

Annual Report of the International Whaling Commission 2005

Covering the
2004-2005
financial year
and the 57th
Annual Meeting
held in
Ulsan
in 2005



Annual Report of the International Whaling Commission 2005

**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 H. Bamsey	01.09.05
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	Hon. D. Burgos	27.05.05
Benin	26.04.02	Mr Bantole Yaba	06.05.02
Brazil	04.01.74	Coun. M. Pessoa	15.06.04
Cameroon	14.06.05	Dr. B.M. Ousman	04.08.05
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 (Chairman)	24.04.86
Dominica	18.06.92	Mr L. Pascal	10.07.01
Finland	23.02.83	Mr E. Jaakkola	15.04.99
France	03.12.48	Mr S. Louhaur	01.09.05
Gabon	08.05.02	Dr. G. Rerambyath	13.04.04
Gambia	17.05.05	Not notified	
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 R.P.S. Katwal	21.12.04
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	Not notified	
Kiribati	28.12.04	Mr M. Kamatie	20.05.05
Republic of Korea	29.12.78	Mr. J.H. Son	27.02.06
Luxembourg	10.06.05	Mr C. Origer	27.05.05
Mali	17.08.04	Dr. H. Coulibaly	20.04.05
Mauritania	23.12.03	Mr M.A. Dia	15.03.06
Mexico	30.06.49	Dr. L. Rojas Bracho	10.05.05
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
Nauru	15.06.05	Hon. Marcus Stephen	16.05.05
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. Klepsvik	26.11.04
Oman	15.07.80	Mr I.S. Al-Busaidi	17.03.03
Republic of Palau	08.05.02	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	Prof. J.M.M. Marques Palmeirim	06.02.06
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	Mme. Ndeye Ticke	01.01.06
Slovak Republic	22.03.05	Not notified	
Solomon Islands	10.05.93	Mr. S. Diake	15.03.04
South Africa	10.11.48	Not notified	
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	Mr B. Mainini	03.06.05
Togo	15.06.05	Not notified	
Tuvalu	30.06.04	Mr. P. Neleson	13.07.04
UK	10.11.48	Mr R. Cowan	21.05.01
USA	10.11.48	Dr. W. Hogarth	07.02.06

Dr N. Grandy, Secretary to the Commission, 21 March 2006

Preface

Welcome to the eighth 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-Seventh meeting of the IWC, held in Ulsan, South Korea in June 2005. 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.

G.P. DONOVAN

Editor

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**SUMMARY OF MAIN OUTCOMES, DECISIONS AND REQUIRED ACTIONS
FROM THE 57TH ANNUAL MEETING**

The main outcomes, decisions and required actions arising from the 57th 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. The Scientific Committee expects to agree estimates at IWC/58 in 2006. <p>Western North Pacific common minke whales</p> <ul style="list-style-type: none"> • The Scientific Committee began an in-depth assessment of western North Pacific common minke whales. Resolution 2005-2 on ‘facilitating closer co-operation among the range states to expedite sighting surveys for common minke whales off the Korean Peninsula’ was adopted by consensus. <p>Southern Hemisphere humpback whales</p> <ul style="list-style-type: none"> • The Commission welcomed information presented as part of the Scientific Committee’s ongoing Comprehensive Assessment demonstrating the continuation of a strong post-exploitation recovery of humpbacks off the eastern coast of Australia. The Committee hopes to complete the Comprehensive Assessment in 2006 after an intersessional workshop. <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 (of about 300 animals) to zero. Right whales continue to die or become seriously injured by entanglements in fishing gear or ship strikes. • The Scientific Committee welcomed reports that Southern right whales off South Africa and Australia are continuing to increase at rates of around 7% per year. <p>Western North Pacific gray whales</p> <ul style="list-style-type: none"> • The Scientific Committee has expressed great concern over this critically endangered stock of about 100 whales. Its only known feeding grounds lie along the northeastern coast of Sakhalin Island, where existing and planned oil and gas developments pose potentially catastrophic threats. Following IWC/56 five members of the Scientific Committee participated in an Independent Scientific Review Panel under the auspices of IUCN and with the co-operation of the Sakhalin Energy Investment Company Limited. The Commission welcomed the report from this group and adopted by consensus Resolution 2005-3 supporting further efforts to conserve this population. <p>Southern Hemisphere blue whales</p> <ul style="list-style-type: none"> • The Scientific Committee agreed to initiate a Comprehensive Assessment of Southern Hemisphere blue whales next year. <p>Small cetaceans</p> <ul style="list-style-type: none"> • The Scientific Committee reviewed the status of the finless porpoise and reviewed progress on previous recommendations with respect to the baiji, vaquita, harbour porpoise, humpback dolphin, Irrawaddy dolphin and Dall’s porpoise.
Aboriginal subsistence whaling	<ul style="list-style-type: none"> • The Scientific Committee re-iterated its concern at being unable to provide satisfactory management advice on Greenlandic minke and fin whaling due to problems concerning stock identity and abundance. It made strong recommendations for scientific work and urged considerable caution by the Commission in setting catch limits for these stocks. • The Commission agreed that no changes to the block quotas renewed in 2002 were needed but noted the Scientific Committee’s concern regarding Greenlandic whaling. The Greenland Home Rule Government agreed voluntarily to reduce its quota of fin whales from 19 to 10 animals for each of the years 2006 and 2007.

Issue	Outcomes, decisions and required actions
The Revised Management Scheme (RMS)	<ul style="list-style-type: none"> The Scientific Committee completed the <i>pre-Implementation assessment</i> for western North Pacific Bryde's whales. The Commission endorsed the Committee's recommendation to begin <i>Implementation</i> which should be completed in two years. Resolution 2004-6 adopted last year 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. Two meetings of the RMS Working Group and Small Drafting Group were held intersessionally, with a third Working Group meeting at IWC/57. However, the Working Group was not able to propose a finalised RMS text to the Commission. A Schedule amendment proposed by Japan for an RMS that <i>inter alia</i> would have lifted the moratorium was not adopted. The Commission did adopt Resolution 2005-4 on advancing the RMS process (involving an intersessional RMS Working Group meeting and possible consideration of a high level meeting). A Compliance Working Group was established to explore ways to strengthen compliance.
Whale killing methods and associated welfare issues	<ul style="list-style-type: none"> The Commission adopted Terms of Reference for a workshop to be held in conjunction with IWC/58 next year. The workshop will give particular consideration to: (1) practical criteria for determining the onset of irreversible insensibility and death; (2) means of improving the efficiency of whale killing methods; (3) reducing times to death and other associated welfare issues; (4) means for reducing struck and lost rates in whaling operations; (5) the welfare implications of methods used to kill whales caught in nets, where they are not released alive; and (6) practical methods of reviewing and collecting data from aboriginal hunts. Cost and safety issues for aboriginal subsistence hunters will be taken into account in any proposals arising from the workshop regarding improvements to existing and new methods.
Sanctuaries	<p>Proposal for a South Atlantic Sanctuary</p> <ul style="list-style-type: none"> A proposed Schedule amendment to create a South Atlantic Sanctuary was not adopted. <p>Southern Ocean Sanctuary</p> <ul style="list-style-type: none"> A proposed Schedule amendment that would abolish the Southern Ocean Sanctuary was not adopted. The sanctuary therefore remains in place.
Socio-economic implications and small-type whaling	<ul style="list-style-type: none"> A proposed Schedule amendment from Japan to allow the taking of up to 150 minke whales from the Okhotsk Sea-West Pacific stock of the North Pacific each year until 2009 or until a quota based on the RMS is decided, whichever is the earlier, was not adopted. Japan withdrew a similar proposal for a take of up to 150 Bryde's whales annually from the western stock of the North Pacific.
Scientific permits	<p>Existing permits</p> <ul style="list-style-type: none"> The Scientific Committee reviewed results from Japan's research programmes in the Antarctic (JARPA) and North Pacific (JARPNI) and Iceland's programme in the North Atlantic. A major review of the now completed 16-year JARPA programme will be done by the Committee in 2006. Different views on the value of these research programmes were expressed in the Scientific Committee and in the Commission. <p>New Japanese programme in the Antarctic (JARPA II)</p> <ul style="list-style-type: none"> Japan submitted its plans for a follow-up to JARPA that has the following stated objectives: (1) monitoring of the Antarctic ecosystem; (2) modelling competition among whale species and developing future management objectives; (3) elucidation of temporal and spatial changes in stock structure; and (4) improving the management procedure for the Antarctic minke whale stocks. The proposed annual catches for the full programme are: 850 (with 10% allowance) Antarctic minke whales, 50 humpback whales (not to begin for two years) and 50 fin whales (10 in the first two years). There was considerable disagreement over the value of this research within the Scientific Committee and the Commission. Resolution 2005-1 was adopted strongly urging Japan to withdraw its JARPA II proposal or to revise it so that any information is obtained using non-lethal means.

Issue	Outcomes, decisions and required actions
Environmental and health concerns	<ul style="list-style-type: none"> • The Commission reviewed the Scientific Committee's report on environmental matters, including the relationship between sea ice and cetaceans, habitat degradation, progress on two established programmes (POLLUTION 2000+ and Southern Ocean collaborative studies), SOCER (State of the Cetacean Environment Report), Arctic issues and anthropogenic noise. The Commission endorsed the Committee's recommendation for a two-day workshop at IWC/58 to assess the potential for seismic surveys to impact cetaceans. • The Secretariat was requested to seek further co-operation with WHO in relation to contamination issues, particularly in view of newer types of pollutants now appearing in the marine environment.
Conservation Committee	<ul style="list-style-type: none"> • Although disagreement within the Commission continues over the establishment and terms of reference for this Committee, the Commission agreed to its recommendations: (1) develop a research programme to address the issue of inedible 'stinky' gray whales caught by Chukotkan aboriginal subsistence hunters; and (2) to make progress on the issue of whales being killed or seriously injured by ship strikes.
Co-operation with other organisations	<ul style="list-style-type: none"> • In addition to the continuation of co-operative arrangements with a number of organisations, the Commission requested the Secretariat to continue to explore possible co-operation between IWC and the Global Environment Facility.
Future work of the Scientific Committee	<p>The Commission adopted the report from the Scientific Committee, including its proposed work plan for 2005/2006 that includes activities in the following areas:</p> <ul style="list-style-type: none"> • Revised Management Procedure (RMP), particularly with respect to (1) proceeding with the <i>Implementation</i> for western North Pacific Bryde's whales; and (2) finalising issues related to the completion of the <i>pre-Implementation assessment</i> for North Atlantic fin whales; • Estimation of bycatch and other human induced mortality for use in the RMP; • Aboriginal Subsistence Whaling Management Procedure development particularly in relation to Greenlandic whaling and preparation for an <i>Implementation Review</i> of bowhead whales in 2007; • 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 obtaining abundance estimates for Antarctic minke whales, continued preparation for an assessment of western North Pacific common minke whales and the completion of the assessment of Southern Hemisphere humpback whales; • Review of the stock identity concept in a management context and the workshop on the TOSSM (Testing of Spatial Structure Models) project; • Environmental concerns, with a focus on (1) assessing the potential for seismic surveys to impact cetaceans, (2) ecosystem modelling and (3) POLLUTION 2000+; • Whalewatching (WW), focusing on assessing possible population level impacts of WW on whales and on identifying data that may be obtained from whalewatching vessels that are of potential value to the Scientific Committee; • Review of existing scientific permits and planning for the major review of the JARPA programme; • Small cetaceans, including a review of those found in the Caribbean and western tropical Atlantic.
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, as in previous years, not adopted.

Issue	Outcomes, decisions and required actions
Administration	<p>Annual Meeting arrangements</p> <ul style="list-style-type: none"> The Commission requested the Secretariat to further explore the possibilities and implications of document translation and to circulate a paper for review by all Contracting Governments with a view to decision-making at IWC/58. The Commission requested that the Working Group established at IWC/56, augmented with interested countries that have aboriginal subsistence whaling operations, investigate and make recommendations on the implications of less frequent meetings with a view to decision-making at IWC/58. <p>Amendments to the Rules of Procedure and Financial Regulations</p> <ul style="list-style-type: none"> The Commission adopted a revision to the footnote to Financial Regulations F 'Arrears of Contributions' defining what is meant as 'received by the Commission' in the context of annual financial contributions and clarifying that presentation of a cheque to the Secretariat does not qualify as the payment having been 'received'. <p>Dealing with legal issues</p> <ul style="list-style-type: none"> The Netherlands was invited to continue to explore this matter and to report to IWC/58.
Non-governmental organisations	<p>Code of Conduct</p> <ul style="list-style-type: none"> The Commission agreed that the Working Group established at IWC/56 should continue to prepare a draft Code of Conduct for the participation of NGOs at IWC meetings. <p>Participation</p> <ul style="list-style-type: none"> The Commission requested the Secretariat and Advisory Committee to explore how the Rules of Procedure might be amended regarding criteria and fees for NGO participation.
Financial Contributions	<ul style="list-style-type: none"> The Commission adopted criteria to define a 'very small country' for the purpose of calculating Financial Contributions under the Interim Measure. The Commission agreed that the Contributions Task Force should meet at IWC/58 to continue its work to revise the contributions formula. The Commission requested the Secretariat to explore the possibility of instituting a one-off amnesty to relieve the debt burden of its developing country members.
Finance and Budget	<p>Financial statements and budget estimates</p> <ul style="list-style-type: none"> The Commission approved: (1) the Provisional Financial Statement for 2004/05 subject to audit; (2) the budget for 2005/06, including the research budget, and (3) increases in the NGO observer fee from £590 to £610 and in the media fee from £35 to £40 for 2006. <p>Secretariat office accommodation</p> <ul style="list-style-type: none"> The Commission requested the Secretariat to continue to explore possible alternatives to the Red House, identifying the steps required, the identification of all relevant costs, the timing of events and cash-flows. <p>Budgetary Sub-committee</p> <ul style="list-style-type: none"> The Commission agreed a number of procedures to clarify the operation of the Budgetary Sub-committee.
Date and place of Annual Meetings	<ul style="list-style-type: none"> The 58th Annual and associated meetings in 2006 will be held in St Kitts and Nevis during the period 23 May to 20 June. The 59th Annual Meeting in 2007 will be held in Anchorage, Alaska, USA. Offers by Chile and Portugal to host meetings in 2008 and 2009 respectively were noted.
Advisory Committee	<ul style="list-style-type: none"> The UK Commissioner was re-elected onto the Advisory Committee for a further two years to join the Chair (Denmark), the Vice-Chair (South Africa), the Chair of the Finance and Administration Committee (Norway) and the Commissioner for Dominica.

Chair's Report of the 57th Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 57th Annual Meeting of the International Whaling Commission (IWC) took place from 20-24 June 2005 at the Lotte Hotel, Ulsan, Republic of Korea. It was chaired by Henrik Fischer (Denmark). 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 30 May to 17 June.

1.2 Welcome addresses

Welcome addresses were given by Keo-Don Oh, the Minister of Maritime Affairs and Fisheries and Maeng-Woo Park, the Mayor of Ulsan.

On behalf of his Government and the people of the Republic of Korea, the Minister welcomed the delegations, IWC Secretariat and observers and congratulated the Mayor and the people of Ulsan for hosting such a large international gathering. He hoped that the meeting would focus on how to promote conservation and sustainable management of whale stocks. He reported that Korea's policies with respect to whales focus on the proper conservation of whale stocks and the sustainable use of these resources and as such are compatible with the principles embodied in the International Convention for the Regulation of Whaling (ICRW) which it adhered to in 1978. The Minister appreciated the efforts made by the Commission's Chair with respect to proposals for a Revised Management Scheme (RMS) and hoped that progress could be made on this issue. The Minister reported that his government banned commercial whaling in 1986 but noted that some twenty years later, controversies exist regarding the size of minke whale stocks existing around the Korean Peninsula and whether the increase in some whale stocks is having a negative impact on fisheries. He therefore welcomed the in-depth assessment of Western North Pacific common minke whales around Korea just initiated by the Scientific Committee and looked forward to tangible results in the near future. Finally the Minister hoped that the meeting could resolve sensibly many of the issues faced by the Commission by sharing and respecting different points of view and by being prepared to compromise.

The Mayor of Ulsan welcomed all participants to Ulsan, the 'City of Whales'. He drew attention to the long association between the people of the area and whales, noting that the Bangudae petroglyphs are the only petroglyphs in the world to feature whales. The Mayor thanked those involved in the preparation and organisation of the meeting and expressed his pleasure in the opportunity it provided to develop a relationship between Ulsan and the IWC. He hoped that the policies developed at the meeting would bring benefits to all and that the meeting would be long-remembered for its achievements.

1.3 Opening statements

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

- Mali – adhered 17 August 2004
- Kiribati – adhered 28 December 2004
- Czech Republic – adhered 26 January 2005
- Slovak Republic – adhered 22 March 2005
- The Gambia – adhered 17 May 2005
- Luxembourg – 10 June 2005
- Cameroon – 14 June 2005
- Nauru – 15 June 2005
- Togo – 15 June 2005.

The Chair invited the new member countries to address the meeting if they so wished. Kiribati, the Czech Republic, the Slovak Republic and Luxembourg did so. Mali, The Gambia and Togo were not represented at the meeting.

Kiribati informed the meeting that it is a country made up of 33 low-lying atolls with a land area of only 810 square kilometres scattered across 5 million square kilometres of the Pacific Ocean and with three distinct EEZs totalling more than 3.5 million square kilometres. The country is therefore vulnerable to climate change. It is heavily dependent on its marine resources, particularly tuna, and therefore committed to the sustainable use of these resources. It has formulated national initiatives, based on traditional practices incorporated with modern approaches to better manage and utilise its resources, but given its limited capacities and the geographical nature of its islands, finds it a challenge to implement initiatives effectively. Kiribati is therefore working with a number of regional (the Forum Fisheries Agency, the Pacific Community, the Pacific Regional Environment Programme and the Western and Central Pacific Fisheries Commission) and UN organisations (UNCLOS, Convention on Biological Diversity, FAO) to better address sustainable use. Kiribati had adhered to the ICRW to continue its efforts to achieve effective and sustainable use and conservation of its resources. It looked forward to participating at the Annual Meeting in the spirit of mutual respect and co-operation and to achieving the long-term goals of the Commission and the mandate of the Convention.

The Czech Republic noted that despite it having no whaling history, its people are not indifferent to the fate of whales and are in fact concerned not only about their local environment but also about global environmental issues - the conservation of whales being one of them.

The Slovak Republic noted that even though it is a landlocked country with no history of whaling, it wishes to conserve whales for future generations. As a party to other nature conservation agreements such as the Convention on Biodiversity, CITES, the Bern Convention and the Ramsar Convention, the Slovak Republic is committed to protecting nature and to contributing to the preservation of a common heritage, including the oceans. It hoped that the mistakes that led to the overexploitation and near extinction of some whale species in the past can be avoided and the protection of vulnerable whale populations secured.

Luxembourg expressed its pleasure in becoming a member of IWC and hoped for a constructive and successful meeting. It also noted that it has no whaling history but that it has been following closely IWC's work during the past years. For Luxembourg, IWC represents the international organisation for whale management and conservation. It considers the work of the Scientific Committee to be of the utmost importance and supported strongly the principle that all decisions should be based on sound science. It recommended that work on the assessment of the abundance of whale stocks be continued. Luxembourg believed that the creation of and respect for sanctuaries is crucial to the recovery of whale stocks and encouraged and supported such initiatives. It expressed concern with respect to scientific whaling, especially the proposals for JARPA II (see section 10.2.1) and requested those governments involved in scientific whaling to cease such activities and turn to non-lethal methods instead. Luxembourg noted that this would be a condition for its support of an RMS. It congratulated the Commission for its work on animal welfare issues and hoped that times to death could be further reduced for all whale hunts. Finally, Luxembourg expressed its appreciation for the work of the Conservation Committee, believing that it represents a major commitment to minimising the effects of threats to whales other than whaling.

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 for those Contracting Governments present at the beginning of the meeting. She noted that voting rights were suspended for Belize, Costa Rica, The Gambia, Kenya, Nauru, Peru and Togo. Nauru's voting rights were restored later in the meeting. The Secretary noted that when voting commenced, she would call on Kiribati to vote first.

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 when commenting on the draft agenda, Japan had indicated that it would propose the deletion of a number of agenda items it considers to be either outside the scope of the Convention or contrary to the objectives of the Convention, i.e. item 7 on whale killing methods and associated issues; proposals for new sanctuaries under item 8; item 11.5 on health issues; item 12 on whalewatching; item 14.1 on

small cetaceans; and item 15 on the Conservation Committee. While recognising the differing views among Contracting Governments as to whether some of the items should be on the agenda, the Chair proposed that, as in previous years, these differences be noted and the agenda adopted with all items retained.

On a point of order, New Zealand expressed its view that deletion of proposals for new sanctuaries under item 8 would be contrary to Article V.1 of the Convention. Article V.1 provides that:

'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).....'

The Chair ruled that while Japan was within its rights to propose deletion of items 7, 11.5, 14.1 and 15, deletion of the item on new sanctuary proposals was not in accordance with the Convention. Japan challenged this ruling drawing attention to Article V.2 (b) of the Convention that requires Schedule amendments to be based on scientific findings. Japan believed the sanctuary proposals to have no scientific basis. The appeal to the Chair's ruling was put to a vote. There were 24 votes in support of the appeal, 31 against and two abstentions. The Chair's ruling was therefore upheld.

Japan then reaffirmed its wish to delete the other items. It stressed that this proposal did not mean that it thought these items to be of no importance, but simply that they were outside the mandate of the Commission. For example, Japan is not against conservation, but opposes the Conservation Committee as it has, in its view, rejected the principle of sustainable use.

Australia moved to close the debate on Japan's motion. Japan opposed this, but the motion was upheld on being put to a vote (29 in support and 28 against). The Chair then ruled that the agenda be adopted without change. Japan accepted this ruling, but noted that it had not anticipated that the discussion on its proposals would be lengthy.

However it felt the handling of the previous two procedural matters to be inconsistent since New Zealand's point of order concerned the rights of nations to discuss matters, which it had just been denied. New Zealand disagreed since retention of the items would allow the continuation of the debate under the appropriate agenda items.

The adopted agenda is given in Annex B.

On the second morning of the meeting, St. Lucia expressed concerns as to how some of the discussions had been managed on the first day and requested that the plenary be adjourned so that the Commissioners could meet in private to discuss these concerns. On a point of order Australia opposed this proposal believing that issues had been dealt with satisfactorily the day before and that any remaining concerns should be dealt with in public. The Chair noted that it is established practice to convene a private meeting of Commissioners if requested by a Commissioner and ruled that such a meeting be allowed. The Chair's ruling was challenged by Australia but was upheld when the challenge was put to a vote. There were 20 votes in support of Australia's challenge, 28 against and 9 abstentions.

3. SECRET BALLOTS

3.1 Proposal for amendment to Rule of Procedure

E.3(d)

Japan again introduced its proposed amendment (that was unsuccessful at the 2001, 2002, 2003 and 2004 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

The UK, New Zealand, Sweden, Monaco, Germany, Australia, Brazil, the Netherlands, Italy and Argentina indicated as they had on previous occasions, that the move proposed by Japan is contrary to the principles of openness, transparency and the need for governments to be accountable to their citizens.

Iceland, Republic of Guinea, Solomon Islands, Republic of Palau, St. Kitts and Nevis, Antigua and Barbuda, China, St. Lucia and Dominica spoke in support of Japan's proposal. Iceland felt that such a revision would allow less powerful nations to carry out their work without undue pressure from others. St Kitts and Nevis and Antigua and Barbuda noted that Caribbean islands had been under a great deal of pressure from anti-whaling NGOs and governments and that it is necessary to protect the rights of Contracting Governments to vote without fear of reprisals. Several governments noted that even if wider use of secret ballots is allowed, transparency is still maintained as the debate is open and governments can disclose their vote if they so wish.

There was a disagreement between Japan and Australia as to whether CCAMLR allowed the use of secret ballots and both subsequently circulated 'for information' papers supporting their positions. Japan drew attention to Rule 5 of CCAMLR's Rules of Procedure that indicates that secret ballots can be taken at the request of a Member of the Commission. Australia noted that under CCAMLR, decisions on matters of substance must be taken by consensus – thus the issue of secret ballots does not arise. While under Rule 5, Australia acknowledged that procedural matters of CCAMLR may be dealt with by procedural vote, established practice is that the only occasion a secret ballot has been used has been in the context of the appointment of a new Executive Secretary.

On being put to a vote, Japan's proposal failed to achieve a majority and was therefore not adopted. There were 27 votes in support and 30 against.

4. WHALE STOCKS²

4.1 Antarctic minke whales

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

Subsequently, considerable time has been spent considering Antarctic minke whales with a view to obtaining final estimates of abundance for the three circumpolar cruises 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 and preliminary work suggests that the estimated abundance may be down to about 40% of the estimates from the Second Circumpolar Survey. Experimental work to examine possible causes was undertaken on the 2004/05 cruise and further work will be undertaken on the 2005/06 cruise. Work to finalise an assessment of Antarctic minke whale is continuing in a number of ways and will again be a priority item for discussion at the 2006 meeting.

4.1.2 Commission discussion and action arising

Australia expressed its continuing concern that there is still no agreed abundance estimate for Antarctic minke whales, particularly since the results of CPIII suggest a possible decline of 61% from that previously agreed. It considered that reaching agreement on an estimate is urgent. Germany and New Zealand made similar remarks. New Zealand suggested that results from SOWER cruises called into question those from JARPA that do not show any sign of decreasing abundance. Monaco noted the agreement within the Commission that there is uncertainty regarding Antarctic minke whale abundance, but suggested that there is some indication of a declining trend. Such circumstances,

¹ Ann. Rep. Whaling Comm. 2001:8; 2002:8; 2003:6 and 2004:6.

² For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 8 [2006].

Monaco also suggested, would usually trigger a precautionary approach. Brazil agreed.

In response to these comments, Japan suggested that information is sometimes portrayed in a very simple but misleading way. It did not dispute that the previously-agreed abundance estimate is different from that currently suggested by recent SOWER cruises but suggested that the Scientific Committee should be left to investigate the reasons behind these differences rather than creating a political issue. Japan noted that under JARPA, non-lethal sighting surveys have been conducted for the past 18 years and have not indicated declines in minke whale abundance. Unlike SOWER surveys, the JARPA surveys have been conducted in almost the same area every year. Because of this, Japan has more confidence in JARPA abundance estimates. Iceland associated itself with Japan's comments, noting that the Scientific Committee has not yet concluded that there is a declining trend in minke whale abundance.

In response to a remark from the UK that only one scientific paper had been published on JARPA results despite the Japanese government spending some 50 million US\$, Japan reported that in the past it has provided tables of information to the Commission on published documents (close to 200), including those subjected to peer review.

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

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

4.2.1 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 reviewed progress on a series of priority research items it had previously identified that needed to be accomplished before an assessment could be undertaken, including: analysis of survey data; further work on stock identity; examination of CPUE (catch per unit effort data) and bycatch information; and consideration of ways to elucidate the proportion of 'J' stock animals found in the Sea of Japan. Considerable progress was made this year. Work is continuing on these issues and a workplan and a further intersessional group was established. The Committee agreed that this work should proceed with some urgency but noted that a complete assessment may take several years. In addition to research recommendations the Committee also recommended that the Commission should request the relevant authorities in the Russian Federation to grant permission for survey vessels to enter EEZ and territorial (coastal) waters.

4.2.2 Commission discussion and action arising

The UK noted the continuing concern expressed by the Scientific Committee regarding this stock – a genetically distinct stock which appears to be low in numbers and not readily distinguishable from other stocks on the same whaling grounds. It also expressed concern regarding bycatch of these animals. The UK recalled that this stock was classified as a Protection Stock in 1983 when the population was believed to be at 37% of its level in 1962 and that in 2003, the Scientific Committee had agreed that the stock could become extinct within this century. This year, the Scientific Committee reported that further quantitative assessment might be some years away and that

there are data suggesting that stock structure is complex, potentially containing distinct population sub-units, each of which may be endangered. The UK agreed that further research is needed, including a study of the genetics of the bycaught animals, and that action needs to be taken to protect the stock, particularly with respect to bycatch. It asked for an explanation from the Scientific Committee Chair regarding the status and genetics of this stock and what needs to be done to clarify these. Mexico concurred with the UK.

The Scientific Committee Chair noted the complexity of the issue and stressed that it is premature to draw conclusions about the stock status or structure. He explained that the following priority items needed to be addressed prior to an assessment:

- (1) analysis of sighting survey data to provide estimates of abundance, their variances, and any estimates of $g(0)$;
- (2) analysis of genetic and any other data to inform hypotheses of stock structure;
- (3) consideration of the link between points (1) and (2), particularly how to deal with the lack of information on the proportion of 'J' stock animals in the Sea of Okhotsk;
- (4) finalising the CPUE data and analysis;
- (5) obtaining information on fishing effort for historical extrapolation of bycatch based on current information; and
- (6) obtaining information on catches not already held by the Secretariat.

Japan thanked the Russian Federation and Republic of Korea for their co-operation with research on western North Pacific common minke whales. Japan believed that the credibility of the genetics work on stock structure using samples from products for sale on the Korean and Japan markets is low, due to the lack of data on the origin of the market purchase (i.e. the date and location of where and when the animal was bycaught). It agreed with the Scientific Committee Chair that it is premature to come to a conclusion on stock structure.

The Republic of Korea thanked the Scientific Committee for its work in this area and welcomed the in-depth assessment. It noted that bycatch data are only available from Korea and Japan.

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

RESOLUTION ON FACILITATING CLOSER CO-OPERATION IN SIGHTING SURVEYS

On behalf of the other co-sponsors (Japan, the Russian Federation and China), the Republic of Korea introduced a draft Resolution on facilitating closer co-operation among the range states to expedite the sighting survey of minke whales off the Korean peninsula. Specifically, the draft Resolution:

- (1) welcomed a workshop on collaboration of non-lethal research on this stock to be hosted by the Republic of Korea and held in Ulsan in early 2006 and encouraged all range states and other interested parties to participate;
- (2) requested relevant countries that have unsurveyed waters under their jurisdictions to conduct co-operative non-lethal scientific research for the 2006 surveys; and
- (3) recommended that scientists from range states and other countries collaborate and harmonise efforts to

develop a research programme and conduct analyses of data.

Noting that it was the first time all range states had come to a common understanding of the research needs, the Republic of Korea asked that the Resolution be adopted by consensus. While the UK welcomed the proposed Resolution, it would have preferred the Resolution to include something on the collection of data on bycatch. The Netherlands agreed and suggested that the Resolution be amended accordingly. The Republic of Korea indicated that there were difficulties in including this aspect in the Resolution, but noted that the workshop would seek a way forward with respect to collecting bycatch data. The USA reported that it had hoped to be a co-sponsor of the Resolution, but could only have done this if there had been a stronger commitment with respect to bycatch. However, noting the Republic of Korea's verbal commitment on this issue, it was prepared to support the draft Resolution as submitted. Monaco suggested that the third operative paragraph be amended to include co-operation with the Scientific Committee. Japan thanked the Republic of Korea for its initiative. Noting that it and the Republic of Korea already collect extensive data on bycatch, Japan suggested that Monaco's amendment was sufficient. The Resolution, modified as proposed by Monaco, was then adopted by consensus (Resolution 2005-2, Annex C). The Republic of Korea expressed its appreciation for the support of the co-sponsors and the Commission.

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 noted reports of increasing numbers of humpback whales in several parts of the Southern Hemisphere including Australia. It made a number of research recommendations to further progress towards an assessment. Considerable progress has been made in this work and the Committee has agreed that it should give high priority to completing the assessment at the 2006 meeting. To this end, an intersessional workshop will be held in Hobart, Australia in early 2006.

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. Last year, the Committee agreed 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. 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, and progress was

made at the 2005 meeting with a view to beginning the assessment process in 2006.

4.3.2 Commission discussion and action arising

Discussions focused on Southern Hemisphere humpback whales. New Zealand welcomed the reported increase in their abundance. However, it drew attention to discrepancies between abundance estimates derived from SOWER cruises and those from JARPA, suggesting that further work is needed before the true situation can be known. It therefore welcomed the Committee's recommendations for further work, including an intersessional workshop designed to facilitate the completion of the Comprehensive Assessment by the end of the next annual meeting in 2006. Finally it expressed its view that the JARPA II proposals, if put into effect, could have a significant impact on the small recovering South Pacific population of humpbacks, including those whose migration routes take them through New Zealand's waters.

Australia also welcomed the strong recovery in humpbacks in this area, but noted that it is still early days. It formally announced its offer to host and provide funding for the intersessional workshop in Hobart in the spring of 2006 to complete the Comprehensive Assessment. It commented that it would be regrettable if the increase in abundance resulted in proposals to slaughter humpback whales.

Japan too welcomed the recovery of the humpbacks, also indicated by its own research activities, and hoped this trend would continue. In response to New Zealand, it suggested that the rapid recovery of this stock may explain the differences between SOWER and JARPA abundance estimates and noted that there appear to be rapid changes occurring to the ecosystem in this area. It supported further work and hoped that discussions could be carried out on the basis of data and science rather than emotion.

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 Special Issue 2 of the Journal - *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.

4.4.1.4 SOUTHERN HEMISPHERE RIGHT WHALES

The Committee received reports of continuing increases in southern right whale numbers off South Africa and updates on information on biological parameters. The Committee again recommended that the 30+ year monitoring programme be continued, noting its value to conservation and management.

The Committee also received reports of right whales off Australia suggesting increasing numbers of cow/calf pairs off South Australia. The Committee also recommended that the long term monitoring programme in this area be continued.

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. 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 cumulative impact of multiple threats (from both natural and anthropogenic sources).

This year, the Committee welcomed and supported the report and recommendations of the independent scientific review panel (ISRP) that had included five members of the IWC Scientific Committee (Brownell, Cooke, Donovan, Moore and Reeves). It commended SEIC (the Sakhalin Energy Investment Corporation) for requesting this review and IUCN for facilitating the process. Despite some difficulties, it believes that this process represented an important step forward for western gray whale conservation.

The Committee strongly supported efforts to build upon this in the future and to develop a framework for collaborative research, monitoring and mitigation efforts between oil companies, independent experts, national programmes and authorities and the IWC and other intergovernmental organisations. It particularly urged that other companies in the area co-operate with this process.

The Committee also concurred with need identified by the ISRP for a comprehensive strategy to save western gray whales. In addition to time spent in the Sakhalin region, gray whales spend approximately half their time in other waters in eastern Asia (Japan, the Republic of Korea, the Democratic People's Republic of Korea and China) and there is a need for mitigation measures for the many potential threats to the western gray whale throughout its range.

In addition to the report from the Scientific Committee, Greg Donovan, Head of Science at the IWC Secretariat, reported on his activities with respect to western North Pacific gray whales since the last Annual Meeting. He noted that Resolution 2004-1 adopted last year had *inter alia*, requested that the Secretariat: (1) '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'; and (2) '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'. He reported that he had been invited to join the Independent Scientific Review Panel (ISRP), established under the auspices of IUCN and convened in summer 2004. The Panel's primary objective was to examine plans for Phase 2 of the Sakhalin II development and review the plans of Sakhalin Energy Investment Company Ltd (SEIC³) and their proposed mitigation measures in the context of the conservation of the western gray whale. The ISRP met four times (a total of some 17 days) between September 2004 and January 2005 and the final report was released on 16 February 2005. The full report can be obtained from IUCN's website (www.iucn.org). Subsequently, IUCN convened a two-day workshop in May 2005 that involved a wide range of stakeholders and specialists. The report of this workshop can also be downloaded from the IUCN website.

He noted that the report represents a huge amount of work and, in his opinion, is a significant step towards trying to ensure the recovery of this critically endangered population for two reasons: (1) it provided a fair and objective view of the development in the context of potential threats to the gray whale and the mitigation measures proposed by SEIC; and (2) it represented a major change in attitude of at least one company in terms of seeking independent outside review of its proposed development. He was pleased to report that following the publication of the ISRP report, SEIC chose the most 'conservationist' pipeline route. Finally, he reported that an important addendum to the ISRP report is the section dealing with the need for a comprehensive strategy for conservation of the western gray whale given that the Sakhalin developments are not the only threats to this stock. He stressed that collaboration and co-operation will be the key to success and he hoped that the IWC could play a facilitating role and set an example in which all member

³ Sakhalin Energy Investment Company Limited (SEIC) is a consortium of companies developing oil and gas reserves in the Sea of Okhotsk off the northeastern coast of Sakhalin Island in the Russian Far East. The shareholders in SEIC are: Shell Sakhalin Holdings B.V. (Shell) 55% (operator); Mitsui Sakhalin Holdings B.V. (Mitsui) 25%; Diamond Gas Sakhalin, a Mitsubishi company 20%.

governments (range states and non-range states alike) work by consensus to help this critically endangered population.

4.4.2 Commission discussion and action arising

Discussions within the Commission focused on western North Pacific gray whales. The Republic of Korea thanked the Scientific Committee for its work and the new information on this endangered population and welcomed the recommendations for additional research and co-operation. It was ready to do this, thus building on the gray whale workshop held in Ulsan in 2002.

The UK noted its continued grave concern regarding the status of this stock and indicated that it would be submitting a draft Resolution to the Commission for consideration.

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

RESOLUTION ON WESTERN NORTH PACIFIC GRAY WHALE

On behalf of the other co-sponsors (Austria, Germany, Italy, Mexico, Netherlands, New Zealand), the UK introduced a draft Resolution that:

- (1) calls upon range states to take all practical measures to avoid all anthropogenic mortality, and in particular to develop and implement strategies to prevent accidental deaths;
- (2) calls upon all organisations concerned with oil and gas projects to take all practicable measures to ensure that received noise levels in the Piltun feeding ground are reduced to a minimum and are in accordance with any future recommendations of the IWC Scientific Committee;
- (3) supports the ISRP proposal for a comprehensive strategy to save western gray whales and their habitat;
- (4) further calls upon all organisations, range states, authorities, scientists and other stakeholders concerned with developments in the waters around Sakhalin Island to support the efforts to develop a framework for collaborative research, monitoring and mitigation efforts between oil companies, independent experts, national programmes and authorities and the IWC and other intergovernmental organisations, and that they share all relevant data collected; and
- (5) requests the Secretariat to continue to offer its services and scientific expertise to appropriate collaborative efforts to develop a comprehensive strategy and ensure continued effective monitoring of the population.

The observer from IUCN welcomed the proposed Resolution. He noted that the oil company Exxon also has operations in the Sakhalin area and that it is important that they be encouraged to participate in the work on gray whales and to submit the results from their own activities to the Scientific Committee. The Republic of Korea and the Russian Federation also welcomed the proposed Resolution. The latter was particularly pleased to see the UK as one of the co-sponsors given that BP is also involved in oil and gas exploration around Sakhalin. It hoped that the UK government will co-operate with BP to minimise the potential effects of BP's activities on the gray whales.

The Resolution was adopted by consensus (see Resolution 2005-3, Annex C).

4.5 Other

4.5.1 Report of the Scientific Committee

4.5.1.1 HISTORIC ESTIMATES OF ABUNDANCE

In 2004, in the light of a genetic modelling paper published in 2003⁴, the Committee had considered the general methodological issue of estimating carrying capacity and/or pre-exploitation population size in the context of the Committee's assessment work. As a result of its discussions, the Committee agreed that such genetic methods have the potential to be one of a suite of tools that can be used to examine pre-exploitation abundance but that there are a number of limitations and uncertainties that must be considered when examining such data in a present-day management context. The Committee had agreed that the estimates of historic abundance provided in the Roman and Palumbi paper for the initial pre-whaling population sizes of humpback, fin and common minke whales in the North Atlantic have considerably more uncertainty than reported, and can not be considered reliable estimates of immediate pre-whaling population size. Particularly important in this regard is the mismatch between the time-period to which genetic estimates apply (i.e. the time period is difficult to determine and extremely wide) and the population sizes of whales immediately prior to exploitation. It also agreed that the paper provides no information to suggest that changes are required in either the RMP or AWMP approaches to management.

The Committee had identified further work necessary to assess whether genetically-based estimates of 'initial' abundance can provide useful information for the management of cetaceans and received a progress report on this work at the 2005 meeting. This work is continuing and will be presented at the 2006 meeting.

4.5.1.2 SPERM WHALES

The Committee welcomed the summary report of a workshop held in the USA in March 2005. The workshop was not sponsored by the IWC but its terms of reference had been developed by a steering group within the IWC Scientific Committee. These were to:

- (1) identify and evaluate new methods, identify critical tests of such methods, and describe how these might be conducted, especially using combinations of new methods simultaneously;
- (2) identify relevant spatial scales and formulate plans for regional field studies to address key uncertainties relevant to an eventual in-depth assessment; and
- (3) develop a research programme that would be necessary and sufficient as the basis for an in-depth assessment of sperm whales, including research coordination and funding mechanisms.

The Committee agreed that it should consider sponsoring a second workshop proposed to be held in two years' time.

4.5.2 Commission discussion and action arising

There were no comments on the report from the Scientific Committee. The Commission therefore noted the Scientific Committee report and endorsed its recommendations.

⁴ Roman, J. and Palumbi, S.R. 2003. Whales before whaling in the North Atlantic. *Science* 301:508-10.

5. ABORIGINAL SUBSISTENCE WHALING⁵

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on 14 June. It was chaired by Andrea Nouak (Austria) and attended by delegates from 22 Contracting Governments. 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 Sub-committee is included below. The full Sub-committee report is available as Annex D.

5.1 Aboriginal subsistence whaling scheme

5.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee

5.1.1.1 ABORIGINAL WHALING MANAGEMENT PROCEDURE (AWMP)

The Chair of the SWG had informed the Sub-committee that as the Commission has now endorsed *SLAs* (*Strike Limit Algorithm*) for both bowheads and gray whales, the primary work carried out since last year's Annual Meeting was in relation to the fin and common minke whale fisheries off West Greenland. He noted that the Committee has on several occasions informed the Commission that it would be extremely difficult, if not impossible, to develop an *SLA* for the Greenlandic fisheries that will satisfy all of the Commission's objectives. This is particularly important in the light of the Committee's grave concern at its inability to provide management advice for these fisheries (as discussed further under Item 5.2.3.1). The major problem is that while there are strong indications that the animals that are available to be counted off West Greenland do not comprise the total stocks from which the hunted animals are found, the SWG has no indication of how much greater the stocks might be or where to look for the other animals.

Given these difficulties, the Sub-committee Chair restricted discussion to a brief report of progress in moving towards *SLA* development. It was noted that the Committee had welcomed the receipt of a paper concerning a population model that would enhance the Committee's ability to test potential *SLAs* for these fisheries in the future, once they are developed. The possibility of using sex ratio information in potential common minke whale *SLAs* was noted.

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

5.1.1.2 ABORIGINAL WHALING SCHEME (AWS)

The SWG Chair had noted that in 2002, the Committee had developed scientific aspects of an aboriginal whaling scheme intended for use in conjunction with the *Bowhead SLA*. These proposals were agreed by the Scientific Committee and reported to the Sub-committee (the specifications can be found in *Ann. Rep. Int. Whaling Comm.* 2002: 74-5). Last year, the Commission again did not adopt the AWS and in particular the USA expressed some concerns⁶. The SWG Chair reported that the Scientific Committee again recommends the scientific components of an aboriginal whaling management scheme to the Commission, noting that it forms an integral part of the long-term use of *SLAs*. He again re-iterated his willingness to discuss any aspects of the scheme with

interested delegations. Australia, as it had last year, referred to the lack of progress on the wider whaling management considerations under the Aboriginal Whaling Scheme and wanted this concern noted for the record.

