confiscated. The fisherman was fined 7 million won and his fishing licence revoked. The transporter was fined 4 million won and his fishing licence and seamanship licence revoked.
- iii) A minke whale of length 5m was caught on 18 May 2003 by a fishing vessel permitted for offshore driftnet fisheries. The take was done covertly with a small harpoon at about 15 nautical miles off the port of Ulsan. Penalty: the whale carcass and fishing gear were confiscated, a 6 month prison sentence imposed with 2 years probation and the fishing licence and seamanship licence revoked.
- iv) A minke whale of length 4.1m was found dead in a driftnet on 19 May 2003 about 1 nautical mile off Ulsan city. Four harpoon heads were in the back of the whale and its tail was entangled. The whale carcass and fishing gear were confiscated but investigation failed to find the culprit.
- v) A minke whale of length 8.3m was caught on 24 May 2003, by a fishing vessel permitted for offshore driftnet fisheries, at about 23 nautical miles off Youngduk city. Penalty: the whale carcass and fishing gear were confiscated, an 8 month prison sentence imposed with 2 years probation and the fishing licence revoked.

Annex J

Catches by IWC Member Nations in the 2003 and 2003/2004 Seasons

	Fin	Humpback	Minke	Sperm	Bowhead	Gray	Sei	Bryde's	Operation
North Atlantic									
Denmark									
(West Greenland)	9 ¹	1 ²	185 ³	-	-	-	-	-	Aboriginal subsistence
(East Greenland)	-	-	14 ⁴	-	-	-	-	-	Aboriginal subsistence
Iceland	-	-	37 ⁴	-	-	-	-	-	Special Permit
Norway	-	-	647 ⁵	-	-	-	-	-	Whaling under Objection
St. Vincent & The Grenadines	-	1	-	-	-	-	-	-	Aboriginal subsistence
North Pacific									
Japan	-	-	151 ⁴	10	-	-	50	50	Special Permit
Korea	-	-	5 ⁶	-	-	-	-	-	
Russian Federation	-	-	-	-	3	128 ⁷	-	-	Aboriginal subsistence
USA	-	-	-	-	41 ⁸	-	-	-	Aboriginal subsistence
Antarctic									
Japan	-	-	443 ¹	-	-	-	-	-	Special Permit

¹Including 3 struck and lost; ²Denmark reported that a humpback was killed after being injured in a rifle hunt; ³including 7 struck and lost; ⁴including 1 struck and lost; ⁵including 9 struck and lost; ⁶the Republic of Korea reported that 5 minke whales had been taken deliberately (see IWC/56/Rep 4 for details); ⁷including 2 struck and lost; ⁸including 6 struck and lost.

Annex K

Report of the Finance and Administration Committee

Friday 16 July 2004, Sorrento, Italy

1. INTRODUCTORY ITEMS

The meeting took place at the Hilton Sorrento Palace Hotel, Sorrento, Italy on 16 July 2004. A list of participants is given in Appendix 1.

1.1 Appointment of Chair

Halvard Johansen (Norway) was appointed as Chair of the Committee.

The Chair noted that attendance at the Finance and Administration Committee was limited to delegates and that observers were not permitted to attend.

1.2 Appointment of Rapporteurs

The Secretariat agreed to act as rapporteurs.

1.3 Review of documents

The Chair indicated that most documents had been pre-circulated but that some additional papers were newly available. The Chair briefly reviewed all the documents available to the Committee (Appendix 2). Document IWC/56/Rep1 (Extracts from the) Report of the Scientific Committee was not available since summary information on the Scientific Committee's proposed research expenditure for 2004-2005 was included in the Report of the Budgetary Sub-committee (IWC/56/F&A 3).

2. ADOPTION OF THE AGENDA

The Chair noted that under Item 6 (Other Matters), the Advisory Committee had submitted a paper to explore possible changes to NGO participation and that Brazil had requested a new item be similarly added regarding the on-going costs for delegations attending the Annual Meeting. Noting all the above changes, the Finance and Administration Committee adopted the agenda (Appendix 3).

3. ADMINISTRATIVE MATTERS

3.1 Annual Meeting arrangements and procedures

3.1.1 Need for a Technical Committee

The Chair reminded the Committee that no provision had been made for the Technical Committee to meet at Annual Meetings since IWC/51. However, the Commission had agreed to keep the need for a Technical Committee under review. He suggested that it would be appropriate to maintain the *status quo*, i.e. keep this item on the agenda since, as previously noted, the Technical Committee may have a role to play when the RMS is completed and catch limits set. The Committee agreed.

3.1.2 Use of simultaneous translation

The Chair recalled that at last year's meeting the Commission adopted by consensus, Resolution 2003-4 on the use of simultaneous interpretation at Annual Meetings of the International Whaling Commission. He invited the

Secretary to present the report of the Working Group established at IWC/55 (document IWC/56/F&A 2).

REPORT FROM THE WORKING GROUP ON SIMULTANEOUS INTERPRETATION

The Secretary reminded the Committee that through Resolution 2003-4, the Commission had decided to establish a Working Group to explore the various implications for the provision of technical components for simultaneous interpretation and to make recommendations on how provision of technical components for simultaneous interpretation may be provided at the IWC to accommodate the needs of contracting parties for whom English is a second language. The Working Group was to be guided by the following Terms of Reference:

- (a) to review and consider the costs as set out in document IWC/55/F&A 2 and to identify ways in which these costs could be apportioned or reduced;
- (b) to recommend options and scope for the provision of technical components for simultaneous interpretation;
- (c) to determine the operations and costs of other international organisations providing such components; and
- (d) to consult with member states on these issues.

It was agreed that the Working Group should be open to any Contracting Government, but that it should ideally remain small and conduct its work by email. After the meeting Antigua and Barbuda, Benin, France, Gabon, Republic of Guinea, Japan, Senegal and Spain indicated that they wished to join the group. To initiate the work required, the Secretariat developed a paper for review by the Group that included:

- (a) information on interpretation facilities provided by other comparable intergovernmental organisations, and costs of such provision;
- (b) descriptions of different possible arrangements for providing equipment for simultaneous interpretation at IWC Annual Meetings;
- (c) cost estimates for providing the different arrangements (based on cost information from Berlin, Sorrento, Ulsan and a hypothetical venue in London); and
- (d) options for how such costs for IWC meetings could be met.

Although the Working Group members expressed a wide range of views in response to the Secretariat's paper regarding the extent of the service that should be provided, it was able to develop a consensus proposal on the basis that facilities for simultaneous interpretation be introduced in a phased manner. In introducing the Working Group's proposal, the Secretary noted that in accordance with previous discussions within the Commission and with Resolution 2003-4, the proposal referred only to the provision of the technical components for simultaneous

interpretation, and not provision of interpreters and document translation.

In summary, the Working Group proposed that:

- initially facilities for 3 languages be provided (French, Spanish and Japanese). Japanese was proposed since most Japanese delegates speak in their mother tongue at the meetings. French and Spanish were proposed since, out of IWC's membership as of 2 July 2004, 15 countries are French-speaking and 16 countries are Spanish-speaking. In addition, requests have been made in the past for interpretation into these languages. It was further proposed that provision for additional languages could be considered at a later date (e.g. after two years);
- initially, to help reduce costs, the technical set-up used would be that where headsets would be provided only for those national delegations using simultaneous interpretation, but with a view to moving toward the usual set up where headsets are provided to all delegates;
- initially simultaneous interpretation be provided only for the Commission plenary. Provision at other meetings (i.e. Commission sub-groups and private Commissioners' meetings) could be considered at a later date (e.g. after two years). It would seem prudent, both financially and technically, to have a phased approach to provision of simultaneous interpretation; and
- the Commission would meet most of the costs through an increase in the budget provision for the Annual Meeting (approx. 2% initially). If costs are in excess of this, then the host government would cover additional expenses. In the case where the Annual Meeting is arranged by the Secretariat in the UK (in the absence of an offer from a Contracting Government), the Working Group proposed that any additional costs to provide simultaneous interpretation equipment be met by drawing on the Commission's reserves.

The Chair thanked the Secretary for presenting the report and invited members of the Working Group to comment. In doing so, they stressed the importance of this issue so as to enable effective participation of all countries regardless of their mother tongue and urged that the Commission take action.

F&A COMMITTEE DISCUSSIONS

The Committee welcomed the Working Group report, recognised the importance of this issue and agreed that some action should be taken to facilitate the participation of delegates for whom English is not their first language so as to put all member countries on the same footing. There was general agreement that the costs of providing the technical facilities for simultaneous interpretation should be met by the Commission, although a suggestion was made that, in addition, the Commission may also wish to seek voluntary contributions to support this provision.

Some members supported the approach proposed by the Working Group, although the view was expressed that if possible (e.g. by restricting the number of languages for which interpretation facilities would be provided to two rather than three), it would be desirable to extend provision of simultaneous interpretation facilities to the Commission sub-groups (not including the Scientific Committee) and the private Commissioners' meetings. Others felt that, with the increasing membership and increasing number of languages spoken by members, it would be appropriate for the Commission to take broader steps, allocating a higher

percentage of the budget so as to provide, for example (and perhaps even in time for IWC/57 in Ulsan), interpretation for a greater number of languages and the translation of documents - as is the case in some other intergovernmental organisations. A number of members, however, expressed concern regarding the proposal to include translation of documents before the implications, particularly of cost, could be properly assessed. They did not believe there was sufficient time to make this assessment during IWC/56.

After a further exchange of views, the Chair proposed the following compromise:

- (1) that the Committee acknowledges the importance of facilitating the effective participation of all Contracting Governments in the work of the Commission and that no government should be disadvantaged by language;
- (2) that in the first instance, equipment facilities for the provision of simultaneous interpretation facilities be provided for French and Spanish for the Commission's sub-groups (but not the Scientific Committee), the Commission plenary and private Commissioners' meetings. This would come into effect in time for IWC/57 in Ulsan next year;
- (3) that the budget provision for the Annual Meeting would be increased by 2%, as recommended by the Working Group; and
- (4) that the Secretariat should work intersessionally, with a small Task Force (composition to be decided), to develop cost estimates and implications for the provision of document translation at Annual Meetings and to report to the F&A Committee at IWC/57 in Ulsan for possible decision-making.