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

5.1.2 Commission discussions and action arising

In the Commission, the only comment made was by the USA in relation to the AWS. While it supported the process, it re-iterated its concerns expressed at previous meetings and could not support approval of the AWS in a piecemeal fashion. It was particularly concerned regarding the phase-in period which it believed would place an unnecessary burden on the hunters.

The Commission noted this part of the Sub-committee report but did not adopt the AWS.

5.2 Aboriginal subsistence whaling catch limits

5.2.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

5.2.1.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The SWG Chair had reminded the Sub-committee that an important assumption behind the testing of the *Bowhead SLA* is that there is only a single population of bowhead whales migrating past Barrow and available to the hunters in Alaska and Chukotka and that some preliminary information that this might not be the case was presented last year. He explained that whether or not this is the case is important in terms of the forthcoming *Implementation Review* in 2007. Part of the task of such a review is to determine whether or not the situation lies within the 'parameter space' that was used to test the robustness of the *Bowhead SLA*. An extensive workplan, involving two intersessional workshops, to try to ensure that the *Implementation Review* is completed in 2007, was drawn up by the Scientific Committee. The Sub-committee was informed that the Scientific Committee had received a progress report on a major US-funded collaborative programme on stock structure issues and stressed that the focus of the programme should be to provide advice of direct relevance to testing the *SLA*.

The catch information reported for the 2004 Alaskan harvest was 43 animals struck and 36 landed (13 males, 22 females, 1 undetermined sex). One male was taken in the Chukotkan fishery. The Scientific Committee agreed that no change is required to the current block quota for 2003-2007. It recommended that every effort be made to obtain samples for genetic analysis from the Chukotka catch.

In the Sub-committee, the USA thanked the Scientific Committee for its careful deliberations on matters important to the understanding of and ability to manage the Bering-Chukchi-Beaufort Seas stock of bowhead whales and emphasised that the Committee had reaffirmed its management advice regarding the appropriateness of the current level of aboriginal subsistence take from this stock. The USA reported on its research programme, which was greatly expanded in 2005 to accommodate the needs for expanded research on stock structure. The research programme covers a two-year field season and two years of laboratory and data analysis. Prior to completing two years of research, it will not be possible to forecast the outcome of these studies. The USA also drew attention to two intersessional workshops on bowhead stock structure held since the last Annual Meeting. The first, to evaluate the

⁵ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)*: 8 [2006].

⁶ *Ann. Rep. Int. Whal. Comm.* 2004:13.

Norwegian genetic analysis of BCB bowhead stock structure, was hosted by the Government of Norway in October 2004. The second was held in February 2005, hosted by the USA, to evaluate and prioritise the entire research programme related to bowhead stock structure. Both meetings were attended by experts from Norway, Japan, the Russian Federation and the USA. The USA expressed its appreciation for the continued collaboration among these countries.

Japan reiterated that co-operative scientific research in this area is very important. It emphasised that its scientists had been co-operating closely on this subject with other countries and pledged that scientific co-operation in this important area will be continued to the extent possible.

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

Under 'other matters' on the Sub-committee agenda, the acting Chairperson of the Alaska Eskimo Whaling Commission raised two additional matters of importance to the AEWWC in relation to the BCB bowheads. The first was with respect to the Scientific Committee's current abundance estimate of 10,545 (95% confidence intervals of 8,000-13,000) and the estimated annual rate of increase of 3.4%. He noted that these figures are consistent with what the hunters see during the bowhead migration, suggesting that under the AEWWC management plan, this stock is continuing to increase and is approaching its pre-commercial whaling level. However, noting that his community holds the AEWWC responsible for protecting the bowhead whale and its habitat, including its feeding grounds from damage by oil and gas development, commercial fishing and shipping, he expressed concern about the increasing ship traffic in the Arctic Ocean and indicated that the AEWWC looked to the Government of the USA and the IWC to help them protect the bowheads from suffering the same fate as the Northern Atlantic right whale. The second matter was with respect to bowhead genetics. He explained that the hunters are aware of the concern about bowhead stock structure and that as in the past, they are co-operating with research scientists, this time by donating tissue samples.

5.2.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Japan reiterated its comment made in the Sub-committee regarding its appreciation of the co-operation among scientists in work on this stock. It considered that this way of working should be a model for discussions on the status and management of other stocks.

5.2.2 North Pacific Eastern stock of gray whales

5.2.2.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

In 2004, 110 gray whales (43 males and 67 females) were taken in the Chukotkan fishery. Of these, 6 (5% of the catch) exhibited a strong chemical odour and could not be used. Due to domestic legislation, the Makah tribe was unable to hunt in 2004.

The Committee agreed that the results from the *Gray Whale SLA* adopted last year showed that no change is required to the current block quota for 2003-2007. An *Implementation Review* is scheduled for 2009.

The Sub-Committee endorsed the report of the Scientific Committee.

5.2.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no specific comments on the Sub-committee's report, but the Russian Federation drew attention to the six

gray whales that were taken in Chukotka in 2004 that had a strong chemical odour and could not be used. Noting that the Chukotkan hunters had been able to satisfy their quota for the last two years, the Russian Federation reported that while the six 'stinky' whales only represented around 3% of the overall quota, they represented 13% of the quota for one of the whaling villages and were therefore not insignificant. Given that the needs of the Chukotkan people cannot be met with the 'stinky' whales, the Russian authorities and the hunters believe that they should not be counted against the quota. In addition, believing that petroleum hydrocarbons could be implicated in the problem, the Russian Federation reported that a chemical analysis of blubber, meat, tongue and liver tissue had been performed by their scientists. This revealed that the most polluted tissues were blubber and tongue. These results are now being analysed by toxicologists from the USA, Norway and Japan. The Russian Federation stressed the importance of elucidating the source of what they considered to be contamination. It noted that this matter had been raised during the meeting of the Conservation Committee, and requested that it also be discussed when the Commission reviewed the report from that Committee (see Item 15).

The Russian Federation confirmed that under certain weather conditions, an experienced hunter can detect the 'stinky' whales prior to targeting. It noted that its hunters believe that 10% of the whales are 'stinky' and stressed the need to establish a procedure to confirm that these whales are not edible.

The UK recognised the inadequacy of the 'stinky' whales in meeting the need for food, but suggested that a licensed increase in quota could not be done without a formal procedure written into the Schedule. Germany and Norway agreed. Norway suggested that making allowances for these 'stinky' whales should not be a problem since from the in-depth assessment of this stock in 2002, the Scientific Committee agreed that a take of up to 463 whales per year is sustainable for a least the medium term (~ 30 years) and is likely to allow the population to remain above *MSYL*. Norway did see a problem however in that the *SLA*, unlike the *CLA*, does not give numbers of animals that can be taken 'safely', but rather only whether a particular needs request can be satisfied safely. The Scientific Committee Chair indicated that this can simply be addressed if the Russian Federation or the Commission asks the Scientific Committee to run the *Gray Whale SLA* with an increased needs request. The Commission Chair suggested that the Committee do this and report back next year.

While recognising the views of the UK and Norway, Dominica supported the Russian Federation's position and encouraged that work be done to elucidate the origin of the problem.

5.2.3 Minke and fin whale stocks off West Greenland

5.2.3.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

REPORT FROM THE SCIENTIFIC COMMITTEE

Noting that the Scientific Committee continues to be extremely concerned that it has never been able to provide satisfactory management advice on these stocks, the SWG Chair reported that discussions on Greenland fisheries and the provision of management advice were the most extensive and difficult the SWG had had this year. The main questions for both common minke whales and fin whales off West Greenland revolve around how the

abundance estimates derived from sightings made during surveys relate to the true number of animals 'available' to the hunters. It has been generally accepted for both species that the animals found off West Greenland probably do not comprise the total stocks.

Examination by the SWG of the results of a genetic study funded last year led to a broader discussion on how genetic information can best assist the Committee in providing management advice. The Committee received information on some recent genetic techniques that may allow it to determine a lower bound for the size of the common minke whale population or populations hunted off West Greenland. However, before embarking on an actual study, it is essential to determine the statistical power of the proposed methods for the West Greenland case. This work will be carried out during the early intersessional period, and if the results are promising, the scientists involved will develop a full proposal for the work.

The SWG then went on to examine information from the catches, particularly on distribution of the animals and the sex ratio of the catch (females have formed 70-76% of the catches of common minke whales off West Greenland since such data became available in the mid-1950s). There was no evidence of marked differences in the sex ratio of the catch along the coast.

A major part of the work this year was to examine the results of two major aerial photographic strip-transect surveys carried out in 2002 and 2004, and an experimental survey in 2003 (involving some 95,700 photographs in total). The estimates provided by the scientists who carried out the surveys were: 510 (*CV* 0.75) common minke whales, which is significantly smaller than the revised estimate of 6,390 (*CV* 0.41) whales in 1993 - the most recent estimate agreed by the Committee; and 980 (*CV* 0.48) fin whales, which is similar to the last agreed estimate of 1,100 (95% CI 520 - 2,100) for 1987-88. There was extensive discussion within the SWG of the methods used to read the photographs and to turn the results into abundance estimates. In summary, the SWG identified a number of improvements at all stages of the process that are necessary for these abundance estimates to be considered acceptable by the Committee. The SWG was particularly concerned with respect to the applicability of the method for common minke whales and has established a number of intersessional groups to provide advice and oversee the re-examination and reanalysis recommended.

The SWG then examined two papers that attempted to assess the status of these species off West Greenland. These preliminary assessments were not considered acceptable and can not be used to provide management advice. However, the SWG did agree that the sex ratio data show promise and again have set up an intersessional group to work with the Greenlandic scientists to see if they can be used to try to determine a lower bound for the total abundance of the stock.

With respect to management advice, the SWG Chair stressed that the Committee was extremely concerned at its inability to provide advice. The Committee had spent considerable time agreeing the words in its report on this issue and therefore believed it was inappropriate to try to summarise them to any extent. The following section thus repeats the relevant sections from the Committee's report.

⁴As it has stated on many occasions, the Committee has never been able to provide satisfactory management advice for either the fin or common minke whales off West Greenland. This

reflects the lack of information on stock structure and abundance, and the absence of appropriate assessments. This is the reason the Committee first called for the Greenland Research Programme in 1998.

Despite receiving preliminary estimates of abundance from a photographic survey carried out in 2002 and 2004, the Committee **agrees** that, once again, it is in the deeply unfortunate position of being unable to provide satisfactory management advice on safe catch limits; **it views this as a matter of great concern**. The present uncertainties over the preliminary abundance estimates are such that the Committee does not consider them acceptable estimates. Although it has suggested further work with respect to the data collected on the photographic surveys, it cautions that there is no guarantee that this further work will result in significantly greater values, or, in the case of common minke whales, an agreed estimate. It notes that the Commission has set catch limits for the West Greenland fisheries of up to 175 common minke whales struck in each year for the period 2003-2007 with a provision that up to 15 strikes may be carried over from one year to the next and a catch of up to 19 fin whales for the same period.

8.2.3.2 COMMON MINKE WHALES

Taken at face value, the preliminary (and not accepted) estimate of abundance for common minke whales suggests that about a 90% decline has occurred since the previous survey in 1993. However, the Committee has considerable doubts over this estimate (see Item 8.1.2.1) and there are several indications that such a decline has probably not occurred (e.g. the consistently high predominance of females in the catch suggests that the abundance estimate does not represent the total number of animals available to the fishery). Nonetheless, the Committee **urges that considerable caution be exercised in setting catch limits for this fishery** because it has no scientific basis for providing advice on safe catch limits. It noted that if an AWS (see Item 8.5) was in place, this fishery would be at or near the place where the grace period would begin. This management advice will be re-evaluated next year in the light of the intersessional work recommended.

Given this, the Committee **strongly recommends** that a re-examination of the existing photographs be undertaken as a matter of urgency, according to the protocols given in Annex E, Appendix 5. **In conjunction with this, it strongly recommends** that preparations be made to carry out a cue-counting survey in the summer of 2006 targeted especially at common minke whales, so that if the intersessional group overseeing the re-examination of the photographs concludes that this will not result in an acceptable estimate, a survey can be carried out. The Committee recognises that the prevailing weather conditions in Greenland mean that there is no guarantee that a survey will result in sufficient coverage to allow an abundance estimate to be obtained.

The Committee also **strongly recommends** that the sex ratio data be fully investigated *inter alia* to determine whether they can be used to obtain at least a minimum estimate for the total stock and be incorporated into an assessment model (see 8.2.2 above).

8.2.3.3 FIN WHALES

In 2004, the Committee had expressed special concern over the absence of an abundance estimate for fin whales since 1987/88 and had advised that in the absence of an agreed abundance estimate for fin whales from the 2004 survey, it would likely recommend that the take of fin whales off West Greenland be reduced or eliminated. This year the Committee had received a preliminary estimate (that was not considered acceptable, see Item 8.1.3 and the **recommendation** for reanalysis of the photographs given above) from the photographic surveys that was not appreciably different from the previously accepted estimate. Despite the fact that the Committee has more confidence in this preliminary estimate than it has for the common minke whale estimate (see above), it is not in a position to provide satisfactory management advice on safe

catch limits. It therefore **urges that considerable caution be exercised in setting catch limits for this fishery**. Mindful of its recommendation of 2004 (see above), as interim *ad hoc* advice, the Committee advises that a take of 4-10 animals (approximately 1% of the lower 5th percentile and of the mean of the estimate of abundance) annually was unlikely to harm the stock in the short-term, particularly since this does not take into account the possibility that the fin whale stock extends beyond West Greenland (see Item 8.1). This advice will be re-evaluated next year in the light of the intersessional work recommended.

8.2.3.4 OTHER RESEARCH RECOMMENDATIONS

Last year, the Committee repeated its strong recommendation that samples for genetic analysis be collected from the catch as a matter of high priority and urged the Committee to encourage the Government of Denmark and the Greenland Home Rule authorities to assist with logistical and, if necessary, financial support. The Committee **repeats** its recommendation this year. It was pleased to be informed that 103 common minke whale samples, 8 fin whale samples and 4 samples of unreported species had been collected last year. The Committee **strongly recommends** that these samples be analysed in accordance with the advice of the intersessional working group on genetics.

The Committee **reiterates its great concern** at its continued lack of ability to provide management advice on these stocks, with serious implications for both hunt and for the stocks involved. It **strongly urges** the relevant authorities to provide the necessary funds to allow all of the research recommendations given under Item 8.2 to be carried out. Should the necessary funding not be put in place to allow both (1) a re-examination of the photographs and (2) a cue-counting survey to occur if recommended by the steering group, it **agrees** that priority should be given to carrying out the survey.'

SUB-COMMITTEE DISCUSSION AND RECOMMENDATIONS

The UK observed that last year, the Scientific Committee had considered that in light of the lack of any reliable estimate of the fin whale population off West Greenland, it would probably have to recommend reducing the catch quota on this species to zero. Given that the preliminary estimate made this year was considered unsatisfactory, the UK questioned what had led the Committee not to follow this approach this year. It also expressed concern about the high bias towards females in the catch of minke whales and asked what effect this might have on the stability of the population. The SWG Chair responded that the present catch limit for fin whales is 19 animals, and therefore suggested that the interim *ad hoc* advice this year is consistent with the Commission's recommendation last year with respect to a reduced catch. With regard to sex ratio in the catches, he noted that it is quite common to find sexual segregation of minke whales in the North Atlantic. Although this question will be examined in great detail by the intersessional group, the evidence is that the sex ratio in the catch reflects the sex ratio in the waters off West Greenland. This is one of the pieces of evidence suggesting that the animals found off West Greenland do not comprise the whole stock.

Australia suggested that the Commission was facing a serious and invidious position coming up to the 2007 date to re-set catch limits for the Greenland fishery. It suggested that unless the Danish Government takes urgent action to correct the lack of relevant and robust data, the Commission will be asked to set catch limits for minke and fin whales without management advice from the Scientific Committee. It believed that on the basis of the Scientific

Committee's current report, such catch limits would of necessity have to be set at precautionary low levels, if at all. Australia called on the Danish Government to provide all necessary funding and resources to undertake essential research to support management advice. Furthermore, noting that the Scientific Committee's interim advice that a take of 4 to 10 fin whales would be unlikely to harm the stock in the short term, Australia called on Denmark to consider urgently implementing a voluntary limit on the take of fin whales of 4 to 10 animals each year (notwithstanding that 19 animals could be taken each year under the IWC's Schedule).

Mexico asked how Denmark could land 175 minke whales in 2004, when only two animals were detected in the photographic surveys. In response, the SWG Chair noted that in fact in 2004, only one animal was identified on the photographs and that this is one of the reasons for the Committee's concern over the applicability of this technique to common minke whales (the Committee has more faith that the approach may be applicable for the larger fin whales). For this reason, the Committee is giving high priority to preparations for a full traditional visual survey targeted at the common minke whale in 2006. However, the SWG Chair cautioned that given the prevailing weather conditions in West Greenland, there is no guarantee that a survey in 2006 will provide sufficient coverage for an acceptable abundance estimate to be obtained.

New Zealand recalled that the scientific uncertainty regarding stock identity and abundance of both fin and minke whales off Greenland had been a serious and long-standing matter for the Scientific Committee and provided various quotes from the Committee's reports since the late 1990s illustrating this concern. It noted that despite the scientific work conducted in Greenland in 2005, the Scientific Committee continued to urge that considerable caution be exercised in setting catch limits for both fisheries. In New Zealand's opinion, this was one of the most serious issues before the Commission. It questioned when the Commission was going to do something about rectifying this serious situation and suggested that if there is determination and commitment to rectify this in the short term, this responsibility falls squarely on the Government of Denmark.

Denmark thanked the Scientific Committee for its report on this matter. It stressed that it would consider carefully how to solve the situation in relation to the stocks but pointed out that setting or revising catch limits is outside the terms of reference of the Sub-committee. Denmark was concerned as to wellbeing of the minke and fin whales visiting Greenland waters as they make an important contribution to meeting the meat requirement of the Greenland society. Like the Scientific Committee, Denmark was reluctant to draw conclusions on the evidence presented. Nevertheless, it did suggest that the assertion of a 90% decline in minke whale numbers during the last decade cannot be correct and gave a number of reasons why it believed that this group of whales is part of a larger stock (see Annex D). It hoped that the Scientific Committee would succeed in establishing a link between the minke whales visiting Greenland waters and those elsewhere but was disappointed that the Committee had not proposed to the Commission any allocation of funds apart from £3,500 for genetic work. Denmark suggested that without funds, the uncertainty about stock structure would

be carried into the future. It reported that the Greenland authorities had allocated extra funds in the last few years to meet IWC's recommendations on large whale assessments and that, in addition, it had allocated some US\$250,000 in each of the years 2003 and 2004. It is working towards getting further funds.

With regard to fin whales, Denmark expressed its concern about the state of the fin whale stock in Greenland waters and noted that, as with the minke stock, it is unclear whether these form a single stock or whether they are part of a larger stock. Finally, noting that the Scientific Committee was not in a position to provide satisfactory management advice on safe catch limits, Denmark expressed its intention to exercise caution when setting catch limits for fin whales.

The Chair reminded the Sub-committee that the renewal of the aboriginal subsistence quotas are due in 2007 and expressed the hope that Denmark could find additional financial resources to carry out the necessary abundance estimates.

5.2.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

A Minister from the Greenland Home Rule Government stressed that Greenland/Denmark continued to support the sustainable use of resources. However, he expressed concern regarding the Commission's focus on Greenland whaling over the last few years which had caused some distress in Greenland. Noting that some Commission members were of the view that the quotas agreed in 2002 should be reduced or eliminated, the Minister indicated that his government could not accept the reduction of existing quotas without sound scientific advice. He did however indicate that Greenland/Denmark was willing to enter into bilateral discussions regarding a reduction in the catch of fin whales. He recognised the importance of completing survey and genetic work, and reported that Greenland is working seriously to fulfil the Greenland Research Programme and that discussions on increasing funding was planned for the autumn. However, the Minister stressed that some factors were outside his government's control and sought the understanding of the Commission on this matter. Finally he proposed that the formal review of quotas by the Commission should be kept as scheduled, i.e. IWC/59 in 2007.

The UK thanked Greenland/Denmark for addressing some of its concerns but noted that despite the considerable amounts of money already allocated to research on the minke and fin whale stocks, the results have so far been insufficient as the basis for the provision of management advice. With respect to fin whales, it referred to the Scientific Committee's advice for a quota reduction and did not view as appropriate Greenland/Denmark's suggestion to address this matter bilaterally. The UK believed that Greenland/Denmark should make a commitment to the Commission. Failing this, the Schedule would need to be amended. Australia, recognising the need for aboriginal subsistence whaling by some communities, reiterated its comments to the Sub-committee and called for a voluntary reduction in the fin whale quota from 19 per year to between 4 and 10 as suggested by the Scientific Committee. New Zealand, Monaco and Germany associated themselves with the remarks of the UK and Australia. Mexico suggested that management of the BCB bowheads and the minke and fin whales off Greenland provided contrasting examples. It hoped the latter would

follow the good example of the former. Austria, noting the usually unexcitable nature of the Scientific Committee, drew attention to the seriousness of its comments with respect to being unable to provide management advice as illustrated by a higher than usual use of bold text.

Iceland welcomed the intervention from the Greenland Home Rule Minister. It believed that Greenland and Denmark were taking the matter seriously and, given the importance of marine mammals to Greenlanders, trusted them to address it properly. Japan associated itself with these remarks. It believed that the same standards could not be imposed on all hunts and that given the difficult environment in which Greenlandic whaling takes place, stressed that the practical limits of what can be done by the Home Rule Government must be understood. The Russian Federation reminded the Commission that when western nations engaged in commercial whaling, it was these countries that undermined aboriginal resources. It recognised its own complicity in this. However, it believed that aboriginal people are most interested in the conservation of their resources and that Greenland would be working to conserve whales stocks. The Russian Federation preferred to hear offers of assistance (financial and scientific expertise) to Greenland from Commission members, rather than instructions of what it should do. Dominica stressed that the reason for the Scientific Committee's concern is a lack of information on stock status. It considered that the Commission needed to be aware of the economic and nutritional needs of the Greenlanders. Senegal believed that local people know as much if not more than scientists about their resources and that support should be given to Greenland. The USA welcomed the healthy debate on this issue and associated itself with the remarks of the Russian Federation, Iceland, Dominica and Australia.

In response to a question from Argentina regarding how the sex bias in the minke whale hunt may affect the stocks involved, the SWG Chair drew attention to his remarks during the Sub-committee meeting (see above). He noted that it is not unusual to find sex segregation among common minke whales and that this information may be useful in obtaining a minimum estimate of abundance for the total stock. He reported that the Scientific Committee has established a number of intersessional working groups to work with Greenlandic scientists on this matter. One group will be looking at sex ratio and catches, another at genetic analyses and another at survey design and analysis of survey results.

Denmark thanked those that spoke in support of Denmark/Greenland and reiterated that the Home Rule Government was trying to find further additional research funds. It requested that the matter be kept open to allow time for further consultation with interested Contracting Governments. The Chair agreed.

On returning to this agenda item, the Greenland Home Rule Government announced that it was willing to make a voluntary reduction in its fin whale quota from 19 individuals per year to 10 per year for the years 2006 and 2007. It also reported that it had contacted the Danish government to seek its assistance in hiring the necessary expertise and research vessels and that it would contact the Secretariat with respect to planning the survey recommended by the Scientific Committee. Greenland was also willing to co-operate with NAMMCO and to establish a planning group to plan the needed research.

Australia congratulated the Home Rule Government on its constructive approach. It welcomed the voluntary reduction in the fin whale quota and supported the move to seek further funding for the research needed. Australia looked forward to the results. The UK, Germany and New Zealand made similar comments. Norway echoed Australia's remarks and indicated its willingness to provide advice. Japan thanked the Home Rule Government for taking a very difficult decision so quickly and Dominica thanked it for its noble gesture. Iceland also welcomed the move.

5.2.4 North Atlantic humpback whales off St. Vincent and The Grenadines

5.2.4.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The SWG Chair recalled that in recent years, the Committee has examined the stock structure of humpback whales in the North Atlantic in the context of the fishery of St. Vincent and The Grenadines. It has stated that the most plausible hypothesis is that the whales from St. Vincent and The Grenadines are part of the West Indies breeding population, numbering around 10,750 animals in 1992, but has encouraged the collection of additional data. This year the Committee received confirmation of a photographic match between an animal taken in 1999 and an animal seen in the Gulf of Maine. Given this link and the previous information available, the Committee agreed that no change is required to the current block quota. The Committee also repeated its previous recommendations that wherever possible, photographs and genetic material should be collected from the catch. It was pleased to hear that two photographs (one from the 2003 catch and one from the 2005 catch) have been obtained and that arrangements will be made to send the photographs to the North Atlantic catalogue.

In the Sub-committee, the UK urged St. Vincent and The Grenadines to send samples from any whales taken for genetic analysis. In the absence of a representative from St. Vincent and The Grenadines, Saint Lucia reported that three samples from the hunt had been sent for genetic analysis to Japan and the USA as reported in the Scientific Committee report of 2003.

5.2.4.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Dominica acknowledged the contribution of information from St. Vincent and The Grenadines that has helped the Scientific Committee to suggest that the whales from St. Vincent and The Grenadines are part of a larger stock, giving some confidence that the takes should not be in question in so far as the integrity of the resources. Noting that a group of native Carib Indians reside in Dominica who in the past have utilised cetaceans as a critical component of their diet, Dominica looked forward to further enhancement of the stock so that some day it may be able to reinstate the cultural, social and economic benefits that can be derived from aboriginal subsistence takes.

5.3 Other matters

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

Brazil noted that as a long-standing member of IWC it has always agreed to the needs, and supported the requests of traditional peoples to undertake whaling activities necessary for their subsistence. It further noted that as time

has passed, with many of these communities becoming less isolated, hunting methods and gear have changed dramatically, leading some to question the actual traditional nature of such hunts. Even with these changes, Brazil has continued to support these peoples' and communities' rights to manage their whale resources as they deem appropriate. However, it now wished to place on record its regret and concern that some governments representing these traditional peoples through their speeches and votes against Brazilian proposals are consistently denying Brazil's local communities of the right to have their whale resources managed non-lethally for their own and their nation's benefit. It could no longer accept that its own coastal people have lesser rights to be heard, recognised and protected than others elsewhere. Brazil therefore invited all IWC members with aboriginal whale hunts and the traditional peoples they represent to consider its concerns and needs as the organisation strives to find a common way forward, and hopefully one that does not disregard the rights of local communities only because their appropriation of whale resources does not involve killing. Argentina associated itself with these remarks.

Japan believed that Brazil was trying to create a picture of competition for whales between its coastal communities and those elsewhere simply to promote controversy. It suggested that the minimum quotas given to aboriginal subsistence whaling communities would not harm the activities of others elsewhere, and noted that countries could not take whales in the EEZs of others without their permission. Brazil considered Japan's interpretation of its statement to be absurd and demanded equal respect for its own traditional peoples.

Mauritania believed that it is not normal to distinguish between peoples and thought that a solution should be found so that quotas could be developed for all communities as required. It suggested that the term 'traditional hunting' or 'traditional communities' should be used instead of the term aboriginal. Gabon expressed concern that different methods are being used to set catch limits for aboriginal subsistence hunts and commercial whaling. It found it unacceptable that the quotas for the Greenland hunts are continuing even though they are not based on scientific findings.

6. REVISED MANAGEMENT SCHEME

6.1 Revised Management Procedure (RMP)⁷

6.1.1 Report of the Scientific Committee

6.1.1.1 GENERAL RMP ISSUES

In the light of difficulties experienced in recent years, particularly with respect to the North Pacific region (common minke whales and Bryde's whales), the Committee has spent some time discussing the general question of how best to ensure that the process of carrying out *Implementations* (or *Implementation Reviews*) is efficient and prompt, whilst taking into account the available information. To achieve this it agreed that they should be conducted at discrete intervals, using the data available at one point in time. This year, the Committee reviewed the process from '*pre-Implementation assessment*' to initial *Implementation* and *Implementation*

⁷ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 8 [2006].

Reviews based on the experience gained thus far, and particularly with respect to the difficulties faced during the *Implementation* process for western North Pacific common minke whales. As a result, the Committee developed requirements and guidelines for the *Implementation* process as well as updating its document detailing requirements and guidelines for conducting surveys and analysing data within the Revised Management Procedure. Work on finalising some details of the *Implementation* process is continuing and is expected to be completed next year.

6.1.1.2 PREPARATIONS FOR IMPLEMENTATION

The Committee is examining two cases: the western North Pacific Bryde's whales and the North Atlantic fin whales.

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 last year 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. Given that, the Committee held an intersessional Workshop in March 2005 and at the 2005 Annual Meeting it was agreed that the *pre-Implementation* stage had been completed and that the *Implementation* process would now begin, following the new guidelines referred to above. The first intersessional Workshop will take place in Shimizu, Japan in October 2005. It is expected that the Committee will be in a position to make recommendations at the 2007 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 the Commission agreed with its recommendation that the Committee initiate the *pre-Implementation assessment*. The first stage of this was reviewed at the 2005 Annual Meeting and it is hoped to complete the *pre-Implementation* stage at the 2006 Annual Meeting. To progress this work, a co-operative intersessional Workshop will be held in March 2006 with the NAMMCO scientific committee on general scientific issues of common interest, particularly with respect to stock structure, abundance and catch history.

6.1.1.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

BYCATCH
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, bycatch 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. However, further developments in sampling design with input from experts with detailed knowledge of market sampling issues are needed. A Workshop on that subject was held immediately prior to the 2005 meeting, in Ulsan, Korea. The objectives of the Workshop were:

- (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; and
- (2) to 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 Committee agreed that market sampling approaches provided potentially useful methods to supplement bycatch reporting schemes and agreed to a proposal for a follow-up workshop to investigate this further, provided sufficient progress was made with the further work identified. It also agreed that any such bycatch estimates obtained from market surveys would be improved considerably if carried out in conjunction with the use of data from DNA registers on whales entering the market. Whilst recognising the political sensitivity of market-related issues in an IWC context, the Committee respectfully requested relevant governments to consider a collaborative effort to investigate these methods as a potentially valuable source of information for management and use in the RMP.

Other work to further explore improved bycatch estimation methods for the two approaches noted above is continuing. Improved data reporting for bycatches was also recommended.

VESSEL STRIKES

The Committee noted that direct mortality of whales due to vessel strikes could be a significant problem for particular species and stocks. It agreed that there was a need to improve both awareness of the problem and reporting methods. It noted that this issue was also being considered by ACCOBAMS and ASCOBANS.

MORTALITIES CAUSED BY OTHER HUMAN ACTIVITIES

The Committee noted that such issues were also being addressed by its working group on environmental concerns. In particular, attention was to be directed to the issue of the potential effect of seismic activity on cetaceans at the next meeting.

6.1.2 Commission discussions and action arising

6.1.2.1 GENERAL ISSUES

There were no comments. The Commission noted this part of the Scientific Committee's report and endorsed its recommendations.

6.1.2.2 PREPARATION FOR IMPLEMENTATION

Japan expressed appreciation for the completion of the *pre-Implementation assessment* for western North Pacific Bryde's whales and noted that the Committee expected to complete the *Implementation Simulation Trials* in two years. Japan believed this stock to be robust and expected satisfactory catch limits.

The UK expressed appreciation for the ongoing work. However, it believed that work had not progressed sufficiently far for Japan's proposed Schedule amendment under agenda item 9 (Socio-Economic Implications and Small-Type Whaling) for takes of western North Pacific Bryde's whales.

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

6.1.2.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

The Commission also noted this part of the Scientific Committee's report and endorsed its recommendations. The Commission's discussions focused on bycatch, there being no comments regarding the Committee's report in relation to vessel strikes and other human-induced mortality.

Referring to the work on market sampling as a means of estimating bycatch, Japan noted that while it believed matters relating to markets are outside the mandate of IWC, it had been co-operating on a technical and scientific basis and would be prepared to continue in this context. However, it expressed concern that its data are often used in a non-scientific manner. Drawing attention to the concern expressed by some regarding the increased bycatch of Japan and the Republic of Korea, Japan suggested that this may be due to an increase in the numbers of whales. It

recognised that there are different views on this matter, but believed that all information should be made available for proper scientific consideration.

The Republic of Korea noted that the reliability of data submitted by Contracting Governments on bycatch is disputed but believed that the data from Contracting Governments should be respected. It again reported that its compulsory reporting system is a very powerful tool in defining the size of, and controlling bycatch of cetaceans. It expressed concern regarding the use of market samples since the associated information such as that on origin and timing of catch may not be correct. It noted that while it had not joined the workshop on the market survey approach held this year, it would review the report and if necessary, may join discussions at IWC/58.

Germany expressed concern regarding the increase in cetacean bycatch in fisheries. It sought information from Japan and the Republic of Korea regarding measures in place or planned (e.g. the use of pingers on fishing nets to reduce bycatch). Japan responded that in its view, the increase in bycatch is not related to an increase in fishing effort, but rather is a natural phenomenon. Furthermore, it is something that the fishermen would like to avoid, given the damage caused to their nets. Japan reported that work regarding improvements to nets is continuing. The Republic of Korea reported that in addition to its compulsory reporting system, it is improving public awareness of the bycatch issue, has taken measures to reduce total fishing effort in Korean waters and is developing acoustic equipment.

6.2 Presentation on the RMP

6.2.1 Presentation

Before entering into discussions on the RMS, IWC's Head of Science, Greg Donovan, gave an overview presentation on the RMP as requested last year.

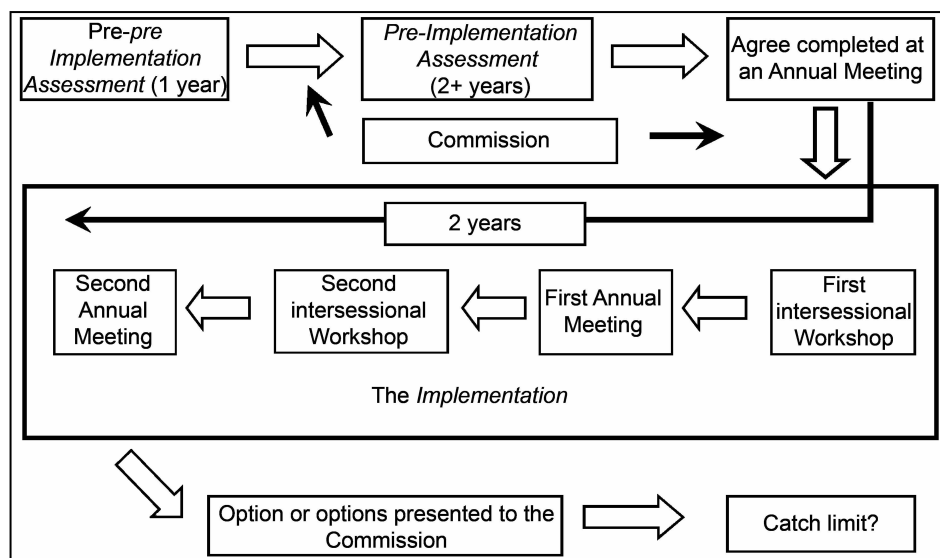


Fig.1 Schematic diagram of the *Implementation* process (see text).

He provided a summary of the work of the Committee in this regard, noting that work had begun as long ago as 1985. He explained the several year process that had led to the agreement in 1991 of the *CLA* or *Catch Limit Algorithm* – the method by which safe catch limits that explicitly take scientific uncertainty into account are calculated. The *CLA* is a feedback procedure, requiring regular estimates of abundance as well as estimates of past catches and accurate information on present catches. From the *CLA* came the additional components that formed the RMP – the scientific aspects of managing whaling in the ‘real world’. These included:

- moving to multi-stock scenarios;
- options for determining catch limits and allowing for sex ratio differences in the catch;
- phase-out rules if new abundance data are not available;
- guidelines and requirements for (1) conducting surveys and obtaining abundance estimates, (2) collection and analysis of additional data and (3) for conducting the *Implementation* process that would lead to management advice being given to the Commission; and
- requirements for regular 5-year (and if necessary, additional) *Implementation Reviews* before new catch limit recommendations are made. He stressed that major changes to the RMP are not envisaged to be made often (and strict conditions for this are laid down) although the annotations (which explain the practical application of the provisions of the RMP in the light of experience) and guidelines are expected to be updated more regularly.

In the second part of the presentation he explained the *Implementation* process in more detail (see Fig.1). He emphasised the role of the Commission at various stages in the process, including the decision to start the pre-pre-*Implementation assessment* as well as the *Implementation* itself. At each stage in the process there are agreed conditions and requirements (including data availability) before moving to the next stage. In terms of timetables, it is likely that it would take at least three Annual Meetings to reach the *Implementation* stage. At that stage however, a strict two-year timetable is imposed involving two workshops and two Annual Meetings. He also noted that at the completion of that process, the Committee may put forward options to the Commission that include research requirements, under highly specified circumstances. In summary, the minimum time from the first proposal by a government or governments for a species/ocean area to be considered to a recommendation or recommendations on catch limits (which may include zero) by the Committee for consideration by the Commission is four Annual Meetings; it will almost certainly be longer. *Implementation Reviews* which occur at least every five years thereafter are vital to the process – these too will result in a recommendation or recommendations on catch limits for consideration by the Commission.

In summary, he highlighted the following points:

- (1) The RMP represents probably the most important development in the scientific management of natural resources and represents the most rigorously tested management procedure in the world, taking scientific uncertainty explicitly into account.
- (2) To do this it must be extremely conservative in setting catch limits e.g. at the start of the process, for a population estimated at 10,000, the catch would be about 50.

- (3) The RMP has been continuously reviewed by the Committee and it has been recommended unanimously.
- (4) The Scientific Committee does not set catch limits but merely provides advice on safe levels of anthropogenic removals. Thus any *Implementation* and *Implementation Review* for any species/region will take into account *inter alia* special permit catches for the relevant species in the relevant region. The Committee's advice may include one or more options and the outcome of an *Implementation* might be that a catch limit of zero is recommended.
- (5) It is the Commission that sets catch limits on the basis of the scientific advice provided.

6.2.2 Commission discussion

The Commission was grateful for the clear presentation given on behalf of the Scientific Committee, as requested last year.

Austria took confidence in the fact that the RMP is still the unanimous recommendation of the Scientific Committee, and therefore questioned why changes, as proposed by Norway⁸, were being entertained and discussed by the Scientific Committee. The Head of Science explained that while the Committee did not envisage major changes to the RMP, it had developed a well-defined process regarding how proposed changes could be introduced and evaluated, should they be suggested. He stressed that in this event, the Committee would follow this process strictly and make recommendations to the Commission for decision-making as appropriate.

Norway confirmed that it planned to propose some changes to the RMP next year. It recalled that during the RMP development process, the Scientific Committee had explored a range of different tuning levels in the late 1980s, finally offering a range of 0.60 to 0.72 (all of which it considered ‘safe’) to the Commission from which it chose 0.72K. Norway explained that use of a tuning level of 0.72 would give approximately half of the catch limit than a level of 0.60 and that the choice of 0.72 was purely a political decision with no scientific rationale. Norway recalled that when the Commission adopted the RMP with a tuning level of 0.72 by Resolution in 1991, it indicated that it would follow the Scientific Committee's advice on the RMP, but could not accept a tuning level of 0.72. Since that time, Norway has moved close to a tuning level of 0.60 for setting its national catch limits. Norway explained that association of 0.72 with the annotation ‘K’, meaning carrying capacity (a measure of the steady-state abundance that a species can have for a particular habitat to support sustainably), meant that after a long time, a stock should reach 72% of its carrying capacity. However, it noted that more recent calculations with better computer equipment have shown that the value would be much higher and somewhere in the mid 80%. Norway cited this as one of the reasons that it wishes to adjust and perhaps to propose small changes to the RMP. Given that the RMP is nearly 20 years old, it suggested that it is not unreasonable to make improvements and noted that the Scientific Committee had

⁸ At last year's meeting, Norway gave notification to the Scientific Committee of its intention to develop and propose a change to the *CLA* of the RMP for minke whales in the North Atlantic. See *Ann. Rep. Int. Whaling Comm.* 2004:21.

already changed the RMP by the introduction of block quotas.

The UK sought clarification on two points. With respect to the first, it noted that the Commission had adopted the RMP by Resolution (requiring only a simple majority) but that the RMP had not yet been implemented into the Schedule (requiring a three-quarter majority) – this would be part of the task of defining an RMS. The UK asked whether it was correct in thinking that amendment of the RMP would still only require a simple majority, but that there would need to be a three-quarter majority for an amended version to be included into the Schedule. The Head of Science and the Commission Chair confirmed that this is the correct understanding. Secondly, the UK requested clarification on the procedure for amending the RMP and on the respective responsibilities of the Scientific Committee and Commission. The Head of Science explained that the procedure to amend the RMP included a number of steps. Firstly the proponent would need to notify the Scientific Committee of the proposed change, perform the same rigorous trials that were used to test the current procedure and present the results to the Committee for review. If the Committee believed that the proposal was worth considering, it would run the trials itself and then make recommendations to the Commission as appropriate. He stressed that the Scientific Committee can only provide advice. It is for the Commission to decide whether or not to accept any recommendations.

France noted that within the RMP, it is important to define an abundance estimate and carrying capacity. Noting that the Scientific Committee has guidelines for the former, it asked whether similar guidelines existed for the latter. The Head of Science responded that the concept of carrying capacity is complex. It is not a directly measured (or indeed measurable) parameter but one that is estimated from *inter alia* past catch history and modelling. The RMP has been extensively tested for sensitivity to this parameter and assumptions about its stability over time.

The Republic of Korea considered that the presentation would help its citizens to understand the role of sightings surveys. Noting that within Korea there are arguments regarding the credibility of the surveys performed by the government, Korea stressed that all surveys performed since 1999 follow strictly the Scientific Committee's guidelines.

6.3 Revised Management Scheme (RMS)

6.3.1 Report of the RMS Working Group

The meeting of the RMS Working Group took place on 15 June chaired by Henrik Fischer. Delegates from 36 Contracting Governments participated. A summary of the report is provided below. The full report is given in Annex E.

The Terms of Reference for the Working Group, given in Resolution 2004-6 adopted last year, were to:

- (1) 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) take account of delegates' comments at IWC/56, as well as written submissions from delegates;

- (3) provide guidance to, and to review the work of, the Small Drafting Group⁹.

At the meeting in Ulsan, the Working Group focused on item (1), since items (2) and (3) were relevant to the intersessional work that took place since IWC/56 in Sorrento and had therefore already been addressed.

6.3.1.1 OVERVIEW OF INTERSESSIONAL WORK

As background to the Working Group's discussions, the Secretariat gave an overview of the intersessional work.

The RMS Working Group and the SDG met twice prior to IWC/57. The first Working Group meeting was held in Borgholm, Sweden, from 29 November to 1 December 2004. This was followed by a two-day meeting of the SDG. The second Working Group meeting was held in Copenhagen, Denmark, from 30 March to 1 April, and again was followed by a two-day SDG meeting.

At its first meeting, the main topics considered by the Working Group were: practical mechanisms for adopting an RMS; what elements should comprise an RMS package; the development of instructions to the SDG; and the development of instructions to the technical specialist groups.

Most time was devoted to a discussion of what elements might comprise a final RMS package. It took as its starting point the Chair's proposal in which the following elements were proposed:

- (1) the RMP as endorsed by the Commission;
- (2) a phase-in of commercial whaling with it initially being restricted to national waters;
- (3) a national inspection and international observer scheme that was largely the same as the one developed by an earlier expert drafting group;
- (4) additional catch verification measures involving national DNA registers/market sampling with international oversight, a resolution to deter IUU whaling and a national catch documentation scheme assisted by the IWC if required;
- (5) a Compliance Review Committee with terms of reference that had been largely developed by an earlier expert drafting group;
- (6) a mechanism to apportion costs, with some being shared and others allocated to the whaling nations;
- (7) a link between an agreed RMS and the lifting of Para.10(e) provided that whaling only took place under the full RMS;
- (8) a voluntary code of conduct for scientific whaling; and
- (9) animal welfare issues reflected in general text in the Schedule plus the voluntary provision of data and an agreed research programme to improve killing techniques.

The Borgholm meeting reviewed each element in the light of written comments from member governments and comments from the floor. For all of these elements, views were expressed by at least some countries that did not support the Chair's proposal. It was agreed that rather than

⁹ Under the auspices of the RMS Working Group the SDG had 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; and (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.

trying to reach compromises on these it was preferable to develop further options for consideration by the SDG. The floor was also open for additional issues or elements to be raised. These included discussion of the inclusion of a 'statement of principle' and an explicit consideration of sanctuaries. The Borgholm meeting also agreed to establish four technical specialist groups to consider in greater depth the following issues: VMS; DNA/market sampling; code of conduct for scientific permit whaling; and animal welfare issues.

At its first meeting, the SDG drafted text for those issues for which it had been given instructions. In addition New Zealand and Sweden agreed to undertake some additional work on possible catch documentation systems.

The second meeting of the RMS Working Group in Copenhagen reviewed the work of the technical groups, undertook a further discussion of each element, developed further instructions for the SDG and identified further work to be undertaken prior to IWC/57 to aid the formulation of text for some of the options proposed. This included the finalisation of the technical specifications for DNA registers/market sampling, the further elaboration of IWC catch document scheme, an exploration of the nature of additional compliance measures possible within the context of the Convention and the development of minimum conditions for hunting. The need for further technical specifications for VMS was recognised but no group was established.

During the intersessional period, progress was made in developing a better description of, and technical specifications for, some of the possible RMS package elements. However, at the same time there was no consensus on what elements should be part of a package or on a single option for any of the possible elements. In fact one result of the intersessional work was an increase in the number of options for most of the potential elements of an RMS.

6.3.1.2 PROGRESS WITH FURTHER TECHNICAL WORK THE 'BLUE BOX'

At the Copenhagen meeting, Norway had indicated that it was developing an Automated Electronic Monitoring System (colloquially known as the 'blue box') to monitor whaling operations that would obviate the need to have national inspectors on each vessel. In Ulsan, information on the blue box and on the results of trials carried out during whaling operations was presented. In summary, the blue box comprises an independent GPS (that can monitor position and time – and thus speed and course – of the vessel) and a series of sensors (calibrated for individual vessels) that can identify when a harpoon has been fired and when a whale has been hauled alongside and onto the vessel. Data are encrypted. Blue box development work began in 2001 and field trials on 13 vessels took place in 2004. As a result, some modifications have been made and further trials with 29 vessels are taking place. The development programme is expected to be completed in 2005.

In response to a number of questions relating to the role of the blue box and the possibility of fraud, Norway clarified that its intention was that the final version of the blue box would replace national inspectors on every vessel, although there would be monitoring checks by inspectors during the season. The data from the blue box will also be checked for consistency against the detailed log books that must be filled out by each skipper. Norway noted that it

would be extremely difficult for a skipper to fabricate the logbook information such that it matched the blue box data. There are a number of inbuilt monitors that can restart the system in case of failure and can also detect whether the box has been unlawfully tampered with.

A number of delegations expressed concern that the blue box would not be able to collect all of the information about the hunt that they believed to be necessary, particularly in relation to animal welfare. It was also noted that the system would not be able to confirm the species of whale caught or whether the animal was a pregnant or lactating female. Other delegations congratulated Norway on the system it had developed, noting that many other fisheries bodies are moving towards automated monitoring systems. To those expressing concern, Norway stressed that the blue box is just one part of the overall national inspection scheme. See Annex E for further details of the discussions.

DNA REGISTER/MARKET SAMPLING SCHEME

The SGDNA (Technical specialist group on DNA registers and market sampling schemes) met at the Southwest Fisheries Science Center in La Jolla, USA and its report was presented at the RMS Working Group meeting in Copenhagen. As a result of discussions there, instructions were given to the SDG. The primary drafting options considered were for either a centralised system or a national system with international audit. It was noted that the technical specifications for both options are essentially the same, the primary differences relate to who is responsible for carrying them out. Given this, the Head of Science developed draft text for a 'dated' Appendix to the Schedule called 'Specifications and Requirements for Diagnostic DNA Registers and Market Sampling Schemes'. The aim was to develop text with as few square brackets as possible and indicating where decisions of the Commission are needed. Following the Copenhagen meeting the draft was circulated to the members of the SGDNA who agreed with the text. Little further technical work is possible until the Commission decides which option, if any, it wishes to include in the RMS.

CATCH DOCUMENTATION AND LABELLING SCHEMES

Options considered by the Working Group in Borgholm and Copenhagen were the Chair's proposal for a national scheme (with a voluntary IWC pro forma) and a full IWC-operated scheme including product labelling. The question of whether this should be to point of entry/landing, wholesaler or retailer was left open. An updated version of the IWC scheme discussed in Copenhagen was presented in Ulsan. Discussion within the Working Group centred on two issues previously considered: the relationship with CITES documentation; and the competence of the IWC with respect to trade related matters.

Some countries commented on the need to avoid overlap with the documentation requirements of CITES; they believed that unnecessary duplication would merely add an additional burden on whaling countries to no appreciable benefit. Others believed that the requirements of IWC in this context would be different from those of CITES and that the two systems should be kept separate. It was also noted that if commercial whaling were to resume, it was possible that changes in the CITES listings would follow and that CITES documentation may no longer be a requirement. It also noted that an IWC scheme would aid traceability.

With respect to the competence of the IWC in trade-related issues, some countries considered that such matters are outside IWC's mandate and that many aspects of the proposals being considered conflicted with this position. In this context, Japan noted that it has its own regulations relating to labelling and traceability of products, and that it was prepared to share such information on a voluntary basis. Other countries believed that the issue was not one of monitoring trade *per se* but rather of using this as a compliance tool to ensure that IWC rules are not being broken and that breaches are identified.

OPTIONS FOR COMPLIANCE MECHANISMS UNDER THE RMS

The issue of the IWC's role in setting penalties and imposing sanctions with respect to infractions was discussed extensively in Borgholm and Copenhagen. It had been agreed that a group comprising the UK, Australia, Argentina and New Zealand would develop a discussion document exploring the measures the Commission may be able to take in this regard under the Convention. In Ulsan, the UK introduced a paper (see Appendix 6 of Annex E) that examined developments in international environmental and fisheries agreements, looked at the basis for a compliance procedure under IWC Convention and proposed some key components for an IWC compliance scheme. In the paper, the key components identified were: reporting and monitoring obligations; verification procedures; and non-compliance response. It proposed *inter alia* that the Compliance Review Committee should:

- (1) be able to consider how effectively Contracting Governments have fulfilled their obligations with respect to investigating alleged infractions thoroughly and ensuring that violators are deprived of the benefits of non-compliance;
- (2) be able to recommend to the Commission that information on vessels committing infractions be shared and that revocation of vessel licences /registration be considered; and
- (3) be able to make recommendations to the Commission on a reduction in quotas in response to non-compliance (including to zero in extreme cases).

It also considered that quotas should be set for three-year blocks and that they automatically revert to zero at the end of the block, with the Commission taking into account the views of the Compliance Review Committee before new quotas are set. The UK noted that this approach may be an alternative to considering a change to the Convention.

On being asked if it was a correct understanding of the paper that it did not foresee binding decisions by the IWC but rather non-binding recommendations, the UK confirmed that this was correct, adding that there would be a gentleman's agreement that decisions would stand.

Some countries expressed reservations (e.g. because of questions related to the compatibility of suggestions in the paper with the Convention) and/or suggested that they needed more time to consider the paper further. Others indicated their broad agreement although some believed that emphasis should be given to the development of a binding compliance mechanism and that progress could be made on this intersessionally. Argentina, Australia and the USA agreed to work with other countries to form a scoping group to determine how this might best be achieved.

ANIMAL WELFARE ISSUES

At the Copenhagen meeting, the UK had agreed to develop text on a set of minimum standards that incorporate welfare conditions when specifying whale killing techniques. They presented a document in Ulsan (see Appendix 7 of Annex E) that they believed provided a suitable structure for such text, while recognising that further research was necessary.

6.3.1.3 ASSESSMENT OF PROGRESS IN RELATION TO RESOLUTION 2004-6 AND GENERAL COMMENTS

A summary of the status of present discussions and outstanding issues in relation to each issue/potential element of the RMS is provided in Annex E, Table 1. The Working Group agreed that policy issues remained on each issue/element and that for many of them, further technical work is also needed.

COMMENTS ON THE CHAIR'S PROPOSAL

A wide range of views were expressed over the value of the Chair's proposal. A number broadly welcomed the proposal as a constructive way forward, even though they may have reservations on one or more aspects of it (e.g. Scientific Permits). Some of these noted that no alternative to the Chair's proposal exists and that it therefore remains the only possible alternative to letting the whole RMS process collapse. Other delegations were unhappy with many or even all aspects of the proposal and did not believe that it represented a basis for future discussions.

COMMENTS ON THE PROGRESS OF RMS DISCUSSIONS

Several delegations expressed their concern that after 10 years of discussions, the Commission was still not close to a consensus RMS. They stated that international regulation of whaling is essential and believed that the present situation is not acceptable. Some commented that they believed that many of the issues that were being raised were outside the bounds for a discussion on ensuring sustainable whaling and were intended to slow down progress. In this context some delegations believed that views expressed by some countries that commercial whaling was never acceptable were in contradiction with the aim of the Convention. Other delegations commented that although they are opposed to commercial whaling, they are within their rights to participate fully in discussions to ensure that if commercial whaling was ever to resume, it would be undertaken under a regime that as a minimum represented best international practice, and preferably, given the history of whaling, set new standards. One delegation noted that the situation today with regard to whaling (where it is almost exclusively aimed at meat for human consumption, with a limited market) is completely different to previous large-scale whaling in the Antarctic where the demand for oil was immense.

COMMENTS ON SPECIAL PERMIT WHALING

Many delegations believed that a voluntary code of conduct on scientific permit whaling is not sufficient, although how to develop a mechanism to achieve a binding agreement (e.g. on a phase-out of scientific permit whaling) was unclear. Several stressed that this issue was the most important feature of RMS discussions. A number of delegations expressed their concern that catches would be even higher if an RMS was introduced without a restriction on scientific permit whaling. Other countries noted that Article VIII of the Convention is clear on the sovereign rights of states to issue special permits for scientific research, although they can accept the concept of scientific guidelines. They noted that if an RMS was introduced, for

those species/stocks for which commercial whaling was allowed, catches by scientific whaling would be subtracted from total allowable takes to give the commercial catch limits. It was observed that this would not apply to protected species/stocks.

COMMENTS ON OTHER HIGH PRIORITY ISSUES

A number of delegations highlighted those areas which they believed were of particular importance in reaching agreement over an RMS package. These include the link (or otherwise) between an agreed RMS and the lifting of Paragraph 10(e); the apportioning of costs; animal welfare issues; compliance; and sanctuaries in the context of non-lethal management of whale resources.

Some countries noted that the impasse over some important issues despite many years of negotiating within the IWC were such that other approaches should be considered (e.g. a diplomatic conference, discussions at ministerial level).

CONCLUSION

The Chair concluded that the RMS Working Group was not in a position to put forward a 'finalised RMS text ready for consideration, including for possible adoption' to the Plenary. He confirmed that he would not be putting a proposal for RMS text forward to the Plenary as Chair. He proposed that he would refer the plenary to the Working Group's discussions of outstanding technical and policy issues.

6.3.2 Commission discussions and action arising

6.3.2.1 COMMENTS ON THE REPORT FROM THE RMS WORKING GROUP

Discussions focused on Norway's 'blue box' and on general comments.

THE 'BLUE BOX'

Spain acknowledged that while Norway's 'blue box' would be satisfactory for monitoring vessel position, speed and course and that it may have sensors to detect other activities, it did not believe it would be suitable for the collection of other data. It noted that in some other Regional Fisheries Management Organisations, not only is the use of VMS compulsory, but vessels must also have international observers on board. It did not believe that the 'blue box' would obviate the need for international observers. Spain viewed VMS and international observers as being complementary.

The UK considered that if in the context of an RMS, it could be accepted that VMS technology - such as the 'blue box' - can fulfil the role of a national inspector, it therefore follows that those boats on which Norway has argued that national inspectors should also play the role of international observers should now have room for a proper international observer. Austria noted that the Scientific Committee was informed that the boats involved in Iceland's scientific permit whaling have a full crew of experienced whalers and 2-4 scientists on board. It also noted that the boats used by Iceland are mostly smaller than those used by other countries involved in taking whales who argue that space limitations would not allow an international observer on board. Iceland responded that it uses vessels appropriate for its scientific research and that its scientific whaling operations are very different to those of commercial whaling. It therefore did not see the point of Austria's intervention.

Germany associated itself with the remarks of Spain and the UK. It believed that the 'blue box' could only be a

supplementary tool. Norway confirmed that the 'blue box' is indeed a supplementary tool to its inspection scheme. It is a control of the hunters own log books - it being possible to control these by inspection at sea, at port or at the end of the hunting season, depending on how the government wishes to implement the control.

Japan, the Republic of Guinea and Mauritania congratulated Norway on the development of its 'blue box' technology believing it to represent important technical progress. The Republic of Guinea considered that implementation of the 'blue box' on small vessels would decrease significantly the costs for developing countries that may, if the moratorium is lifted, wish to take whales. Mauritania did not consider that use of the 'blue box' excluded other controls.

GENERAL COMMENTS

Japan noted that it had welcomed the initiative shown by the Chair in his proposal for an RMS package submitted to IWC/56 last year¹⁰, but regretted that once again, attempts to complete the RMS to allow the resumption of sustainable commercial whaling had failed. In fact it believed that discussions had gone backwards. As a result, it was deeply concerned about the future of IWC. Japan concluded that the whole process to develop an RMS had been a charade in which those countries opposed to commercial whaling had stalled negotiations for over 10 years by continuously insisting on the inclusion of an increasing list of unnecessary, duplicative and costly observation and control measures, demonstrating that these countries had never wanted a realistic and implementable RMS. It stressed that it has participated sincerely in the process to develop a framework for the resumption of commercial whaling on a sustainable basis and believed that its commitment to securing the implementation of a reasonable RMS has been demonstrated by the substantial compromises it has made. However, it considered that it is now clear that some Contracting Governments are simply opposed to commercial whaling despite the fact that a risk-averse procedure for setting quotas (i.e. the RMP) was agreed over 10 years ago and despite scientific advice that many stocks are abundant and increasing. Japan considered that such a position contradicts the purpose of the ICRW and that countries taking this position are abusing their membership status. It believed that these countries have not been willing to enter into serious good faith negotiations on a matter that should be the primary concern of IWC. Japan believed that no progress had been made as it had been without a negotiating partner. It re-iterated its view that paragraph 10(e) is not really still in effect (because of the 1990 deadline) and that its primary objective in IWC is the resumption of commercial whaling on abundant stocks on a scientific and sustainable basis and under strict international control. Japan believed that modern enforcement and monitoring measures will prevent the over-harvesting seen in the past. Noting that some countries are now proposing amendments to the Convention, Japan considered that there is no longer anything for countries taking a pro-sustainable use position to negotiate. It viewed the fundamental changes to the Convention now being demanded as pre-requisites to completion of an RMS as a rejection of the Convention itself and unacceptable to many

¹⁰ *Ann. Rep. Whaling Comm.* 2004: 21-22; 82-91.

members. For these reasons, Japan was submitting a proposed Schedule amendment for an RMS (see Item 6.3.2.2).

The Solomon Islands, Republic of Korea, Denmark, Iceland and St. Kitts and Nevis also expressed great concern and disappointment that no real progress towards finalising an RMS had been made.

The Solomon Islands expressed its hope that through the Chair's guidance and with the co-operation of all Contracting Governments, the Convention, that it believed was sinking, will be rescued and that an RMS will be achieved. This would allow the use of whale resources for the benefit of those that would like to use them for their nutritional, traditional and cultural needs.

The Republic of Korea expressed its sincere appreciation to all of those who had been working hard on this matter, but together with the people of Ulsan, expressed disappointment over the outcome of discussions. It noted that it is aware of the fundamental differences existing among Contracting Governments, and suggested that one way forward would be to reduce the number of elements by going back to the Chair's original proposal. The Republic of Korea recognised that this proposal may not be a satisfactory solution to some, but that in its view, the elements contained within the Chair's proposal are the crucial elements required for a robust RMS.

Denmark noted that discussion on the RMS is, like last year, by far the most important issue on the Commission's agenda. It fully agreed with the Chair's statement at IWC/56 last year¹¹, including the need for early completion and adoption of an RMS. It believed that if considered honestly, Commission members would recognise that the Chair's proposal was and continues to be the best and only way forward as the basis for discussions. It is the only consolidated draft, taking account of the many different views and interests of Contracting Governments in a balanced way. Like Japan, Denmark had the impression that some governments with an overwhelming interest for details wish to block progress at any price. It did not think they should be allowed to succeed. Denmark believed that without an RMS, the Commission will cease to function in accordance with its own Convention and many members will probably have to consider reasons for their continued membership. Referring to expressions of frustration from both 'sides' of the debate for some years, it suggested that there is now a window of opportunity with the Chair's proposal. It could see no excuse for further delay.

Noting the lack of progress over many years despite the efforts of several delegations, Iceland believed that the most important contribution has been the Chair's proposal for a possible compromise submitted for consideration at IWC/56 last year. While the Chair's proposal includes several elements of which Iceland disapproves (as is the same for every delegation), Iceland recognised that it remains the only real compromise proposal available. It believed the only alternative is to let discussions on the RMS collapse – a situation that Iceland did not wish to see. It therefore believed that a solution based on the Chair's proposal should be found. Iceland recalled that at IWC/56, the Commission, via Resolution 2004-6, decided to establish a process that was much wider than it would have been if it had been based only on the Chair's proposal. It noted that this outcome took the Commission no closer to

reaching its goal and that in fact with every meeting, there was an increase in the number of issues for discussion and options available. Iceland therefore believed that the Commission had reached something of a watershed. It noted that the Commission could choose to continue to have wide-ranging discussions (knowing already that this achieves nothing) or could choose to bring discussions back on track. The latter would involve acceptance of a solution based on the Chair's proposal and acceptance that an RMS could probably not be agreed by consensus but rather by voting. Iceland was willing to contribute to finalising discussions.

St. Kitts and Nevis also considered that some Contracting Governments were putting unnecessary obstacles in the way of progress rather than working to develop compromises. It believed that this was particularly true in relation to proposals to amend the Convention, knowing that the Commission does not have the authority to discuss such proposals. It urged the Commission to consider the implications of operating without an RMS. It believed that the moratorium had served its purpose and is now obsolete. It considered that IWC was becoming irrelevant in relation to the management of whaling, suggesting that countries will have to establish their own management regimes for whales in their own EEZs while seeking co-operation with other whaling countries in the region.

Brazil expressed concern regarding the difficulty in making progress towards an acceptable RMS. It wished to place on record that the lack of progress is directly related to the unwillingness of whaling countries to accept minimum international standards common in other marine resource management organisations - standards from which IWC could not reasonably expect to be exempted. Brazil believed that discussions to date have largely circumvented some fundamental policy matters of relevance to countries like itself, such as establishing and respecting sanctuaries and recognising and protecting the rights of coastal states to appropriate whales in a non-lethal way. It was deeply disappointed that no alternative proposals had so far been presented that include possible compromises on accommodating the protection of non-lethal management regimes against the encroachment of pelagic whaling by distant nations in spite of its efforts to participate constructively in several intersessional meetings. Brazil believed that the Commission needed to get back to principles or it would continue to be locked into future drafting exercises. Finally Brazil noted its strong objection to any future intersessional meetings being again held in remote Northern Hemisphere locations. It believed such locations prevent full participation of all interested parties and especially, developing countries.

Monaco stated that Japan had no basis and no right to accuse those not sharing its views of negotiating in bad faith. As others, Monaco is committed to the adoption of a pragmatic, robust and modern RMS for the reasons outlined by Brazil. It believed that the situation with respect to scientific permit whaling should be highlighted. Monaco believed that the careless and provocative use of such permits by Japan to be an abuse of Article VIII of the Convention. It noted that Japan kills hundreds of animals every year on the high seas under the guise of science and without any control from the Commission. While Monaco acknowledged that Japan's actions are not illegal, it considered they showed an unwillingness to build bridges

¹¹ *Ann. Rep. Int. Whaling Comm.* 2004: 92.

and to negotiate in good faith with others. Monaco noted that many delegations have problems with negotiating an overall package if, once a package had been agreed, some countries would then simply make use of the objection procedure¹² to render themselves not bound by those decisions to which they had objected. It asked for confirmation from the Chair that if this was to happen then the whole agreement would become null and void. The Chair responded that part of the RMS discussions have involved exploration of ways in which adoption of an RMS could be linked with the lifting of the moratorium whilst ensuring that whaling operations would be undertaken under the full RMS package as agreed by the Commission. He noted that this is a difficult issue that still requires resolution.

The Netherlands noted that the Chair's proposal had served as a good basis for discussions. While it had concerns with some parts of the Chair's proposal, such as the proposals relating to scientific permit whaling, it recognised that all parties would have to compromise if progress was to be made. The Netherlands considered that solutions could be found on some elements, but that reaching agreement on others of a more fundamental nature (scientific permit whaling, compliance, lifting of the moratorium) would be difficult. It therefore supported the suggestion made in the RMS Working Group that these more difficult issues should be discussed at a Ministerial or diplomatic level.

Finally under this item, the Chair allowed an intervention from a representative of the Eastern Caribbean Cetacean Commission (ECCO)¹³. ECCO found it disheartening to note that development of an RMS appears to be grinding to a halt. It noted the support given by some governments to the Chair's proposal and regretted the manner in which it was being treated.

6.3.2.2 PROPOSAL TO AMEND THE SCHEDULE

Japan recalled that at last year's meeting, it had made a statement noting that its parliamentarians had reached the end of their patience regarding lack of progress in developing an RMS and had demanded that the Japanese Government consider all options to resume sustainable whaling if the IWC does not implement a reasonable RMS at IWC/57. Given the outcome of the intersessional work and RMS Working Group discussions, Japan was therefore proposing a draft Schedule amendment for the inclusion of an RMS. It also noted that after the close of the SDG meeting in Copenhagen in April this year, a number of participants, including representatives of countries both for and against the resumption of commercial whaling, and the Secretariat, had a short informal discussion as to how it might be possible to make progress. It was concluded that given the different views, it was unlikely that a single RMS text would be developed and that the only way forward would be for a country or group of countries to prepare a proposal at IWC/57. This is what Japan had done. Japan

¹² Article V.3 of the Convention provides that any government can 'object' to any decision which it considers to seriously effect its national interest, provided it is done within 90 days of notification of the decision. Should this happen, further time is allowed for other governments to object. The government or governments that object are then not bound by that particular decision.

¹³ At the beginning of the Annual Meeting, the Chair confirmed that Intergovernmental Organisations would be allowed to make one intervention on a substantive agenda item. He asked to be notified in advance of IGOs wishing to speak.

believed that its proposal met fully the requirements of a strict and transparent regime for setting conservative quotas for abundant stocks and for ensuring that quotas are not exceeded.

Japan went on to describe various aspects of its proposal. It explained that the version of the RMP text to which its proposal referred was that considered at the RMS Working Group in Copenhagen, but with a tuning level of 0.62 rather than 0.72. Given what it considered to be the unacceptable delay in completing the RMS and its bitter experience with the *Implementation Simulation Trials* for North Pacific minke whales, Japan noted that it reserved its position on the RMP, particularly with respect to the tuning level. It looked forward to revision of the RMP, particularly to making it stock specific rather generic and to taking account of interspecies interaction. Japan noted that its proposed Schedule amendment retained provision for adjustments to catch limits to account for human-induced mortalities. It drew attention to provisions for a national inspection and international observer scheme but noted that it had not included provisions for other catch verification measures such as DNA registers and market sampling and catch documentation systems. While it expected to receive criticism from some for these omissions, it stressed its view that the inspection and observation scheme would be sufficient to verify that quotas are not exceeded. It noted that paragraph 10(e) had been deleted since it was contrary to the objective of the Convention. Finally it reported that it had retained many current Schedule paragraphs, but that it had deleted those that it considered to be outdated and redundant.

The USA thanked Japan for its presentation and recognised the significant effort that went into the preparation of the proposed Schedule amendment. As the proposed amendments were not limited to those measures necessary to implement an RMS, the USA noted that careful side-by-side comparisons with the current Schedule and other reference documents (e.g. those of the SDG) were required to gain a full understanding of the proposals. The USA identified the following key issues that it believed required further discussion:

- (1) the moratorium as provided for in Schedule paragraphs 10(e) and 10(d) is eliminated;
- (2) the Indian Ocean and Southern Ocean whale sanctuaries are eliminated;
- (3) several whales had been deleted from the section on definitions (i.e. beaked, killer and pilot whales);
- (4) some provisions for whaling under special permit have been added, but these essentially reflect current practice regarding provision of information to the IWC and do not constitute a code of conduct;
- (5) the provisions for international observers represent the weaker options from the SDG texts and costs borne by Contracting Governments through membership contributions assessed under the financial contributions scheme; and
- (6) there is no Compliance Review Committee or catch verification scheme for any other provisions the USA believe essential for a modern robust scheme.

The USA believed it critical that an RMS address the current unconstrained permit whaling in a meaningful manner. It could not accept Japan's proposal.

New Zealand signalled its determination to ensure that there is no return to the over-exploitation of the past that

brought many species of whale to the brink of extinction and stressed that there must be a management scheme put in place that is credible, rigorous and in line with international best practice. It recalled that during the years of negotiations on an RMS, it had indicated that it could accept certain compromises (e.g. on the international observer scheme), but that these were dependent on the entire 'package' and reciprocity by others. New Zealand considered that the text put forward by Japan ignored the previous 10 years of discussions and contained fundamental defects. It added to those items of concern identified by the USA with the following:

- (1) it saw no logical or legal link between the lifting of the commercial whaling moratorium and adoption of the RMS – these in its view being two separate issues;
- (2) Japan's proposal made no provision for ensuring that whales would be killed humanely;
- (3) Japan's proposal opened the door to the weakening of the RMP by a reduction in the tuning level and the inclusion of a periodic review;
- (4) it believed that observer costs should be borne by the governments under whose jurisdiction whaling takes place and not shared among all members; and
- (5) there was no provision for DNA registers and market sampling combined with a catch document system to enable the tracking of whale products through the distribution chain.

Finally, New Zealand indicated that it could not accept that special permit whaling could continue under an RMS.

France, Germany, the UK, Spain, Australia, Austria, Ireland, the Netherlands, Sweden, Mexico, Monaco, Switzerland and Argentina had similar objections to Japan's proposal as noted by the USA and New Zealand particularly with respect to the proposal not taking sufficient account of past discussions and an inadequate approach to dealing with special permit whaling. Ireland referred to statements made in the previous agenda item that the Chair's proposal is the only proposal on the table. For the record it wished to note that the so-called Irish Proposal was introduced in 1997. It explained that this was an unashamedly pro-conservation proposal that, had it been accepted by the Commission, would have resulted in fewer whales being taken compared with the present situation, would have *de facto* created a global ocean sanctuary by limiting whaling to the EEZs of whaling nations and would have confined the consumption of whale meat to local consumption with no international trade. Ireland noted that its 1997 proposal had not found favour and had been overtaken by the Chair's proposal. Mexico thanked Ireland for its earlier initiative.

Norway congratulated Japan on its presentation of a straightforward and practical RMS. It noted that it could support the proposal in general but that it had some problems with the provisions suggested regarding the appointment of international observers. Mauritania fully supported Japan's proposal, noting that sanctuaries and a moratorium are not needed if an RMS is in place. Gabon also supported the proposal believing that the management of whale stocks should be based on science. Denmark indicated that if Japan's proposal was put to a vote it would abstain as it had not had sufficient time to evaluate it properly. However, it noted that Japan had made an effort and that efforts should be encouraged. It would like to see similar efforts from others. Iceland associated itself with

Norway and agreed with many of Denmark's comments. In relation to Ireland's comments, Iceland noted that although it believed there were some positive aspects of the Irish proposal, if Japan's proposal fails to attract the necessary support, the Chair's proposal would be the only realistic proposal remaining. This might be a simple solution to the dilemma faced by the Commission.

Japan thanked those acknowledging the work it had put in to developing the proposal and appreciated the constructive comments of some members. It stressed that it had not ignored past discussions but noted that it simply could not agree with many of the provisions requested by others. Its only option was therefore to include those provisions with which it could agree and suggested that some management measures, even though not sufficient for some countries, is better than nothing.

The proposed Schedule amendment failed when put to a vote, there being 23 votes in support, 29 against and five abstentions. Kiribati explained that it had abstained since, as a new member, it wished to have more time to study the issue.

6.3.2.3 FURTHER WORK

Two possible ways forward were presented in draft Resolutions. The first, proposed by Denmark and the Republic of Korea had the following operative paragraphs:

'NOW THEREFORE THE COMMISSION:

AGREES to request that the Secretariat provide the wording necessary to prepare a document containing a draft RMS package in accordance with the Chair's Proposal. In this work the Secretariat shall use, as appropriate, wording already developed to this end, including that of the SDG.

AGREES to hold an inter-sessional meeting of the RMS Working Group to consider how the Secretariat's text reflects the above described assignment and to discuss the issues of:

- whaling under special permits;
- Article 10 (e) of the Schedule; and
- compliance.

AGREES to consider, if appropriate, ministerial or other high-level possibilities to resolve these issues amongst the contracting governments to the Convention.

AGREES to hold a meeting of the RMS Working Group in connection with IWC/58 with the aim of finalizing a draft containing all necessary items of an RMS package for consideration and possible adoption at IWC/58.'

The second draft Resolution was proposed by Germany, Ireland and South Africa. It proposed that:

'THE COMMISSION:

AGREES to hold an intersessional meeting to advance the work of the Working Group on the Revised Management Scheme (RMS) and that of the Small Drafting Group, as established by Resolution 2004-6, with particular emphasis on any outstanding issues and taking as a starting point the Group's report to this Commission (IWC/57/RMS3).

AGREES to hold a meeting of the RMS Working Group in connection with IWC/58 to discuss the remaining issues that must be resolved before adoption of the RMS can be considered.

AGREES to consider, if appropriate, ministerial, diplomatic, or other high-level possibilities to resolve these issues among the Contracting Governments to the Convention.'

In introducing the first draft Resolution, Denmark noted that of the initial co-sponsors (that had included Finland, the Netherlands, Oman, Sweden and Switzerland), only Denmark and the Republic of Korea remained, the others withdrawing mainly because they believed there was insufficient support within the whole Commission. Denmark explained that it supported the draft Resolution as

it wanted to put a strong RMS in place soon and not in 10 years time. It believed that the Commission needed to capitalise on the work already done by the RMS Working Group, the SDG and others. While it recognised that individual governments could produce draft RMS texts, as Japan had done, Denmark considered that such work is resource intensive and that it would be more efficient to ask the Secretariat (a resource shared by all Contracting Governments) to do the work under instruction from the Commission. Denmark also recognised that there are a number of obstacles to the completion of an RMS, but in its view, the three identified in the draft Resolution (i.e. whaling under special permit, Schedule paragraph 10(e) and the possible lifting of the moratorium, and compliance) are the most important and most difficult to solve. It was strongly of the opinion that work on the RMS could not continue in the current fashion, producing more diverse options rather than leading to a common position. It viewed the proposal as a compromise, and one which followed moderation and reason. While Denmark acknowledged that it is in the nature of a compromise that everyone is likely to find something that they do not like, everyone should also be able to find positive elements. It urged the meeting not to try to destroy the draft Resolution with proposed amendments. Denmark noted that currently the number of whales being killed is increasing and that while the takes are legal, many of them are without IWC control and oversight. It feared that failure to put an RMS in place would lead to increased whaling outside of IWC control and an increase in scientific whaling. Finally Denmark thanked those countries with whom it had held constructive consultations and expressed its gratitude for all the input it had received. The Republic of Korea echoed the remarks of Denmark and supported a conclusion based on current discussions.

The Netherlands, Sweden, Finland and Oman explained their reasons for withdrawing as co-sponsors from the first draft Resolution. The Netherlands appreciated the effort that had been put into the preparation of this draft Resolution. It agreed that the three items identified are the most important obstacles and it supported strongly the idea of pursuing the possibility of a ministerial or other high-level meeting as a way of breaking the current deadlock. However, it noted that during the consultations it had become aware that it would not be possible to obtain a sufficiently broad consensus on this proposal. For this reason it could not support it and would vote against the Resolution if put to a vote. Sweden explained that the idea behind the draft Resolution was to help focus and concentrate the RMS work and to build on the work of the SDG. Discussions had started among Nordic countries but Norway and Iceland had unfortunately had to withdraw. Like the Netherlands, Sweden had withdrawn from sponsoring the draft Resolution because of insufficient broad support. However, it was hopeful that Nordic countries would continue their discussions. Finland, Switzerland and Oman gave similar reasons. Oman indicated that it would abstain if the Resolution was put to a vote.

The USA noted that it continues to support the development of a robust yet practical RMS. However, in its view, the Resolution proposed by Denmark and the Republic of Korea raised questions regarding (1) its starting point (i.e. the Chair's proposal); (2) its selection of focussed elements and what happens to the balance of those

elements; and (3) the instruction to the Secretariat to identify a compromise that the Commission to date has not been able to achieve. It therefore could not support the Danish/Korean draft Resolution, but could support that proposed by Germany, Ireland and South Africa.

Argentina acknowledged that the first proposal was being put forward as a compromise, but it could not support it. It acknowledged that the three items identified are important but that they are not the only important issues. Others include cost, sanctuaries and animal welfare issues.

Ireland congratulated Denmark and the Republic of Korea, the other initial co-sponsors and Norway and Iceland for their attempts to reach consensus language. However, Ireland found the draft Resolution too specific and therefore could not support it.

Iceland made comments pertinent to both proposed Resolutions. It noted that since it re-joined IWC, it had worked hard to bring the organisation closer to finalising an RMS, taking an active part in discussions within IWC and having informal discussions with many member countries. At this meeting, Iceland reported that it had worked hard, together with others to try to put RMS discussions on a track that could realistically result in progress and a finalised RMS in a short period of time. However, it was sorry to note that in its opinion, this work has been fruitless, and that both draft Resolutions would keep the discussions wide open making it unavoidable that the type of unsuccessful discussions had at IWC/56 last year in Sorrento would continue. Iceland regretted that the organisation now seemed to be in a situation in which no progress is being made or will be made in the foreseeable future, i.e. efforts to make progress in the RMS have failed. Although it could not support either draft Resolution, Iceland indicated that it would not seek to prevent either of them from being adopted if that is the wish of a number of members. It would therefore abstain if either Resolution was put to a vote.

Japan indicated that it wished to see the early completion of a cost-effective RMS. It appreciated the efforts of those involved in trying to find a compromise in the first draft Resolution which it believed contained many positive messages and good ideas and, above all, a clear indication of an intention to make progress. However, Japan noted that as its basic position is that whaling under special permit should not be associated with RMS discussions it would abstain if this Resolution was put to vote.

The UK recognised the efforts of those trying to find a way forward via the first draft Resolution, but could not support it for a number of reasons. Although it has great respect for the Secretariat, it did not believe that the work proposed in the draft Resolution is within their power or scope of action, rather it is the responsibility of Contracting Governments to select elements to include in an RMS. Like Argentina, while it agreed that the three issues identified are important, it noted that other outstanding items would be equally important to at least some members. The UK noted that it was prepared to continue negotiations but believed that really what is needed is a political decision. It therefore supported proposals for a high-level meeting to break the deadlock. It was prepared to compromise in the long run and believed that the second Resolution offered a better route.

New Zealand associated itself with the remarks of the USA, Ireland and the UK. Like the UK, it believed that a

high-level meeting will be necessary to establish a satisfactory framework. It supported the second Resolution.

In response to the above remarks, Denmark acknowledged that the Chair's proposal is flawed, but stressed that it is the only compromise available. On being put to a vote, the Resolution proposed by Denmark and the Republic of Korea was not adopted. There were 2 votes in support, 26 against and 27 abstentions.

Ireland introduced the second draft Resolution on behalf of Germany and South Africa. It apologised for not consulting as widely as it would have liked but there had not been sufficient time available. Ireland described the proposal as a neutral Resolution designed as a genuine attempt to move the RMS forwards towards completion. By invoking Resolution 2004-6, the proposal retained the agenda adopted by consensus at last year's Annual Meeting. It noted that this agenda includes, but is not restricted to, the Chair's proposal for an RMS. Ireland also noted that the proposal takes the outcome of the RMS Working Group discussions from the Borgholm and Copenhagen meetings as a starting point for discussions and places emphasis on outstanding issues. In response to a comment from Dominica, it stressed that the intention was not to allow new items to be introduced into discussions, but to focus on those outstanding issues identified in the report from the intersessional meetings of the RMS Working Group (i.e. IWC/57/RMS3). Ireland did not believe it appropriate to dictate timelines for the work. Finally Ireland noted that its draft Resolution acknowledged that proposed by Denmark and the Republic of Korea in that it included the operative paragraph on consideration, if appropriate, of a 'high level' meeting. Germany and South Africa endorsed these remarks. Germany stressed that the purpose of the proposal was to have a more general and neutral text that could be supported by all.

Italy, Argentina and France spoke in support of the second draft Resolution. Japan agreed that this draft was neutral but expressed concern that it would be a repetition, in some sense, of the last 10 years of discussion. However, it hoped that progress could be made and noted with appreciation the efforts of the sponsors. It indicated that it would abstain if the draft Resolution was put to a vote. Dominica indicated that it was uneasy about leaving matters so ill-defined and would have preferred to see the outstanding issues listed in clear terms in the draft Resolution. It indicated that without this, it could not support the Resolution. Mauritania agreed.

On being put to a vote, the Resolution proposed by Ireland, Germany and South Africa was adopted (see Resolution 2005-4, Annex C). There were 25 votes in support, 3 against and 28 abstentions. In response to a question from the Chair, Ireland indicated that the co-sponsors had not had time to consider the timing and location of the intersessional meeting of the RMS Working Group. The Chair suggested that this matter be returned to under item 23 (date and place of Annual and intersessional meetings). Japan expressed disappointment that the goal set out in Resolution 2004-6 had not been achieved, but it hoped that the Resolution adopted would lead to progress. It again noted that domestic pressure to resolve the issue would increase and that its proposed Schedule amendment is still on the table. Japan would welcome further dialogue on this proposal.

6.3.2.4 COMPLIANCE WORKING GROUP

Draft Terms of Reference for a Compliance Working Group were proposed by Argentina, Australia, Germany, New Zealand, the UK and the USA. After minor amendments the following Terms of Reference were agreed:

- (1) to explore ways to strengthen compliance by analysing the range of possible legal, technical, and administrative measures available to the Commission which are consistent within the ICRW; and
- (2) to explore possible mechanisms to monitor and possibly address non-compliance of Contracting Governments consistent with the ICRW and international law.

It was agreed that the Secretariat should call for expressions of interest in joining this working group after the Annual Meeting.

7. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

7.1 Report from the Working Group on Whale Killing Methods and Associated Welfare Issues

The meeting of the Working Group on Whale Killing Methods and Associated Welfare Issues took place on 13 June 2005. It was chaired by Esko Jaakkola (Finland) and attended by delegates from 27 Contracting Governments. The full report is given in Annex F.

Prior to discussions of the Working Group on substantive issues, Japan had indicated that it believed this issue to be outside the competence of IWC. Given this, it stressed that its contributions, including the provision of data and attendance at the Working Group meeting were done on a voluntary basis. The Russian Federation made a similar statement later in the meeting. In response, the UK stated its belief that the Commission has a moral responsibility to consider welfare issues.

7.1.1 Data provided on whales killed and on improving the humaneness of whaling operations

Data on whales killed and on improvements to hunting operations had been provided on a voluntary basis by Denmark, Japan, Norway, the Russian Federation and the USA in reference to Resolutions 1999-1 and 2001-2.

Denmark had provided detailed information regarding the 2004 Greenland hunt of minke and fin whales. In response to a number of comments, Denmark indicated that:

- (1) it would consider reporting time to death information separately for different killing methods next year;
- (2) day-to-day management of the resources is the responsibility of the Greenland Home Rule Government but that it would provide additional assistance on veterinary matters if requested, but that it would be difficult to have 100% veterinarian coverage of the hunt due to limited space in whaling vessels;
- (3) the question of animal welfare is important and that Greenland has done much to improve the hunt over the years;
- (4) there are obligatory rifle shooting tests, but not a yearly obligation to take the test; and
- (5) that the minimum calibre requirement is 7,63 mm, not 9,3 mm used by Norway, but that it did not plan to interfere with the calibre of rifles used in the hunt.

With respect to improvements in whale hunting methods in Greenland, it was reported that the harpoon cannon renovating program was finished in 1998. The harpoon cannons are inspected every 2 years – reducing the risks for the hunters to a minimum and maximizing the efficiency when killing whales. Last year, two courses on the handling and instruction of the use of the penthrite grenade were held.

Japan had provided summary information from the 2003/2004 and 2004/2005 JARPA and the 2003 and 2004 JARPNII programmes. It reported that it had made significant efforts to improve whale killing methods, successfully reduced average time to death of minke whales to less than two minutes, and increased the instantaneous death rate. Japan stated that it will continue to reduce time to death by improving killing methods.

In response to a question on whether it had time to death data on sperm whales, Japan noted that the number of sperm whales harvested in JARPNII is statistically too small to evaluate time to death data, but that it would provide data in an appropriate manner when enough become available. When asked whether there were any differences in the harpoon cannons and the grenade used to kill different species, Japan indicated that the cannons used to kill different species are the same size, but for larger species, the powder in the penthrite grenade is increased and a delayed-time fuse system is used. With respect to a question about harpoons used as the secondary killing method, Japan reported that a cold harpoon is used as the secondary method for killing minke whales and an explosive harpoon is used to kill large species. A comparison was drawn between the instantaneous death rate for the Japanese and Norwegian hunts (i.e. 35-44% for the former and 80% for the latter). Japan, as it has on previous occasions, indicated that there are two reasons for the differences: (1) in its scientific research programme, Japan cannot approach whales unnoticed under its random sampling method, whereas Norwegian commercial whalers approach whales unnoticed; (2) the sea areas and conditions differ in that Japan's research is conducted in the open ocean, whereas Norway's hunt is coastal.

Norway had provided data on its whaling in 2003 and 2004. It reported that its projects on hunting and killing methods, which have been very costly and that have lasted for nearly 25 years, would now be discontinued for the time being since no new projects have been sponsored. Consequently the hunting and killing of the whales will be controlled using periodic or random checks. Some Working Group members expressed disappointment with this move (see also discussions on Norway's 'Blue Box' in sections 6.3.1.2 and 6.3.2.1). Norway clarified that, of the reported 19 struck and lost animals, most were lost after they were dead. It explained that if large swells occur while the animals are hanging in the harpoon line alongside the boat, (i.e., before they are strapped and hauled on board), the harpoon might break or be torn loose if the whale is hoisted above water during swelling. If the harpoon breaks loose while the animal is still alive, the hunters normally chase down and kill the animal using another grenade.