The Committee agreed to recommend this to the Commission.

3.2 Amendments to the Rules of Procedure

3.2.1 Election of the Chair and Vice-Chair of the Commission

Japan introduced the following proposals concerning Rules of Procedure F.1 and G.1:

Amendment of Rule F.1: that the text be amended such that the Chair may be elected from among the Commissioners and Alternate Commissioners. The specific text of this proposal is that line 1 of rule F.1. be amended to read: *The Chair of the Commission shall be elected from time to time from among the Commissioners and Alternate Commissioners and shall...*

Amendment of Rule G.1: that the text be amended such that the Vice-Chair may be elected from among the Commissioners and Alternate Commissioners. The specific text of this proposal is that line 1 of rule G.1 be amended to read: *The Vice-Chair of the Commission shall be elected from time to time from among Commissioners and Alternate Commissioners and...*

A number of governments indicated that while they appreciated and understood the motivation behind the proposed amendments, they considered - as pointed out when this same matter was raised at IWC/54 in Shimonoseki - that the proposal was contrary to Article III.2 of the Convention and therefore illegal.

Japan noted this position. It indicated that it did not wish to pursue the matter any further now, but may raise it in the Plenary.

3.2.2 Other – appointment of the Chair and Vice-Chair of the Scientific Committee

PROPOSAL FROM THE SCIENTIFIC COMMITTEE

At the 2002 Scientific Committee meeting, the Scientific Committee developed a proposed procedure and amendment to the Rules of Procedure for the Scientific Committee regarding the appointment of its Chair and Vice-Chair. It was proposed that a second paragraph be added to Rule of Procedure C.5 of the Scientific Committee as follows (proposed new text in *italics*):

C. Organisation

5. The Committee shall elect from 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.

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates. Under normal circumstances, the Vice-Chair will become Chair at the end of his/her term, and a new Vice-Chair will then be elected. If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes, and the vote counts shall not be reported or retained.

The rationale of the Scientific Committee for this recommendation was that a reporting of the actual vote has the potential to erode the confidence the Scientific Committee would have for the new Chair. It was also recognised that where three or more candidates were nominated, the potential for multiple votes exists and again the potential exists to erode the confidence the Scientific Committee would have for the new Chair.

In the Scientific Committee Report, it was also noted that in years when elections are required, the Chair will indicate a provisional date for the election in the initial draft agenda circulated to the Scientific Committee. The election process, as noted above, will be undertaken by the heads of the national delegations (*J. Cetacean Res. Manage* 5 (suppl.): 450).

In 2002 when the proposed amendments to the Scientific Committee's Rules of Procedure were submitted to the Commission's Finance and Administration Committee, concern was expressed by a number of governments regarding the proposal that results from secret ballots would only be reported in terms of which nominee received the most votes and that the vote count would not be reported or retained. Given that the F&A Committee was evenly divided on the issue and that another election was unlikely to arise in the next three years, it agreed to refer the issue back to the Scientific Committee for further consideration. The Commission agreed.

The Heads of Delegation met during the IWC/56 Scientific Committee meeting and reconfirmed by consensus the Committee's support for its earlier position regarding secret ballots. They also agreed that the proposed Rule of Procedure should be revised to indicate that it was expected that the Vice-Chair would become Chair at the end of his/her term unless he/she declined.

The Heads of Delegation to the Scientific Committee therefore recommend that the following amended text be put forward to the Commission via the F&A Committee for adoption (proposed new text in ***bold italics***):

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates. Under normal circumstances, The Vice-Chair will become Chair at the

end of his/her term (*unless he/she declines*), and a new Vice-Chair will then be elected. ***If the Vice-Chair declines to become Chair, then a new Chair must also be elected.*** If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes, and the vote counts shall not be reported or retained.

A notification of the proposed changes in the Rules of Procedure of the Scientific Committee was included in the draft agenda for the Scientific Committee and circulated to all Scientific Committee delegates in advance of the meeting. Therefore, if approved by the Commission, the proposed changes to the Scientific Committee Rules of Procedure would go into effect at SC/57.

F&A COMMITTEE DISCUSSIONS

The F&A Committee endorsed the Scientific Committee's proposal and recommends that it be adopted by the Commission.

4. FORMULA FOR CALCULATING CONTRIBUTIONS

The Chair recalled that at its meeting last year, the Commission agreed that the Contributions Task Force should meet again prior to IWC/56 to try to finalise a proposal for a revised contributions formula and that the Task Force had been scheduled to meet in late May 2004. He noted however, that the Commission had also agreed to allow Henrik Fischer, Chair of the Commission, to convene a small group to explore ways of taking the RMS process forward. This included a discussion on how RMS costs might be apportioned. It was noted that the Commission has always recognised the interaction between the work of the Task Force and RMS cost discussions, but that until now, the Task Force has been asked to develop a contributions formula that does not take future RMS costs into account. However, given the intersessional work of the Commission Chair and its potential implications for any revised contributions formula, Henrik Fischer believed that it would be prudent to delay further work of the Task Force until these implications could be assessed. Consequently, while continuing to recognise the high priority the Commission gives to the development of a revised contributions formula, it was decided to postpone the Task Force meeting after consultation with the Task Force members and with the Advisory Committee.

While recognising the sense of postponing the May 2004 Task Force meeting, a number of delegations stressed the importance of completing the work on a revised financial contributions formula expeditiously.

There was some discussion regarding the Chair of the Task Force, given that Daven Joseph (Antigua and Barbuda) was no longer Commissioner or representing Antigua and Barbuda. There was some debate as to whether Chairs are appointed as individuals or as countries and whether Task Force Chairs should be appointed by the Commission or elected by the group itself. Noting these different views, the F&A Committee Chair proposed that the new Commissioner for Antigua and Barbuda convene a meeting of Task Force members over lunch to elect a Chair. The Committee agreed with this proposed approach and, following the short Task Force meeting, the convenor was able to report that by consensus, the Task Force recommended that, if the Commission so wishes, the Task

Force continue with the Commissioner for Antigua and Barbuda (Anthony Liverpool) as Chair and with the Commissioner for Argentina (Eduardo Iglesias) as Vice-Chair.

The F&A Committee agreed to recommend this to the Commission.

5. FINANCIAL STATEMENTS, BUDGETS AND OTHER MATTERS ADDRESSED BY THE BUDGETARY SUB-COMMITTEE¹

5.1 Review of the Provisional Financial Statement, 2003/2004

5.1.1 Report of the Budgetary Sub-committee

The report of the Budgetary Sub-committee (IWC/56/F&A 3) was introduced by its Chair Jean-Pierre Plé.

The Sub-committee had discussed intersessionally the Provisional Financial Statement presented in IWC/56/14.

The Secretariat introduced updated tables for IWC/56/14 and reviewed briefly the changes that had occurred to produce an updated out-turn for 2003/04. Total income has risen from £1.624m to £1.657m mainly due to financial contributions from new members and additional penalty interest. Operational expenditure has risen from £1.501m to £1.526m due to increases in Secretariat costs (£6.1k - mainly maintenance) and £19.1k in research expenditure (mainly items deferred from previous financial years which had already been funded). This gives an increase in the surplus of income over expenditure (before movement to/from reserves) from £78.6k to £86.0k (i.e. a net increase of £7.4k).

5.1.2 Secretary's report on the collection of financial contributions

The Secretariat referred to document IWC/56/F&A 4. Total financial contributions and interest outstanding amounted to £592k, of which £138k referred to former members and £453k referred to current members. The majority of the debt of current members relates to three countries, i.e. Costa Rica, Kenya and Senegal. The Secretariat reported that the majority of countries with arrears had made significant efforts to clear their debts with Kenya entering into a repayment schedule. The Secretariat stressed that the information in IWC/56/F&A 4 was subject to rapid change and was in fact already out of date since further funds had been received just prior to the meeting.

The Secretariat noted that approximately 90% of financial contributions for the Financial Year 2003-04 had been received by the due date for settlement (28 February 2004). The charging of penalty interest of 10% for late payments and the loss of voting rights has provided a strong incentive for members to pay on time.

5.1.3 F&A Committee discussions and recommendations

The Committee noted that the provisional statement shows a generally satisfactory situation and accordingly recommends to the Commission that the Provisional Financial Statement (Appendix 4) be approved subject to audit.

The Secretary's report on the collection of financial contributions was noted by the Committee. Concern was

expressed that the 10% penalty interest charge presented difficulties to developing countries. The fixed rate of 10% interest was questioned at a time when market rates of interest are much lower. However, it was noted that the penalty interest provides a strong incentive to some national finance ministries to pay on time. The Chair commented that these conditions are included within the Financial Regulations, but noted the request from some Committee members that the continued use of penalty interest be reviewed by the Commission. An inquiry was received regarding the status of repayment schedules allowed by Financial Regulations, which allow members to regain voting rights. The Secretariat indicated that Financial Regulation F5(e) detailed the relevant procedures. It was noted that the relationship between financial contributions and voting rights would be one of the issues addressed at the private Commissioners' meeting on Sunday 18 July.

5.2 Consideration of estimated budgets, 2004/2005 and 2005/2006, including the budget for the Scientific Programme

5.2.1 Report of the Budgetary Sub-committee

REVIEW OF PROPOSED BUDGET 2004-2005 AND FORECAST 2005-2006

This aspect of the work done by the Budgetary Sub-committee was introduced by its Chair Jean-Pierre Plé. He highlighted the main factors affecting the formulation of the 2004/05 proposed budget which were as follows:

Income: The total amount required from Contracting Governments to 'balance' the budget does not necessarily mean a zero deficit or surplus for the year, rather that the resulting deficit or surplus is in line with the Commission's decisions.

Two scenarios were presented to the Budgetary Sub-committee intersessionally. An increase in financial contributions of 7.9% would have allowed income to equal expenditure (before transfers to/from reserves). An increase in financial contributions of 4.9% would result in expenditure exceeding income (before transfers to/from reserves) but would still leave the General Fund at the target level of 50% of operating costs. The lower increase was regarded more favourably and was used in the proposed 2004-2005 budget in document IWC/56/14.