The UK had presented a summary review of research on the humaneness of Norwegian whaling carried out by a Norwegian scientist, indicating that while the review found the histological and pathological sampling methodology of the research to be accurate, it took issue with the sampling reported and the conclusions drawn. Furthermore, the

review found that the research may not be representative of Norwegian commercial whaling as a whole. In response, Norway stated that the UK paper, submitted very late, should have been presented to an IWC forum of experts, as the Working Group is inappropriate for reviews of scientific papers. It noted that two other well respected reviewers of the research in question had concluded that the use of histological preparations to diagnose death had been too conservative. It further explained that the research was not based on a statistically random sample of whale brains from the Norwegian hunt, as suggested by the UK's reviewers, but rather a study of potential brain damage as a result of harpoon hits and grenade explosions in different parts of the whale body. Norway also explained that the variations in Instantaneous Death Rate (IDR) from the study and the reported IDR of 80.7% from the 2002 hunting season was mainly a result of using different grenades (the research had mainly been carried out before the final version of the Norwegian grenade was introduced). With regard to the 46% of whales that had been re-shot with rifles, Norway stated that many hunters routinely re-shoot the whales with rifles to be certain that the animals are dead, but that the number of animals actually requiring a second shot is much lower.

The UK had made available (although not as an official IWC document) a transcript of a film of a hunt by a Norwegian commercial whaling vessel undertaken in what it considered to be less than ideal sea conditions. The UK stated that the time to death of the whale killed in the film (14 minutes) and the number of rifle shots (7) indicate a need for observers and specified ocean conditions for a hunt. In response, Norway reported that a 14 minute time to death only occurs in about 2% of the animals, but noted that, for some reason, the hunters in the film did not follow standard advice in that they did not haul the whale to the boat immediately after it was shot. Finally the UK had proposed that the Working Group recommend holding a workshop in 2006 on whale killing methods and associated welfare issues.

The Russian Federation had given a detailed presentation of the Chukotka hunt in 2004. The hunt consisted of 110 gray whales (mean time to death of 29.3 minutes) and 1 bowhead whale (time to death of 30 minutes). In response to concern expressed about the killing methods used and a request for more information on work to reduce time to death, the Russian Federation indicated that because of small boat size, the placing of scientists or non-hunters on boats to estimate time to death is difficult and added to the general difficulty in determining time to death. The Russian Federation acknowledged the assistance and/or advice on the improvement of whaling killing methods it had received from Norway, Japan, the Netherlands, and the Alaska Eskimo Whaling Commission (AEWC).

The USA had presented data on the Alaska Eskimo bowhead hunt for 2004 and had noted that there was no gray whale hunt in 2004 due to the need for the Makah Indian Tribe to satisfy domestic legal requirements. With respect to the bowhead hunt, the USA reported that the efficiency of the 2004 hunt was 84%, which is above the 75% efficiency goal set several years ago, this increase in efficiency being largely brought about by two AEWK initiatives, i.e. regular hunter training and an extensive weapons improvement programme (see Annex F for further details). It noted that time to death is difficult to estimate in

the bowhead whale hunt - environmental conditions under which hunts are conducted are treacherous and there is a need to protect hunter safety.

In response to a call for information from Iceland and St. Vincent and The Grenadines, Iceland had reported that it is using the same methods as the Norwegians and that training had been provided to those involved. It stressed that it had not yet taken enough whales in its research programme for there to be statistically reliable results on time to death. Iceland indicated that it is continually trying to improve the effectiveness of its whale killing methods and that the discussion on how to improve the methods that have been developed in Norway and used by Iceland would not be facilitated by the small amount of data from Iceland. Iceland pointed out that the relevant Resolutions not only encourage governments to submit information regarding whaling but also comparative data from the killing of other large animals. It noted that those countries calling for Iceland to submit data that has no significance in improving whale killing methods, had themselves not submitted the data they have available as called for in various Resolutions. St. Vincent and The Grenadines indicated that whale killing methods employed in its hunt have not changed, and that its hunters catch about one whale per year. Further, St. Vincent and The Grenadines indicated that the hunters have very small boats on which it would be difficult to place observers. However, St. Vincent and The Grenadines would welcome help to improve the time to death.

7.1.2 Addressing requests made in Resolution 2004-3

Through Resolution 2004-3 on Whale Killing Issues, adopted at IWC/56, the Commission requested the Working Group to:

- (1) examine methods for reducing struck and lost rates in whaling operations;
- (2) consider the welfare implications of methods used to kill whales caught in nets; and
- (3) to advise the Commission on:
 - (a) establishing better criteria for determining the onset of irreversible insensibility and death;
 - (b) methods of improving the efficiency of whale killing methods; and
 - (c) reducing times to death and other associated welfare issues.

The only contribution had been from the UK who had reported on two workshops on determining criteria for insensibility and death in stranded cetaceans. It believed that there needs to be additional work on the criteria for determining the time of onset of permanent insensibility since the existing IWC criteria are not among the suitable measures for determining unconsciousness and death in cetaceans. The UK reported that the overall consensus of experts who examined this matter was that a package of measures will provide the most accurate assessment of the state on sensibility of a whale, questioning the validity of the existing, single-measure IWC approach for determining death in a harpooned whale. Norway commented that the IWC criteria lead to an over-estimation of time to death, and that the IWC data should be used in conjunction with post-mortem data to give better estimates. It also noted that it is easy to get close enough to stranded whales to examine them as suggested by the UK, but that it is impossible to perform such detailed examinations during hunting. The

UK stressed that there is no intention to risk human life, and that new technology may be developed to allow measurements to be taken from a distance.

The Chair concluded that the Working Group would not be able to advise the Commission on matters identified in IWC Resolution 2004-3, and that several of these matters require further work and expert knowledge.

7.1.3 Possible workshop

The Working Group agreed to recommend that a workshop on whale killing methods and associated welfare issues should be held in conjunction with the next annual meeting of the Commission. In lending support to this recommendation, the USA expressed the desire for the workshop to include consideration of the practical needs of aboriginal subsistence hunters, particularly with regard to estimating time to death. The UK agreed to consult with other countries on possible terms of reference for the workshop.

7.2 Commission discussions and action arising

Australia stated that, in its view, there are currently no whale killing methods suitably humane for use in modern times. It found much in the Working Group's report that caused concern, including the discussion around Norwegian whale hunting practices, Norway's research on whale killing methods and its intention to move away from having personnel on board capable of collecting data on killing methods and times to death by replacing inspectors with the 'blue box' technology. Referring to the transcript of the film of the Norwegian hunt in which a whale reportedly took 14 minutes to die, Australia suggested that even if such times to death occurred for only 2% of animals (as indicated by Norway), there is little to be proud of.

Despite efforts over the years to improve killing methods that actually have not changed dramatically in over a hundred years, New Zealand remained convinced that many whales suffer greatly before death in all types of whaling (commercial, aboriginal subsistence, scientific). It noted that again this year, the Commission had received reports from aboriginal subsistence hunts in which whales had been targeted repeatedly with inadequate weapons. It reported that like many other governments, New Zealand has strict rules and performance criteria for the slaughter of domestic animals with the objective of achieving the minimum possible time to death and suggested that there should be continuous efforts to achieve similar outcomes in whale hunting. Since New Zealand has one of the highest rates of whale strandings, it therefore has experience of the need, on occasion, to euthanase stranded animals. Knowing the difficulty in placing a shot to achieve instantaneous insensibility in stranded animals, it suggested that placing an accurate shot with a harpoon or rifle on a moving target from an unstable platform at sea would be much harder. Finally, New Zealand believed that not only did Articles V and VI of the Convention give the legal authority to the Commission to address welfare issues, but that members also had a moral responsibility to take all possible steps when hunting such large and advanced animals to ensure that suffering is minimised. It urged that this issue be maintained as an essential part of the Commission's agenda.

The Russian Federation, while agreeing that improving the humaneness of hunts is important, noted the position of New Zealand but asked that the views of other

governments not believing IWC to have competency in this area be respected. Japan took a similar view, indicating that it had extended full co-operation in response to different recommendations made by the Working Group and various workshops in the past, but was opposed to mandatory reporting. It stated that its efforts to improve its killing methods have resulted in a steady improvement of times to death and instantaneous death rate. It firmly believed that data on whales killed should be used in a constructive way and not as a means for criticising whaling countries. Such an approach makes no contribution towards reducing times to death. The Solomon Islands noted the extent of collaboration among whale hunters of different nationalities, including in relation to welfare issues, and believed that this should be encouraged. Mauritania acknowledged the need to reduce suffering of whales taken but stressed the need to also take account of hunter safety.

The USA welcomed the recommendation for a workshop but urged that it include a session in which aboriginal subsistence hunters could discuss whale killing methods, particularly the issue of time to death. Sweden, the Russian Federation and Switzerland supported this position. Germany appreciated the reports made this year by a number of Contracting Governments and acknowledged the significant work of Norway to improve whale killing methods. However, like Australia and New Zealand, it was concerned that the IWC criteria for determining insensibility and death are inadequate and that current methods do not guarantee instantaneous death. Germany believed that workshops of specialists in this area are indispensable in helping to improve killing methods and therefore supported a workshop next year. Finland also supported the workshop proposal and Denmark indicated that it would participate.

Proposal for a workshop on whale killing methods and associated welfare issues

The UK, on behalf of the other co-sponsors (Denmark, Germany, Norway, Sweden and the USA), introduced a proposal for a workshop on whale killing methods and associated welfare issues to be held in conjunction with IWC/58 next year. It was proposed that the workshop would build on advances from previous years to consider and make recommendations on a number of issues, as appropriate, including: criteria for determining the onset of irreversible insensibility and death; improving the efficiency of whale killing methods; means to reduce times to death and struck and lost rates in whaling operations; welfare implications of methods used to kill whales caught in nets; and methods of reviewing and collecting data from aboriginal hunts. The UK noted: (1) the intention to take crew safety issues into account in all proposals regarding improvements to existing and new methods, and gear, e.g. killing methods for whales caught in nets; and (2) that the Workshop would have regard, *inter alia*, to data furnished to the Working Group on Whale Killing Methods and Associated Welfare Issues and also to relevant comparative data from the killing of other large mammals. It suggested that the workshop be of 3 days duration. In response to a question from the Chair, the UK recognised that a steering group would be needed to plan for the workshop, but reported that the sponsors had not considered this when developing the proposal. The UK asked that the proposal be adopted by consensus.

As one of the co-sponsors of the workshop proposal, Norway believed that it would give the possibility to move a step forward on this issue. It was pleased that the proposal recognised the need to take account of hunter safety and stressed the need for comparative data from the killing of other large mammals so as to be able to put the hunting of whales into context with other hunts. It urged Contracting Governments to provide such comparative data. Responding to Australia's earlier comments, Norway noted that while Australia has repeatedly identified concerns over animal welfare issues, it did not recall Australia providing any report or making any intervention or contribution since 1982 that has provided new information or information that could be used to improve whale hunting methods. Referring to Australia's claim that there are no humane killing methods for whales, Norway assumed that this also applies to the methods used in Australia to euthanase stranded whales. Noting Australia's repeated claims that it is not possible to achieve an instantaneous kill of a moving animal from a moving platform, Norway indicated that it would be useful for comparative purposes, if Australia could provide data to the workshop from their planned cull next year of some 60,000 camels from helicopters. Norway indicated that information on time to death, criteria for instantaneous death, weapons and ammunition used and number of shots required would be useful. Responding to Norway's remarks, Australia noted that the statement that it had played no constructive role in animal welfare issues was incorrect. It reminded the Commission that it had participated in all Working Group meetings and workshops and that one of its scientists was the Vice-Chair for the last workshop at IWC/55 in Berlin. Australia recognised the need for data to be made available to the proposed workshop next year and looked forward to Norway validating the 14 minute time to death as discussed in the Working Group meeting (see section 7.1.1) and explaining why some 2% of whales take some 14 minutes to die.

The Russian Federation welcomed the proposal that the workshop would address specific aspects of aboriginal hunts, including hunter safety and costs. Assuming that this would be done as a seminar within the workshop, the Russian Federation requested that the workshop steering group develop a very specific agenda. It wished to know in advance who would participate in such a seminar and stressed that the workshop should not be a forum for discussing welfare issues alone. It hoped to see practical recommendations arising from the meeting. The Russian Federation hoped that New Zealand would participate in view of its extensive experience in the euthanasia of stranded whales.

Repeating its position that discussion of whale killing methods and associated welfare issues are outside IWC's competence, particularly in relation to animals caught in nets, Japan stated that it would not block the workshop proposal but could not join in any consensus. Dominica and St. Vincent and The Grenadines, while recognising the importance of welfare issues, also did not believe IWC has competence in this area. Gabon believed that animal welfare is important but that it is also subjective as whale killing methods are related to traditional practices and rituals. It considered the term 'humane methods' to be semantic and ambiguous.

St. Lucia, supported by Dominica, St. Kitts and Nevis, St. Vincent and The Grenadines and Gabon, requested that the workshop proposal be amended to: (1) introduce the

concept of practical criteria to determine the onset of irreversible sensibility and death; and (2) take account of cost issues for aboriginal subsistence hunters. The Republic of Korea requested that the proposed review of the welfare implications of methods used to kill whales caught in nets be clarified so as to refer to those animals where it has not been possible to release them alive. With these changes, the workshop proposal was adopted by consensus, noting the views expressed on IWC's competency in this area (see Annex G). The USA requested that aboriginal hunt schedules be taken into account when deciding when to hold the workshop during IWC/58.

8. SANCTUARIES

8.1 Proposal to amend the Schedule to establish a South Atlantic Whale Sanctuary

8.1.1 Introduction of the proposal

On behalf of the other principal co-sponsors, Argentina and South Africa, Brazil introduced a proposal to create a South Atlantic Whale Sanctuary. The amendment proposed was the same as in the previous four 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 066°25,0'W; thence to the point Lat 55°11,0'S Long 066°04,7'W; thence to the point Lat 55°22,9'S Long 065°43,6'W; thence due South to Parallel 56°22,8'S; thence to the point Lat 56°22,8'S Long 067°16,0'W; thence due South, along the Cape Horn Meridian, to 60°S, where it reaches the boundary of the Southern Ocean Sanctuary; thence due east following the boundaries of this Sanctuary to the point where it reaches the boundary of the Indian Ocean Sanctuary at 40°S; thence due north following the boundary of this Sanctuary until it reaches the coast of South Africa; thence it follows the coastline of Africa to the west and north until it reaches the Equator; thence due west to the coast of Brazil, closing the perimeter at the starting point. This prohibition shall be reviewed twenty years after its initial adoption and at succeeding ten-year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph shall prejudice the sovereign rights of coastal states according to, *inter alia*, the United Nations Convention on the Law of the Sea.'

Brazil recalled that those against the establishment of sanctuaries frequently cite the provisions of Article V that require amendments to the Schedule to be based on scientific findings and drew attention to the fact that no consensus recommendations have been forthcoming from the Scientific Committee in this respect. Brazil highlighted that the Convention does not specify what kind of scientific findings are necessary and indicated that given the politicised nature of the Scientific Committee itself, it would be impossible for it to reach consensus on sanctuary proposals. Nevertheless, the sponsors of the South Atlantic Sanctuary have consistently submitted their proposal to the Committee for review, hoping that its critics would offer constructive scientific comments. Brazil believed that no such comments have been received. The sanctuary's sponsors continue to be convinced that the proposal is scientifically justified. In relation to this, Brazil referred to a recent article published in the journal *Science* that recognises that most of the species and populations of great whales exploited by commercial whaling in the South Atlantic are highly depleted with several showing no signs

of healthy recovery and that significant co-operative research (one of the proposed sanctuary's main goals) in this area is needed. Brazil also drew attention to the list of scientists and managers who support the sanctuary proposal noting that the scientific publication record of these individuals outweighs publications that have arisen from long-term scientific whaling programmes.

Brazil disagreed with the argument that sanctuaries are incompatible with the development and implementation of an RMS. It took the view that in the same way that the RMS is designed to provide the management regime for whaling with an efficient tool, sanctuaries are intended to provide an appropriate umbrella for the non-lethal management and use of whales. Brazil believed that both management regimes must be recognised and accommodated, otherwise neither will prevail.

Brazil and its co-sponsors remained convinced that the South Atlantic Sanctuary proposal is compatible with modern international environmental law, in particular with UNCLOS and the Convention on Biodiversity. It invited the Commission to stop living in 1946 and to evolve into the 21st century by approving the sanctuary proposal as a sign that the organisation still deserves to be the competent body for the management of the whale resources of the world.

Argentina and South Africa endorsed these comments.

8.1.2 Reports from the Scientific Committee and Conservation Committees

Prior to the plenary, the South Atlantic Sanctuary proposal had also been introduced to and considered by the Scientific and Conservation Committees.

The Chair of the Scientific Committee reported on the outcome of the Committee's review of the sanctuary proposal to the Conservation Committee (see Annex H). He noted that the Committee had reviewed similar proposals in the past but had been unable to reach a consensus view. At this year's meeting the sanctuary proposal was reviewed using the instructions to the Committee adopted by the Commission at IWC/53 in 2001 as well as recommendations agreed by the Committee at its Annual Meeting in 2004. Once again consensus was not reached on the scientific merits of the proposed sanctuary.

In the Conservation Committee, a number of countries expressed their strong support for the proposed South Atlantic Whale Sanctuary (see Annex H). They considered that sanctuaries can and do play an important role in whale conservation and management and are not incompatible with other uses in other parts of the world. Perceived inconsistencies, both with the RMP and the ICRW, were dismissed. Norway noted that its position is well-known and that it would vote against the sanctuary at the appropriate time.

8.1.3 Commission discussions and action arising

As this sanctuary proposal had been discussed in plenary on four previous occasions, the Chair asked that delegates keep their interventions brief.

Australia, Ireland, France, Germany, the UK, New Zealand, Belgium, Mexico and the USA spoke in support of the proposed sanctuary.

Iceland recognised each country's right to designate its national waters as a sanctuary if they so choose, but did not agree that there is the same right with the high seas. As it had on previous occasions, Iceland 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 are 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. Iceland therefore believed that the proposal was not permissible under the terms of the Convention. Brazil disagreed noting that these arguments had been addressed previously. Japan, Gabon, Côte d'Ivoire, Antigua and Barbuda, St. Lucia, Cameroon, Norway, Senegal, the Republic of Korea and St. Kitts and Nevis also could not support the proposed sanctuary. Some of them associated with the remarks of Iceland and others noted that they could only support such a proposal if it has well-defined scientific criteria and the support of the Scientific Committee. As a range state of the proposed sanctuary, Côte d'Ivoire indicated that it should have been consulted by the proponents. In response, Brazil noted that it did consult with Côte d'Ivoire and other states of the region through the Ministries of Foreign Affairs.

On being put to a vote the proposal failed to achieve the necessary three-quarters majority for it to be adopted. There were 29 votes in support, 26 against and 2 abstentions. Brazil thanked those who had supported the proposal.

8.2 Southern Ocean Sanctuary

8.2.1 Proposal to amend paragraph 7(b) of the Schedule

On behalf of the other co-sponsors (Antigua and Barbuda, Benin, Cameroon, Côte d'Ivoire, Dominica, Gabon, Grenada, Republic of Guinea, Iceland, Mauritania, Norway, Russian Federation, St. Kitts and Nevis, St. Lucia, Senegal and Suriname) Japan introduced a proposal to delete Schedule paragraph 7(b) from the Schedule. This would abolish the Southern Ocean Sanctuary.

Japan gave the following rationale for this proposal:

- The Southern Ocean Sanctuary (SOS) was established without a recommendation from the Scientific Committee that such a measure was required for conservation purposes and, therefore, the SOS is contrary to the provisions of the Convention.
- Last year, the Commission brought outside experts to review the SOS. These external reviewers concluded: that the SOS and IWC sanctuaries in general are not ecologically justified; that there is little rationale for boundary selection and management prescriptions within the sanctuary; and that they are more prohibitive than precautionary.
- The conclusions of the independent experts mean that the establishment of the SOS and its continuation is contrary to Article V of the Convention.
- With the moratorium, the sanctuary is simply redundant.
- Since the RMP protects whales in the breeding areas and addresses uncertainties related to abundance estimates and environmental changes, extra protection by a sanctuary is unnecessary.

8.2.2 Commission discussions and action arising

Iceland supported the proposal to abolish the Southern Ocean Sanctuary since in its view, the sanctuary is not based on scientific findings. Benin agreed.

The UK, New Zealand, France and Australia spoke against the proposal. The UK considered that Japan had quoted selectively from the external reviewers' report,

since these reviewers had indicated that the Southern Ocean Sanctuary could contribute in an important way to the management and conservation of large marine ecosystems if certain steps were taken, one of these being for the Commission to provide clear scientific objectives. The UK recalled that at last year's meeting, the Scientific Committee had respectively requested the Commission to clarify the objectives for the Southern Ocean Sanctuary to allow the Committee to discriminate between sanctuary designs that would, *inter alia*, protect whale stocks and increase whaling yields outside the sanctuary. Consequently, the UK suggested that rather than abolishing the Southern Ocean Sanctuary, the Commission should work with the Scientific Committee to facilitate its request.

New Zealand recalled that when the sanctuary was established, there were 23 votes in favour and only one against. It believed that with the continuing uncertainty regarding the abundance of whale stocks (e.g. Antarctic minke whales), abolishing the Southern Ocean Sanctuary would be inconsistent with the precautionary principle.

France noted that the Southern Ocean Sanctuary is a conservation measure allowed for under the Convention and found the conduct of scientific whaling within the sanctuary and the lodging of objections to the sanctuary contrary to the purpose of the sanctuary and most regrettable. It acknowledged that the review of the sanctuary performed last year by the Scientific Committee highlighted the limitations of current sanctuaries under the auspices of IWC (i.e. that they can only ban hunting), and hoped that IWC's sanctuaries could evolve in line with more modern thinking in relation to Marine Protected Areas, taking into account all anthropogenic factors. It supported whalewatching as a sustainable use of whale resources and firmly opposed Japan's proposed Schedule amendment.

On being put to a vote the proposed Schedule amendment did not receive the required three-quarter majority support to be adopted, there being 25 votes in favour, 30 against and 2 abstentions. Japan thanked those that supported the proposal. The Southern Ocean Sanctuary therefore remains in place.

9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

Japan reported on the Fourth Summit of Japanese Traditional Whaling Regions held in Shimonoseki, Yamaguchi Prefecture on 15 May 2005. The Summit adopted the 'Shimonoseki Declaration on Traditional Whaling', that has been endorsed by the Japanese government.

9.1 Proposed Schedule amendment

Japan had submitted two Schedule amendment proposals, one for the taking of minke whales from the Okhotsk Sea-West Pacific stock, the other for the taking of Bryde's whales from the western stock of the North Pacific. They were similar to those proposed at IWC/56 last year¹⁴. However, during its introduction, Japan indicated that it wished to focus on the minke whale proposal and withdrew the Bryde's whale proposal from action. It then introduced its proposal to add the following sub-paragraph (f) under paragraph 10 of the Schedule:

¹⁴ *Ann. Rep. Int. Whaling Comm.* 2004: 36-37.

'(f) Notwithstanding the other provisions of paragraph 10, the taking of up to 150 minke whales from the Okhotsk Sea-West Pacific stock of the North Pacific shall be permitted for each year until 2009 or until the quota based on RMS is decided, whichever is earlier.'

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

As previously, Japan recalled that since the imposition of the moratorium on commercial whaling almost 20 years ago, it had repeatedly requested an interim relief allocation of 50 minke whales to alleviate the hardships of its four small-type coastal whaling communities, Abashiri, Ayukawa, Wada and Taiji. It noted that these requests have been continually rejected by the Commission, even though the Commission had recognised the economic, social and cultural hardships on the communities resulting from the moratorium and had agreed, through six Resolutions adopted between 1993 and 2004, to work expeditiously to alleviate their distress. Nevertheless, it wished to try again this year.

Japan noted 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 abundant and robust and that all the necessary mechanisms and conditions are available to enable sustainable whaling operations to resume (e.g. the RMP, national inspection, provision for international observers, VMS). It therefore proposed that the four communities should be allowed to resume limited and managed whaling activities in their coastal waters (i.e. within Japan's EEZ). It further 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. It considered that whaling operations conducted under the management measures proposed would be demonstrated to be sufficient to achieve effective control of whaling operations thus facilitating finalisation of discussions on an RMS. It noted that a study by Japanese scientists had indicated that there will be no adverse impact on the stock concerned (the 'O' stock). It stated that the 'J' stock would not be affected as their operations will avoid those areas where they are thought to be found.

Japan drew attention to the dual objectives of Convention, i.e. the conservation of whale stocks to allow the orderly development of the whaling industry. It stressed the need for both objectives to be respected, and the responsibility of the Commission towards the lives of people who have been dependent on whaling to be recognised. It noted that the Convention provides for aboriginal subsistence whaling to protect the economic, social and cultural needs of such communities and referred to studies that have indicated that the four Japanese coastal whaling communities have similar needs. It noted the

objection of some Contracting Governments to the commercial aspect of Japan's coastal whaling (were it to be resumed), but drew attention to the fact that in the aboriginal subsistence hunts, some products are traded in a commercial manner. Japan therefore believed that its communities were being treated in an unequal, unfair and unjust manner. It considered its proposed Schedule amendment to be an appropriate request as an exemption to the moratorium and asked for due respect for human rights and cultural diversity in accordance with the Convention and science.

9.2 Commission discussions and action arising

A number of Contracting Governments complimented Japan on its presentation.

Nicaragua, St. Vincent and The Grenadines, St. Lucia, Solomon Islands, Iceland, Norway, Dominica, Antigua and Barbuda, Senegal, Mauritania, Benin, Republic of Guinea, St. Kitts and Nevis, Palau and the Russian Federation spoke in support of Japan's proposal. Nicaragua noted that in addition to transparency and accountability, there is also a need for tolerance and equity. It supported the proposal in view of the strong tradition of Japan's four coastal whaling communities, believing that this would be consistent with the approach to aboriginal subsistence whaling. St. Lucia believed that the developed nature of Japan and its economy did not negate the culture and traditions of its coastal communities and noted that the quota proposed is unlikely to have an effect on the minke whale stock. Iceland considered that there are only two types of whaling – sustainable and non-sustainable. As Japan's proposal was for sustainable whaling it could give its support and called for fair and consistent treatment among different countries and communities. Antigua and Barbuda considered that adoption of the proposal would demonstrate that IWC is not just a polarised body but that it respects different cultures. Others speaking in support made similar remarks, particularly with respect to the need for tolerance and recognition of other cultures.

Brazil, Republic of Korea, Monaco, USA, Germany, New Zealand and Sweden indicated that they could not support Japan's proposal. Brazil stressed that the rights of others to use whale resources in a non-lethal way must be recognised. The Republic of Korea believed that traditional whaling should be recognised, but believed that the moratorium should be respected until an RMS is agreed. Monaco noted that it understands and respects the traditional Japanese coastal whaling culture and recalled that over the years it has indicated its willingness to support small-scale whaling on the understanding that this would not be carried out at the same time as unjustified, large-scale scientific permit whaling. It suggested that the meat taken from Japan's permit whaling would largely meet the gastronomic needs of the four communities if the meat were directed here rather than to restaurants in Tokyo, Kyoto and other cities. However, it recognised that this might not meet the cultural needs of the communities and therefore suggested an alternative solution, i.e. that the communities could carry out limited traditional whaling in close co-operation with Japanese scientists thus obviating the need to issue special permits. The USA found this issue difficult as it involves both culture and law. However, it noted that to be consistent with the Schedule, the proposal should be for a non-commercial activity and be supported scientifically by the Scientific Committee. As Japan's

proposal did not meet either criteria, the USA could not support it despite its long history of supporting cultural rights. Germany and Sweden made similar remarks. New Zealand, while supporting indigenous communities, believed that Japan's proposal blurred the distinction between aboriginal subsistence whaling and commercial whaling. It also could not have accepted the RMP tuning level in Japan's proposal (i.e. 0.62 rather than 0.72 as agreed by the Commission) and noted that the 'J' stock is already subject to takes via JARPNII and fisheries bycatch.

Referring to the remark that its proposal did not have the support of the Scientific Committee, Japan noted that this was also the case for the moratorium, demonstrating some inconsistency in attitude. With respect to the RMS, it could not see a quick resolution of the matter making it impractical to wait for this before submitting its Schedule amendment. It agreed that there is a blur between commercial whaling and aboriginal subsistence whaling since there is no real distinction, noted that the proposed tuning level is within the range recommended by the Scientific Committee and reported that the four coastal communities receive meat from special permit whaling twice a year.

On being put to a vote the proposal did not receive the required three-quarter majority support to be adopted. There were 26 votes in favour, 29 against and 3 abstentions. Japan thanked those countries that had supported its proposal. It regretted the decision but indicated that it would continue its attempts to obtain a relief quota for its coastal communities.

10. SCIENTIFIC PERMITS¹⁵

10.1 Review of results from existing permits

Japan gave a short PowerPoint presentation on its results from its JARPA and JARPNII programmes.

10.1.1 Report of the Scientific Committee

All proposed scientific permits have to be submitted for review by the Scientific Committee following guidelines issued by the Commission. However, in accordance with the Convention, the ultimate responsibility for issuing them lies with the member nation.

Two continuing permits were discussed this year. JARPNII is a long-term research programme primarily aimed at feeding ecology in the context of contributing to the 'conservation and sustainable use of marine living resources in the western North Pacific, especially within Japan's EEZ.' The programme involves the taking of 150 minke whales, 50 Bryde's whales, 50 sei whales and 10 sperm whales each year in the western North Pacific.

A proposed permit by Iceland, primarily for feeding ecology studies for 100 common minke whales, 100 fin whales and 50 sei whales in each of two years was presented two years ago; the government had only given a permit for 25 common minke whales from Iceland in 2004. Again, as in the past, different views on the value of this research were expressed in the Scientific Committee.

The previous JARPA programme was an 18-year programme that finished in 2004. The complete programme

will be reviewed by the IWC Scientific Committee in 2006, when all of the data and analyses become available.

The Committee continued preparations for a full review of the JARPA programme when the complete set of results is available following the completion of the 16-year programme in 2006.

10.1.2 Commission discussions and action arising

Discussions focused on the Scientific Committee's report in relation to JARPA.

Norway recalled that a large suite of projects had been carried out in the JARPA programme, with many yielding valuable information on the stock structure of minke whales in Areas III to VI of the Antarctic and on a range of biological parameters, including changes in these parameters over time. It noted that although most of the JARPA results have been presented at least in preliminary form to the Scientific Committee at a range of meetings, the full review planned for late 2006 is needed and the results should be published subsequently in the scientific literature. Norway agreed that while some of the primary data (e.g. tissue samples for genetic and chemical analysis) could have been obtained in theory by non-lethal means, this would have been prohibitively expensive. Moreover, information on such aspects as age and reproductive history could not be obtained by non-lethal means. Norway congratulated Japan's scientists on their work. Senegal, Mauritania, Benin, Cameroon, the Republic of Guinea and Iceland also commended Japan on its work.

The UK agreed with Norway regarding the quality of some aspects of JARPA (e.g. the *in vitro* fertilisation of minke whale eggs), but expressed concern as to whether many statistical analyses of the data had been adequate. It believed that further work in this area is required before Japan embarks on a new programme in the Antarctic. Until then it would have severe reservations on the quality of JARPA and on Japan's future plans. Monaco noted that Japan's scientific whaling programme is not only controversial outside of Japan, but also within Japan's scientific community. It found, like others, the hypothesis that there is significant competition between whales and fish to be too simplistic, that fish themselves are a greater predator of other fish than whales and that declining fisheries are due to industrial fishing rather than competition between whales and fish. Furthermore, it considered lethal research programmes to be outdated since non-lethal techniques are available. New Zealand saw no need to reiterate its well-known views on Japan's scientific permit whaling. It stood by its rejection of the scientific rationale behind them and the lack of ethical approval for them.

Japan thanked those delegations making positive remarks about its presentation and the results from JARPA, and was pleased that some Contracting Governments recognise that Japan has published papers in the scientific literature – something frequently denied in the media and elsewhere. To note the importance of JARPA, Japan drew attention to the Scientific Committee's mid-JARPA review done in 1997 in which many favourable comments were made. Included in this report was the comment that while suitable non-lethal methods were available, logistics and the abundance of minke whales in the Antarctic probably precluded their successful application. Japan supported the planned JARPA review next year and indicated that it welcomed constructive comments.

¹⁵ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 8 [2006].

10.2 Review of new or continuing proposals

10.2.1 Japan: southern hemisphere (JARPA II)

10.2.1.1 PRESENTATION BY JAPAN

Japan gave a short PowerPoint presentation on its research plans prior to presentation of the Scientific Committee report on discussions on JARPA II proposals. There were a number of questions.

New Zealand asked how Japan could be certain that JARPA II would have no adverse effects on isolated populations of humpbacks in the South Pacific if sampling of humpbacks was to take place in the western part of Area VI. Japan clarified that humpbacks would only be taken from Areas IV and V. It had no plans to sample them from Area VI. In response, New Zealand asked how Japan could be sure that humpbacks from Area V are not the endangered breeding populations from Fiji, the Cook Islands and Samoa. Japan noted that the D-stock, whose breeding grounds are located off the west coast of Australia, occurs in Area IV, while the E-stock, whose breeding grounds are located off the east coast of Australia occur in Area V. In response to another question from New Zealand, Japan clarified that it has no plans at present to sample other species, such as crabeater seals and seabirds. Rather it hoped to use existing information from CCAMLR in the initial stages of the work.

The Republic of Korea while noting the need for lethal research programmes, did not understand why Japan needed to double the takes of minke whales. Japan explained that such an increase is needed to obtain sufficient statistical power to detect significant temporal changes in various biological parameters (e.g. age at sexual maturity, pregnancy rate, blubber thickness, etc.). The UK noted that Japan was planning to continue to include a $\pm 10\%$ allowance for the minke whale takes (i.e. $850 \pm 10\%$ for JARPA II). Given the consistency with which the upper allowable catch limit has been reached during JARPA, the UK did not believe it necessary for Japan to continue to allow for this margin of error.

Referring to Japan's earlier presentation, the USA noted that the age of sexual maturity of minke whales has decreased from 17-18 years to around 7-10 years. Given this, it suggested that the doubling of the take of minke whales proposed in JARPA II is problematic. Japan believed the opposite to be true. It believed that the decrease in the age of sexual maturity, due to improved feeding conditions, explains the increase in minke whale abundance that had been seen. Such conditions prevailed until the 1970s when the age of sexual maturity began to level off and is now showing a tendency to increase again. Japan believes that this implies that availability of food has become less favourable.

10.2.1.2 REPORT OF THE SCIENTIFIC COMMITTEE

Discussion on scientific permit issues within the Scientific Committee this year centred on Japan's new proposal (JARPA II). The stated objectives of the new long-term research programme proposal are:

- (1) monitoring of the Antarctic ecosystem;
- (2) modelling competition among whale species and developing future management objectives;
- (3) elucidation of temporal and spatial changes in stock structure; and
- (4) improving the management procedure for the Antarctic minke whale stocks.

The proposed annual catches for the full programme are: 850 (with 10% allowance) Antarctic minke whales, 50 humpback whales (not to begin for two years) and 50 fin whales (10 in the first two years).

As in previous years, there was severe disagreement within the Committee regarding advice that should be provided on a number of issues, including: the relevance of the proposed research to management, appropriate sample sizes and applicability of alternate (non-lethal) research methods.

10.2.1.3 COMMISSION DISCUSSIONS AND ACTION ARISING

Germany expressed deep concern that not only is Japan planning to continue its research whaling in the Antarctic, but also to intensify it by doubling the number of minke whales to be taken and including takes of humpback and fin whales. It regretted that Japan is not recognising the international status of these stocks in which the humpback stock is classified as 'vulnerable' and the fin whale stock as 'endangered'. Germany believed Japan's basis for its whale hunt is an oversimplified and distorted approach to ecosystems, in which it believes that different whale species are competing for krill and that by culling whales of one species it can promote the recovery of others. Germany called on Japan to end its scientific whaling programmes.

Brazil and France associated themselves with the remarks of Monaco made under the previous agenda item in relation to lethal research programmes. Brazil also noted the concern with which it has watched scientific whaling escalate over the years in spite of past recommendations of the Commission. It believed that despite the large number of whales killed in such programmes, very few peer-reviewed papers had been published. It therefore considered Japan's action as a blatant abuse of the rights to Contracting Governments granted under Article VIII and simply a means of maintaining a market for whale meat. Brazil considered this latest research plan to have a political rather than a scientific objective, i.e. to push the Commission into adopting compromises in order to bring in a commercial whaling scheme. By including humpback whales, Brazil believed that Japan is deliberately attacking a species of great importance both for non-lethal research by other nations but also for non-lethal appropriation for whalewatching. It believed that the proposal would destroy any hope of reaching a compromise and better understanding of the rights of Southern Hemisphere nations to the non-lethal management of whale resources. Brazil requested Japan to take account of the broader implications of their actions.

The USA noted that it continues to oppose lethal whale research programmes except in exceptional circumstances. It too expressed concern over the significant expansion of JARPA II over JARPA and believed that there is no compelling justification of this since, in general, much of the information can be gained through non-lethal research or is in fact not needed for management purposes. The USA considered that JARPA II would make it much more difficult if not impossible to reach consensus on an RMS and that it would serve to polarise IWC yet further. It urged Japan to not go forward with JARPA II. Spain and Finland associated themselves with the remarks of Germany and the USA. New Zealand associated itself with Germany, the USA and Brazil, noting that it has been a consistent opponent to Japan's scientific whaling programmes. It also

drew attention to the objection by 63 members of the Scientific Committee to a review of the JARPA II proposal before a formal review of the JARPA programme results has been conducted and to a recent (16 June) article in the journal *Nature* that *inter alia* delivered what New Zealand considered to be a forceful rebuke of JARPA II proposals. However, New Zealand's most serious concern in relation to JARPA II is its potential impact on populations of threatened or endangered species in the Southern Hemisphere, again referring to the real threat to endangered breeding populations of humpbacks from Fiji, the Cook Islands and Samoa. Finally, it noted with surprise the statement from Japan during Scientific Committee discussions that no conflict had been found between the planned research and Japan's revised domestic legislation on animal welfare.

St. Kitts and Nevis, St. Vincent and The Grenadines, the Republic of Palau and St. Lucia spoke in support of Japan's proposals contained in JARPA II. St. Kitts and Nevis noted that UNCLOS recognises the importance of scientific research in the sustainable use of marine resources and gives clear rights to coastal states to conduct such research. It noted: (1) that since developing countries have limited resources, they are dependent on the work of more developed countries; and (2) the importance of marine resources in the sustainable development and poverty alleviation of coastal developing states. These were the reasons why countries such as St. Kitts and Nevis are members of IWC. Finally it expressed the view that science within the organisation is much further advanced than its politics which it considered to be backward. St. Vincent and The Grenadines was satisfied that Japan has provided valuable information that has been used to advance the work of the Commission and had no problems in supporting its new proposal. The Republic of Palau and St. Lucia both gave importance to gaining an understanding of ecosystem interactions so that management of fishery resources could be improved. Like St. Kitts and Nevis, the Republic of Palau stressed the importance of marine resources to its people. It believed that emotional criticism ignores both science and international law and is a rejection of the basic principle of resource management based on science. St. Lucia believed that the takes proposed by Japan would not adversely affect the stocks in question, and that in any case, reviews are planned after the 2-year initial feasibility study and again after six years.

In responding to a number of comments, Japan firmly opposed the view that its proposals are politically and commercially motivated, and drew attention to Convention Article VIII.2 that states that '*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*' - the use of the word 'shall' conferring an international obligation. It disagreed that the JARPA II proposal would have a detrimental effect on RMS negotiations since it has been clear for some years that the process has been breaking down. Japan found it unacceptable that JARPA II is being used as a scapegoat for stalled RMS discussions. It also could not accept that the proposed takes of minke, humpback or fin whales would have an adverse effect on the stocks as they represented such a small percentage of the total stock numbers. It again stressed that with respect to humpbacks, no animals would be taken from Area VI (whales in Area

VI being those that migrate to the South Pacific islands). With respect to the publication of papers in peer-reviewed western scientific journals, Japan noted that many western journals will not accept papers presenting results obtained from lethal research programmes. It considered such treatment of its scientists to be unfair and unequal. With respect to the position of the 63 members of the Scientific Committee referred to by New Zealand, Japan noted that as the Committee comprises some 200 scientists, the vast majority had not objected to taking part in a review of the JARPA II proposal. With respect to the article in *Nature*, Japan noted that some of its authors are Scientific Committee members and national delegates and that there had been a breach in the Committee's confidentiality rules in relation to information included in the article. Japan requested that such breaches do not occur again. Finally it again stressed that some of the information it believes necessary to collect cannot be obtained using non-lethal techniques and did not believe that its proposals in relation to an ecosystem approach are too simplistic.

RESOLUTION ON JARPA II

Australia introduced a draft Resolution on JARPA II on behalf of 25 other co-sponsors (Argentina, Austria, Belgium, Brazil, Czech Republic, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Mexico, Monaco, Portugal, San Marino, Slovak Republic, South Africa, Spain, Sweden, Switzerland, the UK and the USA). While recognising that the Convention allows Contracting Governments to grant special permits for the purpose of scientific research on whales, the proposed Resolution drew attention to the fact that since the commercial whaling moratorium came into force in 1985/86, IWC has adopted over 30 Resolutions on special permit whaling that have called for: scientific research to be limited to non-lethal methods; sanctuaries to be respected; the recovery of populations to be unimpeded; and account to be taken of Scientific Committee comments. The draft Resolution noted that: the results of JARPA have not yet been reviewed by the Scientific Committee; under JARPA II, Japan intended to double the take of minke whales and also to include fin and humpback whales; that data from the Third Circumpolar Survey indicates that abundance of Antarctic minke whales is substantially lower than the previous estimate of 760,000; and that some humpback whales that will be targeted by JARPA II belong to small, vulnerable breeding populations around small island States in the South Pacific. The Resolution expressed concern that; more than 6,800 Antarctic minke whales have been killed in Antarctic waters during the 18-year JARPA programme (compared with a total of 840 whales killed globally by Japan for scientific research during the 31-year period prior to the moratorium); that there are no agreed data to indicate that fin whale populations have increased since the cessation of commercial whaling; and that JARPA II may have an adverse impact on established long-term whale research projects involving humpback whales. The Resolution called on the Commission to: (1) request the Scientific Committee to review the outcomes of JARPA as soon as possible; and (2) strongly urge the Government of Japan to withdraw its JARPA II proposal or to revise it so that any information needed to meet the stated objectives of the proposal is obtained using non-lethal means.

Japan opposed strongly the proposed Resolution since it contravened certain elements of the Convention, e.g. that

science should be the basis for decision-making and the clear rights provided under Article VIII. It further took the view that the previous 30 Resolutions also went against the spirit of Article VIII and international law, and pointed out that the Convention has a higher standing than Resolutions, which are non-binding. Japan considered that denying the right to lethal research was a value judgement and an imposition of others' ethical positions and that science and international law should prevail over emotion. It found parts of the proposed Resolution to be misleading, noting for example, that while it could agree that there are 'no agreed data' on fin whales, scientists have agreed that abundance is increasing. What is not agreed is by how much they are increasing. Japan suggested that IWC began ignoring science when it adopted the moratorium, which was not a recommendation supported by the Scientific Committee. It believed that the future of IWC is more important than emotional attitudes and national politics.

The Resolution was adopted when put to a vote (see Resolution 2005-1, Annex C). There were 30 votes in support, 27 against and 1 abstention. Denmark explained that because of a change in its position following a parliamentary decision, it had voted in support of the Resolution. Previously it had not participated in votes on similar Resolutions. Denmark noted that Greenland's Home Rule Government does not support the changed position.

Japan withdrew a proposed Resolution in support of its research programme in the Antarctic.