Expenditure: The proposed 4.9% increase in Financial Contributions is due to necessary increases in expenditure on items deferred from previous years (e.g. essential repairs and renewals to fixtures and fittings and computer equipment) and scale increments allowed within staff contracts. It also includes costs for the construction of a new meeting room (to allow more intersessional meetings to be held at the Secretariat and so reduce costs for the Commission). Much of this expenditure is specific to 2004/05 only, which accounts for the reduction in expenditure in the 2005/06 forecast.

The Budgetary Sub-committee Chair noted that the response of the Sub-committee to these main items of income and expenditure in the 2004/05 proposed budget were as follows.

- The proposed increase in Financial Contributions of 4.9% (in the context of the proposed one off expenditure referred to previously) was regarded as being broadly acceptable. Attention was drawn to the fact that the total increase of 4.9% did not apply uniformly to contributing

¹ £k denotes thousands ('000); £m denotes millions ('000,000).

countries once the effects of the Interim Measure are taken into account. It was further noted that as 2004/05 completes the series of reductions put into effect by the Interim Measure, increases for 2005/06 onwards would affect all countries uniformly.

- The replacement of the boiler was considered essential.
- The concept of the meeting room was well received with the following observations being made:
 - (i) the immediate benefit of the meeting room will depend on the decisions reached in Plenary regarding the need for intersessional meetings in association with the Revised Management Scheme (RMS) and the Contributions Task Force;
 - (ii) construction of the meeting room, if approved, should commence as soon as possible;
 - (iii) all future intersessional meetings should be held in the new Secretariat meeting room, whenever possible, to maximise the use of the resource and thereby minimise costs to the Commission;
 - (iv) the lease of the Red House will be open to re-negotiation in 5 years time. Even if the meeting room is only used for those 5 years, the future savings would still far exceed the modest outlay of £8.75k in 2004/05;
 - (v) the Scientific Committee should be encouraged to use the new meeting room for its intersessional meetings when ever practicable; and
 - (vi) the new meeting room should be wired to take advantage of the new ASDL service (fast internet access) and thereby allow visitors access to an increasingly necessary facility.
- The Sub-committee recognised that the proposed budget did not reflect a potential 2% increase in the Annual Meeting budget proposed by the Working Group on Simultaneous Interpretation to cover costs for the provision of interpretation facilities.

Given the above, the Sub-committee considered that, pending detailed consideration of the funding request from the Scientific Committee for research, the proposed budget for 2004-2005 was acceptable. It also considered the forecast for the following year appropriate - the forecast budget for 2005/06 used the proposed budget for 2004/05 as its base, with expenditure increased by an assumed UK inflation rate of 3% where applicable. Financial Contributions were increased by 1.7% over the proposed 2004/05 level to produce a balanced budget (before transfers to/from reserves).

The Chair of the Sub-committee reminded the Finance & Administration Committee that it was required to make a specific recommendation on the level of NGO and media fees for 2004/05. The Secretariat had used levels of £590 and £35 respectively based on the procedure used in 2003/04 for determining the level of increase in these fees by linking them to the rate of UK inflation (3% used for budgeting purposes). The Sub-committee agreed that the levels originally outlined by the Secretariat should be adopted. Accordingly the Sub-committee **recommended** that for 2004/05 the NGO fee be set at £590 and the media fee at £35.

RESEARCH EXPENDITURE PROPOSED BY THE SCIENTIFIC COMMITTEE FOR 2004-2005

The Budgetary Sub-committee Chair explained that the Scientific Committee had identified projects totalling £374.35k, which it considered necessary to properly carry out the Commission's requirements. However, he noted that the Committee recognised the financial constraints that applied, and accordingly had prepared a reduced list of items to get as near as possible to the target, which had been set at £238k. The Scientific Committee had developed a reduced budget of £240.85k and 'strongly recommended that, at a minimum, the Commission accepts its reduced budget of £240.85k'.

The Budgetary Sub-committee Chair drew attention to the generous voluntary contribution from Japan of £32k towards the SOWER cruise series, without which key equipment would not be purchased or Invited Participants funded to attend an important intersessional meeting to review results to date and to plan future work. He further noted that the priorities of the Scientific Committee were accepted by the Sub-committee, and that the Sub-committee agreed to include the Scientific Committee's £240.85k 'package' in the proposed budget for 2004-2005 (Annex M).

The Sub-committee therefore **recommended** that the Finance and Administration Committee consider and forward the proposed budget for 2004-2005 (Annex L) to the Commission with a recommendation that it be adopted, together with the indicated level of financial contributions from Contracting Governments. (A preliminary estimate of the contribution to be requested from individual governments is given in Appendix 5. Note however, that this is indicative only and subject to adjustment and confirmation in the light of e.g. actual meeting attendance).

5.2.2 F&A Committee discussions and recommendations 2004-2005 PROPOSED BUDGET

The 2004-2005 proposed budget was generally acceptable to the Committee.

Norway considered that the proposed increase in contributions of 4.9% was too high while Germany regretted that the proposed budget showed any increase at all. The necessity for annual meetings was also questioned (Germany, Norway, Ireland) with bi-annual or even tri-annual meetings suggested as alternatives. Ireland noted its intention to submit a Resolution to Plenary on this matter. The need to build a meeting room was questioned by Norway who believed that intersessional meetings should be reduced as far as possible.

With regard to the 2004-2005 proposed budget for research expenditure, the inclusion of £14.5k to support a workshop on the use of market sampling to estimate bycatch was not supported by Japan and Norway. Others believed this to be a very important piece of work related to the RMS, and asked that the Scientific Committee Chair or Secretariat's Head of Science provide further explanation. The Head of Science noted that there is a requirement in the Scientific Committee when recommending a catch limit to adjust downwards the safe removals level calculated by the *Catch Limit Algorithm* by expected levels of anthropogenic removals such as bycatch. In recent years the Committee has received a number of papers using a market sampling approach and it has never been able to reach agreement over whether or not market based approaches are useful for estimating bycatch levels in an

RMP context. The Scientific Committee therefore believes it to be important to try to resolve this issue and that the best way to achieve this is through a dedicated workshop. The objectives of this methodological workshop are to:

- (1) review available methods that have been used to provide estimates of large cetacean bycatches via market samples, including a consideration of their associated confidence intervals in the context of the RMP; and
- (2) provide advice as to whether market-sampling-based methods can be used to reliably estimate bycatch for use in addressing the Commission's objectives regarding total removals over time and, if so, the requirements for such methods.

The Head of Science emphasised that the terms of reference for the proposed workshop limited interest in the question of markets to the context of an evaluation of whether or not market data can be used to provide reliable estimates of bycatches. However, Japan thought that what might start as a methodology might rapidly become unworkable. Japan also believed that the market approach would not be useful and in addition was outside the Terms of Reference of IWC.

NGO AND PRESS FEE

The recommendation to set fees for 2004-2005 of £590 for NGOs and £35 for media was agreed by the Committee. The Chair of the Budgetary Sub-committee clarified that these increases were based on the UK inflation rates used in the 2004-2005 budget.

2005-2006 FORECAST BUDGET

The 2005-2006 forecast budget was noted by the Committee.

SUMMARY OF RECOMMENDATIONS TO THE COMMISSION

The F&A Committee **recommends** that:

- the proposed budget for 2004-2005 (Annex L) be forward to the Commission for its consideration and with a recommendation that it be adopted, noting the reservations of Norway, Japan and Germany;
- for 2004-2005, the NGO fee be set at £590 and the media fee at £35; and
- the Commission takes note of the Forecast Budget for 2005-2006.

5.3 Secretariat offices

5.3.1 Report of the Budgetary Sub-committee

The Chair of the Budgetary Sub-committee reminded the Committee that at IWC/55, the Sub-committee had recommended that the Secretariat explore a range of alternatives, including:

- (1) continuing to rent the Red House;
- (2) purchasing the Red House or another suitable property in Cambridge or elsewhere in the UK; or
- (3) relocation of the Secretariat to another member country;

and report back to the Budgetary Sub-committee. He noted that the background to this is that the cost of the Secretariat represents a significant percentage of the IWC's budget (i.e. £958k out of £1,623k of operating expenditure - as per the 2002-03 audited accounts). The rental of Red House (i.e. £69k) represents 4.3% of the £1,623k of operating expenditure, while salaries, and allowances (i.e. £622k) represent 38% of the £1,623k of expenditure.

The Red House is a large suburban house, which has been converted to office use with a warehouse added, giving a total area of 552 square metres (5,946 square feet). The building provides a functional environment for the work of the Secretariat. As this type of property has successfully met the needs of the organisation since 1976, the use of similar property in other parts of the world seemed an appropriate basis for comparison. Two countries were selected from each of the economic groupings used to assess capacity to pay as part of the calculation of Financial Contributions. Countries were further selected to reflect the geographical distribution of the membership. Properties in suburban locations of the capital cities of the selected countries were sought (or a comparable international location). A variety of property types and locations within the UK were selected to demonstrate the choice available and associated costs. The countries chosen for this comparison included: Argentina, Australia, Japan, Panama, Senegal, South Korea, Switzerland and the USA.

An assessment for the purchasing of property in the UK and other countries had not been included in the review. Differences in property law, methods of selling, availability and taxation made the accumulation of sufficient information very difficult to allow a meaningful comparison of property purchases to be made in the time available. In the case of renting property, there was sufficient information available to allow a broad comparison to be made.

The report examined the criteria for relocation within the UK and overseas and the associated variables (rents, wind-up costs, set-up costs, transition costs, loss of expertise and effects on organisational effectiveness etc). It concluded that:

- Currently there are savings to be made from relocating the IWC abroad, both in terms of lower rental costs and local salaries. The savings however may be sensitive to currency/economic fluctuations. Savings in expenditure in the early years of relocation could easily revert to additions to expenditure in later years.
- Over the transition period it is possible that transition costs (e.g. paying rent on two properties – if relocation occurred before the current lease expired) would equal or even exceed cost savings.
- If the current lease is continued until 2009, the rent will be capped at around £73,700 per annum from June 2005. This will give stability to costs and still provide a competitive rent in relation to alternative sites in the Cambridge area.
- The renewal of the lease in 2009 offers the chance to re-negotiate the current terms. The current lease only allows increases in rent. The chance to reduce the rent and allow rent decreases at each 5 yearly rent review could be explored.
- The focus of much of this paper has been on the relative costs of property and the relative costs of operating in various parts of the world. The costs associated with losing staff with the operational expertise and relationships that have been developed over many years should also be taken into consideration.
- The volatility of international markets make budgeting over a long time frame problematic. An effective Secretariat needs stability to function effectively and so its location should be considered within a long-term perspective. A country that can offer a stable cost base

allied to operational effectiveness should give an acceptable balance between value and performance in the face of fluctuations in the world economy.

The Sub-committee had acknowledged that rent represented approximately 4% of the total budget, and was not an excessive cost. The need to retain expertise within the Secretariat was recognised and that this would be lost if the Secretariat were moved away from the Cambridge area. As there is still over 5 years until the current lease expires, the Sub-committee recommended that the Secretariat explore alternatives within the Cambridge area which might include:

- To ask the NASCO (North Atlantic Salmon Conservation Organisation) Secretariat in Edinburgh, Scotland how it managed to purchase its Headquarters building in terms of funding and what effect their status as an International Organisation had in buying property. (Financing any purchase would have to be carefully considered in the context of minimising the effects on Financial Contributions).
- Near the date of renewal of the lease, to see if there might be any scope for the owners of Red House to 'gift' the property to the IWC. This might be an option if the inheritance tax status of the owner made this option advantageous.
- To keep the property market in Cambridge under active review to allow the early assessment of rental or purchase alternatives.
- If new property was acquired, to assess the possibility to renting part of that property as a means of minimising total property costs.

5.3.2 F&A Committee discussions and recommendations

The Committee accepted the report as presented and recommends to the Commission that the Secretariat be asked to investigate the feasibility and options for purchasing/acquiring premises suitable for office accommodation in the Cambridge area and to report back to the Budgetary Sub-committee next year.

5.4 Budgetary Sub-committee rota

5.4.1 Report of the Budgetary Sub-committee

The Sub-committee Chair recalled that at IWC/54 in Shimonoseki in 2002, the Commission adopted a rota for membership of the Budgetary Sub-committee. In summary:

- using the same country groupings as the Interim Measure for Financial Contributions², membership comprises:
 - 2 members from Group 1
 - 2 members from Group 2
 - 2 members from Group 3
 - Japan, USA + one other from Group 4
- membership is for 2 years (except for Japan and the USA who have a 'permanent' place since they are likely to be the two highest paying contributors under almost any formula for the calculation of financial contributions for the foreseeable future being the highest payers now and probably in the future);

- any member that declines to serve to be replaced by the next member in alphabetical sequence within its Group;
- new members of the Commission to be fitted into the cycle at the nearest alphabetical point after they have had a period in which to familiarise themselves with the organisation; and
- the appointment of the Sub-committee Chair should be handled by the Chair of the Commission and the Advisory Committee.

He noted that at its meeting at IWC/55 last year, the Commission agreed that the Secretariat review the current rota system with a view to:

- (1) making it more attractive for countries to serve on the Sub-committee;
- (2) providing greater continuity;
- (3) improving the process for selection of the Sub-committee Chair; and
- (4) reporting back to the Budgetary Sub-committee for further action as appropriate.

At its meeting this year, the Sub-committee reviewed a variety of options put forward by the Secretariat for consideration regarding items (1) to (3) above and recommended to the F&A Committee that the following be incorporated into the membership rota system:

TO ENCOURAGE PARTICIPATION IN THE SUB-COMMITTEE

- A. When inviting countries to serve, stress not only the importance of the work of the Sub-committee (it really does make the job of the F&A Committee much easier and more efficient), but also that the workload is not high - either intersessionally or at Annual Meetings. The Sub-committee is only active during the period from March to when the annual meeting is held - and this only involves responding to documents/proposals from the Secretariat. All intersessional work is done by email/fax and no intersessional meetings are involved. At annual meetings, the Sub-committee generally meets for only 1-2 sessions.
- B. Undertake to schedule meetings of the Budgetary Sub-committee when other Commission sub-groups are not meeting and try to avoid scheduling the Budgetary Sub-committee at the beginning of the series of Commission sub-group meetings (because not all delegations arrive in time to otherwise participate).
- C. Keep the four economic groups, but add two 'open seats' (i.e. for any interested countries) as a fifth category. Countries filling the two open seats would need to be identified and agreed at the meeting of the Finance and Administration Committee. Formalise the current informal arrangement allowing Contracting Governments not members of the Budgetary Sub-committee to attend meetings as observers.

TO PROVIDE GREATER CONTINUITY

- D. Extend the term of members from 2 to 3 years.
- E. Appoint not only a Sub-committee Chair but also a Vice-Chair. Under normal circumstances, the Vice-Chair would replace the outgoing Chair. This would have the effect of 2 Sub-committee members serving for either 4 years (under the

² It is recognised that these country groupings were developed solely for the purposes of the Interim Measure for calculating financial contributions and may need revision when a new formula is adopted.

current system) or 6 years if the term of all members was extended as proposed in D above.

IMPROVING THE PROCESS FOR THE SELECTION OF THE SUB-COMMITTEE CHAIR AND VICE-CHAIR

- F. That the Sub-committee elects its own Chair (as is the case in other Commission sub-groups – and indeed the Commission itself).

5.4.2 F&A Committee discussions and recommendations

Several countries expressed an interest to join or continue participating in the work of the Budgetary Sub-committee. The question was raised as to how long an ‘open seat’ as proposed in C above might be open to an interested country and clarification was sought as to the status of observers. It was agreed that both these aspects required clarification and that the Budgetary Sub-committee should be asked to do this intersessionally (see recommendations below).

The F&A Committee therefore recommends to the Commission:

- That items A to F in section 5.4.1 above be incorporated into the membership rota system with the aim of: making it more attractive for countries to serve on the Sub-committee; providing greater continuity; and improving the process for the selection of the Sub-committee Chair (and now Vice-Chair).
- That Germany and Norway be invited to take the ‘open seats’ commencing immediately following IWC/56.
- That the Budgetary Sub-committee provide clearer guidelines for its operation and to report its conclusions back to the F&A Committee next year.

The proposed rota for the budgetary Sub-committee for 2004/05 onwards is given as Appendix 6.

6. OTHER MATTERS

6.1 NGO participation

6.1.1 Discussion document from the Advisory Committee

Richard Cowan (UK) introduced document IWC/56/F&A 6 ‘Discussion paper on rules governing participation of non-governmental organisations in the International Whaling Commission’ on behalf of the Advisory Committee. He explained that in September last year, the Secretariat had been approached by a representative of one of the large environmental NGOs regarding changes that a number of them would like to rules of NGO accreditation in particular but also in their level of participation in Commission affairs. The Secretariat had brought this matter to the attention of the Advisory Committee to seek advice on the best way to proceed. The Advisory Committee agreed that this issue should be brought to the attention of the Finance and Administration Committee, and that the best way to do this was for it to develop a paper outlining the issues raised and the potential implications of these. He noted that the focus of the paper is on NGO participation in the Commission and its sub-groups excluding the Scientific Committee, and that the intention was for the F&A Committee to have a general discussion on the matter at this year’s Annual Meeting and further that if changes are suggested, decisions could be taken at IWC/57 next year, as appropriate.

It was noted that the discussion document addressed the four following issues.

- (1) Removal of the requirement that non-governmental organisations maintain offices in more than three countries.
- (2) Allowing accredited NGOs to send up to [five?] representatives to IWC meetings as observers with the possibility of all observers being in the meeting room at any one time.
- (3) Revising the fee structure for NGOs, such that the effect of the changes listed above is fee-neutral (cost-neutral?) in the year of its introduction and that thereafter, fees should not in general increase by more than such an amount as is necessary to keep pace with inflation in the UK (as host country to the IWC).
- (4) Formally confirming the right of NGO representatives to speak at IWC meetings, but with some limitation on the number of interventions that could be made.

Richard Cowan stressed that, should the Commission decide to consider whether, and if so how, its Rules of Procedure might be amended to accommodate the wishes of some NGOs for more active participation, certain requirements are paramount, i.e. that changes in the rules should not:

- impede the orderly and timely conduct of business in meetings of the Commission or its subsidiary bodies;
- result in an increase in the IWCs costs nor a diminution in its income; or
- significantly increase either the number of NGO observers present at meetings, nor the volume of documentation which the IWC Secretariat is required to produce to accommodate them.

6.1.2 F&A Committee discussions

A range of views were expressed by members of the Committee. Some believed that NGOs have a valuable contribution to make, strongly supported a move to liberalise the rules for NGO participation in the IWC, and considered that each of items 1-4 listed above should be further investigated. They considered that transparency of decision-making at an international level is important and particularly important now with respect to IWC. Removal of the requirement for NGOs to have offices in at least four countries and allowing NGOs to have more than one observer present in the meeting room (items 1 and 2) were particularly supported as this should remove the tendency for some NGOs to participate under ‘flags of convenience’ organisations.

While not proposing to exclude NGOs, others noted that the IWC is an organisation of governments, that NGOs already have sufficient influence and that the current rules are adequate. They were concerned that the changes related to items 1 and 2 would lead to a significant increase in the numbers of NGO representatives attending meetings (with significant cost implications) and noted that governments are at liberty to include NGOs in their delegations. On this last point, others noted that since NGOs included on national delegations are required to abide by that government’s position, it is important that NGOs also be allowed to attend as observer organisations.

Given the discussions, the Chair concluded that IWC is already transparent since it is open to observers from non-member governments, other intergovernmental organisations, NGOs and in the case of the Plenary, also to the media. He noted that some members had serious concerns regarding the granting of speaking rights to NGOs, but suggested that further consideration might be given to items

1 to 3 above. He therefore proposed that the Secretariat work with the Advisory Committee intersessionally to explore how items 1-3 might be implemented and to report to the F&A Committee next year, together with any recommendations as appropriate. He noted that it would be necessary for the Secretariat to consult with NGOs on this issue. He suggested that the issue of speaking rights be set aside for the time being. The Committee supported this proposed approach and agreed to recommend it to the Commission. The Committee also supported the suggestion that if Contracting Governments do not consider that the pre-conditions listed under the three bullet points above cover all of their concerns, they should be invited to contribute proposals for further pre-conditions that would help in limiting/better defining NGO attendance.