10.2.2 Japan: North Pacific (JARPNII)

10.2.2.1 REPORT OF THE SCIENTIFIC COMMITTEE

Last year a revised JARPN II plan had been submitted, and the research in 2004 had been conducted according to those plans. There were no changes to the current research plans, on which the Committee had divided views. The Committee therefore refers back to previous statements made by proponents and critics of this research programme.

10.2.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no comments on this part of the Scientific Committee report.

10.2.3 Iceland: North Atlantic

10.2.3.1 REPORT OF THE SCIENTIFIC COMMITTEE

The initial Icelandic proposal had been changed with respect to the proposed rate of sampling, and this year's sample size had yet to be determined, although the Marine Research Institute's proposal was for 39 common minke whales. Once again, in the absence of any significant change to the planned research, the Committee refers back to previous statements by members.

10.2.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no comments on this part of the Scientific Committee report. The Committee noted the report and endorsed any recommendations.

10.3 Proposals to facilitate the review process of Scientific Permits

10.3.1 Report of the Scientific Committee

Last year, efforts were made to prepare a proposal to the Commission on restructuring the guidelines for scientific

permits but no agreement was reached on any proposal for changes. Following a short discussion of several aspects of scientific permit whaling this year, the Committee agreed that little had changed regarding the two disparate positions described in last year's Committee Report. When reviewing scientific permit proposals, the Committee recognised the chronic difficulties it faces in separating purely scientific issues from those issues that are more appropriate for discussion in other fora and notably the Commission. However, it drew the Commission's attention to the fact that the integral nature of the scientific and non-scientific issues surrounding expanding scientific permit programmes makes it extremely difficult for the review process within the Committee to function effectively, since it wishes to limit its discussions to purely scientific aspects of the proposals. The Committee noted two issues that might be given further consideration at next year's meeting: (1) the possibility of an independent and objective review panel; and (2) the debate over whether or not the proponents of a proposal should participate in a review of their own proposal. It further concludes that any new review process must be consistent with the Convention and with established Rules of Procedure.

10.3.2 Commission discussions and action arising

There were no comments on this part of the Scientific Committee report. The Committee noted the report and endorsed any recommendations.

11. ENVIRONMENTAL AND HEALTH ISSUES

11.1 Scientific Committee activities¹⁶

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, is 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 the 2005 meeting.

The Committee received the report of the intersessional Workshop on Habitat Degradation that took place in November 2004 at the University of Siena, Italy. The Committee stressed the importance of undertaking work

¹⁶ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 8 [2006].

relating habitat conditions to cetacean status in the context of conservation and management. It recognised that this is a particularly complex area of study, requiring both theoretical developments in modelling approaches and a commitment to long-term interdisciplinary data collection programmes.

Utilisation of the framework developed at the Workshop will require a much longer-term view to be taken by management and research bodies. However, although it will eventually result in major improvements in advice to resource managers for conservation and management of cetaceans with respect to predicting the effects of habitat degradation and the effects of many anthropogenic activities, as well as the development of appropriate mitigation measures. The Workshop noted that the continuation of the present *ad hoc* and usually insufficient processes (such as 'Environmental Impact Assessments' based on short-term limited datasets) is unsatisfactory.

The Committee also stressed the value of long-term monitoring of both cetaceans and key aspects of their habitat at appropriate temporal and geographical scales. Baseline data on natural variability in cetacean populations and their habitat are a prerequisite to determining whether anthropogenic changes in the habitat are important to the conservation of cetacean species. Obtaining suitable information on the biotic and abiotic features of habitat will require interdisciplinary efforts and cooperation; spatial modelling approaches are particularly valuable in integrating data on cetacean distribution and abundance with data on their habitat. There is also a need to better understand the feeding and reproductive behaviour of cetaceans, and especially the relationship of cetacean distribution with their prey.

At the 2005 meeting, a symposium entitled 'High Latitude Sea Ice Environments: Effects on Cetacean Abundance, Distribution and Ecology' was held to review information on sea ice environments in the Arctic and Antarctic, and to develop means of incorporating sea ice and similar data into analyses and models used by the Scientific Committee in its work. The symposium identified a number of high priority intersessional projects targeted at issues in both the Arctic and Antarctic. Two Arctic projects were proposed, one focussing on retrospective analyses of sea ice conditions, and the other investigating the health status of cetaceans and variability in sea ice. Antarctic projects proposed focussed on issues related to Antarctic minke whale distribution and abundance and sea ice. Finally, the Committee recommended co-operation with two initiatives: Integrated Analysis of Circumpolar Ecosystem Dynamics (ICCED) and the International Polar Year (IPY).

The Committee briefly discussed issues related to anthropogenic noise and its potential effects on cetaceans. Primary discussions of this topic will be held at a two-day workshop in advance of the 2006 Annual Meeting to assess the potential for seismic surveys to impact cetaceans. At this year's meeting, the Committee strongly encouraged producers of high intensity noise (e.g., sonar and seismic operators) to share information on noise source characteristics and to work with cetacean scientists to investigate the impacts of these activities. It also agreed that detailed information on acoustic sonars be obtained whenever possible; detail on the type, number and configuration of airguns is needed to evaluate source capabilities and the potential impact on cetaceans.

11.1.2 Commission discussions and action arising

With respect to work on anthropogenic noise, the USA reported that it is committed to conducting active sonar operations in an environmentally sound manner and is a leader in funding research in this area. It suggested that as IWC endorses the Scientific Committee's recommendations, each member government will have to determine for itself the extent to which it will share data on sonar operations being done in the interests of national defence. The USA noted that it will continue to be supportive of research into the effects of anthropogenic noise on marine mammals.

The UK complemented the Standing Working Group on Environmental Concerns and its Chair for the quality and breadth of the work being done on environmental issues. It supported strongly the recommendations from the habitat degradation workshop, complimented the editors of the SO CER report and looked forward to further results from the POLLUTION 2000+ programme and to further work on marine noise pollution. The UK believed that good progress is being made.

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

Monaco recalled that it had introduced this item a number of years ago as a permanent agenda item because of concerns regarding the accumulation of contaminants through marine food chains – food chains that have not only marine mammals at the top of them, but also humans, particularly those communities around the Arctic that are dependent on the consumption of cetaceans and other marine mammals. In addition to concern regarding the pollution of the marine environment by persistent organic chemicals and metals such as mercury, Monaco also noted with concern the large volumes of pharmaceuticals discharged into rivers that are also entering the marine environment. It urged the Secretariat to again catalyze co-operation with WHO. Germany associated itself with these remarks. There were no other comments.

12. WHALEWATCHING

12.1 Report of the Scientific Committee¹⁷

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 discussed these further at the 2005 meeting.

In 2004, the Committee endorsed the recommendations of the Workshop on the Science for Sustainable Whalewatching held in Cape Town in March 2004. This year, the Committee received a number of papers detailing

¹⁷ For details of the Scientific Committee's deliberations on this Item see *J. Cetacean Res. Manage. (Suppl.)* 8: [2006].

progress on those recommendations as well as reviewing: whalewatching guidelines and regulations; and new information on dolphin feeding and 'swim-with' programmes. It was also agreed that next year the Committee should review opportunistic sources of cetacean data of potential value to the work of the Scientific Committee, including data obtained from whalewatching operations.

12.2 Commission discussions and action arising

Japan noted that IWC was established for the conservation and sustainable use of whale stocks and the sound development of the whaling industry. It therefore viewed whalewatching as being outside the competence of IWC and urged that the limited resources be used on what it considered to be the primary functions of the organisation.

Norway noted that its experience is that there is no conflict between whalewatching and commercial whaling, one reason being that these two activities mainly target different species. Unlike sperm, right, gray and humpback whales and some dolphins such as killer whales, Norway noted that minke whales are not well suited to whalewatching as they are difficult to see even if in high numbers near whalewatching vessels. It also indicated that both activities require whale stocks to be well above the maximum sustainable yield level for them to be profitable.

Brazil saw clear conflict between whalewatching and whaling if done on the same species, and was surprised that Norway did not consider minke whales to be a suitable target for whalewatching as this is not the case in the Southern Hemisphere. Australia agreed.

The UK thanked the Scientific Committee for its work. It believed the proper regulation of whalewatching to be of considerable importance and whalewatching to be the only way to use whale resources sustainably.

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

WHALEWATCHING IN NEW ZEALAND AND GENERAL COMMENTS ON WHALEWATCHING

New Zealand, who believes firmly that whalewatching is within IWC's competence, introduced a recent IFAW report (May 2005) titled *'The Growth of the New Zealand Whale Watching Industry'*. Among the report's conclusions were the following:

- (a) the whalewatching industry continues to make a significant contribution to New Zealand's economy, with expenditure on whalewatching tourism in 2004 totalling almost \$NZ 120 million;
- (b) since the previous assessment in 1998, whalewatching tourism continues to expand and is growing faster than the overall rate of tourism in New Zealand and at a rate that would appear to place it among the fastest industry growth sectors in New Zealand;
- (c) a significant portion of whale and dolphin watching takes place in the peak tourist season, but in some regions, the industry does help to extend the season outside of the peak months;
- (d) many communities involved in whalewatching are outside the major economic centres of New Zealand and it continues to provide an alternative and growing source of income in these areas; and
- (e) there is potential for more growth as land-based whalewatching appears to be in its infancy.

It reported that whalewatching is also an expanding activity in other parts of the South Pacific such as Tonga, New Caledonia, French Polynesia and Nuie. Finally it reported that an assessment in 2001 estimated that by 2000, whalewatching had become a \$US 1 billion industry attracting more than 9 million participants in 87 countries and territories around the world.

Iceland noted that whalewatching, including minke whale watching, forms part of its tourism and is a growing activity. In its view, whalewatching and commercial whaling can and do co-exist. As mentioned earlier by Norway, both activities require healthy and abundant whale stocks, thus sustainable whaling is not a problem for whalewatching.

Japan clarified its earlier remark regarding its reasons for believing whalewatching to be outside the mandate of IWC by referring to Convention Article I.2 which indicates that the *'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'*. Whalewatching vessels are not mentioned. Mauritania noted that IWC is not a body for tourism and had other more important matters to attend to than whalewatching. The Republic of Guinea did not condemn nations wishing to promote whalewatching, but did condemn the position where whalewatching is promoted at the expense of sustainable consumptive use. Senegal and Cameroon made similar remarks.

Australia considered the claim that there is no competition between whalewatching and whaling to be an untested assumption that should be tested. It noted that as the RMP is designed to allow whaling to below natural levels of abundance, this would reduce the numbers of whales available for whalewatching. With respect to Japan's comments on competency, Australia believed that there is an interesting discussion to be had at some point on the Vienna Convention on the Law of Treaties.

Dominica indicated that although it believes whalewatching to be outside the competency of IWC, it subscribes to whalewatching and to the consumptive use of whales and agreed that the two activities can co-exist. However, it disagreed with Australia's views on competition. While it acknowledged that as soon as there is more than one user of a resource, competition between users will follow, it suggested that the issue is how managers of the resource allow for such competition to be minimised to the extent that both can co-exist in a manner that is sustainable for both whalewatching and whaling.

The Republic of Korea reported that national demand for whalewatching is increasing but that the activity is not yet industrialised. The Government has encouraged and supported the activity, but no economic benefits have yet been seen. Given the importance of Korea's fishing industry, it saw whalewatching as an activity that should co-exist with others.

Chile reported that it has reliable information on 11 different species along its 5,000km coast and that it is trying to develop a whalewatching industry in the same way as is being done by other countries such as Brazil, Argentina and New Zealand. It considered whalewatching to be an environmentally-friendly activity that would become an important future activity of IWC.

Ireland recalled that it supports subsistence whaling but that it has difficulty with the taking of whales from stocks

not shown to be robust. It therefore believes that whalewatching is an alternative way of developing the economic and social aspects of coastal communities. In its view, the IFAW report indicated strongly that whalewatching is an important economic tool to exploit and believed that this is a powerful message to those countries currently involved in whaling that there is an alternative. Ireland reported that it had distributed DVDs on whalewatching activities in Ireland, noting that one of its characteristics is that as the activity is land-based, there is no disturbance to the animals.

Spain acknowledged that although it was still a whaling nation in 1982, it had voted for adoption of the moratorium on commercial whaling. It reported that it has a whalewatching industry that each year is attracting an increasing number of people from both inside and outside Spain.

Germany associated itself with the remarks of New Zealand, Australia, Chile, Ireland and Spain, believing that whalewatching is a good example of non-lethal sustainable use. It too considered whalewatching to be within IWC's competence. Mexico and Argentina made similar remarks.

13. CO-OPERATION WITH OTHER ORGANISATIONS

13.1 Report of the Scientific Committee¹⁸

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), 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), IUCN (International Union for the Conservation of Nature), FAO (Committee on Fisheries), PICES (North Pacific Marine Science Organisation), and ECCO (Eastern Caribbean Cetacean Commission). The Scientific Council of IATTC (Inter-American Tropical Tuna Commission) had not met during the IWC intersessional period.

The Commission noted this report.

13.2 Other reports

13.2.1 Statement of the Sustainable Use Parliamentarians Union

Japan introduced a Statement from the Sustainable Use Parliamentarians Union (SUPU) to the IWC. The Statement requested that the Commission take note of the four operative paragraphs which calls on IWC to:

- (1) ensure that the fundamental principle of science-based policy and rule making as the primary paradigm of resource management is applied to its work;
- (2) implement a reasonable RMS and lift the commercial whaling moratorium at this Annual Meeting in Ulsan;

- (3) encourage whale research in order to provide valuable scientific knowledge for the sustainable use and management of whales; and
- (4) promote the continuation and prosperity of cultures and traditions of peoples utilizing whale resources.

13.2.2 Fourth Meeting of Regional Fishery Bodies

The report of the Fourth Meeting of Regional Fishery Bodies (now the RFB Secretariats' Network) held in Rome from 14-15 March 2005 was introduced briefly by the Secretary. She explained that representatives of the fisheries bodies now meet every two years immediately after COFI and that it provides an excellent opportunity to exchange information and to establish contacts with other organisations. The meeting addressed a variety of issues, including: a review of the decisions of the 26th Session of COFI of relevance to regional fishery bodies (RFBs); IUU fishing; the incorporation by RFBs of ecosystem considerations into management; status of the harmonisation of catch documentation; the relation between RFBs and UNEP; and the status of the Fisheries Resources Monitoring System (FIRMS).

13.2.3 Possible synergies with the Global Environment Facility

Resolution 2004-5 on possible synergies with the Global Environment Facility (GEF) adopted last year, requested the Secretariat 'to establish high level contact with the Secretariat of GEF 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... ..'.

The Secretary reported that she had written to the Chief Executive Officer/Chairman of the GEF Secretariat providing background information on work of the Commission, and in particular that of the Scientific Committee and enquiring as to whether there might be possibilities for co-operation/collaboration between IWC and GEF and if so, what these might be and how they might be realised. In response, GEF noted that the input it already provides, indirectly, to the objectives of the IWC is probably significant, particularly in the context of addressing the conservation of large marine ecosystems (through the focal areas of international waters and biodiversity), coastal zone management, establishing MPAs that conserve important areas for whales and their migration and others. It was noted that all GEF projects are country-driven and are presented to the GEF through its implementing and executing agencies. In this context, GEF is in a position to finance country-driven projects in the following areas that may have direct relevance to the work of the IWC:

- (1) conservation of coastal and marine ecosystems;
- (2) mainstreaming of biodiversity considerations in production sectors, landscapes and seascapes;
- (3) conservation and sustainable use of large marine ecosystems; and
- (4) targeted research.

As a result of this correspondence, the Secretary reported that she had an exchange with Assistant Executive Director of the Division of GEF Co-ordination based with UNEP in Nairobi. The Secretary was informed that UNEP, as the implementing agency of the GEF and based on its scientific mandate and special relationship with the biodiversity-related conventions including CBD, is committed to

¹⁸ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 8 [2006].

enhancing its relationship with collaborative institutions in the context of its GEF mandate. The Assistant Executive Director indicated willingness to discuss possible collaboration further, either in Nairobi or in Cambridge.

From this correspondence, the Secretary informed the Commission that she was trying to clarify whether it is the responsibility of individual countries to seek GEF funding or whether organisation to organisation co-operation is possible.

In the Commission, Mexico thanked the Secretary for making this initial contact and asked that this be continued.

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 still not yet happened.

The priority topic for the 2005 meeting was the status of the finless porpoise (*Neophocaena phocaenoides*), of which three sub-species are recognised. Finless porpoises may exhibit multiple populations over relatively small distances (e.g. off Japan), with the result that there may be numerous small and vulnerable populations along their coastal range. No large scale commercial hunts for this species have been recorded, although small scale local hunting may occur. However, incidental mortality is probably substantial throughout the species' range but there is generally little or no bycatch monitoring of these fisheries. Given the limited information on the size of their source populations it is difficult to quantify the population level impacts. The species is in no immediate danger of extinction, but some populations for which the status has been assessed (such as in the Inland Sea of Japan) are apparently declining. A number of recommendations were made to improve knowledge of population abundance, threats and status.

The Committee also reviewed progress on previous recommendations it had made, particularly those concerning the critically endangered baiji and vaquita. The Committee noted that the prospects for the baiji (*Lipotes vexillifer*) remain extremely poor. It noted that an international Workshop on the Conservation of the Baiji and Yangtze Finless Porpoise took place in late 2004 in Wuhan, China. The Committee did not discuss the pros and cons of *ex-situ* versus *in-situ* approaches but agreed with the conclusion of the workshop that any captured dolphins

should be temporarily monitored in a holding-pen prior to their release. It also stressed that the recommendation for a range-wide baiji survey should be implemented as a matter of urgency and any capture efforts be targeted on the most threatened areas while concomitant *in situ* conservation work should be pursued in areas ostensibly subject to lower levels of risk.

The Committee has followed with considerable interest progress on conservation of the highly endangered vaquita (*Phocoena sinus*); several members of the Committee also serve on the International Committee for the Recovery of the Vaquita (CIRVA). This year the Committee was pleased to hear that it had been agreed to declare the highest vaquita concentration area as a refuge for this species.

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. In 2004 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 looked forward to receiving further information on the progress of SCANS-II and raised the possibility of a joint IWC-ASCOBANS workshop.

The Committee also reiterated previous advice concerning the need to minimise or eliminate anthropogenic direct removals or threats to habitat of the humpback dolphin (*Sousa chinensis*), Irrawaddy dolphin (*Orcaella brevirostris*) and the Ganges river dolphin (*Platanista gangetica*).

The Committee agreed to update the present IWC list of recognised species of cetaceans as follows:

- (i) Bahamonde's beaked whale (*Mesoplodon bahamondi*) (change to *M. traversii*, recognise common name spade-toothed whale).
- (ii) Perrin's beaked whale (*M. perrini*) (recognise species).

Finally, 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

While recognising that some Contracting Governments consider the issue of small cetaceans to be outside IWC's mandate, the UK wished to note that this Scientific Committee sub-group brings together recognised experts and is the only forum able to provide global advice on the management of small cetaceans. Furthermore, the Committee's work on the Irrawaddy dolphin and vaquita has been recognised by other organisations and has prompted useful programmes protecting these species. With respect to Dall's porpoise (*Phocoenoides dalli*), the UK noted that the lack of abundance estimates led to the adoption of two IWC Resolutions (1999-9 and 2001-12). It recalled that when the latter Resolution was adopted, Japan

assured the Commission that there was ongoing research on this species and that the results from this would be made available outside IWC. The UK noted that the current annual quota of 17,700 animals and the probable annual take of 16,000 per year is considerably in excess of 2% of the 1989 abundance estimate of 443,000. Given that since the last abundance estimate was made, almost 250,000 animals have been taken in Japan's hand-held fishery and that there has been significant bycatch (some 11,000 animals being bycaught in Japan's salmon drift net fishery), the UK believed that the current takes would represent a much larger percent of the total population if a current abundance estimate was available. It therefore called on Japan to direct the Scientific Committee to the results of its research programme on Dall's porpoise and asked the Government of Japan to consider reducing quotas significantly until new information suggests that it is safe to do otherwise. New Zealand and Germany supported the UK's remarks. New Zealand noted the Scientific Committee's comment that Japan's Dall's porpoise hunt is the largest direct take of small cetaceans in the world.

Japan again re-iterated that it considers discussions on small cetaceans to be outside the mandate of IWC, but that in spite of this position it had, until a few years ago participated in discussions on a voluntary basis. However, as a result of what it considered to be inappropriate debates on its Baird's beaked whale (*Berardius bairdii*) and Dall's porpoise hunts at the 1999 Annual Meeting, Japan had withdrawn from the small cetacean group from the 2000 meeting onwards. It reported that it carries out its own research and management of small cetaceans in a responsible manner and re-iterated that IWC should concentrate on what it considered to be its core business. The Republic of Guinea noted that there are other international organisations, such as FAO, that could deal with small cetaceans.

Switzerland considered small cetaceans to be within the mandate of IWC and supported further work on these issues. Mexico noted that over the years it had never received Scientific Committee advice on how to manage the vaquita, but it had received important scientific advice that it has used to improve its own management measures for which it was most appreciative.

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

14.2 Other activities

14.2.1 Report of the Scientific Committee

14.2.1.1 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, and as to 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. 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).

This is a complex project that must proceed in an iterative fashion. Great progress has been made on the most challenging module, i.e. the development and validation of a program to simulate realistic genetic datasets and the Committee has agreed to hold an intersessional Workshop to build on this and begin the testing of some existing methods. This will take place at the University of Potsdam in the spring of 2006. Preliminary testing of various methods under certain simple scenarios will begin during the intersessional period.

14.2.1.2 DNA TESTING

This item is discussed in response to Commission Resolution 1999-8¹⁹. The Committee considered a number of papers that discussed improved methods and techniques with respect to obtaining and analysing genetic samples, and ensuring accurate archives. In particular the Committee agreed on the need for continuing validation of cetacean sequence data in central repositories (e.g. GenBank).

The Committee welcomed the information on the status of the Norwegian, Japanese and Icelandic DNA-registers and collections. It expressed its gratitude for the cooperation being shown.

14.2.1.3 PUBLICATIONS

The year 2005 was another productive year with respect to the IWC's scientific publications.

The 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

The Commission noted this part of the report and endorsed any recommendations.

14.3 Scientific Committee future work plan

14.3.1 Report of the Scientific Committee

The Chair of the Scientific Committee described the work plan 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;

¹⁹ *Ann. Rep. Int. Whaling Comm.* 1999: 55.

- (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 Committee will concentrate on general issues as well as preparations for *Implementation*. The following priority items (in order) were agreed.

GENERAL ISSUES

Evaluation of the criteria developed to determine whether the conservation performance of a RMP variant is 'acceptable', 'borderline' or 'unacceptable'.

IMPLEMENTATION PROCESS

- (1) 'First Intersessional Workshop' for western North Pacific Bryde's whales; and
- (2) finalise the issues related to completing the *pre-Implementation assessment* for North Atlantic fin whales.

14.3.1.2 AWMP

The priority topics for this sub-committee are:

- (1) review progress on the Greenlandic research programme (especially with respect to abundance, stock structure and the use of sex data in assessments) and attempt to provide management advice;
- (2) review progress on and refine design of trial specifications and coding for B-C-B bowhead whales (will include joint sessions with BRG on stock structure); and
- (3) review information on the St. Vincent and The Grenadines fishery and provide management advice.

14.3.1.3 BOWHEAD, RIGHT AND GRAY WHALES

The highest priority will be:

- (1) a review of new information on the stock structure of the B-C-B Seas stock of bowhead whales and on the progress of on-going research (joint meetings with the SWG on the AWMP).

The sub-committee will also:

- (2) perform the annual review of catch information and new scientific information for the B-C-B Seas stock of bowhead and ENP gray whales; and
- (3) review new information on the western North Pacific stock of gray whales, right whales and the small stocks of bowhead whales.

14.3.1.4 IN-DEPTH ASSESSMENT

The highest priority will be to:

- (1) produce agreed abundance estimates of Antarctic minke whales;

followed by (in priority order):

- (2) continued development of the catch-at-age analyses of Antarctic minke whales;
- (3) development of recommendations for future SOWER cruises, both for the short- and long-term; and
- (4) continue to examine and then attempt to agree on reasons for differences between Antarctic minke abundance estimates from CPII and CPIII.

14.3.1.5 NORTH PACIFIC COMMON MINKE WHALES

A separate Working Group will continue preparation for an in-depth assessment of western North Pacific common minke whales, with a focus on 'J' stock.

14.3.1.6 BYCATCH AND OTHER ANTHROPOGENIC REMOVALS

The following priority items were agreed:

- (1) further review of information and methods to estimate bycatch based on fisheries data and observer programmes:
 - (a) continue collaboration with FAO on collation of relevant fisheries data;
 - (b) progress on joining the FIRMS partnership;
 - (c) report back on EU bycatch monitoring schemes; and
 - (d) review modelling to determine observer coverage needed in a fishery to estimate bycatch;
- (2) further consideration of methods to estimate bycatch based on genetic data:
 - (a) review progress on intersessional work related to market sampling; and
 - (b) report from Steering Group for follow-up Workshop on the use of market sampling to estimate bycatch.

In addition, the following items may be discussed if time allows (in priority order):

- (3) further review information and methods to estimate mortality from ship strikes:
 - (a) review results of data collected on vessels relevant to ship strikes; and
 - (b) review report from planned ACCOBAMS workshop on ship strikes;
- (4) consider methods for estimating additional human induced mortalities (e.g. from acoustic sources and marine debris).

14.3.1.7 OTHER SOUTHERN HEMISPHERE WHALES

Highest priority will be given to:

- (1) completion of the Comprehensive Assessment of Southern Hemisphere humpback whales;
 - (a) completion of a final catch series; and
 - (b) intersessional Workshop.

To the extent that time allows, the sub-committee will also:

- (2) initiate the Comprehensive Assessment of blue whales.

14.3.1.8 ENVIRONMENTAL CONCERNS

High priority is given to:

- (1) a two day pre-meeting Workshop to assess the potential for seismic surveys to impact cetaceans; and
- (2) the Working Group on ecosystem modelling.

The Standing Working Group will also receive progress reports on:

- (a) POLLUTION 2000+ (review of final report from Phase 1);
- (b) Southern Ocean Collaboration;
- (c) SOCER: focus on the Indian Ocean;
- (d) Sea ice: Arctic and Antarctic; and
- (e) Diseases: developing plans for a future workshop.

14.3.1.9 STOCK DEFINITION

Priority items will be to:

- (1) review statistical and genetic issues relating to stock definition; and
- (2) review progress on TOSSM (including the intersessional Workshop report).

The following items will be discussed if time allows (in priority order):

- (3) unit-to-serve; and
- (4) genetic quality issues and implications for population structure analyses.

14.3.1.10 WHALEWATCHING

The two priority items will be to:

- (1) assess the biological impacts of whalewatching on cetaceans; and
- (2) identify data sources from platforms of opportunity of potential value to the Scientific Committee.

In addition, the following items will be discussed if time allows:

- (3) reports from Intersessional Working Groups;
- (4) review potential impacts of 'swim-with-whales' programmes on population of cetaceans;
- (5) review of whalewatching guidelines and regulations; and
- (6) review of risks to cetaceans from whalewatching vessel collisions.

14.3.1.11 SMALL CETACEANS

Highest priority will be given to:

- (1) a review of small cetaceans of the Caribbean and western tropical Atlantic.

The following items will also be discussed:

- (2) progress on previous recommendations; and
- (3) takes of small cetaceans.

14.3.1.12 SCIENTIFIC PERMITS

Priority items will be to:

- (1) review proposals for other procedures for reviewing scientific permits;
- (2) review results from existing permits (including plans for the JARPA review); and
- (3) review of new or continuing proposals.

14.3.1.13 DNA

The following items (as directed by the Commission) will be given priority:

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

14.3.2 Commission discussions and action arising

While recognising the already heavy workload of the Scientific Committee, Austria proposed that the Committee be asked to consider the merits of looking further at whale entanglements. It noted that there is a large range of structures in the marine environment (e.g. transcontinental cables, fishing gear, marine debris) that have the potential to entangle whales and that each year, numerous whales become entangled - most drowning as a result. Austria

further noted that until recently, information on entanglements has not been collected or reviewed scientifically. It believed that it would be useful to have a workshop focused on the types of information that can be collected from entanglement events, including survival rates, identification of useful biological data, DNA samples, mitigation measures and the use of satellite tagging of entangled whales set free. It recognised that financial resources would need to be found if such a workshop was to take place.

Germany, the UK, Belgium, Italy, South Africa and the Netherlands supported this proposal. Norway noted the limited budget of the Scientific Committee and suggested that if this proposal went ahead, the budget may need to be re-negotiated. It could not, therefore, support Austria's proposal. Iceland was of the same view. Austria clarified that it had suggested that the Scientific Committee initially consider the merits of such a proposal and suggested that voluntary contributions would be required (thus avoiding the need to re-open discussions on the Scientific Committee budget). The Scientific Committee Chair indicated that no action could be taken on Austria's proposal prior to the next Annual Meeting. He suggested that the item be placed on the Committee's agenda for IWC/58 so that the proposal's merits could be discussed, Terms of Reference and cost estimates for a workshop be developed, if appropriate, together with an indication of the relative priority of this work in relation to other Scientific Committee activities.

Japan was pleased that the *pre-Implementation assessment* for western North Pacific Bryde's whales had been completed and that an in depth assessment for North Pacific common minke whales had been launched. It hoped that the review of JARPA results could be held in 2006. However it expressed concern over the large amount of time that the Scientific Committee spends on items that Japan believes are outside the mandate of IWC and which detract from issues of greater importance. It further commented that it believes that the RMP is becoming unworkable, largely as a result of its generic, rather than stock-specific approach. It considered that the Scientific Committee should give this issue high priority together with considerations of developing an ecosystem approach to management.

The USA drew attention to what it considered to be the inappropriate referencing of non peer-reviewed material such as newspaper articles in the SOCER report. It considered appropriate material to include published peer-reviewed papers, government reports and data from governmental agencies. The USA understood that the Scientific Committee Chair had expressed similar concerns to the editors of SOCER who had agreed that such material would not be referred to in future. It wished this to be noted in the record. In response, Austria noted that SOCER was requested and commented on favourably in several Resolutions. Out of around 100 entries, only two or three had not been from peer-reviewed papers but rather articles from respected national newspapers. Brazil expressed concern over the Commission recommending to the Scientific Committee what it can and cannot consider as proper literature.

14.4 Adoption of the Report

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

The Netherlands expressed its sincere thanks and appreciation to the outgoing Scientific Committee Chair, Doug DeMaster for the eloquent way he had performed his role. It believed that his neutral and objective way of dealing with complex and sometimes sensitive issues had had a very positive effect on how the Committee has provided advice to the Commission. Mexico echoed these remarks. Japan also paid tribute to Doug DeMaster for the way in which he had undertaken his challenging task and welcomed Arne Bjørge (Norway) as the new Chair.

15. CONSERVATION COMMITTEE

The Conservation Committee met on 13 June. Bo Fernholm (Sweden) chaired the meeting in the absence of Horst Kleinschmidt (South Africa) who had been appointed Chair last year. Delegates from 25 Contracting Governments participated. The full report is given in Annex H.

15.1 Report of the Conservation Committee

15.1.1 Further consideration of Terms of Reference, working methods, items to fall under the auspices of the Conservation Committee and development of a Conservation Agenda

Discussions began with an exchange of views on the way the Conservation Committee had been established and whether further discussions were needed on the nature of the Committee prior to the establishment of a work programme. Iceland firmly believed that this is necessary to make the Conservation Committee acceptable to all Commission members. Others disagreed, preferring to move on to substantive issues, believing that the difficulties referred to by Iceland could be settled in due course. As participants then began to discuss the Committee's agenda and working methods, Iceland noted that it would not take any further part in substantive discussion. It regretted what it perceived as a lack of willingness to find a common understanding. Like Iceland, the Republic of Korea believed that the nature of the Conservation Committee needed further definition. It emphasized that discussion of the outstanding points concerning the nature and establishment of the Committee needed to be continued and resolved and a mechanism found whereby all members can be involved. The Republic of Korea suggested that such discussions might best be done in another small group meeting (i.e. similar to that which had met at IWC/56 in Sorrento). Denmark regretted that it had not been possible in Berlin to establish the Committee on the basis of broad consensus. It expressed concern regarding reopening the sensitive question of small cetaceans and was keen to ensure that the Committee did not replicate work done by other organisations or other groups within the IWC. Norway informed the meeting that it had not yet made a final decision as to whether or not to participate in the Committee. Its decision would depend on discussions during IWC/57. Since sustainable use is considered in other parts of the Commission's agenda, some delegations emphasised their view that the Conservation Committee should focus on threats to whales other than direct hunting, seeing this as an attempt to draw a line that might be useful to all parties.

Belgium then presented an outline proposal for an IWC Conservation Agenda that was supported by Argentina, Australia, Austria, Brazil, France and Monaco. It recalled that Resolution 2003-1, establishing the Conservation

Committee, had assigned the following three tasks to the Committee:

- The preparation and recommendation to the Commission of its future Conservation Agenda;
- The implementation of those items in the Agenda which the Commission refers to it; and
- Making recommendations to the Commission to maintain and update the Conservation Agenda on a continuing basis.

Belgium's paper comprised three parts:

- (1) a proposal for an initial Conservation Agenda;
- (2) some proposals for working methods of the Committee; and
- (3) an annex containing some suggestions for an initial programme of work for selected items in the Conservation Agenda (the annex was not part of Belgium's formal proposal).

Belgium hoped that the initial conservation agenda proposed would receive broad support. By adopting it, including any amendments or additions members of the Committee might make, and forwarding it to the Commission, the Conservation Committee would have fulfilled item (1) of its mandate. Belgium recognised that some might believe the proposed programme of work to be overly ambitious, but stressed that it was not intended to address every item on the Agenda in every year. Rather, as specified in item (2) of its mandate, the Committee in any particular year would be tasked with implementing just those specific items on the Agenda which the Commission refers to it, in accordance with the Commission's priorities. With respect to the Committee's working methods, Belgium stated its firm intention for the Conservation Committee to avoid duplication with the work of other bodies, including the IWC's own Scientific Committee and other international bodies concerned with cetacean conservation, particularly CMS.

Belgium suggested that in forwarding the proposal for the Conservation Agenda to the Commission, it would be helpful to highlight those topics on which the Committee believed it could most fruitfully focus initially. It proposed three global issues (ship strikes, bycatch and anthropogenic marine noise) and one endangered species issue (the western North Pacific gray whale). By focussing the work of the Conservation Committee on a few key issues, Belgium believed this would lead to more effective progress and provide an opportunity for the Committee to develop, clarify and adjust its working methods and interactions with other Commission sub-groups and other relevant international organisations. It stressed however, that issues not selected for the initial focus would nevertheless remain on the Conservation Agenda and members would be encouraged to report on progress with these. Once the Committee had agreed on a few initial high priority issues on which it would focus initially, Belgium suggested that a group of interested national delegates could meet intersessionally to develop more specific proposals for review and decision-making at next year's Annual Meeting. It proposed that the Chair and Vice-Chair of the Scientific Committee and members of the Secretariat should also be involved in this exercise and that selected international organisations with competence for these issues should be invited to participate. Belgium emphasised that to make real progress, it hoped for the broadest of

collaboration and consensus-seeking both between the organisations and individuals concerned.

Many countries endorsed and welcomed the contribution from Belgium to establish a targeted set of priority areas for work. There was some support for adding pollution to the list and for using the IWC Scientific Committee's classification of stocks, rather than that of IUCN. After further discussion it was agreed to limit the priority areas to only two items in the short-term and to refer other items in Belgium's proposed Conservation Agenda to the Plenary and for the Conservation Committee to return to at a later date. The two priority items recommended were: (1) a research programme to address the issue of inedible 'stinky' gray whales caught by Chukotkan aboriginal subsistence hunters (see section 5.2.2.2) and (2) to make progress on the issue of whales being killed or seriously injured by ship strikes. Two small groups were established to develop more detailed proposals for review and decision-making by the Commission in Plenary.

With respect to collaboration with other organisations, the Committee agreed to continue with existing arrangements, continuing the exchange of observers, and moving ahead on specific issues and associated appropriate collaborations as necessary. The need for more formal relationships (e.g. establishing memoranda of understanding) may become apparent with time.

15.1.2 Whale sanctuaries

The Conservation Committee reviewed two proposals for new whale sanctuaries, one in the South Atlantic, the other in the South Pacific. Only the former proposal was put forward this year as a Schedule amendment (see section 8.1). The outcomes of the reviews of the proposal for the South Atlantic Whale Sanctuary by the Scientific and Conservation Committees is summarised in section 8.1.2 of this report (see also Annex H).

With respect to the Australian/New Zealand proposal for a South Pacific sanctuary, Australia noted that the establishment of the Conservation Committee provides an opportunity to receive advice on issues related to the conservation of whales. It hoped that this Committee's review would help to better inform the Commission about important conservation issues associated with the proposed sanctuary facilitating its formal adoption some time in the future. Australia *inter alia* outlined some key features of the proposal and stressed that the sanctuary is essential to: facilitate recovery of great whale populations; complement the protection for species that feed within the Southern Ocean Sanctuary; and support the people of the South Pacific who wish to profit from whales in a sustainable, non-lethal way and whose interests are not taken into account by the RMP. New Zealand highlighted the state of knowledge of threats to great whale populations in the South Pacific region which include ship strikes, marine noise, entanglement and bycatch, and pollution. It noted that while whalewatching is an important economic activity in several Pacific Island countries, some unresolved issues remain associated with this activity. New Zealand reported that the Secretariat of the Pacific Regional Environment Programme (SPREP), as the coordinating agency for the region, has been asked to provide advice on priority issues in the region. Funding for this task has now been received and it is hoped that by next year some of the information gaps can be filled and that Australia and New Zealand will be able to put forward a proposal that will garner additional

support. A number of countries affirmed their strong support for the proposed sanctuary and some indicated that they felt the needs of the Southern Hemisphere were not being given due consideration within the Commission. Some expressed their dissatisfaction that the proposal had not been adopted by the Commission, given the support that exists for it.

15.1.3 National reports on cetacean conservation

The Committee reviewed voluntary national cetacean conservation reports from Argentina, Australia, Brazil and Chile. The reports were welcomed by the Committee and Mexico and New Zealand indicated that they intended to submit such reports next year. It was agreed to keep the submission of such reports on a voluntary basis.

15.2 Commission discussions and action arising

15.2.1 General comments

In the Commission, Iceland made similar remarks to those it made during the Conservation Committee meeting. It believed that the Committee had been established in a way that was openly hostile to about half the Commission's membership and without sufficiently broad consultation. Given that all countries could agree on the importance of cetacean conservation, Iceland suggested that it should therefore be possible to establish a Committee that could be acceptable to all members. However, in the absence of a willingness to change the basis for the Conservation Committee, Iceland suggested that it will continue to be a body in which about half of the membership will not take part in substantive work. It therefore encouraged those countries that had been involved in establishing the Committee to agree to change the basis on which it is founded. Japan supported these remarks. The Republic of Korea re-emphasised its statement to the Conservation Committee and associated itself with Iceland. The Côte d'Ivoire considered that the existence of a Conservation Committee at the heart of the organisation would be a good thing but believed that it should be a body that involved all members. It considered that if such a Committee existed then equally there should also be a Committee for sustainable use of whale resources, but this is obviously not the case. It believed that the organisation should be occupied in the rational management of whale resources and could not agree with those taking the view that this is a taboo subject. It considered that the objective for abundant species should be sustainable use, while that for endangered species should be conservation. It supported Iceland's view that the basis for the Committee should be changed. Cameroon and Mauritania made similar remarks. Like others, Grenada objected to the way the Conservation Committee had been established, noted the additional strain it would place on resources and found the Committee's objectives and institutional framework incoherent and ambiguous. It urged the Commission to engage in discussions on the concerns expressed. Norway noted that whale sanctuaries had been included on the agenda of the Conservation Committee and that until now this topic had been dealt with by the Scientific Committee as mandated by the Commission. It stressed its view that the Commission should receive the report of the Scientific Committee discussions directly and not filtered through the Conservation Committee – a body in which not all members participate. Norway did not object, however, to the Conservation Committee also reporting to the plenary.

Nicaragua associated itself with Iceland, Norway and Japan and considered that as currently structured, the Conservation Committee looks more prohibitive than precautionary.

Responding to Norway, Brazil stressed that the Scientific Committee discussions on sanctuaries had not been tampered with or filtered. It explained that the sanctuary proposals had been submitted to the Conservation Committee as the sponsors considered that there were other issues regarding sanctuaries as management tools that merited discussion by the Committee. Brazil found the Conservation Committee to be an essential improvement to the IWC's structure as it provides a forum for broader conservation discussions and an opportunity to discuss specific problems. It invited all Contracting Governments to participate in the Committee in a constructive manner. New Zealand also encouraged those currently not participating to let bygones be bygones and to become involved. It voiced its strong approval of the work of the Committee and believed the two proposals for specific activities (i.e. on 'stinky' gray whales and ship strikes) to be a sound outcome. New Zealand believed that the Conservation Committee is now working as should be expected and believed that conservation issues should have more emphasis within the Commission. Germany and Australia also spoke in support of the practical outcome of the Committee's discussions. Germany did not believe that the Conservation Committee had been established in a hostile manner. With respect to the concerns of the Republic of Korea, Australia noted the conclusion from the small group that met at IWC/56 in Sorrento 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 in the further discussions'*²⁰. It proposed that the Commission Chair should take on this task. In response to Iceland, Belgium reported that it had invited Iceland to make specific proposals on how to change the basis of the Conservation Committee. It stressed that it is open to all discussions and that it would be happy to welcome all Commission members as active participants in the Committee.

Iceland reminded the Commission that the Conservation Committee was established under the 'Berlin Initiative' (Resolution 2003-1²¹) which in its view incorrectly states the purpose of the Convention, generally presenting the term conservation in a way that is wrong and unacceptable. It again stressed its view about the hostile way in which the Committee was established, noting that along with other countries at IWC/55 in Berlin, it had made significant efforts to reach agreement. However, it reported that these efforts had been disregarded and that countries had been told by sponsors of the Berlin Initiative that their opinions did not matter and that the draft Resolution would not be amended regardless of what others thought. Iceland's objection to the Committee was therefore not simply a question of its name or what is on its agenda but rather its basis, institutional framework and its task. With respect to a specific proposal invited by Belgium, Iceland suggested that the Commission should agree that the Berlin Initiative is now considered null and void and that it should start from scratch to work together on conservation issues.

15.2.2 Proposals for further work

15.2.2.1 INVESTIGATION OF 'STINKY' GRAY WHALES

The USA introduced more detailed proposals that it had developed in co-operation with the Russian Federation and other Contracting Governments subsequent to the meeting of the Conservation Committee. It recalled that in the Scientific Committee, and again at the meetings of the Aboriginal Subsistence Whaling Sub-Committee and the Conservation Committee, information was presented about the occurrence in the Russian aboriginal subsistence hunt on North Pacific Eastern gray whales of animals that have a strong chemical smell and are inedible (animals known as 'stinky whales'). In 1999 ten such whales were harvested by Russian subsistence hunters; in 2004 another six whales were taken. The cause of this condition is unknown; it could be contamination, disease, or other factors. The migratory route of the Eastern gray whale includes waters of Mexico, the United States, Canada, and the Russian Federation. Preliminary chemical and toxicological research has begun on these animals.

It was proposed that a more comprehensive investigation should be undertaken for a number of reasons, i.e.:

- there is a compelling need to determine the cause of this phenomenon, as it could threaten both cetacean and human health, and could be an indicator of habitat degradation;
- the project fits within the scope and interest of the Aboriginal Subsistence Whaling Sub-Committee and the Conservation Committee;
- the investigation is consistent with the objectives of the Scientific Committee, and would be done with its co-operation; and
- the project could be completed within one or two years, and with a small amount of additional funding.

It was further proposed that:

- (1) at the Commission's request, the Scientific Committee would identify the appropriate individuals to develop the necessary protocols for the collection of samples and for pathological, chemical, and toxicological analyses;
- (2) the Russian Federation (through the Government of Chukotka) would lead the effort, in collaboration with other range States;
- (3) tissue samples and data results would be shared with collaborating scientists;
- (4) the Scientific Committee would provide an estimate of the total cost (understood to be in the region of US\$ 50,000), which would be funded by interested IWC members and non-governmental organizations; and
- (5) the work would begin this year, with analyses conducted in 2006.

An interim report would be submitted to the Scientific Committee at IWC/58.

The Commission agreed to these proposals.

15.2.2.2 SHIP STRIKES

The Chair asked whether the proposals developed by the Ship Strikes Working Group and reported in Appendix 3 of the Conservation Committee's report (see Annex H) could be adopted and whether the Working Group should continue as described. The UK, Australia, Germany, Monaco and New Zealand spoke in support of this work. There was no opposition.

²⁰ *Ann. Rep. Int. Whaling Comm.* 2004: 103.

²¹ *Ann. Rep. Int. Whaling Comm.* 2003: 58-77.

15.2.3 Other matters

Australia welcomed the positive and constructive discussion in the Conservation Committee on the South Pacific Whale Sanctuary proposals and looked forward to progressing the establishment of this sanctuary in the coming future.

Brazil noted with pleasure the warm welcome that had been given to the voluntary national reports on cetacean conservation, a concept it had developed together with Argentina, and thanked those governments that had submitted them. Brazil had submitted its own report also to the plenary by way as an example of the type of report that could be produced. It believed that such reports are a good, non-confrontational way to identify conservation issues on which more co-operation among IWC members could be developed.

In concluding discussions on the Conservation Committee, the Chair noted with some disappointment the conflicting views among two more-or-less equal groups within the Commission regarding the relevance of the Committee. He wondered whether the discussions initiated by the small group at IWC/56 in Sorrento could be continued in some way.

16. CATCHES BY NON-MEMBER NATIONS

There were no contributions or discussions under this item.

17. INFRACTIONS, 2004 SEASON

The Infractions Sub-committee met on 14 June with delegates from 25 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 2004 and 2004/2005 seasons is available as Annex J.

17.1 Report of the Infractions Sub-committee

17.1.1 Infractions reports from Contracting Governments

Infractions were reported by Denmark and the Republic of Korea.

Denmark noted that in September 2004, a report was received from a cruise ship and the police in Upernavik about a male humpback whale (11m length) that could hardly swim. Investigation by a wildlife officer revealed that the whale had old wounds due to rifle strikes. After due authorisation the whale was killed by hunters from the nearest villages and meat, blubber and qiporaq was distributed to institutions in the nearby villages and Upernavik. The incident was reported to the police. The investigation is not complete, but it is considered that the incident will not be solved due to the lack of possibilities of further investigation.

The Government of the Republic of Korea reported 8 illegal direct catches of minke whales by its nationals in Korean waters in 2004. It identified and confirmed these as infractions. The details are as follows.

- (i) Four minke whales were caught between October and November 2004 near Pohang city. Two vessels were involved in the incident and two transporters were

also arrested. Penalty: 30kg of meat were confiscated, a 10 month prison sentence and a fine of 1 million won imposed. In addition the fishing permits of the two vessels were suspended. The matter is under appeal.

- (ii) A minke whale 5m in length was caught on 14 March 2004 by a vessel using iron harpoons in waters 1 mile off Ulsan. Penalty: all money (35 million won) from meat sales was confiscated and a 6 month prison sentence imposed with 2 years probation. In addition the fishing licence and seamanship license were revoked and the fishing permit cancelled.
- (iii) Two minke whales 5.1m and 4.2m in length were caught on 23 July 2004 and transported 12 miles off Ulsan. Penalty: all money (46 million won) from meat sales was confiscated and a 6 month prison sentence imposed with 2 years probation. In addition the fishing licence and seamanship license were suspended and the fishing permit suspended.
- (iv) A minke whale 4.5m in length was caught on 29 July 2004 by three vessels using iron harpoons 12 miles off Ulsan. Penalty: a fine of 7 million won was imposed. Administrative punishments for the 3 vessels concerned are in progress. The matter is under appeal.

The Republic of Korea regretted these incidents particularly in view of its role as host government this year. It noted that following the identification of illegal hunting by poachers from 2000 to 2002, the Ministry of Maritime Affairs and Fisheries and the marine police of Korea have strengthened their efforts to monitor and investigate suspected poachers, vessels and their movements, and also to enhance public awareness of poaching activities through the mass media. The Government of Korea remained committed to continuing its effort to bring an end to these illegal activities. It did not know what killing methods are used in the illegal hunt. While several governments were pleased at the severe penalties imposed, it was noted that despite these stringent measures, the number of infractions reported had increased each year since 2000. The Republic of Korea believed that the publicity given to the incident in 2000 had attracted poachers to the hunt, particularly in view of the high prices that can be realised for whale meat. However, it believed that its efforts to eliminate illegal whaling activities, including severe punishments for anyone convicted of taking, selling or transporting illegal whales, would soon bring an end to this illegal activity.

Concern was expressed over the number of whales reported to have been caught in fishing gear in Japan and Korea in 2003 (the report of the Scientific Committee in 2004) and the Republic of Korea was asked whether whales found alive in fishing gear are released, or if as is the case in Japan, Korean fishermen are allowed to kill the whale to protect their fishing gear. The Republic of Korea clarified that such bycaught animals are not allowed to be killed. It added that no statistics are available on this matter, but that most bycaught animals are found dead.

The USA reported the possible take of a male bowhead of 6.7m taken in September 2004 which was found to contain milk in its stomach. The whale had not been accompanied by a cow. The USA requested that the Scientific Committee provide a definition of a bowhead calf based on its length. The Chair agreed to forward this request to the Commission.

17.1.2 Surveillance of whaling operations

The Infractions Reports submitted by the USA and the Russian Federation stated that 100% of their catches were under direct national inspection. Denmark (Greenland) stated that their catches were subjected to a random check and provided details of quota monitoring of minke and fin whale hunting in Greenland in 2004.

Following a question from Grenada, the Secretariat clarified that St. Vincent and The Grenadines had submitted an Infractions form. It had not taken any whales in 2004 but had reported that all catches are under direct national inspection.

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

The following information was provided:

Denmark: Information on date, position, species, length, sex and the length and sex of any foetus if present is collected for between 84-100% 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, the length and sex of any foetus if 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 58% of animals.

Russian Federation: Information on date, time, species, position, length, sex, the length and sex of any foetus if present, 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 report²².

17.1.4 Submission of national laws and regulations

A summary of national legislation supplied to the Commission was prepared by the Secretariat (see Annex I). New information had been provided in the past year by Portugal, the USA and Argentina.

The UK questioned why no new legislation had been provided to the Commission by Japan and Iceland since the IWC moratorium on commercial whaling came into effect in 1986. It would have expected these nations to have enacted laws to implement the moratorium. Iceland noted that there had been no commercial whaling by Iceland since the moratorium came into effect, so it had no new legislation to report. Japan reported that licences are required in Japan before whaling operations can take place and the moratorium was implemented simply by not issuing such licences.

17.1.5 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.

Austria noted that some infractions may not be fully resolved during the meeting to which they were reported. The Sub-committee agreed to the suggestion to include an item on the Agenda in future to bring such items forward to the following year.

New Zealand regretted the lack of a binding enforcement mechanism available to the Sub-committee as this could allow a situation in which infractions go systematically unpunished. It further stated that

examination of the reports of the Infractions Sub-committee over the past decade demonstrates that Governments presently control the entire IWC compliance process, i.e. they unilaterally decide the appropriate threshold for qualification of infractions on a case-by-case basis and can choose not to communicate information on infractions to the Commission. Governments are free to take or not take appropriate action to pursue an infraction. In New Zealand's view this was thoroughly unsatisfactory. The Russian Federation agreed with New Zealand that infractions need to be condemned and punished, but it underlined that punishment is the affair of the Sovereign state and is not within the competence of the Commission.

Referring to Article IX of the Convention, Sweden pointed out that it is not the Convention that is deficient but rather the application of it.

17.2 Commission discussions and action arising

Referring to its comment in the Sub-committee under 'other matters', Austria suggested that use of a standard format for reporting infractions (for example following that used by the Republic of Korea) would help unresolved cases to be better identified. It indicated that it could provide a draft template to the Secretariat for consideration at next year's meeting. Austria urged all Contracting Governments that had not yet done so to submit copies of their legislation even if this pertains only to the ratification of the Convention. Finally it reported that since the Sub-committee met, it had provided copies of two pieces of EC legislation, one concerning measures related to the incidental capture of cetaceans in fisheries, the other being the Habitat Directive.

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

18. ADMINISTRATIVE MATTERS

Agenda items 18-21 covering administrative and financial matters were considered first by the Finance and Administration (F&A) Committee that met on Friday 17 June 2005 under the chairmanship of Halvard Johansen (Norway). Delegates from 36 Contracting Governments attended the meeting. The F&A Committee report is included as Annex K.

18.1 Annual Meeting arrangements and procedures

18.1.1 Need for a Technical Committee

The Technical Committee (TC) has not met since 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 if and when the RMS is completed and catch limits set. The Commission agreed.

18.1.2 Use of languages other than English

18.1.2.1 REPORT OF THE F&A COMMITTEE USE OF SIMULTANEOUS INTERPRETATION

At IWC/56, the Commission acknowledged the importance of facilitating the effective participation of all Contracting Governments in its work and that no government should be disadvantaged by language. It therefore agreed that in the first instance, equipment for the provision of simultaneous interpretation facilities be provided starting with IWC/57 for French and Spanish for the Commission's sub-groups (but not the Scientific Committee), the Commission plenary and Commissioners' private meetings. Arrangements and

²² *J. Cetacean Res. Manage. (Suppl.)* 8 [2006].

costs for interpreters would continue to be the responsibility of Contracting Governments wishing to use them.

In preparation for IWC/57, the Secretariat requested governments to inform them if they wished to use simultaneous interpretation equipment for interpretation into French or Spanish. Only France responded, indicating that it was seeking a simultaneous interpretation service that could be provided by local or regional agencies. The intention was to make this facility available for the private Commissioners' meeting and plenary. This information was circulated to other francophone countries who were asked to contact the French Commissioner directly if they were interested in sharing this facility. As it received no expressions of interest and because of the difficulty in making suitable arrangements in the time available, France decided not to take the matter further with respect to IWC/57. However, France had indicated the possibility of contributing financially towards the provision of interpreters at IWC/58. France confirmed this during the F&A Committee meeting.

The Secretariat noted that francophone countries were making use of the interpretation equipment provided by the Government of Korea, but that so far no Spanish-speaking country was doing so.

In the F&A Committee meeting, several francophone countries thanked France for its initiative, but expressed the view that contrary to the decision taken last year, the Secretariat should be responsible for arranging for interpreters and that the Commission should cover the costs. Only then would they be able to participate fully in the meetings. It was suggested that these comments indicate that last year's decision was short-sighted and should be reviewed so that all governments can take part in meetings on an equal footing.

Other countries (many of them non-anglophone countries), while acknowledging the difficulties for delegates for whom English is not their first language, felt that the decision taken at IWC/56 was not unreasonable given the costs involved, and noted that it could be reviewed once more experience had been gained. It was also suggested that under this arrangement, the Secretariat should give a deadline to countries to indicate their wish to use simultaneous interpretation facilities. In the absence of interest, the Secretariat should not arrange for facilities to be available.

The Chair noted the different views expressed and the F&A Committee agreed that these should be reported to the Commission.

TRANSLATION OF DOCUMENTS

At IWC/56, some Contracting Governments believed that in addition to providing facilities for simultaneous interpretation, provision should also be made for the translation of documents. Others however were reluctant to address this issue before the implications, particularly of cost, could be properly addressed. The Commission therefore agreed that the Secretariat should work interessionally with a small Task Force to develop cost estimates and implications for the provision of document translation at Annual Meetings and to report back to the F&A Committee at IWC/57 in Ulsan. As only one Government expressed interest in joining a Task Force, no such group was established and a preliminary exploration of costs and implications for the provision of document translation for IWC Annual Meetings, together with an

overview of the practice in a number of other international organisations, was developed by the Secretariat.

Cost estimates were developed for the translation of the following documents: Report of the Scientific Committee (including Annexes, i.e. the sub-committee reports); documents prepared for the meetings of the Commission's various sub-groups; Commission plenary documents (including reports from the Commission's sub-groups, Resolutions and Opening Statements); and the Chair's Report of the Annual Meeting. Estimated costs (excluding any proof-reading costs) for translation of all such documents ranged from £33,500 - £54,000 per language for translation done by translators working remotely (i.e. not at the meeting venue), and £64,600 - £105,500 per language for translation done by translators based at the meeting venue. A cost breakdown for the different types of documents is given in Annex K.

In presenting the estimates, the Secretariat stressed that cost is not the only factor that needs to be considered when deciding whether or not to translate documents. It is also necessary to consider the feasibility and implications of doing so. While translation of documents submitted in advance of the Annual Meeting series ought not to be a particular problem, the translation of documents written during the meeting series represents a significant challenge depending on which documents are translated. This is particularly true with respect to translation of the reports of the Scientific Committee and Commission sub-groups which only become available 1-3 days before the Commission plenary. Translation of these documents would require a team of translators almost certainly working *in situ*. For translation into one language, this would represent some 286,500 words (92 days translation – 31 translators over 3 days) if the whole Scientific Committee report plus sub-group reports are translated, some 83,000 words (27 days translation – 9 translators over 3 days) if only the main body of the Scientific Committee report plus sub-group reports are translated, or some 26,000 words (8 days translation – 3 translators over 3 days) if only the sub-group reports are translated. Given the current nature of the Commission Plenary where a number of Resolutions and Schedule amendments are submitted during the meeting, the Secretariat suggested that it would probably be necessary to have translators *in situ* during this period also. The Secretariat noted that, based on the requirement for translating all documents, the translation companies contacted as part of the exercise had expressed extreme concern as to the difficulty of organising a group of translators of an appropriate size to travel to the Annual Meeting.

Finally the Secretariat pointed out that a move to translation of documents is not a trivial matter either in terms of costs or logistics and suggested that matters requiring particular consideration include at least the following:

(1) Identifying those documents for which translation is necessary and possible.

While the Report of the Scientific Committee is one of the most important documents to be considered by the Commission, its translation would present significant logistical problems. It may also be of too technical a nature. On the other hand, it would presumably be useful to translate shorter, less technical documents on which action is required, such as Resolutions and Schedule amendments, but translation of Opening Statements may be considered as

lower priority. The decision on which documents should be translated will have an impact on how many translators would be needed *in situ* during a meeting and the length of time they would need to be present.

The usefulness of translating only a summary of certain types of documents, rather than the full documents could also be considered. Some translation companies also offer an abstraction service where the texts are summarised rather than being translated in total. This would reduce costs and time-scale for translation. Another option would be to set a maximum number of pages per document that would be translated. Contracting Governments submitting longer documents would be required to translate the documents themselves.

(2) Languages.

Into which language(s) documents should be translated? If a decision is taken to translate documents, it will be necessary to revise Rule of Procedure N. 1 accordingly.

(3) Quality control.

Particularly in the case of technical documents, it will be important to ensure that translation has been done accurately.

(4) Translators and administration.

Should translating companies or free-lance translators be used? Should the Secretariat engage its own in-house translators (a draw-back to this is that the work load would be very uneven during the year)? Is there scope for a mixture of both internal and external translation? Is there a need for translators to be working *in situ* at a meeting? Is there scope for using translation software? The need for, and workload of, the Secretariat to administer external translation should not be overlooked.

(5) Document submission deadlines.

It would be useful to have as many documents as possible submitted well in advance in order that they can be translated before the Annual Meeting.

(6) Costs and how they should be met.

On the basis of its preliminary review, the Secretariat strongly recommended that if the Commission wishes to pursue the issue of document translation, further consideration should be given to how to handle this in the context of IWC before any decision is taken to move to full-scale translation. Consideration could also usefully be given to, *inter alia*: (1) the usefulness of establishing a Task Force or Working Group that could develop detailed and properly-costed recommendations for the Commission to review at its next meeting; and (2) pilot projects.

Within the F&A Committee, views on the possibility of moving to document translation fell broadly into two groups. Some countries, while understanding and sympathising with the difficulties faced by others felt that the Commission should take time to understand all the implications before moving in this direction. Based on their experiences with other organisations like CITES and CCAMLR which have more than one official language, some non-anglophone countries commented on the advantage IWC has in terms of simplicity and meeting efficiency with having only one official language. There was a suggestion that the difficulties for non-anglophone countries might be eased if more documents, including Resolutions, were available further in advance thus allowing more time for review. It was also suggested that given the importance of the Scientific Committee report to the work of the Commission, divorcing the Scientific

Committee meeting from the Commission meeting may also be advantageous.

Other countries recognised the significant implications to the Commission of moving to document translation but called for equity among all Contracting Governments and urged that steps be taken in this direction. They did not believe that the Commission could continue with the *status quo*, particularly given the increasing membership. One non-anglophone country commented that while it could handle documents in English made available well in advance of meetings, it had more difficulties with those provided at short notice during meetings – such documents often being very important and requiring a lot of discussion. There was general agreement that priorities for document translation needed to be developed. There were suggestions that:

- (1) the costs of document translation be compared/offset with having Annual Meetings every two years instead of annually;
- (2) a phased-approach be taken, starting with translation into French on a trial basis before consideration of other languages; and
- (3) that the possibility of pilot projects be considered.

The F&A Committee agreed to recommend to the Commission that the Secretariat explore the matter further, taking into account the various suggestions proposed by delegates and ideas it had put forward in its background document (IWC/57/F&A3). It would develop a paper for review by all Contracting Governments with a view to some decisions being taken at IWC/58 next year.

18.1.2.2 COMMISSION DISCUSSION AND ACTION ARISING

Cameroon noted that IWC is becoming larger and more diverse and should no longer be limited to only one working language, i.e. English. It believed that simultaneous interpretation and document translation facilities should be provided to enable all members to take part on an equal footing. It explained that Cameroon had not been represented at the Scientific Committee not because it has no scientists but because of problems of communication. Cameroon called in particular for the provision of interpretation and translation into French. The Republic of Guinea, Côte d'Ivoire, Benin, Gabon, Mauritania and Senegal made similar comments. Benin noted the increasing number of French-speaking countries that are now IWC members. Gabon suggested that host governments of Annual Meetings cover the cost of interpreters. Mauritania thanked France for its initiative. It believed that the solution to provision of interpretation and translation facilities could be found by the Secretariat and that economies should be made in other areas to provide the funding. Senegal thanked the Republic of Korea for the facilities provided to the francophone delegations in Ulsan and encouraged France to continue its efforts in this area as it believed France had an important role to play in this matter. The Chair clarified that the issue at hand is not being able to speak other languages but rather the provision of simultaneous interpretation and how costs should be met²³.

²³ Commission Rule of Procedure N.1 states that '*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...*'

Particularly in view of the comments of Senegal, France recollected that it has been trying for many years to find a solution to this issue but noted that it is a complex matter. It indicated that it is prepared to play its part, but on two conditions: (1) that there has to be collective action involving other francophone countries; and (2) that facilities should be made available with the help of the Secretariat. In addition France proposed that Scientific Committee documents should be made partially available in French. Switzerland supported promotion of the French language. Argentina understood the position of the francophone countries and supported improved communication and understanding.

As a small country with its own language, Iceland has a full appreciation of this issue and was also aware of the costs developing countries must bear to be able to take part in IWC. It believed the Commission has a responsibility to take this matter further but without undue haste. It suggested that the Commission starts initially working with French on a trial basis.

Germany reiterated its comments made during the F&A Committee meeting, i.e. (1) that English is the official language of the Commission; (2) that although, like other non-English speaking countries, it would like to have interpretation and documents in its own language, it recognises this would be very costly and had therefore accepted the current practice; and (3) that it believed the Commission had already reached a pragmatic solution for the provision of simultaneous interpretation. Germany stressed that it could not support a move to the translation of documents as this would be too costly.

At the end of discussions the Commission agreed to the F&A Committee's recommendation with respect to further exploratory work on document translation. However, there was no resolution of the different views expressed regarding the provision of simultaneous interpretation.

18.1.3 Frequency of meetings

Through Resolution 2004-7 adopted at IWC/56, the Commission decided to establish a Working Group to investigate and make recommendations on the implications of less frequent meetings of the IWC and to report to IWC/57 in Ulsan. As a starting point for the Working Group's discussions, the Secretariat conducted: (1) a review of those activities (if any) that are required by the Convention, the Schedule and/or the Rules of Procedure and Financial Regulations to be done on an annual basis; and (2) an overview of the frequency of meetings of the principle decision-making and subsidiary bodies of selected Conventions²⁴ and the extent of the intersessional activities of these Conventions. A summary of these reviews is given in Annex K. Due to other commitments, the Secretariat had been unable to provide this information to the Working Group sufficiently ahead of IWC/57 for review prior to the

F&A Committee meeting in Ulsan. Discussions at Ulsan were therefore based on the Secretariat's paper.

During the F&A Committee meeting, all those making interventions viewed favourably a move to biennial meetings at least in principle. Some however noted the considerations and practical consequences highlighted by the Secretariat (see Annex K), especially in relation to the setting and review of aboriginal subsistence quotas, and possibly, in the future, commercial whaling quotas, and the current heavy workload of the Scientific Committee and urged that a decision not be taken in haste. Given the efforts currently underway to try to agree an RMS, some also questioned whether now is the right time to reduce meeting frequency as this may further delay progress on this issue. Caution was also expressed about the possibility that lengthening the period between Commission/Scientific Committee meetings might increase the number of intersessional meetings since this could create difficulties for some, particularly developing, countries to participate fully. There was a suggestion that consideration be given to reducing the duration of the Annual Meeting series rather than the frequency between meetings. Others however, believed that the obstacles to reducing meeting frequency were not great and could be overcome without too much difficulty. It was suggested that the Secretariat consider and develop proposed timelines relating to how the necessary revisions to the Schedule, in particular, could be addressed. The link between off-setting costs of interpretation and document translation by reducing meeting frequency was also mentioned.

The F&A Committee Chair noted that since plans are already in place for IWC/58 next year, and that a meeting is needed in 2007 to consider renewal of aboriginal subsistence catch limits, there is sufficient time for further reflection on the issue of meeting frequency. Given that the Working Group established after IWC/56 had not yet had a opportunity to address the requests in Resolution 2004-7, the F&A Committee agreed to the Chair's proposal that this be done between IWC/57 and IWC/58 (via email correspondence) with a view to making recommendations to the Commission next year. It was agreed that the Secretariat's paper (IWC/57/F&A9) and comments/suggestions by Committee members in Ulsan should be used as a basis for discussions. The Committee also agreed that the Working Group should be augmented with interested countries that have aboriginal subsistence whaling hunts given the potential implications to these hunts of lengthening the period between meetings of the Commission.

The Commission agreed with the F&A Committee's recommendations.

18.2 Legal advice in relation to the IWC

18.2.1 Report of the F&A Committee

At the 5th Special Meeting of the Commission in Cambridge in October 2002, the Netherlands raised the issue of how the Commission might better address legal issues it may face in the future. The Netherlands presented some ideas on this matter to the Commission at IWC/55 and on the basis of these, the Commission requested the Secretariat to explore how other Conventions deal with legal issues and the legal issues they have faced. At IWC/56, the Commission reviewed the Secretariat's paper together with a further paper from the Netherlands that set out the following options for addressing future legal issues:

²⁴ Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES); Convention on Biodiversity (CBD); Convention on Migratory Species (CMS); Convention on Wetlands (Ramsar); Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR); Inter-American Tropical Tuna Commission (IATTC); and International Convention for the Conservation of Atlantic Tunas (ICCAT). CITES, CBD, CMS and Ramsar had been selected as their principle decision-making bodies (Conference of Parties – COP) meet at intervals of 2 or 3 years, depending on the organisation. CCAMLR, IATTC and ICCAT had been selected as, like IWC, they are involved with the conservation and management of marine resources.

- Option 1:** appointment of a legal officer to the IWC Secretariat staff;
- Option 2:** establishment of a legal committee, which could be standing or convened on an *ad hoc* basis;
- Option 3:** a roster of legal experts on which IWC could call for advice and which could consist of experts nominated by Parties;
- Option 4:** recourse to external legal advice on an *ad hoc* basis (e.g. private advice from a consultant, law firm, or panel of lawyers convened for this purpose, from legal offices of other international organisations, from the Depositary government); or
- Option 5:** access to existing international judicial institutions (e.g. the International Court of Justice, the International Tribunal for the Law of the Sea, the Permanent Court of Arbitration).

The Commission did not have time to discuss the Dutch paper in detail and agreed that it should be referred to the F&A Committee at IWC/57 in Ulsan for review. At the F&A Committee meeting in Ulsan, the Netherlands noted that the five options it had identified are not mutually exclusive and that an optimal legal function may require the selection of a mix of options. It noted that it had not included options for the settlement of disputes that may arise between Contracting Governments or in connection with compliance with the Convention by Contracting Governments. A variety of views was expressed in the Committee. One government favoured Option 1, while another favoured Option 2. Another believed that none of the options suggested are without difficulties and that no legal advice is impartial and another felt that different mechanisms would be needed to deal with different issues. Several governments expressed a preference to continue to address legal issues within the Commission by working with *ad hoc* groupings of Contracting Governments. Given the different views expressed, the F&A Committee agreed to simply report the different views to the Commission.

18.2.2 Commission discussions and action arising

In the Commission, the Netherlands, having taken account of the F&A Committee discussions, suggested that the focus for a process for providing legal advice should be on legal matters that might arise from institutional issues such as adherence, the Convention and the Schedule, recognising that such issues are likely to arise infrequently. It further suggested that should such issues arise, consideration be given to establishing an *ad hoc* open-ended working group comprising legal experts from Contracting Governments. The working group would decide if it wished to call for further external advice. The intention would be for the working group to facilitate discussions in the F&A Committee.

New Zealand indicated that it could accept the Netherlands' proposal. Argentina and Brazil suggested that legal issues should continue to be addressed within the Commission by *ad hoc* groupings of Contracting Governments. Brazil indicated that this would be consistent with the provisions of the Vienna Convention on Treaties where it is the right of Contracting Parties to interpret the terms of a Convention. The UK while appreciating the spirit in which the Netherlands made its proposal was not convinced that asking an *ad hoc* group of lawyers to address an issue would necessarily result in an opinion that could be fully supported by the F&A Committee or shared

by other lawyers not part of the group. In addition, the UK believed that issues related to adherence, the Convention and the Schedule should be dealt with by the Commission and not the F&A Committee. Mauritania and Norway agreed with the UK. Norway stressed that its view is that it is the sovereign right of every member state to interpret the Convention and its rights and obligations under the Convention. As such, it did not see the need to consider the matter further.

Noting the different views expressed, the Commission agreed that the Netherlands should consult with countries expressing concerns to explore how these might be addressed and to report back on the outcome of these consultations next year.

18.3 Amendments to the Rules of Procedure and Financial Regulations

At IWC/55 in Berlin in 2003, the Commission agreed to add the following footnote to Financial Regulation F to clarify what is meant by the phrase 'received by the Commission' as used in Financial Regulation F.1²⁵:

'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.'

The Secretariat reported to the F&A Committee that after further consideration, it does not consider that presentation of a cheque to the Secretariat should qualify as the annual payment having been 'received by the Commission' as a cheque does not guarantee payment unlike a bankers draft or international money order. The Secretariat therefore proposed that the footnote be revised as follows:

'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 or bankers draft/*international money order* of the correct value.'

The F&A Committee recommended to the Commission that the revised footnote be adopted and take effect after IWC/57. The Commission endorsed this recommendation.

19. FORMULA FOR CALCULATING CONTRIBUTIONS

19.1 Revision of the Contributions Formula

Recognising the potential implications for any revised contributions formula of recent work on the RMS, the work of the Contributions Task Force had been put on hold until these implications could be assessed. The Task Force last met in March 2003. The F&A Committee was invited to review this situation.

²⁵ F.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.

In the F&A Committee, a number of countries took the view that the work of the Task Force to develop a more permanent revised contributions formula should be resumed. They noted that even under the Interim Measure adopted at IWC/54, some less developed countries still had difficulties in paying their financial contributions. It was suggested that the Task Force meet intersessionally between IWC/57 and IWC/58 and that consideration be given to seeking advice from the UN 5th Commission, Committee on Contributions. On the other hand, several countries from capacity-to-pay Groups 3 and 4 noted that their financial contributions had risen sharply under the Interim Measure and considered that there is no merit in further work to revise the contributions formula before the cost implications of any RMS were known. The F&A Committee agreed that these different views should be reported to the Commission.

In the Commission, the Chair of the Contributions Task Force (Anthony Liverpool, Antigua and Barbuda) indicated that he did not believe that work to revise the contributions formula should be linked with completion of the RMS and considered that work to revise the formula should be resumed. He suggested that if a document could be prepared before the end of the year for review by the Task Force, then the need for an intersessional meeting might be avoided. Argentina supported the views of the Task Force Chair. Dominica and Côte d'Ivoire also supported the resumption of work to revise the contributions formula. Dominica noted that appropriate adjustments could be considered if and when an RMS is adopted. Switzerland did not see the need for any intersessional work since it believed that implications of an RMS should be taken into consideration.

Given the discussion, the Chair proposed that the Task Force meet at IWC/58 next year, with work also being done intersessionally by email. The Commission agreed.

19.2 Criteria to define 'very small countries' in the context of the Interim Measure

While the criteria to define the four capacity-to-pay groups used in the Interim Measure allot countries in a sensible way in most cases, it would appear that the criteria for Group 3 catch some countries that, because of their very small 'size' (relatively lower GNI usually linked with a small population), have a more limited capacity to pay than others in Group 3. Based on a paper prepared by the Secretariat and on the recommendation of the F&A Committee, the Commission adopted the following criteria to define a 'very small country' for the purpose of calculating Financial Contributions.

'Out of consideration of their very small size, and therefore limited capacity to pay, a 'very small country' will have:

- (a) a population of less than 100,000, AND
- (b) a GNI of less than US\$ 5 billion, AND
- (c) a GNIPC of more than US\$ 10,000.

and as a 'very small country' will be placed in capacity-to-pay Group 2.'

The Commission also agreed: (1) that these criteria would be applied in the calculation of Financial Contributions for the financial year 2005-2006 onwards; and (2) that for those member countries for which the World Bank has no population and/or economic data, the use of Lonely Planet

data as an interim source of such information is acceptable until a reputable institutional source can be found to replace it.

20. 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/57 with Joji Morishita (Japan) as Chair. The Budgetary Sub-committee had reviewed the provisional statement for 2004/2005 and proposed budgets for 2005/2006 and 2006/2007 and reports from the Secretariat regarding Secretariat office accommodation and Budgetary Sub-committee operations.

20.1 Review of provisional financial statement, 2004/2005

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

On reviewing the Secretary's report on the collection of financial contributions during the F&A Committee meeting, it had been noted that while decisions taken at IWC/54 in Shimonoseki in 2002 resulted in reductions to outstanding debts of a number of countries, some considerable debts remained. Given this and given that ways to relieve the debt burden of developing nations are being actively explored in other international organisations, there was a suggestion that IWC might wish to give some consideration at a future meeting to a one-off amnesty to relieve the debt burden of its own developing country members. While having sympathy for this suggestion, a number of countries expressed concern regarding precedents that might be set and possible knock-on effects such a move might have to other organisations. Nevertheless, the Committee agreed that the suggestion merited further consideration and recommended to the Commission that this be explored by the Secretariat who should develop proposals, including possible changes to Financial Regulations that might be needed, for possible decision-making next year. The Commission endorsed this recommendation.

20.2 Consideration of estimated budgets, 2005/2006 and 2006/2007

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

- (1) adopted the proposed budget for the 2005/2006 financial year (Annex L) and the provision for research expenditure (Annex M);
- (2) agreed that for the 2006 Annual Meeting the registration fee for non-government observers be set at £610 and the media fee at £40; and
- (3) noted the forecast budget for 2006/2007 (Annex L).

20.3 Secretariat offices

At IWC/55, the Commission requested the Secretariat to explore a range of alternatives for the Secretariat's offices, including:

- (1) continuing to rent the Red House;
- (2) purchasing the Red House or another suitable property for the Secretariat's offices 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.

At IWC/56 the Commission 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 the fact that this would be lost if the Secretariat was moved away from the Cambridge area. As there were over 5 years until the current lease on the Red House expired (it expires in March 2009), the Commission requested the Secretariat to explore alternatives within the Cambridge area which might include:

- (1) asking 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;
- (2) the possibility of the Red House being 'gifted' if tax laws allowed; and
- (3) keeping the property market in Cambridge under active review.

At IWC/57, the Budgetary Sub-committee reviewed information and papers prepared by the Secretariat in relation to (1) the experiences of NASCO and (2) exploration of alternatives to the Red House in the Cambridge area. With respect to the possibility of the Red House being 'gifted', the Secretariat noted that there are currently many changes being proposed to UK inheritance tax law, so the options that may be available by 2009 are as yet unclear. Discussions focused on the exploration of alternatives to the Red House. Considerable interest was expressed both in the Budgetary Sub-committee and in the F&A Committee regarding the possibility of the Commission purchasing its own offices. At the recommendation of the F&A Committee, the Commission agreed that the Secretariat should develop a more comprehensive picture, for discussion next year, of the steps required, the identification of all relevant costs, the timing of events and cash-flows, a sufficiently long projection of cash-flows to show where the break-even point is when comparing purchasing and rental costs, and the process to be followed regarding distribution of the proceeds from the sale of any property if the IWC were to be discontinued. Germany mentioned the possibility of providing Secretariat offices in Bonn (initially rent-free) and agreed to provide further information to the Secretariat.

20.4 Budgetary Sub-committee operations

At IWC/56 the Commission endorsed the F&A Committee recommendation that the Budgetary Sub-committee be asked to develop clearer guidance on its operation in relation to:

- (i) election of Chair and Vice-Chair;
- (ii) the term of 'open seats'²⁶; and
- (iii) clarifying arrangements for Contracting Governments not members of the BSC to attend as observers.

²⁶ Last year, in addition to having two members from each of the four economic groupings, the Commission agreed to add two 'open seats' (for any interested countries) as a fifth category (*Ann. Rep. Int. Whaling Comm. 2004: 57*).

The Budgetary Sub-committee was to report back to the F&A Committee at IWC/57.

Based on the discussions of the Budgetary Sub-committee (BSC) and the F&A Committee, the following recommendations were made to the Commission:

Election of Chair and Vice-Chair

Like other Commission sub-groups, the BSC should elect its own Chair and Vice-Chair. Issues that the BSC considered in relation to this included:

- the term for Chair and Vice-Chair should be three years and that under normal circumstances the Vice-Chair would replace the outgoing Chair;
- elections should take place at the end of Sub-committee meetings; and
- any member should be eligible to serve as Chair or Vice-Chair.

Open Seats

- A two year term for the 'open seat' offers a good balance between continuity and wider participation.
- The Secretariat is to call for expressions of interest in taking an open seat when one becomes available by notification by Circular in advance of an Annual Meeting. The open seat(s) would be allocated at the F&A Committee meeting.
- If the level of demand in any one year for 'open seats' exceeded the number of seats available, then preference be given to a country that has not served on the BSC before or served the longest time ago.

It was noted that the appointment as Chair or Vice-Chair of a BSC member who was coming to the end of their term might block participation of other interested countries. It was recommended that the Secretariat prepare a paper for review next year regarding how this situation might be handled.

Contracting Governments as observers to the BSC

- Non BSC members would not receive documents interessionally or be eligible to be appointed as Chair or Vice-Chair.
- There should be no restriction on the number of Contracting Governments wishing to attend as observers.
- The Chair should have the discretion to invite comments from observers.
- All documents should be available to observers at the BSC meeting.

The Commission endorsed these recommendations. The Commission noted that the Budgetary Sub-committee had elected Joji Morishita (Japan) and Andrea Nouak (Austria) as Chair and Vice-Chair respectively.

21. NGO PARTICIPATION IN IWC

21.1 NGO Code of Conduct

At IWC/56 last year, the Commission agreed to establish a Working Group to prepare a draft Code of Conduct relating to the participation of NGOs at IWC meetings. Iceland was appointed as the convener, with other members being Dominica, Japan, the Netherlands, New Zealand, St Kitts and Nevis, Sweden and the USA.

During the F&A Committee, the Commissioner for Iceland recalled that the decision to establish the Working Group was taken at a private meeting of Commissioners during IWC/56. He reported that at an initial meeting in Sorrento, the Working Group agreed to work only through email and to not meet intersessionally, and to take account of work that had already been done within other international bodies. It also agreed to the following terms of reference: *'The Working Group shall work towards developing draft relevant rules relating to issues of participation of NGOs at IWC meetings'*.

Iceland reported however, that in subsequent email exchanges after IWC/56, it became apparent that there was not a common understanding within the group of what the terms of reference actually meant. Some members felt that the group should be working towards a broad scheme for the IWC regarding NGO participation, which might include:

- (a) criteria for the granting of observer status;
- (b) decisions on what obligations an NGO would undertake by accepting observer status;
- (c) a Code of Conduct for NGOs at IWC meetings; and
- (d) procedures for suspending and/or withdrawing observer status.

Other members felt that the mandate was more limited and that the Working Group should concern itself only with developing a Code of Conduct. Some of those holding this view suggested that the other issues might possibly be considered once a Code of Conduct had been developed. Given this difference of opinions among group members, Iceland sought direction from the F&A Committee on how to proceed.

After a brief discussion, the F&A Committee agreed that in the first instance the Working Group should focus on developing a Code of Conduct. Once this had been achieved, the F&A Committee could make a decision on whether the other items listed above should be addressed. The Commission agreed that the Working Group should proceed on this basis.

21.2 NGO participation in Annual Meetings

Before IWC/56 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 F&A 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.

The paper prepared for IWC/56 focused on NGO participation in the Commission and its sub-groups excluding the Scientific Committee, and 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.

Following recommendations from the F&A Committee, the Commission had agreed that the Secretariat should work with the Advisory Committee intersessionally to explore how items 1-3 above might be implemented and to report to the F&A Committee at IWC/57. The Commission agreed that the issue of speaking rights be set aside for the time being. Austria found it unsatisfactory that only one person per NGO can officially attend the meetings, leading to an unnecessary multiplication of NGO groups and distorting the actual situation. It therefore asked the Secretariat to explore a cost-neutral solution.

At the F&A Committee meeting in Ulsan, the Secretariat reported that due to other commitments during the year, no work had taken place on this matter. On the recommendation of the F&A Committee, the Commission agreed to carry this work forward to the next intersessional period. Recognising the differences in scale of different NGOs, it was also agreed that the Working Group should, in addition to items 1-3, give consideration to the fee structure for NGOs.

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

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

23. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

23.1 58th Annual Meeting, 2006

St. Kitts and Nevis reported that IWC/58 will be held at the Marriott Hotel in St. Kitts.

The Secretary introduced a provisional schedule for the meeting. The Commission agreed with the timing proposed, i.e. that the Scientific Committee meet from 26 May to 6 June (with pre-meetings on anthropogenic noise, AWMP and the RMP in the period 24-25 May), the Commission sub-groups and the workshop on whale killing methods and associated welfare issues in the period from 9 to 13 June, and the Commission from Friday 16 June to Monday 19 or Tuesday 20 June depending on whether the plenary would run over four or five days. As no clear preference was indicated by Commissioners regarding the length of the plenary, the Secretariat was requested to work with the Government of St. Kitts and Nevis to decide on the duration of the plenary.

23.2 59th Annual Meeting, 2007

The Commission was pleased to accept the invitation from the USA to meet in Anchorage, Alaska for its 59th Annual Meeting in 2007.

23.3 RMS Working Group intersessional meeting

The Commission agreed to hold the meeting around February 2006. No venue was agreed and the Secretariat was left to investigate various possibilities including holding the meeting in the UK.

23.4 Other

The Government of Chile proposed to host the 60th Annual Meeting in 2008, adding that as stated in the Rules of Procedure, it will give formal notice of its intention during the Annual Meeting in St Kitts and Nevis next year.

The Government of Portugal informed the Commission that it would like to host the 61st Annual Meeting in Madeira in 2009.

The Commission noted these offers and looked forward to receiving more information in due course.

24. ADVISORY COMMITTEE

The Commissioner from the UK was re-elected onto the Advisory Committee for a further two years to join the Chair (Denmark), the Vice-Chair (South Africa), the Chair of the Finance and Administration Committee (Norway) and the Commissioner for Dominica.

25. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

The Chair drew the meetings attention to the fact that this year for the first time, the Secretariat had posted reports on the IWC website at the end of each day of the plenary.

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

26. OTHER MATTERS

The Republic of Korea noted that it had been a privilege for the Government and for the City of Ulsan to host the 57th Annual Meeting. They had tried to create an atmosphere that would promote friendship and co-operation inside and outside the meeting. The Republic of Korea thanked Henrik Fischer for the successful and balanced way in which he had conducted the meeting, Doug DeMaster for his contribution to the Scientific Committee over the last six years as Vice-Chair and Chair, and the Secretariat for its hard work to facilitate a smooth meeting. It also thanked the Mayor and other officials of Ulsan City Government, the many volunteers and all the citizens of Ulsan for their full support of the meeting. Finally it hoped that participants would have a safe trip back home and leave with good memories of their time in Korea.

Japan noted that as well as being geographically close to the Republic of Korea, the two countries share a common whaling tradition and culture. It expressed its sincere thanks and appreciation to the Korean Government, the Ulsan City Government and the people of Ulsan for their perfect preparation of the Annual Meeting and for their warm hospitality.

The Chair thanked delegates and observers for their participation in the meeting. He noted that despite some differences, some results were achieved. He also expressed great appreciation to the Government of Korea, the Mayor of Ulsan, the City Government, the volunteers and the Secretariat for their hard work to deliver a well-organised meeting.

The meeting was closed at 15.20 on Friday 24 June 2005.