6.2 Costs involved in participation at Annual Meetings

Brazil briefly drew attention to its concern regarding the costs incurred to Contracting Governments, especially those of developing countries, of sending delegations to Annual Meetings, particularly given the length of the meeting series. It hoped that host governments and the Secretariat could take such concerns into account when determining the timing and location of Annual Meetings. This was supported by a number of other governments.

The Committee took note of this concern and agreed to draw it to the attention of the Commission.

At the end of the meeting, St Kitts and Nevis announced that it intends to offer to host the Annual Meeting in 2006.

Appendix 1

LIST OF PARTICIPANTS

Antigua and Barbuda

Anthony Liverpool

Argentina

Raul Comelli
Miguel Iniguez
Eduardo Iglesias

Australia

Nicola Beynon
Pam Eiser
Conall O'Connell
Stephen Powell

Austria

Andrea Nouak

Belgium

Alexandre de Lichtervelde
Koen Van Waerebeek

Belize

Beverly Wade

Benin

Lucie Kouderin
Bantole Yaba
Sogan Simplicie

Brazil

Regis Pinto de Pinto
Jose Truda Palazzo

Denmark

Amalie Jessen
Maj Friis Munk
Ole Samsing

Dominica

Andrew Magloire

Lloyd Pascal

Finland

Esko Jaakkola

Germany

Peter Bradhering
Marlies Reimann

Grenada

Justin Rennie
Frank Hester

Republic of Guinea

Amadou Telivel Diallo
Sidiki Diane

Iceland

Stefan Asmundsson
Ragnar Baldursson
Asta Einarsdottir

Ireland

Chris O'Grady

Italy

Rosa Caggiano

Japan

Dan Goodman
Yasuo Iino
Toshiyuki Iwado
Atsushi Kato
Hidehiro Kato
Masayuki Komatsu
Akihiro Mae
Minoru Morimoto
Joji Morishita
Shuya Nakatsuka
Kayo Ohmagari

Midori Ota

Hirohiko Shimizu
Akiko Tomita

Republic of Korea

Chang Moyeng Byen
Zang Geun Kim
Oh Seyng Kwon
Sung Kwon Soh

Mexico

Lorenzo Rojas-Bracho

Netherlands

Henk Eggink
Giuseppe Raaphorst
Anne-Marie van der Heijden

New Zealand

Chris Anderson
Mike Donoghue
Nigel Fyfe
Al Gillespie
Geoffrey Palmer

Nicaragua

Miguel Marengo

Norway

Turid Eusebio
Bengt Johansen
Halvard Johansen (Chair)
Hild Ynnesdal

Panama

Epimenides M. Diaz

Russian Federation

Rudolf Borodin
Olga Gogoleva

Valentin Ilyashenko
Valery Knyazev

St. Kitts and Nevis
Joseph Simmonds
Daven Joseph

St. Lucia
Vaughn Charles

St. Vincent & The Grenadines
Raymond Ryan

Solomon Islands
Sylvester Diake
Paul Maenuu

South Africa
Herman Oosthuizen

Spain
Carmen Asencio

Suriname
Deuwperkaas Jairam

Sweden
Bo Fernholm
Stellan Hamrin
Anna Roos

Switzerland
Tom Althaus
Martin Krebs

UK
Richard Cowan
Geoff Jasinski
Jenny Lonsdale

Trevor Perfect
Mark Simmonds

USA
Nancy Azzam
Robert Brownell
Roger Eckert
Jean-Pierre Plé
Mike Tillman
Chris Yates

Chair of SC
Doug DeMaster

Secretariat
Nicky Grandy
Sean Moran
Sue Morley
Greg Donovan

Appendix 2

LIST OF DOCUMENTS

- | | |
|--|--|
| <p>IWC/56/F&A</p> <ol style="list-style-type: none"> 1. Revised Draft Agenda 2. Report of the Working Group on Simultaneous Interpretation 3. Report of the Budgetary Sub-committee 4. Secretary's report on the collection of financial contributions 5. Reconsideration of Rules of Procedure for the appointment of Chair and Vice-Chair of the Scientific Committee | <ol style="list-style-type: none"> 6. Discussion paper on rules governing participation of non-governmental organisations (NGOs) in the International Whaling Commission 7. Invited Participants to the Scientific Committee 2004 <p>IWC/56/Rep 1 (Extracts from the) Report of the Scientific Committee</p> <p>IWC/56/14 Financial Statements</p> |
|--|--|

Appendix 3

AGENDA

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Appointment of Chair 1.2 Appointment of Rapporteur 1.3 Review of Documents 2. Adoption of the Agenda 3. Administrative matters <ol style="list-style-type: none"> 3.1 Annual Meeting Arrangements and Procedures <ol style="list-style-type: none"> 3.1.1 Need for a Technical Committee 3.1.2 Use of simultaneous translation 3.1.3 Other 3.2 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate 4. Formula for calculating contributions <ol style="list-style-type: none"> 4.1 Report of the Contributions Task Force 4.2 F&A Committee discussions and recommendations 5. Financial statements, budgets and other matters addressed by the Budgetary Sub-committee <ol style="list-style-type: none"> 5.1 Review of the provisional financial statement, 2003/2004 <ol style="list-style-type: none"> 5.1.1 Report of the Budgetary Sub-committee | <ol style="list-style-type: none"> 5.1.2 Secretary's report on the collection of financial contributions 5.1.3 F&A Committee discussions and recommendations 5.2 Consideration of estimated budgets, 2004/2005 and 2005/2006, including the budget for the Scientific Programme <ol style="list-style-type: none"> 5.2.1 Report of the Budgetary Sub-committee 5.2.2 F&A Committee discussions and recommendations 5.3 Secretariat offices <ol style="list-style-type: none"> 5.3.1 Report of the Budgetary Sub-committee 5.3.2 F&A Committee discussions and recommendations 5.4 Budgetary Sub-committee membership rota <ol style="list-style-type: none"> 5.4.1 Report of the Budgetary Sub-committee 5.4.2 F&A Committee discussions and recommendations 6. Other matters 7. Adoption of the Report |
|---|---|
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Appendix 4**PROVISIONAL FINANCIAL STATEMENT 2003 -2004****Income and Expenditure Account**

	Approved Budget		Projected Out-turn	
	£	£	£	£
Income				
Contracting Government contributions		1,274,000		1,282,189
Recovery of arrears		28,400		0
Interest on overdue financial contributions		0		44,049
Voluntary contributions for research, small cetaceans work and publications		16,000		62,183
Sales of publications		12,500		10,000
Sales of sponsored publications		4,100		2,000
Observers registration fees		60,200		60,200
UK taxes recoverable		18,730		29,979
Staff assessments		130,600		128,579
Interest receivable		40,000		38,160
Sundry income		0		0
		<u>1,584,530</u>		<u>1,657,340</u>
Expenditure				
Secretariat	907,300		908,675	
Publications	50,200		50,200	
Annual meetings	300,000		300,400	
Other meetings	0		827	
Research expenditure	231,073		263,748	
Small cetaceans	23,000		2,300	
Sundry	0		400	
	<u>1,511,573</u>		<u>1,526,150</u>	
Provisions				
Unpaid contributions	36,750		0	
Unpaid interest on overdue contributions	0		24,464	
Severance pay provision	32,500		28,112	
Provision for other doubtful debts	0		-7,356	
		<u>1,580,823</u>		<u>1,571,370</u>
Surplus of income over expenditure		3,707		85,970
Net transfers from or to (-):				
Sponsored publications fund		-2,280		448
Small cetaceans fund		6,600		31,027
Research fund		11,727		264
Surplus/Deficit (-) for the year after transfers		19,754		54,230

Appendix 5

PROVISIONAL ESTIMATE OF FINANCIAL CONTRIBUTIONS 2004-2005*

		Current scheme	Capacity to pay Group	Red'n Stage 1	Red'n Stage 2	Red'n £	Add-on whaling	Add on Group 3 £	Add on Group 4 £	Total (£)
1	Antigua and Barbuda	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
2	Argentina	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
3	Australia	25,461	3	0	0	0	0	6,418	0	31,879
4	Austria	19,096	3	0	0	0	0	6,418	0	25,514
5	Belize	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
6	Benin	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
7	Brazil	25,461	2	-6,365	-1,910	-8,275	0	0	0	17,186
8	Chile	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
9	China, P.R. of	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
10	Costa Rica	12,730	2	-3,183	-955	-4,137	0	0	0	8,593
11	Denmark	38,191	3	0	0	0	5,705	6,418	0	50,314
12	Dominica	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
13	Finland	19,096	3	0	0	0	0	6,418	0	25,514
14	France	19,096	4	0	0	0	0	0	34,229	53,325
15	Gabon	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
16	Germany	25,461	4	0	0	0	0	0	34,229	59,690
17	Grenada	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
18	Guinea	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
19	Iceland	31,826	3	0	0	0	0	6,418	0	38,244
20	India	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
21	Ireland	19,096	3	0	0	0	0	6,418	0	25,514
22	Italy	25,461	4	0	0	0	0	0	34,229	59,690
23	Japan	89,113	4	0	0	0	5,705	0	34,229	129,047
24	Kenya	12,730	2	-3,183	-955	-4,137	0	0	0	8,593
25	Korea, Rep. of	38,191	2	-9,548	-2,864	-12,412	0	0	0	25,779
26	Mexico	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
27	Monaco	19,096	3	0	0	0	0	6,418	0	25,514
28	Mongolia	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
29	Morocco	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
30	Netherlands	25,461	3	0	0	0	0	6,418	0	31,879
31	New Zealand	31,826	3	0	0	0	0	6,418	0	38,244
32	Nicaragua	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
33	Norway	50,922	3	0	0	0	5,705	6,418	0	63,045
34	Oman	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
35	Palau	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
36	Panama	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
37	Peru	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
38	Portugal	19,096	3	0	0	0	0	6,418	0	25,514
39	Russian Federation	31,826	2	-7,957	-2,387	-11,935	5,705	0	0	27,188
40	St. Kitts and Nevis	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
41	St. Lucia	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
42	St. Vincent & The G.	31,826	1	-15,913	-3,978	-19,891	5,705	0	0	17,640
43	San Marino	19,096	3	0	0	0	0	6,418	0	25,514
44	Senegal	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
45	Solomon Islands	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
46	South Africa	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
47	Spain	19,096	3	0	0	0	0	6,418	0	25,514
48	Sweden	25,461	3	0	0	0	0	6,418	0	31,879
49	Switzerland	19,096	3	0	0	0	0	6,418	0	25,514
50	United Kingdom	25,461	4	0	0	0	0	0	34,229	59,690
51	USA	44,557	4	0	0	0	5,705	0	34,229	84,491
52	Hungary	19,096	2	-4,774	-1,432	-6,206	0	0	0	12,890
53	Mauritania	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
54	Belgium	19,096	3	0	0	0	0	6,418	0	25,514
55	Tuvalu	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
56	Cote d'Ivoire	19,096	2	-9,548	-2,387	-11,935	0	0	0	7,161
57	Suriname	19,096	1	-9,548	-2,387	-11,935	0	0	0	7,161
		1,336,700		-270,523	-71,768	-342,291	34,229	102,687	205,374	1,336,700
Shortfall for re-distribution -329,332										
Group 1	19			Whaling						34,229
Group 2	16									102,687
Group 3	16									205,374
Group 4	6									342,291
	57									