27. 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 57th Annual Meeting

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

Antigua & Barbuda

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

Argentina

Eduardo Iglesias (C)
Miguel Iñiguez (AC)

Australia

Conall O'Connell (C)
Ian Campbell (AC)
Gillian Slocum (AC)
Nicola Benyon
Pamela Eiser
James Larson
Ross Hampton (S)
Geoffrey Tooth (S)

Austria

Andrea Nouak (C)
Michael Stachowitsch (AC)
Gerald Dick (S)

Belgium

Xavier Leblanc (C)
Koen Van Waerebeek (AC)

Benin

Bantole Yaba (C)
Joseph Ouake (AC)
Catherine Hounkpe

Brazil

Maria Teresa Mesquita Pessõa (C)
Régis Pinto Lima (AC)
José Truda Palazzo (AC)
Karina Grogh (I)

Cameroon

Malloum Ousman Baba (C)
Mougnal (AC)

Chile

Mariano Fernandez (C)
Elsa Cabrera

China

Wang Yamin (AC)
Zhu Baoying (I)
Sun Guifeng
Shen Wenjuan

Côte d'Ivoire

Anvra Djobo (C)
Kouakou Kouassi (AC)
Kouassi Kobenan

Czech Republic

Pavla Hýčova (C)
Tomáš Vostrý (AC)

Denmark

Henrik Fischer (C)
Amalie Jessen (AC)
Ole Samsing (AC)
Leif Fontaine
Rasmus Frederiksen
Ole Heinrich
Michael Kingsley
Maj Friis Munk
Peter Olsen
Peter Evaldsen (S)

Dominica

Lloyd Pascal (C)
Andrew Magloire (AC)

Finland

Penina Blankett (C)
Kim Luotonen (AC)

France

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Martine Bigan (AC)
Vincent Ridoux (AC)

Gabon

Guy Anicet Rerambyath (C)
Rosalie Avomo Ebolo (AC)

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Frank Hester

Guinea, Republic of

Ibrahima Sory Toure (C)
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Chikara Furukawa
Dan Goodman
Koji Hama
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Hiroshi Hatanaka
Noriyoshi Hattori
Yoshimasa Hayashi
Isamu Hidaka
Yasuo Iino
Hajime Ishikawa
Makoto Ito
Yoshitaka Ito
Hideo Jinpu
Yoshito Kajiya
Yasushi Kaneko
Hidehiro Kato
Mitsuhiro Kishimoto
Takeshi Kishimoto

Chikao Kimura
 Tadamasa Kodaira
 Motohiko Kondo
 Kinichi Kosaka
 Kinomu Kubo
 Tomio Miyashita
 Takamasa Miyagawa
 Yoji Nagaoka
 Keiichi Nakajima
 Osamu Oba
 Seiko Odaka
 Hiroshi Ogawa
 Yoshitaka Okabe
 Kayo Ohmagari
 Yoshinori Omuru
 Itsunori Onodera
 Seiji Ohsumi
 Shinichi Ryono
 Mutsushi Seto
 Kazutaka Sengen
 Hirohiko Shimizu
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 Kenji Sumioka
 Tatsuo Sunahara
 Tomohumi Suyama
 Shunichi Suzuki
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 Yutaka Takeyama
 Tokuihiro Tamazawa
 Tatsuya Tanimoto
 Haruo Tominaga
 Yosuke Tsuruho
 Katsuhiko Urushibara
 Hiroko Wada
 Ichiro Wada
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 Jin Young Kim (I)
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Ki Hiok Bamg (C)
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 Yeong Gong
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Ts. Damdin (C)
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Frederic Briand (C)
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Abdesallam Fahfouhi (C)
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Nauru

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 Vika Kharlamova (I)
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 Vladimir Etylin (S)
 Gennady Inankeuyas (S)
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 Daven Joseph (AC)
 Ian Liburd (AC)
 Josephs Simmonds

Saint Lucia

Ignatius Jean (C)
 Vaughn Charles (AC)
 Jeannine Rambally

Saint Vincent and The Grenadines

Edwin Snagg (C)
 Raymond Ryan (AC)

San Marino

Dario Galassi (C)

Senegal

Moustapha Thiam (AC)

Slovak Republic

Zuzana Žovicová (C)

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Paul Maenuú (C)
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 Chad English (S)
 Leila Hatch (S)
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 Gene Kim (S)
 James Lecky (S)
 Emily Lindow (S)
 Paul Loh (S)
 Micah McCarty (S)
 Rori Marston (S)
 Martin Murphy (S)
 Justyna Nicinska (S)
 Nate Pamplin (S)
 Jean-Pierre Plé (S)
 Scott Smullen (S)
 Stanley Speaks (S)
 Diana Weigmann (S)
 David Whaley (S)
 Kate Willis (S)
 Chris Yates (S)

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Caterina Fortuna

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Peter Reijnders

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ECCO

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John Tichotsky
 Mary Core (Alt)

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Masashige Wada
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Robert Suydam

Animal Care International

Philippa Brakes

Animal Welfare Institute

Susan Tomiak
 Ben White (Alt)

Association of Traditional Marine Mammal Hunters of Chuktoka

Vladilen Kavry
 Gennady Inankeuyas (Alt)
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Barrow Arctic Science Consortium

Sarah Hurst

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Annelise Sorg
 Doug Imbeau (I)

Center for Respect of Life and Environment

Kitty Block

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Heather Rockwell

Citizen's League for Preservation of Whaling

Yoko Shimozuru
 Koichi Yanagida (I)

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Clark Lee Merriam

David Shepherd Conservation Foundation

Alice Stroud

Dolphin and Whale Action Network

Nanami Kurasawa

Dolphin Connection

Nancy Azzam

Earth Island Institute

Mark Palmer

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 Mizuki Takana (I)

Earth Voice

Betsy Dribben
 Naomi Rose (Alt)

Eastern Caribbean Coalition for Environmental Awareness (ECCEA)

Lesley Suttly

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Claire Bass

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Philip Lymbery
Virag Kaufer (I)

European Bureau for Conservation & Development

Despina Symonds

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Bruce Tackett
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Finns for the Whales

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Birgith Sloth

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Greenpeace International

John Frizell

Group to Preserve Whale Dietary Culture

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Rune Frovik
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Humane Society International

Patricia Forkan
Betsy Dribben (Alt)
Miyan Park (I)

Indigenous World Association

Jessica LeFevre

International Association for Religious Freedom

Sarah Jensen

International Environmental Advisors

Jim Wickens
Ye Yong Choi

International Fund for Animal Welfare

Joth Singh

International Marine Mammal Association

Vassili Papastavrou

International Marine Researchers

Thomas Henningsen
Stephanie Werner

International Primate Protection League

Thomas Garrett

International Transport Workers' Federation

Suezo Kondo
Mitsuhara Matsuura (I)

International Wildlife Coalition

Ralf Sonntag
Y. Ma (I)

Inuit Circumpolar Conference

Eugene Brower

IWMC World Conservation Trust

Eugene Lapointe
Helene Lapointe (I)

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Miki Suenaga
Jay Hastings (I)

Japan Small-Type Whaling Association

Hyo Jung Choi
Takeshi Maruoka (I)

Japan Whale Conservation Network

Naoko Funahashi

Japan Whaling Association

Maki Noguchi
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Harry Brower Jr

Natural Resources Defense Council

Cara Horowitz

Ocean Defense International

Sue Arnold

Pro Wildlife

Sandra Altherr

Robin des Bois

Charlotte Nithart

RSPCA

Laila Sadler
Paul Littlefair (I)

Species Management Specialists Inc

Hank Jenkins
Grahame Webb

TEN

Shigeo Misaki

Werkgroep Zeehond

Geert Drieman

Whale & Dolphin Conservation Society

Niki Entrup

Whale Cuisine Preservation Association

Mutsuko Onishi
Kiyohiko Takahashi (I)

Whaleman Internatioual

Jeff Pantukhoff

Whales Alive

Darren Kindleysides

Whaling Problem Discussion Committee

Junko Kojima
Toru Yamamoto (I)

Women's Forum for Fish

Yuriko Shiraishi
Akiko Sato (Alt)
Izumi Cantlay (I)

Women's International League for Peace and Freedom

Maggie Ahmaogak

Working Group for the Protection of Marine Mammals (ASMS)

Sigrid Lueber

World Society for the Protection of Animals

Peter Davies
Leah Garcés (I)

WWF International

Sue Lieberman

Annex B

Agenda

1. INTRODUCTORY ITEMS
 - 1.1 Welcome address
 - 1.3 Secretary's Report on Credentials and Voting Rights
 - 1.4 Meeting arrangements
 - 1.5 Review of documents
2. ADOPTION OF THE AGENDA
3. SECRET BALLOTS
(Chair's Report of the 56th Annual Meeting, Section 3)
 - 3.1 Proposal to amend Rule of Procedure E.3 (d)
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4. WHALE STOCKS
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 - 4.1 Antarctic minke whales
 - 4.1.1 Report of the Scientific Committee
 - 4.1.2 Commission discussions and action arising
 - 4.2 In-depth assessment of western North Pacific common minke whales
 - 4.2.1 Report of the Scientific Committee
 - 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
 - 4.3.2 Commission discussions and action arising
 - 4.4 Other small stocks – bowhead, right and gray whales
 - 4.4.1 Report of the Scientific Committee
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5. ABORIGINAL SUBSISTENCE WHALING
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 - 5.1 Aboriginal subsistence whaling scheme
 - 5.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee
 - 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
 - 5.2.2 Commission discussions and action arising
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6. REVISED MANAGEMENT SCHEME (RMS)
(Chair's Report of the 56th Annual Meeting, Section 6)
 - 6.1 Revised Management Procedure (RMP)
 - 6.1.1 Report of the Scientific Committee
 - general issues
 - preparations for implementation (Western North Pacific Bryde's whales, North Atlantic fin whales)
 - bycatch
 - 6.1.2 Commission discussions and action arising
 - 6.2 Revised Management Scheme
 - 6.2.1 Report of the RMS Working Group
 - 6.2.2 Commission discussions and action arising and possible Schedule amendment proposal
- 6.3 Other
7. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES
(Chair's Report of the 56th Annual Meeting, Section 7)
 - 7.1 Report from the Working Group on Whale Killing Methods and Associated Welfare Issues
 - 7.2 Commission discussions and action arising
8. SANCTUARIES
(Chair's Report of the 56th Annual Meeting, Section 8)
 - 8.1 Proposal to amend the Schedule to establish a South Atlantic Whale Sanctuary
 - 8.1.1 Introduction of the proposal
 - 8.1.2 Reports from the Scientific and Conservation Committees
 - 8.1.3 Commission discussions and action arising
 - 8.2 Southern Ocean Sanctuary
 - 8.2.1 Proposal to amend paragraph (7b) of the Schedule
 - 8.2.2 Commission discussions and action arising
 - 8.3 Other
9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING
(Chair's Report of the 56th Annual Meeting, Section 9)
 - 9.1 Proposal to amend the Schedule
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10. SCIENTIFIC PERMITS
(Chair's Report of the 56th Annual Meeting, Section 10)
 - 10.1 Report of the Scientific Committee
 - 10.1.1 Review of results from existing permits
 - 10.1.2 Review of new or continuing proposals
 - 10.1.3 Other
 - 10.2 Commission discussions and action arising
11. ENVIRONMENTAL AND HEALTH ISSUES
(Chair's Report of the 56th Annual Meeting, Section 11)
 - 11.1 Sea ice and whale habitat
 - 11.1.1 Report of the Scientific Committee
 - 11.1.2 Commission discussions and action arising
 - 11.2 Review of the workshop on habitat degradation
 - 11.2.1 Report of the Scientific Committee
 - 11.2.2 Commission discussions and action arising
 - 11.3 Other habitat-related issues
 - 11.3.1 Report of the Scientific Committee
 - POLLUTION 2000+
 - SO-GLOBEC/CCAMLR
 - State of the Cetacean Environment (SOCER)
 - Arctic issues
 - Anthropogenic noise
 - 11.3.2 Commission discussions and action arising

- 11.4 Reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals
- 11.5 Health issues - Commission discussions and action arising
- 11.6 Other
12. WHALEWATCHING
(*Chair's Report of the 56th Annual Meeting, Section 12*)
- 12.1 Report of the Scientific Committee
- 12.2 Commission discussions and action arising
13. CO-OPERATION WITH OTHER ORGANISATIONS
(*Chair's Report of the 56th Annual Meeting, Section 13*)
- 13.1 Report of the Scientific Committee
- 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 56th Annual Meeting, Section 14*)
- 14.1 Small cetaceans
- 14.1.1 Report of the Scientific Committee
- 14.1.2 Commission discussions and action arising
- 14.2 Other activities
- 14.2.1 Report of the Scientific Committee
- 14.2.2 Commission discussions and action arising
- 14.3 Scientific Committee Future Work Plan
- 14.3.1 Report of the Scientific Committee
- 14.3.2 Commission discussions and action arising
- 14.4 Adoption of the Report
15. CONSERVATION COMMITTEE
(*Chair's Report of the 56th Annual Meeting, Section 15*)
- 15.1 Report of the Conservation Committee
- 15.2 Commission discussions and action arising
16. CATCHES BY NON-MEMBER NATIONS
(*Chair's Report of the 56th Annual Meeting, Section 16*)
- 16.1 Commission discussions and action arising
17. INFRACTIONS, 2004 SEASON
(*Chair's Report of the 56th Annual Meeting, Section 18*)
- 17.1 Report of the Infractions Sub-committee
- 17.2 Commission discussions and action arising
18. ADMINISTRATIVE MATTERS
(*Chair's Report of the 56th Annual Meeting, Section 20*)
- 18.1 Annual Meeting arrangements and procedures
- 18.1.1 Report of the Finance and Administration Committee
- Need for a Technical Committee
 - Use of simultaneous interpretation
 - Translation of documents
 - Frequency of meetings
- 18.1.2 Commission discussions and action arising
- 18.2 Legal advice in relation to the IWC
- 18.2.1 Report of the Finance and Administration Committee
- 18.2.2 Commission discussions and action arising
- 18.3 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
- 18.3.1 Report of the Finance and Administration Committee
- 18.3.2 Commission discussions and action arising
19. FORMULA FOR CALCULATING CONTRIBUTIONS
(*Chair's Report of the 56th Annual Meeting, Section 21*)
- 19.1 Report of the Finance and Administration Committee
- 19.2 Commission discussions and action arising
20. FINANCIAL STATEMENTS AND BUDGETS
(*Chair's Report of the 56th Annual Meeting, Section 22*)
- 20.1 Review of the provisional financial statement, 2003/2004
- 20.1.1 Report of the Finance and Administration Committee
- 20.1.2 Commission discussions and action arising
- 20.2 Consideration of estimated budgets, 2004/2005 and 2005/2006
- 20.2.1 Report of the Finance and Administration Committee
- 20.2.2 Commission discussions and action arising
- 20.3 Other
- 20.3.1 Report of the Finance and Administration Committee
- 20.3.2 Commission discussions and action arising
21. NGO PARTICIPATION IN IWC
(*Chair's Report of the 56th Annual Meeting, Section 20*)
- 21.1 Report of the Finance and Administration Committee
- 21.2 Commission discussions and action arising
22. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE
23. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS
- 23.1 58th Annual Meeting, 2006
- 23.2 59th Annual Meeting, 2007
- 23.3 Other
24. ADVISORY COMMITTEE
25. SUMMARY OF DECISIONS AND REQUIRED ACTIONS
26. OTHER MATTERS
-

Annex C

Resolutions Adopted at the 57th Annual Meeting

Resolution 2005-1

RESOLUTION ON JARPA II

AWARE that Article VIII of the International Convention for the Regulation of Whaling allows Contracting Governments to grant Special Permits for the purpose of scientific research on whales;

RECALLING that since the moratorium on commercial whaling came into force in 1985/86, the IWC has adopted over 30 resolutions on Special Permit whaling in which it has generally expressed its opinion that Special Permit whaling should: be terminated and scientific research limited to non-lethal methods only (2003-2); refrain from involving the killing of cetaceans in sanctuaries (1998-4); ensure that the recovery of populations is not impeded (1987); and take account of the comments of the Scientific Committee (1987).

ALSO RECALLING Resolution 2003-3 that no additional Japanese Whale Research Program under Special Permit in the Antarctic (JARPA) programs be considered until the Scientific Committee has completed an in-depth review of the results of JARPA;

FURTHER RECALLING that earlier this year the Government of Japan concluded JARPA - an 18-year program of whaling under Special Permit in Antarctic waters;

NOTING that the results of the JARPA program have not been reviewed by the Scientific Committee this year;

CONCERNED that more than 6,800 Antarctic minke whales (*Balaenoptera bonaerensis*) have been killed in Antarctic waters under the 18 year of JARPA, compared with a total of 840 whales killed globally by Japan for scientific research in the 31 year period prior to the moratorium;

NOTING that it is the Government of Japan's stated intention to more than double the annual catch of Antarctic minke whales and also take 50 fin whales (*B. physalus*) and 50 humpback whales (*Megaptera novaeangliae*) under the proposed JARPA II program;

NOTING that the Third Circumpolar Survey indicates that the abundance of Antarctic minke whales is substantially lower than the earlier estimate of 760,000, and that the Scientific Committee is working to identify factors contributing to the differences between the two surveys;

CONCERNED that there are no agreed data to indicate that endangered fin whale populations have increased since the cessation of whaling;

ALSO NOTING that some humpback whales which will be targeted by JARPA II belong to small, vulnerable breeding populations around small island States in the South Pacific and that even small takes could have a detrimental effect on the recovery and survival of such populations; and

ALSO CONCERNED that JARPA II may have an adverse impact on established long-term whale research projects involving humpback whales;

NOW THEREFORE THE COMMISSION:

REQUESTS the Scientific Committee to review the outcomes of JARPA as soon as possible; and

STRONGLY URGES the Government of Japan to withdraw its JARPA II proposal or to revise it so that any information needed to meet the stated objectives of the proposal is obtained using non-lethal means.

Resolution 2005-2

RESOLUTION ON FACILITATING CLOSER COOPERATION AMONG THE RANGE STATES TO EXPEDITE THE SIGHTING SURVEY ON THE MINKE WHALES OFF KOREAN PENINSULA

RECOGNISING THAT the common minke whale stock migrating off Korea, Russia, China and Japan should be conserved and managed appropriately, and that the Scientific Committee is now preparing the in-depth assessment for this stock;

NOTING THAT the spatio-temporal coverage of the past research on this stock for a population assessment was restricted and that data and samples for stock identification are still insufficient; and

NOTING THAT the Commission has classified this stock as a "Protected Stock" and a comprehensive assessment has not been conducted during the past twenty years;

NOW THEREFORE THE COMMISSION:

WELCOMES a workshop for non-lethal research collaboration on this stock to be held in Ulsan early in 2006 to be hosted by the Republic of Korea and encourages all range states and other interested parties to participate in the workshop;

REQUESTS the relevant countries that have unsurveyed waters under their jurisdictions to conduct cooperative non-lethal scientific research for the 2006 surveys; and

RECOMMENDS that scientists from range states and other countries to collaborate in association with the IWC Scientific Committee and harmonize efforts to develop a research program and conduct analysis of data, and that funds to be provided.

Resolution 2005-3**RESOLUTION ON THE WESTERN NORTH PACIFIC GRAY WHALE**

RECALLING Resolution 2001-3, which *inter alia* called on range states and others to actively pursue all practicable actions to eliminate anthropogenic mortality and minimize anthropogenic disturbance to the western gray whale population; and Resolution 2004-1, which *inter alia* called upon range states to develop or expand national monitoring and research programmes on western gray whales;

WELCOMING the report of the Independent Scientific Review Panel (ISRP) set up by IUCN, to which the IWC Secretariat contributed, the work carried out under the Russian national program, and the work carried out under the Russia-US program;

WELCOMING the cooperation between Sakhalin Energy Investment Corporation Ltd (SEIC) and IUCN to address the potential impacts of their oil and gas activities on western gray whales;

WELCOMING the desire to re-route the planned platform-to-shore oil and gas pipelines around instead of through the gray whale feeding ground off Piltun Lagoon;

REMAINING CONCERNED that noise generated during the pipeline, platform emplacement and onshore construction in the coming season will impinge upon the Piltun feeding ground;

ENCOURAGED by the finding of the Review Panel that the population of Western Gray Whales appears to have increased over the period 1994-2003, even using low abundance estimates; but

CONCERNED that the Review Panel found that the population includes less than 30 reproductive females, and that one population model using the lowest abundance level of all presented found that a hypothesised additional death

of just one female whale per year could drive the population to extinction before 2050; and

NOTING WITH CONCERN that, despite the efforts by the Japanese authorities and peoples concerned not to disturb the animal and release it from entanglement, a female gray whale was drowned in a set net in Tokyo Bay on May 10, 2005;

NOW THEREFORE THE COMMISSION:

CALLS UPON range states to take all practical measures to avoid all anthropogenic mortality, and in particular to develop and implement strategies to prevent accidental deaths;

CALLS UPON all organisations concerned with oil and gas projects to take all practicable measures to ensure that received noise levels in the Piltun feeding ground are reduced to a minimum and are in accordance with any future recommendations of the IWC Scientific Committee;

SUPPORTS the ISRP proposal for a comprehensive strategy to save western gray whales and their habitat;

FURTHER CALLS UPON all organisations, range states, authorities, scientists and other stakeholders concerned with developments in the waters around Sakhalin Island to support the efforts to develop a framework for collaborative research, monitoring and mitigation efforts between oil companies, independent experts, national programmes and authorities and the IWC and other intergovernmental organisations, and that they share all relevant data collected; and

REQUESTS the Secretariat continue to offer its services and scientific expertise to appropriate collaborative efforts to develop a comprehensive strategy and ensure continued effective monitoring of the population.

Resolution 2005-4**RESOLUTION TO ADVANCE THE RMS PROCESS**

THE COMMISSION:

AGREES to hold an intersessional meeting to advance the work of the Working Group on the Revised Management Scheme (RMS) and that of the Small Drafting Group, as established by Resolution 2004-6, with particular emphasis on any outstanding issues and taking as a starting point the Group's report to this Commission (IWC/57/RMS3);

AGREES to hold a meeting of the RMS Working Group in connection with IWC/58 to discuss the remaining issues that must be resolved before adoption of the RMS can be considered; and

AGREES to consider, if appropriate, ministerial, diplomatic, or other high-level possibilities to resolve these issues among the Contracting Governments to the Convention.

Annex D

Report of the Sub-Committee on Aboriginal Subsistence Whaling

Tuesday 14 June 2005, Ulsan, Korea

1. INTRODUCTORY ITEMS

The list of participants is given as Appendix 1.

1.1 Appointment of Chair

Andrea Nouak (Austria) was appointed as 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/57/AS1 Revised Draft Agenda;
IWC/57/AS2 List of documents;
IWC/57/AS3 Subsistence gray and bowhead whaling by native people of Chukotka in 2004;
IWC/57/AS4 Documentation to IWC on Greenlandic whaling, 1979-2004; and
IWC/57/Rep1 Report of the Scientific Committee, Items 8 and 9.

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

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. He noted that the primary work carried out this year was in relation to the fin and common minke whale fisheries off West Greenland.

With respect to management procedures, the Commission has now endorsed the *Bowhead SLA (Strike Limit Algorithm)* and, last year, the *Bowhead SLA*. The next priority is therefore the Greenland fisheries. The Committee has on several occasions informed the Commission that it would be extremely difficult, if not impossible, to develop an *SLA* for the Greenlandic fisheries that will satisfy all of the Commission's objectives. This is particularly important in the light of the Committee's grave concern at its inability to provide management advice for these fisheries - as discussed further under Items 4.3 and 4.4.

The major problem is that whilst there are strong indications that the animals that are available to be counted off West Greenland do not comprise the total stocks from which the hunted animals are found, the SWG have no

indication of how much greater the stocks might be or where to look for the other animals.

Under this item, therefore, the Chair restricted discussion to a brief report of progress in moving towards *SLA* development (Item 8.1.4 of IWC/57/Rep1). He noted that the Committee had welcomed the receipt of a paper that provided a population model that would enhance the Committee's ability to test potential *SLAs* for these fisheries in the future, once they are developed. The potential of using sex ratio information in potential common minke whale *SLAs* was noted.

3.1.2 Discussion and recommendations

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

3.2 Aboriginal Whaling Scheme (AWS)

3.2.1 Report of the Scientific Committee

The Chair of the SWG noted this part of its discussions is given in SC/57/Rep1, Item 8.5. He noted that in 2002, the Committee had developed scientific aspects of an Aboriginal Whaling Scheme (AWS) intended for use in conjunction with the *Bowhead SLA*. These proposals were agreed by the Scientific Committee and reported to this Aboriginal Whaling Sub-committee (the specifications can be found in *Ann. Rep. Int. Whaling Commn. 2002: 74-5*). At the 2003 and 2004 meetings, the Chair of the SWG discussed such matters with interested Commissioners and representatives of the hunters. Last year, the Commission again did not adopt the AWS and in particular the USA has expressed some concerns¹. The Chair of the SWG again reiterated his willingness to discuss any aspects of the scheme with interested delegations. He reported that the Scientific Committee again recommends the scientific components of an aboriginal whaling management scheme to the Commission, noting that it forms an integral part of the long-term use of *SLAs*.

3.2.2 Discussion and recommendations

Australia referred to the lack of progress on the wider whaling management considerations under the Aboriginal Whaling Scheme, as they did last year, and wanted this concern noted on the record.

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

4. ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

4.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

4.1.1 Report of the Scientific Committee

The Chair of the SWG first referred to discussions on stock structure issues given under Item 9.1 of SC/57/Rep1. As discussed last year, an important assumption behind the testing of the *Bowhead SLA* is that there is only a single

¹ *Ann. Rep. Int. Whal. Commn. 2004: 12-13*

population of bowhead whales migrating past Barrow and available to the hunters in Alaska and Chukotka. Some preliminary information that this might not be the case was presented last year. Whether or not this is the case is important in terms of the forthcoming *Implementation Review* in 2007, recommended last year and reiterated this year. Part of the task of such a review is to determine whether or not the situation lies within the 'parameter space' that was used to test the robustness of the *Bowhead SLA*. This year, the Committee was pleased to receive a progress report on a major US-funded collaborative programme on stock structure issues that is being undertaken. The Committee stressed that the focus of the programme should be to provide advice of direct relevance to testing the *SLA*.

The Committee has determined an extensive workplan to try to ensure that it is in a position to complete the *Implementation Review* in 2007. This can be found under Item 8.4 of SC/57/Rep1 and involves two intersessional workshops.

The catch information reported for the 2004 Alaskan harvest was 43 animals struck and 36 (13 males, 22 females, 1 undetermined sex) landed. One male was taken in the Chukotkan fishery.

The Scientific Committee agreed that no change is required to the current block quota for 2003-2007. It recommended that every effort be made to obtain samples for genetic analysis from the Chukotka catch.

4.1.2 Discussion and recommendations

The USA thanked the Scientific Committee for its careful deliberations on matters important to the understanding of and ability to manage the Bering-Chukchi-Beaufort Seas (B-C-B seas) stock of bowhead whales. The USA emphasised that the Scientific Committee had reaffirmed its management advice regarding the appropriateness of the current level of aboriginal subsistence take from this stock. The USA reported on its research programme, which was greatly expanded in 2005 to accommodate the need for expanded research on stock structure. They added that they had provided the necessary research funds in 2005, and expected to do the same in 2006. The research programme covers a two-year field season and two years of laboratory and data analysis. Prior to completing two years of research, it will not be possible to forecast the outcome of these studies.

The USA also informed the SWG of two intersessional workshops on bowhead stock structure which were held over the previous 12 months. The first was in October of 2004, when the Government of Norway hosted a meeting in Oslo for the purpose of evaluating the Norwegian genetic analysis of B-C-B seas bowhead stock structure. This meeting was attended by experts from Russia, Japan, Norway and the USA. The USA expressed its appreciation to the Government of Norway for hosting this meeting and for Norway's, Japan's, and Russia's interest and cooperation in this research effort. The second meeting was held in February of 2005, when the USA hosted an intersessional meeting to evaluate and prioritise the entire research programme related to the bowhead stock structure. This meeting was also attended by experts from Norway, Japan, Russia and the USA. The USA expressed its appreciation for the continued collaboration with these countries as their research programme progressed and pledged their ongoing support.

Japan reiterated that cooperative scientific research in this area is very important, and emphasised that Japanese scientists had been cooperating closely on this subject with other countries, and pledged that scientific cooperation in this important area will be continued, as much as possible.

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

4.2. North Pacific eastern stock of gray whales

4.2.1 Report of the Scientific Committee

The Chair of the SWG noted that last year, the Commission had endorsed the *Bowhead SLA* for providing management advice.

In 2004, 110 gray whales (43 males and 67 females) were taken in the Chukotkan fishery. Of these, 6 (5% of the catch) exhibited a strong chemical odour and could not be used. Due to domestic legislation, the Makah tribe was unable to hunt in 2004.

The Committee agreed that the results from the *Bowhead SLA* showed that no change is required to the current block quota for 2003-2007. An *Implementation Review* is scheduled for 2009.

4.2.2 Discussion and recommendations

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

4.3 and 4.4 Common minke whales and fin whales off West Greenland

4.3.1 and 4.4.1 Report of the Scientific Committee

The Chair of the SWG explained that issues relating to Greenland fisheries and the provision of management advice were the most extensive and difficult discussions it had this year. As he has stated many times before, the Committee is extremely concerned that it has never been able to provide satisfactory management advice on these stocks.

The main questions for both common minke whales and fin whales off West Greenland revolve around how the abundance estimates derived from sightings made during surveys relate to the true number of animals 'available' to the hunters. It has been generally accepted for both species that the animals found off West Greenland probably do not comprise the total stocks.

Initially, the SWG examined the results of a valuable genetic study funded last year (see Item 8.1.1 of SC/57/Rep1). This led on to a broader discussion as to how genetic information can best assist the Committee in providing management advice. The Committee received information on some recent genetic techniques that may allow it to determine a lower bound for the size of the common minke whale population or populations hunted off West Greenland. Before embarking on an actual study however, it is essential to determine the statistical power of the proposed methods for the West Greenland case. This work will be carried out during the early intersessional period, and if the results are promising, the scientists involved will develop a full proposal for the work.

The SWG then went on to examine information from the catches, particularly on distribution of the animals and the sex ratio of the catch (females have formed 70-76% of the catches of common minke whales off West Greenland since such data became available in the mid-1950s). There was no evidence of marked differences in the sex ratio of the catch along the coast. The question of using the sex ratio

data in an assessment context will be discussed later in the report.

A major part of the work this year was to examine the results of two major aerial photographic strip-transect surveys carried out in 2002 and 2004, and an experimental survey in 2003 (involving some 95,700 photographs in total). The estimates provided by the scientists who carried out the surveys were: 510 (*CV* 0.75) common minke whales, which is significantly smaller than the revised estimate of 6,390 (*CV* 0.41) whales in 1993 - the most recent estimate agreed by the Committee; and 980 (*CV* 0.48) fin whales, which is similar to the last agreed estimate of 1,100 (95% CI 520 - 2, 100) for 1987-88. There was extensive discussion within the SWG of the methods used to read the photographs and to turn the results into abundance estimates. Those discussions are summarised under Items 8.1.3.1 and 8.1.3.2 of SC/57/Rep1. In summary, the SWG identified a number of improvements at all stages of the process that are necessary for these abundance estimates to be considered acceptable by the Committee. The SWG was particularly concerned with respect to the applicability of the method for common minke whales and has established a number of intersessional groups to provide advice and oversee the re-examination and reanalysis recommended.

The SWG then examined two papers that attempted to assess the status of these species off West Greenland, one of which incorporated the sex ratio data. The discussion of these papers is summarised under Item 8.2.2 of SC/57/Rep1. For the reasons given there, these preliminary assessments were not considered acceptable and can not be used to provide management advice. However, the SWG did agree that the sex ratio data show promise and again have set up an intersessional group to work with the Greenlandic scientists to see if they can be used to try to determine a lower bound for the total abundance of the stock.

With respect to management advice, the Chair of the SWG referred to its discussions under Item 8.2.3 of SC/57/Rep1. He stressed that the Committee was extremely concerned at its inability to provide advice. The Committee had spent considerable time agreeing the words in its report on this issue and therefore believed it was inappropriate to try to summarise them to any extent. The following section thus repeats the words of SC/57/Rep1.

‘As it has stated on many occasions, the Committee has never been able to provide satisfactory management advice for either the fin or common minke whales off West Greenland. This reflects the lack of information on stock structure and abundance, and the absence of appropriate assessments. This is the reason the Committee first called for the Greenland Research Programme in 1998.

Despite receiving preliminary estimates of abundance from a photographic survey carried out in 2002 and 2004, the Committee **agrees** that, once again, it is in the deeply unfortunate position of being unable to provide satisfactory management advice on safe catch limits; **it views this as a matter of great concern**. The present uncertainties over the preliminary abundance estimates are such that the Committee does not consider them acceptable estimates. Although it has suggested further work with respect to the data collected on the photographic surveys, it cautions that there is no guarantee that this further work will result in significantly greater values, or, in the case of common minke whales, an agreed estimate. It notes that the Commission has set catch limits for the West Greenland fisheries of up to 175 common minke whales struck in each year for the period 2003-2007 with a provision that up

to 15 strikes may be carried over from one year to the next and a catch of up to 19 fin whales for the same period.

8.2.3.2 COMMON MINKE WHALES

Taken at face value, the preliminary (and not accepted) estimate of abundance for common minke whales suggests that about a 90% decline has occurred since the previous survey in 1993. However, the Committee has considerable doubts over this estimate (see Item 8.1.2.1) and there are several indications that such a decline has probably not occurred (e.g. the consistently high predominance of females in the catch suggests that the abundance estimate does not represent the total number of animals available to the fishery). Nonetheless, the Committee **urges that considerable caution be exercised in setting catch limits for this fishery** because it has no scientific basis for providing advice on safe catch limits. It noted that if an AWS (see Item 8.5) was in place, this fishery would be at or near the place where the grace period would begin. This management advice will be re-evaluated next year in the light of the intersessional work recommended.

Given this, the Committee **strongly recommends** that a re-examination of the existing photographs be undertaken as a matter of urgency, according to the protocols given in Annex E, Appendix 5. **In conjunction with this, it strongly recommends** that preparations be made to carry out a cue-counting survey in the summer of 2006 targeted especially at common minke whales, so that if the intersessional group overseeing the re-examination of the photographs concludes that this will not result in an acceptable estimate, a survey can be carried out. The Committee recognises that the prevailing weather conditions in Greenland mean that there is no guarantee that a survey will result in sufficient coverage to allow an abundance estimate to be obtained.

The Committee also **strongly recommends** that the sex ratio data be fully investigated *inter alia* to determine whether they can be used to obtain at least a minimum estimate for the total stock and be incorporated into an assessment model (see 8.2.2 above).

8.2.3.3 FIN WHALES

In 2004, the Committee had expressed special concern over the absence of an abundance estimate for fin whales since 1987/88 and had advised that in the absence of an agreed abundance estimate for fin whales from the 2004 survey, it would likely recommend that the take of fin whales off West Greenland be reduced or eliminated. This year the Committee had received a preliminary estimate (that was not considered acceptable, see Item 8.1.3 and the **recommendation** for reanalysis of the photographs given above) from the photographic surveys that was not appreciably different from the previously accepted estimate. Despite the fact that the Committee has more confidence in this preliminary estimate than it has for the common minke whale estimate (see above), it is not in a position to provide satisfactory management advice on safe catch limits. It therefore **urges that considerable caution be exercised in setting catch limits for this fishery**. Mindful of its recommendation of 2004 (see above), as interim *ad hoc* advice, the Committee advises that a take of 4-10 animals (approximately 1% of the lower 5th percentile and of the mean of the estimate of abundance) annually was unlikely to harm the stock in the short-term, particularly since this does not take into account the possibility that the fin whale stock extends beyond West Greenland (see Item 8.1). This advice will be re-evaluated next year in the light of the intersessional work recommended.

8.2.3.4 OTHER RESEARCH RECOMMENDATIONS

Last year, the Committee repeated its strong recommendation that samples for genetic analysis be collected from the catch as a matter of high priority and urged the Committee to encourage the Government of Denmark and the Greenland Home Rule authorities to assist with logistical and, if necessary, financial support. The Committee **repeats** its

recommendation this year. It was pleased to be informed that 103 common minke whale samples, 8 fin whale samples and 4 samples of unreported species had been collected last year. The Committee **strongly recommends** that these samples be analysed in accordance with the advice of the intersessional working group on genetics.

The Committee **reiterates its great concern** at its continued lack of ability to provide management advice on these stocks, with serious implications for both hunt and for the stocks involved. It **strongly urges** the relevant authorities to provide the necessary funds to allow all of the research recommendations given under Item 8.2 to be carried out. Should the necessary funding not be put in place to allow both (1) a re-examination of the photographs and (2) a cue-counting survey to occur if recommended by the steering group, it **agrees** that priority should be given to carrying out the survey.'

4.3.2 and 4.4.2 Discussion and recommendations

The United Kingdom observed that last year, the Scientific Committee had considered that, in light of the lack of any reliable estimate of the fin whale population off West Greenland, it would probably have to recommend reducing the catch quota on this species to zero. Given that the preliminary estimate made this year was considered unsatisfactory, the United Kingdom wanted to know what had led the Committee not to follow this approach this year. The United Kingdom also expressed concern about the high bias towards females in the catch of minke whales and asked what effect this might be thought to have on the stability of the population.

The Chair of the SWG responded that the present catch limit for fin whales is 19 animals. Thus, he suggested, the interim *ad hoc* advice this year is consistent with the Commission's recommendation last year with respect to a reduced catch.

With regard to sex ratio in the catches, he noted that it is quite common to find sexual segregation of minke whales in the North Atlantic. Although this question will be examined in great detail by the intersessional group, the evidence is that the sex ratio in the catch reflects the sex ratio in the waters off West Greenland. This is one of the pieces of evidence which suggests that the animals found off West Greenland do not comprise the whole stock.

Australia suggested that the Commission was facing a serious and invidious position coming up to the 2007 date to re-set catch limits for the Greenland ASW. Australia suggested that unless the Government of Denmark takes urgent action to correct the lack of relevant and robust data, the Commission will be asked to set catch limits for minke and fin whales without management advice from the Scientific Committee. On the basis of the Scientific Committee's current report, such catch limits would of necessity have to be set at precautionary very low levels, if at all. Australia called on the Government of Denmark to accept the Scientific Committee's urging at Item 8.2.3.4 of its report, and accordingly provide all necessary funding and resources to undertake essential research to support management advice. Furthermore, Australia noted that the Scientific Committee's interim advice is that a take of 4 to 10 fin whales would be unlikely to harm the stock in the short term. Australia calls upon the Government of Denmark to urgently consider implementing a voluntary limit on the take of fin whales of 4 to 10 animals each year (notwithstanding that 19 animals could be taken each year under the IWC's Schedule).

Mexico raised the question of how Denmark could land 175 minke whales in 2004, when only two animals were actually detected in the photographic surveys.

The Chair of the SWG noted that in fact in 2004, only one animal was identified on the photographs. This is one of the reasons that the Scientific Committee is concerned over the applicability of this technique to common minke whales. Until the thorough re-examination of photographs according to the revised protocols, it is not sure whether the technique is applicable. However, the Committee has more faith that the approach may be applicable for the larger fin whales. It is for this reason that the Committee is giving high priority to preparations being made for a full traditional visual survey targeted at the common minke whale in 2006. However, he cautioned that, given the prevailing weather conditions in West Greenland, there is no guarantee that a survey in 2006 will provide sufficient coverage for an acceptable abundance estimate to be obtained.

New Zealand noted that the scientific uncertainty regarding stock identity and abundance had been a serious and long-standing matter for the Scientific Committee. With regard to fin whales off Greenland, the Scientific Committee had warned since the late 1990s that, 'it had never been able to provide satisfactory advice on those stocks due to the lack of requisite data, particularly on stock identity and abundance'. This concern was reiterated by the Scientific Committee during the following three years and in 2002, the Scientific Committee added, 'the inability to provide advice on safe catch limits is a matter of great concern... with potentially serious consequences for the status of the stock involved'. Similar advice was reiterated in 2003 and again in 2004 when the Scientific Committee stated that in the absence of an agreed population abundance estimate for fin whales in the following year, it would likely respond immediately that the take of fin whales off West Greenland should be reduced or eliminated. Despite the scientific work conducted by Greenland in 2005, the Scientific Committee expressed its reservations and continued to urge that 'considerable caution be exercised in setting catch limits for this fishery'.

New Zealand pointed out that similar problems exist with stock assessments of minke whales off Greenland. Since the late 1990s, the Scientific Committee had warned that due to a lack of adequate research and data, it had 'never been able to provide satisfactory scientific advice on minke whales off Greenland'. Accordingly, it 'strongly recommended' a research programme specifically for this purpose. This concern was repeated in 2000, 2001, 2002 and 2003 as a matter of 'great concern'. Despite some initial scientific work by Greenland on this matter in 2005, the Scientific Committee continued to urge that 'considerable caution be exercised in setting catch limits for this fishery' because it has no scientific basis for providing advice on safe catch limits. New Zealand expressed the view that this record and the recent comments of the Scientific Committee provided a persuasive case for setting a zero catch limit. In New Zealand's opinion, this was one of the most serious areas before the Commission, and New Zealand questioned when the Commission was going to do something about rectifying this serious situation. New Zealand suggested that if there is determination and commitment to rectify this

in the short term, this responsibility falls squarely on the Government of Denmark.

Denmark was thankful for the report of the Scientific Committee on this matter, which had provided new information to them, and had given them 'food for thought' before the Plenary sessions on a matter which they took extremely seriously. Denmark will consider carefully how to solve the situation in relation to the stocks but it pointed out that setting catch limits or changing them is outside the terms of reference of the ASW sub-committee. In addition, Denmark expressed its concern as to the wellbeing of the minke whales and fin whales visiting Greenland waters as they contribute in an important way to meet the meat requirement of the Greenland society. Denmark stated that with regard to the report on minke whales from the Scientific Committee, that they, like the Scientific Committee, were reluctant to draw conclusions on the evidence presented. Nevertheless, Denmark did suggest that the assertion of a 90% decline during the last decade cannot be correct. This was because Denmark doubts that this group of minke whales is a separate stock, as there is evidence indicating that the stock summering at West Greenland is in fact a component of a larger stock. In addition, scientific knowledge that the sex-ratio is 50/50 when minke whales are born is at loggerheads with the fact that the catch in West Greenland is $\frac{3}{4}$ female and $\frac{1}{4}$ male, and has been so for decades. Thus, the Denmark take is not consistent with a 50/50 sex ratio in the stock – unless the Greenland catch is coming from a greater stock, and not on a separate stock. In addition, in minke whales, females are generally found further north in summer. The skewed sex ratio in the Greenland catch may therefore indicate that it is being taken from the northern fringe of the summer distribution of a larger stock. Denmark also raised the point that only adult minkes are caught in Greenlandic waters. Minke whale calves are not seen in Greenland waters. Denmark suggested that this raises fundamental questions about where the calves are. Finally, Denmark added that the hunters still use approximately the same time when they are hunting minke whales. If they were using more time, it could be the same as saying that there are fewer whales – but based on this evidence, that is not the case.

Denmark hoped that the Scientific Committee would succeed in establishing a link between the minke whales visiting Greenland waters and minke whales in other waters. However, Denmark was disappointed that the Scientific Committee had not proposed to the Commission any allocation of funds apart from £3,500 for genetic work, and Denmark suggested that without funds the uncertainty about stock structure would be carried into the future. They hoped to get the support of New Zealand to get further money for research in Greenland waters. Denmark noted that Greenland authorities had allocated extra funds in the last few years in order to meet the recommendations from the IWC on large whale assessments. In addition, they had allocated what amounts to US\$250,000 in each of the years 2003 and 2004 and Denmark is working towards getting further funds.

With regard to fin whales, Denmark expressed their concern about the state of fin whales in Greenland waters. They noted that as with the minke stock, it is unclear whether these fin whales are a stock of their own or part of a greater stock. Finally, Denmark noted that the Scientific Committee was not in a position to provide satisfactory management advice on safe catch limits. However,

Denmark did express their intention to exercise caution when setting catch limits for fin whales.

The Chair reminded the sub-committee of the fact that the renewal of the quota is due in 2007. Moreover, she expressed the hope that Denmark could find additional financial resources to carry out the necessary abundance estimates.

4.5 North Atlantic humpback whales off St. Vincent and The Grenadines

4.5.1 Report of the Scientific Committee

The Chair of the SWG recalled that in recent years, the Committee has examined the stock structure of humpback whales in the North Atlantic in the context of the fishery of St. Vincent and The Grenadines. It has stated that the most plausible hypothesis is that the whales from St. Vincent and The Grenadines are part of the West Indies breeding population, numbering around 10,750 animals in 1992, but has encouraged the collection of additional data. This year the Committee received confirmation of a photographic match between an animal taken in 1999 and an animal seen in the Gulf of Maine. Given this link and the previous information available, the Committee agreed that no change is required to the current block quota. The Committee also repeated its previous recommendations that wherever possible photographs and genetic material are collected from the catch. It was pleased to hear that two photographs (one from the 2003 catch and one from the 2005 catch) have been obtained and that arrangements will be made to send the photographs to the North Atlantic catalogue.