*Secretariat note: In this provisional estimate, Iceland was omitted by mistake from whaling countries.

Appendix 6

PROPOSED BUDGETARY SUB-COMMITTEE ROTA FOR 2004/05 ONWARDS

The table below shows a possible rota that would result from the proposals made in section 5.4.1 of the F&A report. This rota incorporates the existing structure as modified by the proposed changes.

Membership would consist of:

- 2 members from Group 1;
- 2 members from Group 2;
- 2 members from Group 3; and
- Japan, USA + one other from Group 4.
- Membership is for 3 years (except for Japan and the USA who have a 'permanent' place since they are likely to be the two highest paying contributors under almost any formula for the calculation of financial contributions for the foreseeable future, being the highest payers now and probably in the future).
- Any member that declines to serve to be replaced by the next member in alphabetical sequence within its Group.
- New members of the Commission to be fitted into the cycle at the nearest alphabetical point after they have had a period in which to familiarise themselves with the organisation.
- Keep the four economic groups, but add two 'open seats' (i.e. for any interested countries) as a fifth category. Countries filling the two open seats would need to be identified and agreed at the meeting of the F&A Committee.

The table below shows the provisional rota for the Budgetary Sub-committee membership for 2004-05 to 2007-08 (assuming no-one declines to serve).

2004-2005 (current year)	2005-2006	2006-2007	2007-2008
Group 1			
Antigua and Barbuda	Belize	Belize	Belize
Dominica	Benin	Benin	Benin
Group 2			
Korea, Republic of	Korea, Republic of	Hungary	Kenya
Hungary	Hungary	Kenya	Mexico
Group 3			
Austria	Belgium	Belgium	Belgium
Finland	Finland	Denmark	Denmark
Norway*			
Group 4			
France	Germany	Germany	Germany
Japan	Japan	Japan	Japan
USA	USA	USA	USA
Germany*			

*Open seats for Norway and Germany have been proposed. Determination of the period the open seats will be open to interested parties, will be clarified by the Budgetary Sub-committee intersessionally.

Annex L

Approved Budget for 2004/2005 and Forecast Budget for 2005/2006

Income and Expenditure Account

	Proposed Budget 2004-2005		<i>Forecast Budget 2005-2006</i>	
Income	£	£	£	£
Contracting Government contributions		1,336,700		1,359,200
Recovery of Arrears		0		0
Interest on late financial contributions		0		0
Voluntary contributions		13,700		0
Sales of publications		10,300		10,700
Sales of sponsored publications		2,000		2,100
Observers registration fees		62,200		64,100
UK taxes recoverable		30,200		27,400
Staff assessments		138,300		146,600
Interest receivable		30,800		31,700
Sundry income		0		0
		1,624,200		1,641,800
Expenditure				
Secretariat	974,900		1,006,200	
Publications	47,600		49,000	
Annual meetings	308,900		318,100	
Other meetings	5,500		5,700	
Research expenditure	265,000		245,200	
Small cetaceans	46,900		0	
Sundry	0		0	
	1,648,800		1,624,200	
Provisions				
Unpaid contributions	0		0	
Unpaid interest on overdue contributions	0		0	
Severance pay provision	16,600		17,600	
Provision for other doubtful debts	0		0	
	0		0	
		1,665,400		1,641,800
Excess of expenditure over income		-41,200		0
Net Transfers from or to (-):				
Sponsored publications fund		-800		-800
Research fund		20,500		-3,400
Small cetaceans fund		32,600		-700
Surplus/Deficit (-) for the year after transfers		11,100		-4,900

Annex M

Approved Research Budget for 2004/2005 and Forecast Budget for 2005/2006

	Budget	
	Recommended	Reduced
RMP (Annex D)		
Intersessional Workshop on North Pacific Bryde's whales	£10,000	£8,000
AWMP (Annex E)		
AWMP developers fund	£10,000	£8,500
Genetic simulation studies	£12,000	£10,000
Intersessional workshop on Greenlandic issues	£10,000	£10,000
IA (Annex G)		
SOWER 2004/5	£88,500	£66,000
Beyond SOWER 2004/5	£9,000	£0
Estimating abundance of Antarctic minke whales - new methods and standard	£3,000	£3,000
Estimating abundance of Antarctic minke whales - DESS	£20,100	£12,100
Estimating trend in abundance of Antarctic minke whales – VPA analysis	£20,000	£18,000
E/IA/BRG (Annexes F, G and K)		
Sea-ice and whale habitat	£4,050	£4,050
E (Annex K)		
Porphyrin analyses POLLUTION 2000+, Phase I	£4,500	£0
SO-collaboration field work	£22,000	
SO-collaboration, data validation, analysis, preparation of grant proposals	£30,000	£45,000
SO-collaboration, spatial modelling development, data analysis	£25,000	
Training scholarship, integrated data	£22,000	£0
SOCER, coordination, literature search and editing	£3,000	£0
SH (Annex H)		
Antarctic humpback whale photo catalogue	£5,200	£5,200
BC (Annex J)		
Coordination with FAO	£1,500	£1,500
Workshop on the use of market sampling to estimate bycatch	£14,500	£14,500
SM/BC (Annexes J and L)		
Workshop on mitigation of franciscana bycatches, Buenos Aires, 2005**	£20,000	£0
ALL		
Invited participants	£40,000	£35,000
TOTAL	£374,350	£240,850

** This money is to come out of the small cetaceans fund.

Note: The funding allocation included in the forecast budget for 2005-06 is £245,200.

Annex N

Amendments to the Schedule Adopted at the 56th Annual Meeting

Paragraphs 11 and 12, and Tables 1, 2 and 3:

Substitute the dates **2004/2005** pelagic season, **2005** coastal season, **2005** season, or **2005** as appropriate.

Paragraph 13:

Delete the words in 13 (b) (2): ‘...whose traditional aboriginal subsistence and cultural needs have been recognized.’

Add a new paragraph 13 (a) (4) to read: **13 (a) (4) For aboriginal whaling conducted under subparagraphs (b) (1), (b) (2), and (b) (3) of this paragraph, it is forbidden to strike, take or kill calves or any whale accompanied by a calf. For aboriginal whaling conducted under subparagraphs (b) (4) of this paragraph, it is forbidden to strike, take or kill suckling calves or female whales accompanied by calves.**

Delete items 13 (b) (1) (ii) and 13 (b) (2) (ii).

Add a new paragraph 13 (a) (5) to read: **13 (a) (5) All aboriginal whaling shall be conducted under national legislation that accords with this paragraph.**

Delete the words in paragraph 13 (b) (4):

Such whaling must be conducted under formal legislation that accords with the submission of the Government of St. Vincent and The Grenadines (IWC/54/AS 8 rev. 2).

Financial Statements
for the
Year ended 31 August 2004

Financial Statements for the year ended 31 August 2004

Independent Auditors' Report to the Commission

We have audited the financial statements of the International Whaling Commission which comprise the accounting policies, the income and expenditure account, the analysis of expenditure, the balance sheet and the related notes 1 to 8. These financial statements have been prepared under the accounting policies set out therein. This report is made solely to the Commission. Our audit work has been undertaken so that we might state to the Commission those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Commission for our audit work, for this report, or for the opinions we have formed.

Respective Responsibilities of the Secretary and Auditors

As described in the statement of the Secretary's responsibilities, 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 fixed assets 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

D A Green & Sons, Chartered Certified Accountants, St Ives, 1 February 2005

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;

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.

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 financial 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 2004.

- 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.

Accounting Policies - Year ended 31 August 2004

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.

Convention

These accounts are prepared under the historical cost convention (i.e. assets and liabilities are stated at cost and not re-valued).

Fixed Assets

The full cost of 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 £171,000 and its realisable value is not significant. Proposed expenditure on new items is included in budgets and raised by contributions for the year.

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.

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 and 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.

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.

Leases

The costs of operating leases are charged to the income and expenditure account as they accrue.

Foreign Exchange

Transactions dominated 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 contribution retirement benefits scheme. The costs represent the amount of the Commission's contributions payable to the scheme in respect of the accounting period.

Income and Expenditure Account (year ended 31 August 2004)

		2004		2003	
	[Note]	£	£	£	£
Income: continuing operations					
Contributions from member governments		1,298,789		1,251,073	
Interest on overdue financial contributions		45,045		33,019	
Voluntary contributions for research, small cetaceans work and publications		64,359		38,143	
Sales of publications		17,852		17,342	
Sales of sponsored publications	[1]	1,737		2,074	
Observers' registration fees		55,240		65,847	
UK taxes recoverable		23,103		32,418	
Staff assessments		132,632		137,486	
Interest receivable		48,811		36,928	
Sundry income		1,230		1,396	
		1,688,798		1,615,726	
Expenditure					
Secretariat		882,190		958,284	
Publications		47,165		45,549	
Annual meetings		300,800		301,904	
Other meetings		1,556		30,698	
Research expenditure		251,062		265,572	
Small cetaceans	[3]	2,721		14,627	
Sundry		2,033		6,284	
		1,487,527		1,622,918	
Provisions made for:					
Unpaid contributions		(43,865)		(9,585)	
Unpaid interest on overdue contributions		(12,457)		(5,838)	
Severance pay	[5]	28,600		(24,100)	
Other doubtful debts		(964)	1,458,841	4,000	1,587,395
Surplus of income:					
Continuing operations	[7]	229,957		28,331	
Net transfers from /(to) funds:					
Publications fund	[1]	(1,958)		(3,122)	
Research Fund	[2]	(46,834)		44,503	
Small cetaceans fund	[3]	(467)	(49,259)	(17,546)	23,835
Surplus for the year after transfers	[4]	180,698		52,166	

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.

Analysis of Expenditure (year ended 31 August 2004)

	2004	2003
	£	£
SECRETARIAT		
Salaries, national insurance and allowances	586,146	622,150
Retirement and Other Benefit Schemes	108,963	132,187
Travelling expenses	2,749	2,589
Office rent, heating and maintenance	96,479	90,844
Insurance	3,702	5,651
Postage and telecommunications	21,829	21,376
Office equipment and consumables	52,594	62,065
Professional fees	7,688	6,795
Training & Recruitment	765	14,287
Photocopying	1,275	340
	<u>882,190</u>	<u>958,284</u>
PUBLICATIONS		
Annual Report	8,730	6,294
Journal Cetacean Research and Management	38,435	39,234
Sponsored publications	0	21
	<u>47,165</u>	<u>45,549</u>
RESEARCH		
Invited participants	27,544	21,862
SOWER:		
2002/2003 SOWER cruise	0	80,283
2003/2004 SOWER cruise	84,199	0
Contract 14 Analysis support including DESS maintenance/development	11,750	32,472
Contract 16 Southern Hemisphere Humpback catalogue	5,105	6,800
SO-GLOBEC	34,839	33,614
Pollution 2000+	29,137	13,786
AWMP fund for developers	0	7,523
AWMP intersessional workshop	12,531	0
Fishery Cetacean Workshop	0	820
IA Development support	7,946	8,014
Gray Whale Workshop	0	9,634
Gray Whales USA/Russia Workshop	2,253	33,767
RMP (SC) Intersessional Workshop	0	8,266
SD Intersessional Workshop	0	7,612
FAO Fisheries statistics	606	0
AS Greenland Research	17,984	0
SOS Review	6,746	0
TOSSM Project	9,511	0
Other (including exchange differences)	911	1,119
	<u>251,062</u>	<u>265,572</u>
SMALL CETACEANS		
Invited participants	2,702	10,498
Common Dolphins in South America	0	3,934
Other (including exchange losses)	19	195
	<u>2,721</u>	<u>14,627</u>

Balance Sheet 31 August 2004

	[Note]	2004		2003	
		£	£	£	£
CURRENT ASSETS					
Cash on short term deposit					
General fund		1,313,771		1,376,254	
Research fund		124,455		39,881	
Publications fund		29,986		28,091	
Small Cetaceans fund		31,063	1,499,275	28,735	1,472,961
Cash at bank on current account					
Research fund		815		1,000	
Publications fund		1,000		1,000	
Small Cetaceans fund		1,000		1,000	
Cash in hand		120	2,935	89	3,089
			1,502,210		1,476,050
Outstanding contributions from members, including interest					
Less provision for doubtful debts		(560,277)	13,397	(616,599)	15
Other debtors and prepayments					
			82,538		64,280
			1,598,145		1,540,345
CREDITORS:					
Amounts falling due within one year	[6]	(93,303)		(294,060)	
NET CURRENT ASSETS					
			1,504,842		1,246,285
PROVISION FOR SEVERANCE PAY					
	[5]	(331,500)		(302,900)	
			1,173,342		943,385
<i>Financed by</i>					
Publications fund	[1]	31,209		29,251	
Research fund	[2]	148,847		102,013	
Small cetaceans fund	[3]	33,655		33,188	
General fund	[4]	959,631		778,933	
	[7]		1,173,342		943,385

Approved on behalf of the Commission

Nicola J Grandy, Secretary

31 January 2005

Notes to the Accounts

	2004 £	2003 £
1. Publications fund		
Interest receivable	221	1,069
Receipts from sales of sponsored publications	1,737	2,074
Expenditure	(0)	(21)
Net transfers to income and expenditure account	1,958	3,122
Opening balances at 1 September 2003	29,251	26,129
Closing balances at 31 August 2004	<u>31,209</u>	<u>29,251</u>
2. Research fund		
Allocation for research	231,073	206,822
UK taxes recoverable	2,665	4,658
Voluntary contributions received	61,616	6,349
Interest receivable	2,542	3,240
Expenditure	(251,062)	(265,572)
Net transfers (to) income and expenditure account	46,834	(44,503)
Opening balances at 1 September 2003	102,013	146,516
Closing balances at 31 August 2004	<u>148,847</u>	<u>102,013</u>
3. Small cetaceans fund		
Voluntary contributions received	2,743	31,795
Interest receivable	445	378
Expenditure	(2,721)	(14,627)
Net transfer from/(to) income and expenditure account	467	17,546
Opening balances at 1 September 2003	33,188	15,642
Closing balances at 31 August 2004	<u>33,655</u>	<u>33,188</u>
4. General fund		
Opening balances at 1 September 2003	778,933	726,767
Surplus transferred from income and expenditure account	180,698	52,166
Closing balances at 31 August 2004	<u>959,631</u>	<u>778,933</u>
5. Provision for severance pay		
Opening balances at 1 September 2003	302,900	327,000
Transfer (to) from income and expenditure account, being:		
Allocation	19,760	(32,245)
Interest received	8,840	8,145
Closing balances at 31 August 2004	<u>331,500</u>	<u>302,900</u>
6. Creditors: Amounts falling due within one year		
Deferred contributions income	53,554	252,295
Other creditors and accruals	39,749	41,765
	<u>93,303</u>	<u>294,060</u>
7. Reconciliation of movement in funds		
Surplus of income over expenditure	229,957	28,331
Opening funds	943,385	915,054
	<u>1,173,342</u>	<u>943,385</u>
8. Financial commitments		

The Commission had annual commitments at 31 August 2004 under non-cancellable operating leases as set out below and which expire:

	2004		2003	
	Land and buildings £	Office equipment £	Land and buildings £	Office equipment £
Within 2 to 5 years	0	22,078	0	26,376
After five years	69,500	0	69,500	0
	<u>69,500</u>	<u>22,078</u>	<u>69,500</u>	<u>26,376</u>

**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. 143 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.

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 56th Annual Meeting
Sorrento, Italy, 19-22 July 2004**



International Convention for the Regulation of Whaling, 1946 Schedule

EXPLANATORY NOTES

The Schedule printed on the following pages contains the amendments made by the Commission at its 56th Annual Meeting in July 2004. It also contains an additional editorial footnote to paragraph 10(e). The amendments, which are shown in *italic bold* type, came into effect on 28 October 2004.

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 shepherdii*).

“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, spermacet 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, notwith-

standing 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 1,000 miles 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; and
- (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.

☼At its 54th Annual Meeting in 2002, the Commission agreed to continue this prohibition but did not discuss whether or not it should set a time when it should be reviewed again.

** 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

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-2004/2005 pelagic season and 2005 coastal season														
I	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
II	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
III	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
IV	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
V	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
VI	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
Total catch not to exceed:														
NORTHERN HEMISPHERE-2005 season														
ARCTIC														
NORTH PACIFIC														
Whole region	PS	0	.	0	PS	0	PS	0	PS	0	PS	0	.	.
Okhotsk Sea-West Pacific Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Sea of Japan-Yellow Sea- East	.	.	.	.	.	.	.	.	.	.	.	.	.	.
China Sea Stock	.	.	PS	0	.	.	.	.	.	.	.	.	.	.
Remainder	.	.	IMS	0	.	.	.	.	.	.	.	.	.	.
Eastern Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Western Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
NORTH ATLANTIC														
Whole region	.	.	.	.	.	.	PS	0	PS	0	PS	0	.	.
West Greenland Stock	.	.	PS	0	.	19 ²	.	.	.	.	.	.	.	.
Newfoundland-Labrador Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
Canadian East Coast Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Nova Scotia Stock	PS	0	.	.	PS	0	.	.	.	.	.	.	.	.
Central Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
East Greenland-Iceland Stock	.	.	.	.	.	.	SMS	.	.	.	.	.	.	.
Iceland-Denmark Strait Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Spain-Portugal-British Isles	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Northeastern Stock	.	.	PS*	0	.	.	.	.	.	.	.	.	.	.
West Norway-Faroe Islands	.	.	.	.	PS	0	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
North Norway Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
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 pursuant to paragraph 13(b)2. ² Available to be taken by aborigines pursuant to paragraph 13(b)3. Catch limit for each of the years 2003, 2004, 2005, 2006 and 2007. + The catch limits of zero introduced into Table 1 as editorial amendments as a result of the coming into effect of paragraph 10(e) are not binding upon the governments of the countries which lodged and have not withdrawn objections to the said paragraph. *The Government of Norway presented objection to the classification of the Northeastern Atlantic stock of minke whales as a Protection Stock within the prescribed period. This classification came into force on 30 January 1986 but is not binding on the Government of Norway.

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[†].

	Classification	Catch limit
SOUTHERN HEMISPHERE-2004/2005 pelagic season and 2005 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-2005 season		
Eastern Stock	IMS	0
Western Stock	IMS	0
East China Sea Stock	PS	0
NORTH ATLANTIC-2005 season	IMS	0
NORTHERN INDIAN OCEAN-2005 season	-	0

[†] The catch limits of zero introduced in Table 2 as editorial amendments as a result of the coming into effect of paragraph 10(e) are not binding upon the governments of the countries which lodged and have not withdrawn objections to the said paragraph.

*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.

•Iceland's instrument of adherence to the International Convention for the Regulation of Whaling and the Protocol to the Convention deposited on 10 October 2002 states that Iceland 'adheres to the aforesaid Convention and Protocol with a reservation with respect to paragraph 10(e) of the Schedule attached to the Convention'. The instrument further states the following:

'Notwithstanding this, the Government of Iceland will not authorise whaling for commercial purposes by Icelandic vessels before 2006 and, thereafter, will not authorise such whaling while progress is being made in negotiations within the IWC on the RMS. This does not apply, however, in case of the so-called moratorium on whaling for commercial purposes, contained in paragraph 10(e) of the Schedule not being lifted within a reasonable time after the completion of the RMS. Under no circumstances will whaling for commercial purposes be authorised without a sound scientific basis and an effective management and enforcement scheme.'

#The Governments of Argentina, Australia, Brazil, Chile, Finland, France, Germany, Italy, Mexico, Monaco, the Netherlands, New Zealand, Peru, San Marino, Spain, Sweden, UK and the USA have lodged objections to Iceland's reservation to paragraph 10(e).

Table 3
Toothed whale stock classifications and catch limits⁺

SOUTHERN HEMISPHERE-2004/2005 pelagic season and 2005 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-2005 season			
NORTH PACIFIC			
Western Division		PS	0 ¹
Eastern Division		-	0
NORTH ATLANTIC			
		-	0
NORTHERN INDIAN OCEAN			
		-	0
NORTH ATLANTIC			
		BOTTLENOSE PS	0

¹ No whales may be taken from this stock until catch limits including any limitations on size and sex are established by the Commission.

⁺ The catch limits of zero introduced in Table 3 as editorial amendments as a result of the coming into effect of 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 2004/2005 pelagic season and the 2005 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 2005 and in the North Atlantic Ocean in 2005 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.¹
 - (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.
- (4) *For aboriginal whaling conducted under subparagraphs (b)(1), (b)(2), and (b)(3) of this paragraph, it is forbidden to strike, take or kill calves or any whale accompanied by a*

calf. For aboriginal whaling conducted under subparagraphs (b)(4) of this paragraph, it is forbidden to strike, take or kill suckling calves or female whales accompanied by calves.

(5) *All aboriginal whaling shall be conducted under national legislation that accords with this paragraph.*

(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 2003, 2004, 2005, 2006 and 2007, 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 1998 – 2002 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) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.

(iii) The findings and recommendations of the Scientific Committee's in-depth assessment

¹The 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.

- for 2004 shall be binding on the parties involved and they shall modify the hunt accordingly.
- (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. *[]*
- (i) For the years 2003, 2004, 2005, 2006 and 2007, 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 2003, 2004, 2005, 2006 and 2007 shall not exceed 140. *[]*
- (ii) 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 2003, 2004, 2005, 2006 and 2007, 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 2003, 2004, 2005, 2006 and 2007, 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 2003-2007 the number of humpback whales to be taken by the Bequians of St. Vincent and The Grenadines shall not exceed 20. The meat and products of such whales are to be used exclusively for local consumption in St. Vincent and The Grenadines. *[]* The quota for the seasons 2006 and 2007 shall only become operative after the Commission has received advice from the Scientific Committee that the take of

4 humpback whales for each season is unlikely to endanger the stock.

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.

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 carcase (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.

INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING, 1946, SCHEDULE 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
SCHOOLING REPORT

TABLE 2

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: Asdic used (Yes/No)

Time whale flagged or alongside for towing

Towing: Serial No. of catch

Time started picking up

Time finished picking up or started towing

Resting: Date and time delivered to factory

Time stopped (for drifting or resting)

Time finished drifting/resting

Time ceased operations

WEATHER CONDITIONS

	Time	Sea state	Wind force and direction	Visibility
Total searching time.....				
Total chasing time				
A) with asdic				
B) without asdic				
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.

*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 56th Annual Meeting, July 2004
(amendments are shown in *bold italics*)**

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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 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 Chair after consultation with the Contracting Governments and Commissioners.

2. Before the end of each Annual Meeting, the Commission shall decide on: (1) the length of the Annual Commission Meeting and associated meetings the following year; and (2) which of the Commission's sub-groups need to meet.

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.

Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.

- (c) The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of observers accredited in accordance with Rule C.1.(a) and (b). 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.
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 of all representatives of member and non-member governments and observer organisations 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. For member governments, the notification shall indicate the Commissioner, his/her alternate(s) and advisers, and the head of the national delegation to the Scientific Committee and any alternate(s) as appropriate.

The written notification shall be made by governments or the heads of organisations as the case may be. In this context, 'governments' means the Head of State, the Head of Government, the Minister of Foreign Affairs (including: on behalf of the Minister of Foreign Affairs), the Minister responsible for whaling or whale conservation (including: on behalf of this Minister), the Head of the Diplomatic Mission accredited to the seat of the Commission or to the host country of the meeting in question, or the Commissioner appointed under Rule A.1.

 - (b) Credentials for a Commissioner appointed for the duration of a meeting must be issued as in D.1(a). Thereafter, until the end of the meeting in question, that Commissioner assumes all the powers of a Commissioner appointed under A.1., including that of issuing credentials for his/her delegation.
 - (c) 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.

- (d) The Secretary, or his/her representative, shall report on the received notifications at the beginning of a meeting.
- (e) 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. Decision-making

The Commission should seek to reach its decisions by consensus. Otherwise, the following Rules of Procedure shall apply:

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. (a) 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 or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, or, in the case of a vote by postal or other means, by the date upon which votes must be received, whichever date occurs first, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.
- (b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.
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 develop, with appropriate consultation, draft agenda for meetings of the Commission;
 - (i) for Annual Meetings:
 - in consultation with the Secretary, to develop a draft agenda based on decisions and recommendations made at the previous Annual Meeting for circulation to all Contracting Governments and Commissioners for review and comment not less than 100 days in advance of the meeting;
 - on the basis of comments and proposals received from Contracting Governments and Commissioners under d(i) above, to develop with the Secretary, an annotated provisional agenda for circulation to all Contracting Governments not less than 60 days in advance of the meeting;
 - (ii) for Special Meetings, the two-stage procedure described in (i) above will be followed whenever practicable, recognising that Rule of Procedure J.1 still applies with respect to any item of business involving amendment of the Schedule or recommendations under Article VI of the Convention;
 - (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. Schedule amendments and recommendations under Article VI

1. No item 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 annotated provisional agenda circulated 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 Governments¹.
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.

¹ [There is no intention that the Secretariat could conduct advance or *ex-ante* reviews of such statements.]

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 or before the first day of its participation in any Annual or Special Meeting of the Commission whichever is the earlier.
Subsequent annual payments shall be paid in accordance with Financial Regulation E.2.
 4. The Secretary shall report at each Annual Meeting the position as regards the collection of annual payments.
3. Any interest paid by a Contracting Government to the Commission in respect of late annual payments shall be credited to the General Fund.
 4. Any payment to the Commission by a Contracting Government in arrears with annual payments shall be used to pay off debts to the Commission, including interest due, in the order in which they were incurred.
 5. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission in respect of a period of 3 financial years;
 - (a) no further annual contribution will be charged;
 - (b) interest will continue to be applied annually in accordance with Financial Regulation F.1.;
 - (c) the provisions of this Regulation apply to the Contracting Government for as long as the provisions of Financial Regulations F.1. and F.2. remain in effect for that Government;
 - (d) the Contracting Government concerned will be entitled to attend meetings on payment of a fee per delegate at the same level as Non-Member Government observers;
 - (e) the provisions of this Regulation and of Financial Regulations F.1. and F.2. will cease to have effect for a Contracting Government if it makes a payment of 2 years outstanding contributions and provides an undertaking to pay the balance of arrears and the interest within a further 2 years;
 - (f) interest applied to arrears in accordance with this Regulation will accrue indefinitely except that, if a Government withdraws from the Convention, no further charges shall accrue after the date upon which the withdrawal takes effect.

F. Arrears of Contributions²

1. If a Contracting Government's annual payments have not been received by the Commission by the due date referred to under Regulation E.2. a penalty charge of 10% shall be added to the outstanding annual payment on the day following the due date. If the payment remains outstanding for a further 12 months compound interest shall be added on the anniversary of that day and each subsequent anniversary thereafter at the rate of 2% above the base rate quoted by the Commission's bankers on the day. The interest, calculated to the nearest pound, shall be payable in respect of complete years and continue to be payable in respect of any outstanding balance until such time as the amount in arrears, including interest, is settled in full.
 2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission within 3 months of the due date or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, or, in the case of a vote by postal or other means, by the date upon which votes must be received, whichever date occurs first, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.
6. Unless the Commission decides otherwise, a Government which adheres to the Convention without having paid to the Commission any financial obligations incurred prior to its adherence shall, with effect from the date of adherence, be subject to all the penalties prescribed by the Rules of Procedure and Financial Regulations relating to arrears of financial contributions and interest thereon. The penalties shall remain in force until the arrears, including any newly-charged interest, have been paid in full.

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.

² For the purposes of the Financial Regulations the expression 'received by the Commission' means either (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account or (2) that the Secretariat has in its possession cash, a cheque, bankers draft or other valid instrument of the correct value.

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 inter-governmental 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 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.

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. Commissioners shall identify the head of delegation and any alternate(s) when making nominations to the Scientific 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 scientist 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 Chair¹, 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.

- (i) After an Invited Participant 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.
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.

¹ [Invited Participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates. The Vice-Chair will become Chair at the end of his/her term (unless he/she declines), and a new Vice-Chair will then be elected. If the Vice-Chair declines to become Chair, then a new Chair must also be elected. If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes, and the vote counts shall not be reported or retained.

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.
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 chairs 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.

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.
 - (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 Convention².
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.

²[The Government of Norway notes that for reasons of domestic legislation it is only able to agree that data it provided under this paragraph are made available to accredited persons.]



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