4.5.2 Discussion and recommendations

The United Kingdom urged St. Vincent and The Grenadines to send samples from any whales taken for genetic analysis. Saint Lucia stated that three samples from the hunt had been sent for genetic analysis to Japan and the USA as reported in the Scientific Committee report of 2003.

5. OTHER MATTERS

Mr Harry Brower Jr, the acting Chairperson of the Alaska Eskimo Whaling Commission (AEWC) following the death of Mr Thomas Napageak, made some brief comments on two other matters that are important to the AEW. First, he underscored the Scientific Committee's current bowhead population size estimate of 10,545 whales, with a 95 percent confidence interval of about 8,000 to 13,000. The estimated annual rate of increase for this stock is 3.4 percent. Mr Brower suggested that these numbers are consistent with what the hunters see during the bowhead migration. During the 2001 census a record calf count was documented. In addition, more small whales (known as *ingutuk*) were being seen, and may be taken as providing further evidence of increased calf production, which in itself, is one of the best indicators of the health of large whale stocks. Mr Brower suggested that these numbers and observations showed that under the AEW management plan, this stock was continuing to increase and was approaching its pre-commercial whaling size in the presence of their subsistence hunt. Mr Brower also suggested that the impressive recovery of the stock was due in part to the health and pristine nature of their ocean.

Mr Brower explained that although the IWC recognises the AEW as the local entity responsible for managing the bowhead hunt, his community also holds the AEW

responsible for protecting the bowhead whale and its habitat, including its feeding grounds from damage by oil and gas development, commercial fishing and shipping. This was problematic, as their oceans were warming and becoming more accessible, they were becoming very concerned about the increasing ship traffic in the Arctic Ocean, and they looked to the USA Government and the IWC to help them find ways to protect the bowheads from suffering the same fate as the North Atlantic right whale.

The second matter Mr Brower spoke on was bowhead genetics. He explained that his hunters were aware of the concerns raised at the IWC about bowhead whale stock structure. He noted that following earlier practices, the hunters were cooperating with research scientists, this time by donating tissue samples taken from the whales caught for their subsistence food. Mr Brower thanked the National

Oceanic and Atmospheric Administration (NOAA) for giving them the opportunity to manage the bowhead subsistence hunt through their cooperative agreement, and also thanked the North Slope Borough for the very significant contributions of financial support for research on bowhead whale biology. Finally, Mr. Brower thanked North Slope Borough Mayor, George Ahmaogak, Sr. for his many years of unwavering support of the AEW. Mayor Ahmaogak will retire this autumn after five terms; he has attended the annual IWC meeting since 1977. The AEW hopes that he will continue to work with them in the future.

6. ADOPTION OF REPORT

The Report was adopted on Saturday 18 June 2005, by correspondence.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Pam Eiser

Conall O'Connell

Gillian Slocum

Austria

Andrea Nouak (Chair)

Michael Stachowitsch

Brazil

Jose Palazzo

Chile

Eisa Cabera

Denmark

Henrik Fischer

Leif Fontaine

Michael Kingsley

Ole Heinrich

Amalie Jessen

Peter Olsen

Ole Samsing

Lars Witting

Dominica

Andrew Magloire

Finland

Esko Jaakkole

Germany

Peter Bradhering

Marlies Reimann

Iceland

Stefan Asmundsson

Asta Einarsdottir

Kristjan Loftsson

Gisli Vikingsson

Italy

Caterina Fortuna

Japan

Hiroshi Hatanaka

Akihiro Mae

Joji Morishita

Seiji Ohsumi

Midori Ota

Haruo Tominaga

Republic of Korea

Chiguk Ahn

Zang Geum Kim

Hyun-Jin Park

Sung Kwon Soh

Mexico

Lorenzo Rojas-Bracho

Netherlands

Benno Bruggink

New Zealand

Mike Donoghue

Al Gillespie (rapporteur)

Geoffrey Palmer

Norway

Halvard Johansen

Anniken Krutnes

Egil Øen

Hanne Østgard

Jorn E. Pedersen

Sweden

Bo Fernholm

Anna Roos

Switzerland

Bruno Mainini

Russian Federation

Rudolf Borodin

Vladimir Etylin

Valentin Ilyashenko

Gennady Inankeuyas

Olga Ipatova

Vlailen Kavry

Igor Mikhno

John Tichotsky

UK

Richard Cowan

Laurence Kell

Jennifer Lonsdale

Trevor Perfect

Mark Simmonds

USA

Harry Brower, Jr

Roger Eckert

Maggie Hayes

Cheri McCarty

Micah McCarty

Daniel J. Morast

Rolland Schmitt

Diana Weigmann

Appendix 2

AGENDA

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| <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. Aboriginal Subsistence Whaling Scheme <ol style="list-style-type: none"> 3.1 Aboriginal Whaling Management Procedure (AWMP) <ol style="list-style-type: none"> 3.1.1 Report of the Scientific Committee 3.1.2 Discussion and recommendations 3.2 Aboriginal Whaling Scheme (AWS) <ol style="list-style-type: none"> 3.2.1 Report of the Scientific Committee 3.2.2 Discussion and recommendations 4. Aboriginal Subsistence Whaling Catch Limits <ol style="list-style-type: none"> 4.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales <ol style="list-style-type: none"> 4.1.1 Report of the Scientific Committee | <ol style="list-style-type: none"> 4.1.2 Discussion and recommendations 4.2 North Pacific Eastern stock of gray whales <ol style="list-style-type: none"> 4.2.1 Report of the Scientific Committee 4.2.2 Discussion and recommendations 4.3 Minke whale stocks off Greenland <ol style="list-style-type: none"> 4.3.1 Report of the Scientific Committee 4.3.2 Discussion and recommendations 4.4 West Greenland stock of fin whales <ol style="list-style-type: none"> 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 <ol style="list-style-type: none"> 4.5.1 Report of the Scientific Committee 4.5.2 Discussion and recommendations 5. Other matters 6. Adoption of the report |
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TERMS OF REFERENCE

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).

ADMISSION OF OBSERVERS

Rule of Procedure C.2

Observers accredited in accordance with Rule [of Procedure] 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.

Annex E

Report of the Revised Management Scheme Working Group

Wednesday 15 June 2005, Ulsan, Korea

A list of participants is given as Appendix 1.

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Henrik Fischer (Denmark/Chair of the Commission) was appointed as Chair of the Revised Management Scheme (RMS) Working Group. He welcomed delegates to the meeting, especially those from governments that had adhered to the International Convention for the Regulation of Whaling since IWC/56 last year.

1.2 Introductory remarks and objectives of the meeting

The Chair drew attention to the Terms of Reference for the Working Group, given in Resolution 2004-6 adopted last year, i.e. to:

- (1) 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) take account of delegates' comments at IWC/56, as well as written submissions from delegates; and
- (3) provide guidance to, and to review the work of, the Small Drafting Group.

He noted that Items 2 and 3 were relevant to the intersessional work that had taken place since IWC/56 in Sorrento and have already been addressed. Consequently, he suggested that this meeting of the Working Group should focus on the first item.

1.3 Appointment of rapporteurs

Nicky Grandy and Greg Donovan from the IWC Secretariat were appointed as rapporteurs.

1.4 Review of documents

The documents presented to the Working Group are listed in Appendix 2. Noting that the reports from the intersessional meetings of the Working Group and Small Drafting Group (SDG) were made available to Contracting Governments principally via IWC's website, concern was expressed by one delegate that this puts delegations without access to the internet at a disadvantage. The Secretariat reported that its policy is to send copies of all pre-circulated documents to Contracting Governments by email or post on request, but that documents can also be obtained from the Secretariat office at the meeting.

2. ADOPTION OF THE AGENDA

The Agenda given in Appendix 3 was adopted.

3. COMMENTS ON THE REPORTS FROM THE RMS WORKING GROUP AND SMALL DRAFTING GROUP

3.1 Overview of intersessional work

Prior to addressing comments on the reports, the Chair invited the Secretariat to give a brief overview of the intersessional work since IWC/56, particularly for the benefit of those who were not able to participate in any of these activities.

The Secretariat reminded the Group that Resolution 2004-6 had anticipated two meetings of the Working Group and SDG prior to IWC/57. The Terms of Reference of the Working Group for this intersessional period are given under Item 1.2 above.

The Terms of Reference for the Small Drafting Group (SDG) were as follows:

'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; and
- (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.'

The RMS Working Group was open to all Contracting Governments and observers while the SDG comprised 12 countries: Argentina, Denmark, Dominica, Rep Guinea, Iceland, Japan, Netherlands, New Zealand, South Africa (who later withdrew and were replaced by Germany), Sweden, UK and the USA.

It had been anticipated that there would be two meetings of the RMS Working Group and of the SDG before IWC/57 with a further meeting of the RMS Working Group in Ulsan. In addition the need for the establishment of technical specialist groups was recognised. In the event, the first RMS meeting was held in Borgholm from 29 November to 1 December 2004, at the kind invitation of the Government of Sweden (and co-sponsored by the Netherlands); this was immediately followed by a two-day meeting of the SDG. The second RMS meeting was held in Copenhagen from 30 March to 1 April 2005, at the kind invitation of the Government of Denmark; this was followed by a further two-day SDG meeting.

At the first meeting, the main topics considered were: practical mechanisms for adopting an RMS; what elements should comprise an RMS package; the development of instructions to the SDG; and the development of instructions to the technical specialist groups.

With respect to the first item, two approaches were considered. The first was to create a single draft RMS text that includes all of the options proposed using square brackets that could be voted upon paragraph-by-paragraph. The second was to develop complete text for one or more scenarios/packages reflecting the different views on what an RMS should contain, such that the package(s) could be voted on as a whole. More support was given for the first approach in the discussion, although some concern was expressed that this could lead to an RMS with internal contradictions.

The discussion of what elements might comprise a final RMS package took as its starting point the Chair's proposal. In that the following elements were proposed:

- (1) the RMP as endorsed by Commission;
- (2) a phase-in of commercial whaling with it initially being restricted to national waters;
- (3) a national inspection and international observer scheme that was largely the same as the one developed by an earlier expert drafting group;
- (4) additional catch verification measures involving national DNA registers/market sampling with international oversight, a resolution to deter IUU whaling and a national catch documentation scheme assisted by the IWC if required;
- (5) a Compliance Review Committee with terms of reference that had been largely developed by an earlier expert drafting group;
- (6) a mechanism to apportion costs, with some being shared and others allocated to the whaling nations;
- (7) a link between an agreed RMS and the lifting of Paragraph 10(e) provided that whaling only took place under the full RMS;
- (8) a voluntary code of conduct for scientific whaling; and
- (9) animal welfare issues reflected in general text in Schedule plus the voluntary provision of data and an agreed research programme to improve killing techniques.

The Borgholm meeting then took each of these elements and reviewed them in the light of written comments from member governments and comments from the floor. For all of these elements, views were expressed by at least some countries that did not support the Chair's proposal. It was agreed that rather than trying to reach compromises on these it was preferable to develop further options for consideration by the SDG. The floor was also open for additional issues or elements to be raised and these included discussion of the inclusion of a 'statement of principle' and an explicit consideration of sanctuaries.

The Borgholm meeting also agreed to establish four technical specialist groups: Vessel Monitoring Systems (VMS); DNA/market sampling; code of conduct for scientific permit whaling; and animal welfare issues.

The VMS group was asked to consider whether VMS was needed on all vessels given IWC requirements, the advantages and disadvantages of national and centralised systems, possible technical specifications and associated costs. The group was led by Iceland and its report (IWC/57/RMS3 Annex II.D) was developed by email.

The group examining DNA registers/market sampling was asked to develop specifications for diagnostic registers, mechanisms for avoiding fraudulent claims and for ensuring transparency/audit/oversight, and to look at the advantages and disadvantages of centralised tissue and

DNA profile archives compared to just a profile archive. This group was led by the USA and it met in La Jolla, California in March 2005. Its report is given as IWC/57/RMS3 Annex II.E.

The group considering a code of conduct for scientific whaling comprised the Chair and Vice-Chair of the Scientific Committee and the Head of Science. It worked by email and its report is given as IWC/57/RMS3 Annex II.H.

The group looking at animal welfare issues was originally led by the UK but later was led by New Zealand. Its tasks were to develop specifications: to give effect to Chair's proposal; for the compulsory collection of data by international observers of all whales killed under the RMS; and for prescribed killing methods and conditions under which whales could be killed under the RMS. The report of the group is given as IWC/57/RMS3 Annex II.I

At the first meeting of the SDG, text was drafted for those issues for which instructions had been given. In addition New Zealand and Sweden agreed to undertake some additional work on possible catch documentation systems.

The second meeting of the RMS Working Group in Copenhagen reviewed the work of the technical groups, undertook a further discussion of each element, developed further instructions for the SDG and identified further work to be undertaken prior to IWC/57 to aid the formulation of text for some of the options proposed. This included the finalisation of the technical specifications for DNA registers/market sampling (by the same earlier technical group), the further elaboration of the IWC catch document scheme (New Zealand and others), an exploration of the nature of additional compliance measures possible within context of the Convention (UK and others) and the development of minimum conditions for hunting (UK and others). The need for further technical specifications for VMS was recognised but no group was established at this second meeting.

In summary, during the intersessional period, progress was made in developing better description of, and technical specifications for, some of the possible RMS package elements. However, at the same time there was no consensus on either what elements should be part of a package or indeed on a single option for any of the possible elements. In fact one result of the intersessional work was an increase in the number of options for most of the potential elements of an RMS.

3.2 Comments on the reports

There was only a brief discussion under this item in Ulsan. Japan commented that it had some problems with one of the options regarding the question of Paragraph 10(e) in IWC/57/RMS4, particularly with respect to the apparent attempt to limit the right to objections. Norway added that it believed that Paragraph 10(e) should be removed as soon as an RMS was agreed. The Chair noted that such an option could be added to the list in IWC/57/RMS4.

4. PROGRESS WITH FURTHER TECHNICAL WORK

4.1 The 'blue box'

At the Copenhagen meeting, Norway had indicated that it was developing an Automated Electronic Monitoring

System (colloquially known as the 'blue box') to monitor whaling operations that would obviate the need to have national inspectors on each vessel. At this meeting, Dr Egil Øen presented information on the blue box and on the results of trials carried out during whaling operations. Details can be found in Appendix 4. In summary, the blue box comprises an independent GPS (that can monitor position and time – and thus speed and course – of the vessel) and a series of sensors (calibrated for individual vessels) that can identify when a harpoon has been fired and when a whale has been hauled alongside and onto the vessel. Data are encrypted. Blue box development work began in 2001 and field trials on 13 vessels took place in 2004. As a result, some modifications have been made and further trials with 29 vessels are taking place. The development programme is expected to be completed in 2005.

The Working Group thanked Norway for its interesting presentation. In response to a number of questions relating to the role of the blue box and the possibility of fraud, Norway clarified that its intention was that the final version of the blue box would replace national inspectors on every vessel, although there would be monitoring checks by inspectors during the season. In addition, the data from the blue box will also be checked for consistency against the detailed log books that must be filled out by each skipper. It noted that it would be extremely difficult for a skipper to fabricate the logbook information such that it matched the blue box data. There are also a number of inbuilt monitors that can restart the system in case of failure and can detect whether the box has been unlawfully tampered with.

A number of delegations (UK, Australia, New Zealand, Germany, Spain) expressed concerns that the blue box would not be able to collect all of the information about the hunt that they believed to be necessary. Many of these centred on animal welfare information such as verification that penthrite grenades are used, information on the secondary killing methods used (including number of rifle shots and the position of those shots) and data on time to death. With respect to the last point, Australia questioned whether the current time-to-death results from the hunt would continue if the incentive of an inspector being on board was removed. New Zealand queried whether the presence of a blue box would have prevented the case of the 15 minute, 7 rifle shot hunt referred to in the WKM &AWI meeting. They also noted that the system would not be able to confirm the species of whale caught or whether the animal was a pregnant or lactating female.

Norway responded that the blue box was just one part of the overall national inspection scheme. A numbering system for the grenades is in place and the crew is obliged to retain parts of fired grenades; this information is checked when the vessel returns to port. It also noted that the present killing methods are the result of an intensive programme lasting over 25 years and the results on instantaneous death in some 80% of the animals are exceptional for a wild animal hunt, although efforts to improve the system will continue. However, given this, it does not believe that it is necessary to continue to collect time-to-death data independently for all animals killed. Similarly, information on the number of rifle shots seems to be unnecessary when it is known that one well placed shot is sufficient to give the coup de grace. Norway stressed that whalers do not require inspectors to provide an incentive to kill animals quickly and humanely; all whalers wish to kill

animals as quickly as possible with as little suffering as possible. It was disappointed that once again certain countries continue to ask questions that imply that whalers have different standards to other members of society with respect to animal welfare issues. With respect to the case cited by New Zealand, Norway noted that the presence or absence of an inspector was irrelevant. It was not able to comment in detail on the case as Dr Øen would be interviewing the skipper to discover the precise situation surrounding the hunt of that animal on his return to Norway. However, it noted that exceptions occur when any animals are being killed, be it in hunts or slaughterhouses. All animals caught in the Norwegian hunt have DNA samples taken that *inter alia* can be used to confirm species identification. Although most female common minke whales in Norwegian waters are pregnant, lactating females and calves are not seen.

Some countries (Japan, Korea, Guinea) congratulated Norway on the system it had developed, noting that many other fisheries bodies are moving towards automated monitoring systems and they urged Norway to publish information on the system more widely. Guinea also noted that it was a particularly valuable system for small boats. In response to a question Norway commented that the approximate price of the system would be less than £8,500 depending on the particular specifications (e.g. number of sensors) and including installation and configuration.

4.2 DNA register/market sampling scheme

The Secretariat briefly summarised the work of the SGDNA (Technical specialist group on DNA registers and market sampling schemes). The SGDNA comprised scientists from Iceland, Japan, Netherlands, New Zealand and the USA, as well as the Head of Science from the Secretariat. It met at the kind invitation of the USA at the Southwest Fisheries Science Center in La Jolla. Its report, given as Annex I.I.E in IWC/57/RMS3, was presented at the RMS Working Group meeting in Copenhagen. As a result of discussions there, instructions were given to the small drafting group (see Annex 7 of IWC/57/RMS4). The primary drafting options considered were for either a centralised system or a national system with international audit. It was noted that the technical specifications for both options are essentially the same, the primary differences relate to who is responsible for carrying them out. Given this, the Head of Science developed draft text for a 'dated' Appendix called 'Specifications and Requirements for Diagnostic DNA Registers and Market Sampling Schemes' – given as 'Appendix {DNA}' to Annex 7 of IWC/57/RMS4. The aim was to develop text with as few square brackets as possible and indicating where decisions of the Commission are needed. Following the Copenhagen meeting the draft was circulated to the members of the SGDNA who agreed with the text. Little further technical work is possible until the Commission decides which option, if any, it wishes to include in the RMS.

The Working Group thanked the SGDNA for its work. On a point of clarification, it was noted that the question of access to the samples themselves by experts from Contracting Governments was not considered in detail by the SGDNA (although see Item 9 of Annex I.I.E in IWC/57/RMS3). However, the level of access will depend on which option (national or international) is chosen; most of the discussion in the SGDNA had centred on access to the DNA profiles.

4.3 Catch documentation and labelling schemes

Issues relating to catch documentation schemes were discussed in Borgholm and Copenhagen and the work of the SDG can be found in Annex 8 of IWC/57/RMS4. Options considered were the Chair's proposal for a national scheme (with a voluntary IWC pro forma) and a full IWC-operated scheme including product labelling. The question of whether this should be to point of entry/landing, wholesaler or retailer was left open. At the present meeting, New Zealand introduced an updated version (IWC/57/RMS7) of the IWC scheme discussed in Copenhagen that had been prepared by New Zealand, Sweden and the UK. This has been included as Appendix 5 to this report.

The Working Group thanked the authors for their intersessional work. After a suggestion from the USA that there be consistency in the wording between the proposed Schedule text and the Annex pertaining to the exemption for aboriginal subsistence whaling, discussion within the Working Group centred on two issues previously considered: the relationship with CITES documentation; and the competence of the IWC with respect to trade related matters.

Some countries (e.g. Norway, Iceland) commented on the need to avoid overlap with the documentation requirements of CITES; they believed that unnecessary duplication would merely add an additional burden on whaling countries to no appreciable benefit. New Zealand responded that it had examined the CITES form and concluded that the requirements of the IWC in this context would be different from those of CITES. Given the fixed nature of the CITES documents it believed that it was appropriate to keep the two systems separate. The UK added that if commercial whaling were to resume, it was possible that changes in the CITES listings would follow and that CITES documentation may no longer be a requirement. It also noted that an IWC scheme would aid traceability. Under such circumstances it seemed appropriate to develop an IWC scheme.

The issue of the competence of the IWC in trade-related issues has long been discussed. Japan re-iterated its long-held view (shared by many others) that such matters are outside IWC competence. In this context it commented that many aspects of the proposals being considered conflicted with this position. However, it noted that it has its own regulations relating to labelling and traceability of products, and that it was prepared to share such information on a voluntary basis. Sweden, the UK, Australia and New Zealand stressed that in their view the issue was not one of monitoring trade per se but rather of using this as a compliance tool to ensure that IWC rules were not being broken and that breaches were identified. Iceland remarked that in its view, the use of the words 'The export, import or re-export of whale products without a certified Catch Document is prohibited' indicated that the measure certainly was about IWC control over trade. While there was no agreement on this issue, New Zealand indicated that it was pleased to note that Japan was willing to share information on its domestic scheme; it would welcome suggestions from any delegations on improvement to the present draft.

4.4 Options for compliance mechanisms under the RMS

The issue of the IWC's role in setting penalties and imposing sanctions with respect to infractions was

discussed extensively in Borgholm and Copenhagen. It had been agreed (IWC/57/RMS3 p.45) that a group comprising the UK, Australia, Argentina and New Zealand would develop a discussion document exploring the measures the Commission may be able to take in this regard under the Convention. The UK introduced IWC/57/RMS6 (now included as Appendix 6 to this report). The paper examined developments in international environmental and fisheries agreements, looked at the basis for a compliance procedure under the IWC Convention and proposed some key components for an IWC compliance scheme. In the paper, the key components identified were: reporting and monitoring obligations; verification procedures; and non-compliance response. It proposed *inter alia* that the Compliance Review Committee should:

- (1) be able to consider how effectively Contracting Governments have fulfilled their obligations with respect to investigating alleged infractions thoroughly and ensuring that violators are deprived of the benefits of non-compliance;
- (2) be able to recommend to the Commission that information on vessels committing infractions be shared and that revocation of vessel licences/registration be considered; and
- (3) be able to make recommendations to the Commission on a reduction in quotas in response to non-compliance (including to zero in extreme cases).

It also considered that quotas should be set for three year blocks and that they automatically revert to zero at the end of the block, with the Commission taking into account the views of the Compliance Review Committee before new quotas are set. The UK noted that this approach may be an alternative to considering a change to the Convention.

Iceland asked if it was a correct understanding of the paper that it did not foresee binding decisions by the IWC but rather non-binding recommendations, noting that if so, this marked a positive change from discussions in Copenhagen where some had suggested IWC decisions on minimum standards for punishments. The UK confirmed that this was a correct understanding, adding that there would be a gentleman's agreement that decisions would stand.

Some countries expressed reservations (e.g. because of questions related to the compatibility of suggestions in the paper with the Convention) and/or suggested that they needed more time to consider the paper further (Japan, Iceland, Norway). Sweden indicated its broad support for the paper. Others (New Zealand, Australia, Argentina, Brazil, Chile, Germany) also broadly supported the paper and they believed that emphasis should be given to the development of a binding compliance mechanism and that progress could be made on this interessionally. Argentina, Australia and the USA agreed to work with other countries to form a scoping group to determine how this might best be achieved.

4.5 Animal welfare issues

The UK introduced IWC/57/RMS5 (included in this report as Appendix 7). At the Copenhagen meeting (see Annex 12 of IWC/57/RMS4) the UK had agreed to develop text on a set of minimum standards that incorporate welfare conditions when specifying whale killing techniques. They put forward this document as providing a suitable structure

for such text, while recognising that further research was necessary.

5. ASSESSMENT OF PROGRESS WITHIN INTERSESSIONAL WORK IN RELATION TO RESOLUTION 2004-6

5.1 Outstanding policy and technical issues

Resolution 2004-6 had charged the Working Group 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.

There was some consideration as to how best to review progress and identify outstanding issues. The Secretariat had developed a summary table of general issues (e.g. elements to be considered as part of an RMS package) and specific issues (for each of the proposed elements) identifying where there were outstanding policy and technical issues, as a possible way to help structure and stimulate the discussions.

Brazil expressed its concern with this approach. It believed that producing a summary table marginalised the extensive discussions that had taken place and that were recorded in IWC/57/RMS3 and 4. In particular, it strongly believed that its view of the overall value of sanctuaries and its right to the non-lethal use of whales should be highlighted before any discussion on individual elements in the context of an RMS. Argentina and Chile supported the position of Brazil with respect to the importance of non-lethal management being adequately recognised as part of a broad agreement.

The Secretariat reiterated that the table had been developed as an aid to discussions not to suppress such discussions and indeed the general issues items at the start of the table had been intended to allow such overarching principles to be discussed. If the table did not fulfil a useful function then it was happy for it to be withdrawn. It also noted that it was not intended that the summary should replace the existing extensive material and that it was intended to include references to IWC/57/RMS3 and 4 in any updated table.

With this clarification, and noting Brazil's comments on non-lethal use, the Working Group then went on to review the table to ensure that it captured the various options and outstanding issues adequately. It was agreed that the table should not include any commentary or evaluation. Table 1 represents the result of these discussions.

5.2 General comments

At the end of the meeting there was a general discussion of the status of discussions on the RMS and possible ways forward, comprising largely of statements by individual countries. Rather than try to provide a verbatim record of those statements, this section of the report summarises the main general points made.

Comments on the Chair's proposal

A wide range of views were expressed over the value of the Chair's proposal. A number stated that they broadly welcomed the proposal as a constructive way forward, even though they may have reservations on one or more aspects of the proposal (e.g. see comments on Scientific Permits below). Some of these noted that no alternative to the

Chair's proposal exists and that it therefore remains the only possible alternative to letting the whole RMS process collapse. Other delegations were unhappy with many or even all aspects of the proposal and did not believe that it represented a basis for future discussions. Their views on some individual items are given below.

Comments on the progress of RMS discussions

Several delegations expressed their concern that after 10 years of discussions, the Commission was still not close to a consensus RMS. They stated that international regulation of whaling was essential and believed that the present situation was not acceptable. Some commented that they believed that many of the issues that were being raised were outside the bounds for a discussion of ensuring sustainable whaling and were intended to slow down progress. In this context some delegations believed that views expressed by some countries that commercial whaling was never acceptable were in contradiction with the aim of the Convention. Other delegations commented that although they were opposed to commercial whaling, they were completely within their rights to participate fully in discussions to ensure that if commercial whaling was ever to resume, it was undertaken under a regime that as a minimum represented best international practice, and preferably, given the history of whaling, set new standards. In response, one delegation pointed out that the situation today with regard to whaling (where it is almost exclusively aimed at meat for human consumption, with a limited market) is completely different to previous large-scale whaling in the Antarctic where the demand for oil was immense.

Comments on special permit whaling

Many delegations expressed the view that a voluntary code of conduct on scientific permit whaling was not sufficient, although how to develop a mechanism to achieve a binding agreement (e.g. on a phase-out of scientific permit whaling) was unclear. Several stressed that this issue was the most important feature of RMS discussions to their delegations. A number of delegations expressed their concern that catches would be even higher if an RMS was introduced without a restriction on scientific permit whaling. Other countries noted that Article VIII of the Convention is perfectly clear on the sovereign rights of states to issue special permits for scientific research, although they can accept the concept of scientific guidelines. They noted that if an RMS was introduced, for those species/stocks for which commercial whaling was allowed catches by scientific whaling would be subtracted from total allowable takes to give the commercial catch limits. It was observed that this would not apply to protected species/stocks. New Zealand reiterated its view that it was not acceptable to have unlimited whaling using the special permit provisions as well as an RMS – it believed that it was disingenuous of Japan to suggest otherwise.

Comments on other high priority issues

A number of delegations highlighted those areas which they believed were of particular importance in reaching agreement over an RMS package. These include the linkage (or otherwise) between an agreed RMS and the lifting of Paragraph 10(e); the apportioning of costs; animal welfare issues; compliance; and sanctuaries in the context of non-lethal management of whale resources.

Table 1			
Summary of status of present discussions and outstanding issues presented in response to Resolution 2004-6. Note: readers are referred to the extensive discussions of these items in IWC/57/RMS 3 (RMS Working Group) and 4 (Small Drafting Group) for a full consideration of the issues.			
Issue/element	Brief summary	Outstanding issues remaining	
		Policy	Technical
RMS 'Package' IWC/57/RMS3	There is still no agreement on what elements should comprise an RMS package.	Yes	No
RMS adoption procedure IWC/57/RMS3, p. 5	Should any prospective RMS be voted upon as a complete package or packages, or should a paragraph by paragraph approach be adopted. There are also practical implications as to how the voting should take place.	Yes	Yes (voting mechanism)
Statement of principle IWC/57/RMS3, pp. 5-6; 37 (IWC/57/RMS4, Annex 4)	Options: (1) no statement; (2) short statement; (3) and (4) one of two longer statements.	Yes	No
RMP IWC/57/RMS3, pp. 6-7; 37-8 (RMS 4, Annex 5)	Options: (1) RMP as currently agreed; (2) RMP with different tuning level. Possible addition: text regarding periodic review of RMP.	Yes	No (although yes if Norway proposes a case-specific <i>CLA</i>)
Phased in approach to whaling once RMP implemented IWC/57/RMS3, pp.7-8; 38-9 (RMS 4, Annex 5)	Options: (1) No phase-in; (2) No 'high seas whaling'; (3) Limited to national waters for initial period. Possible addition: compensation mechanism	Yes	Yes to specify compensation mechanism
Sanctuaries IWC/57/RMS3, pp. 25; 48-9 (RMS 4, Annex 5)	Options: (1) Not necessary as part of RMS, existing provisions clear; (2) Proposed text on sanctuaries.	Yes	No
National Inspection and International Observers IWC/57/RMS3, pp. 8-11; 39-41 IWC/57/RMS3, Annex IID (RMS 4, Annex 6) This report Item 4.1 and Annex D	Options: (1) As proposed by EDG with some later updates (takes into account issues relating to very small vessels); (2) All vessels must have an international observer irrespective of vessel size; (3) VMS only on very small vessels; (4) VMS on all vessels even where observer present; (5) No specification of nature of national inspection QQ of priority between national inspector and international observer; QQ on national or international VMS system; QQ on real-time or periodic reporting.	Yes	Yes: further work on technical specifications for VMS
DNA registers/market sampling IWC/57/RMS3, pp. 11-16; 41-3 IWC/57/RMS3, Annex IIE RMS4 Annex 7 This report Item 4.2	Options: (1) national schemes with international audit; (2) centralised IWC system; (3) not included.	Yes	Most work done irrespective of options chosen, but some further specification needed linked to policy decisions
Legal deterrence of IUU whaling IWC/57/RMS3, pp. 16; 43 (RMS4 Annex 8, 1)	Options: (1) Resolution, with commitment; (2) Incorporation into Schedule.	Yes	No
Catch documentation scheme IWC/57/RMS3, pp. 16-17; 43-44 IWC/57/RMS3, Annexes IIF and G (RMS4 Annex 8, 2) This report Item 4.3/Annex E	Options: (1) National scheme; (2) IWC scheme (see RMS7); (3) No scheme; QQ To which point in process doe scheme apply (point of entry/landing/wholesale/retail).	Yes	Further work needed depending on policy choice
Compliance monitoring IWC/57/RMS3, pp. 16-17; 44-5 (RMS4 Annex 9) This report Item 4.4 and Annex F	Options: (1) Compliance review committee as agreed by EDG; (2) Infractions Committee; (3) Change to Convention* QQ Level of IWC involvement in setting penalties; QQ Implications of RMS 5.	Yes	Yes (legal issues with respect to penalties and sanctions)
Costs IWC/57/RMS3, pp. 19-20; 45-46 (RMS 4, Annex 10)	Options: (1) Chair's proposal for cost sharing; (2) All by whaling countries; (3) Factor in membership contributions; (4) Core (IWC) plus rest to whaling countries	Yes	Yes in terms of identifying actual costs (depends on several policy decisions) and nature of contributions scheme, etc.
Link between RMS and 10(e) IWC/57/RMS3, pp. 20-23; 46 (RMS 4, Annex 11)	Options: (1) Link to ensure whaling only carried out under RMS (i.e. to avoid objections) (2) Two-stage approach – first adopt RMS, then soon after 10(e); (3) Retain 10(e) but gradual exemptions; (4) No link (5) Direct link	Yes	Yes in terms of options seeking to avoid problems associated with trust and objections
Animal welfare considerations IWC/57/RMS3, pp. 24-25; 47-48 IWC/57/RMS3, Annexes II I & J (RMS 4, Annex 12)	Options: (1) General <i>Schedule</i> paragraph plus voluntary data submission and regular workshops/co-operative research programme; (2) Specific <i>Schedule</i> text on data collection and conditions for hunting; (3) Not included	Yes	Yes if a co-operative research programme is to be developed or if final Schedule specifications are to be developed
Scientific permits IWC/57/RMS3, pp. 23-4; 46-7 IWC/57/RMS3, Annex II.H	Options (1) Voluntary code of conduct (2) Binding code of conduct (3) Phasing out via protocol* (4) No reference to scientific whaling as part of an RMS.	Yes	Yes if final codes are to be developed

*This is outside the Terms of Reference of the RMS Working group but mentioned during the WG meetings.

Comments on the need for discussions to be taken to the next political level

Some countries noted that the impasse over some important issues despite many years of negotiating within the IWC were such that other approaches should be considered (e.g. a diplomatic conference, discussions at ministerial level). The Russian Federation added that some aspects of some of the proposed RMS package elements implied changes to the Convention; this is not within the competence of the IWC and would need to be addressed by a diplomatic conference.

5.3 Conclusions

In the absence of any response from the floor, the Chair concluded that the RMS Working Group was not in a position to put forward a 'finalised RMS text ready for

consideration, including for possible adoption' at the plenary session. He therefore proposed that he would refer the plenary to its discussions of outstanding policy and technical issues. In response to a question from the USA, the Chair stated that he would not be putting a proposal for RMS text forward to the Plenary as Chair. Japan indicated that it may put forward proposed text and that it will consult with as many members as possible over this.

6. OTHER MATTERS

No other matters were raised.

7. ADOPTION OF THE REPORT

The report was adopted on Saturday 18 June 2005.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda

Tricia Lovell
Antony Liverpool

Argentina

Miguel Iniguez

Australia

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Appendix 2

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Appendix 3

AGENDA

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Appendix 4

ELECTRONIC MONITORING OF NORWEGIAN MINKE WHALING

Dr. Egil Ole Øen

Associate Professor, Norwegian School of Veterinary Science, Section of Arctic Veterinary Medicine, Norway

Management Surveillance of Hunting

Successfully managed harvesting of resources must ensure that harvesting practices fit within long term resource sustainability goals. Most commercial fisheries and hunting activities therefore utilise monitoring programmes to ensure compliance with the regulations in addition to collection of information supporting fishery and wildlife management, stock assessment and scientific research. The methods for management surveillance of activities at sea have traditionally been at-sea inspector and observer programmes, logbooks and data collection by scientists and trained observers. Most monitoring programmes at sea are therefore costly because of the high labour component associated with at-sea observers.

The traditional methods for at sea monitoring of the harvest of minke whales in Norway have included logbooks and at-sea inspector programs. In addition every boat is controlled and must be approved for hunting by governmental inspectors from the Norwegian Directorate of Fisheries and the Norwegian Food Safety Authority before they are allowed to start the hunt. The control includes relevant documents and licences, weapons and hunting equipment, and that the standards of hygiene comply with Norwegian regulations. In addition, at-sea inspectors have also been trained to collect data for scientific institutions in addition to the scientists that are at sea on several boats during the hunt.

The inspector programme has given 100% coverage of the boats and hunting activities, which is highly unusual both compared with most fisheries management regimes, wild game hunting as well as several other activities where animals are harvested or killed. For example in hunting of terrestrial animals in Norway specially trained officers are present in the area and monitor the hunting activities by random or periodical checks in addition to hunter's licence check and weapons control. The terrestrial hunters themselves are also commonly ordered to sample specimen for science and management surveillance.

The Norwegian minke whale hunt

In Norway only one whale species is targeted, namely the minke whale, and it is hunted from small fishing vessels that are rigged for whaling in the season. The IWC definition of this catching operation is 'small type whaling', see Schedule, Paragraph 1 C. The whales are killed using a penthrite grenade mounted on a harpoon. The dead whales are hauled on board across the deck and butchered. The products are stored in ice in the hold before being brought to processing plants on land.

The boats operate in areas through which whales migrate or feed. A stealthy approach is normally used to get close to the whale. There is no chasing at high speed or support of electronic devices like sonar. The hunters simply idle the boat slowly towards the position where they believe that the whale will surface to take its next breath and the whales are often shot when they are passing by or approach the boat. The hunt is therefore dependent on calm sea and little wind. In periods with windy weather, which

sometimes might last for days or weeks, the boats usually must stay at port. From 1993 to 2004, one inspector was present on every vessel through its whole season, which could last up to 7-8 weeks.

Electronic monitoring and surveillance of minke whaling

Traditional methods for monitoring the hunt in the Norwegian harvest of minke whales have included logbook inspection, at-sea inspectors from Norway, Sweden, Denmark and Germany, and North Atlantic Marine Mammal Commission (NAMMCO) nation observers. The monitoring programme using inspectors on every vessel has gradually become extremely costly. The costs have annually been about NOK 6 millions (€750,000/US\$950,000). The system has been useful in monitoring hunting regulations, but it has unintentionally imposed important side effects on the execution of the hunt and on hunting practice. The annual cost for the inspection scheme has been far too high for the vessels to be paid from the income from the harvest, and has been paid by the government. To keep costs down, inspection time has been limited (less than 2 months per boat). This time restriction has prevented the hunters from their earlier and traditional opportunistic 'fair weather' hunt, which had many similarities with the aboriginal hunting of whales, and forced them to start the season when the inspectors are available. In periods with much 'bad' or windy weather the vessel's 'inspection time' will run without any hunting, which sometimes results in a tendency to hunt the largest animals instead of the young ones to secure their income before the inspection time is over. Another serious effect is that, for the smallest vessels, one of the crew has to stay at port and consequently lose income, to make room for the inspector during the season.

An electronic tamper-proof automated computing system to independently monitor the whaling activities would ease some of these unnecessary and unintended restrictions and be superior to the traditional monitoring system in many ways. It would provide a lower cost alternative, it would bring the hunt back to its traditional opportunistic 'good weather' hunt and still secure that the harvest fit within long-term resource conservation targets and sustainable goals. It takes little space, it does not sleep, eat, and does not socialise with anyone.

Program for development of automated electronic monitoring technology for minke whaling 2001-2005

A project to develop an electronic monitoring system, a trip recorder, named Blue Box (BB) system, started with governmental funding in 2001 at Norwegian School of Veterinary Science after request of Norwegian Fishermen Association.

The Blue Box system consists of a control and data logger box (Blue Box) designed to independently monitor and log hunting activity data provided by an independent GPS and different sensors (deliverers) placed in certain areas and structures of the boat, data that prove that a whale

is shot and taken on board. The control box and the sensors are configured and calibrated individually for each vessel. The system is automated with programmes designed for the continuous operation and logging of data for at least four months and equipped with backup batteries and automatically restarting functions following system interruption.

The Blue Box system includes in summary the following components:

- Control box (Blue Box)
- Independent GPS - antenna
- Shock transducers
- Strain transducers
- Heel sensor

Control Box (Blue Box)

The heart of the electronic monitoring system is a metal, tamper-proof box that houses the computer system, system and data disks, backup batteries and heel sensor. The locked and sealed box is normally mounted in a cabin that can be locked from outsiders and operates on an independent circuit of 24 volts DC. Data are stored on high capacity disks. The system operates within a temperature range of $\pm 30^{\circ}\text{C}$ ($+85^{\circ}\text{F}/-20^{\circ}\text{F}$). Potentially failures in the power supply or data supply from the sensors will be logged and the system restarts itself and restores the sensor function. Each system is signed individually. Data is encrypted and can be sampled either at random or by periodical checks or at the end of the season by educated personnel. To get access to the data and for analysis a specific encoded key (WIBU key) is needed.

GPS

The Global Position System (GPS) receiver is an important tool that provides the BB with continuous and independent information on time, position, speed and course of the vessel. The data from the GPS can be used to plot the activities of the vessel in connection with the hunt. The search for, killing and hauling in of the dead whale can be read from the plot by personnel that are well trained and with good knowledge about the hunting practice.

Shock transducers

Two independent shock transducers mounted on each harpoon gun identify the shock waves from the firing of the harpoon gun. The transducers are configured and calibrated individually and for each gun, in a testing program set up for this purpose.

Strain transducers

Strain transducers provide data by measuring static and dynamic strains to structures like beams and ribs, strains that occur in the structures when a whale is hauled on board across the deck and processed. The strain transducers that are attached to the measurement object where the surface conditions are good are connected to the power supply, an amplifier and the BB in protected wires. If there is any risk of mechanical damage, moisture etc. to the transducers and electrical wires, they are additionally covered with enclosures.

Keel sensor

Due to the swell, some keel movements will always occur on a boat at sea. The Norwegian minke whale hunt is normally conducted in fair weather with moderate swell and keeling, but when the whale is hauled in and across the deck, it produces a very distinct and characteristic keel

movement of the vessel. This movement, which is most distinct on the smaller boats, can be registered on all vessels. The registration from the keel sensor cannot be used alone to verify a catch but helps to verify the data from the other sensors.

Field trials in 2004

In 2004, after 2½ years of development, testing of different computer and sensor systems, and field trials, 13 units were installed on 13 whaling vessels. Before installation, the electricians and other personnel working with installation and calibration of BB were trained in a three day workshop that included installation on one vessel under the supervision of experts. The vessels chosen for the trials were of different sizes and construction (steel and wooden boats) and were operating in three different areas. Experienced and trained inspectors were chosen and taught to supervise the function of the BB system. They were instructed to record their observations in separate logs that were made for this specific purpose and report directly to the manager of the development project, Dr. Egil Ole Øen at Norwegian School of Veterinary Science. Simultaneously the skippers wrote their official logbook used for control by the Directorate of Fisheries. These logbooks (from inspector and skipper) were later used to control and qualify the data sampled in the BB. Three to 12 weeks after the conclusion of the season the BBs were actively switched off and system and data disks were removed for analysis.

Results

The analyses of data from the BB in 2004 showed that all trip recorders had functioned and logged data through the whole season. When the system was turned off, it had been actively logging data on average for 116 days (range 68 - 159 days). Two hundred and thirty-five whales were registered caught during the registration period. The number of harpoon gun firings, number of whales caught, time and positions were in accordance with the data from the logbooks from the inspectors (and the hunters). For some of the boats, GPS and all sensors had functioned 100%, for some others, one or two of the sensors had not functioned quite successfully for every whale taken, and for three of the wooden boats, some of the strain transducers had not functioned satisfactorily for several of the whales. However, data from the GPS in combination with logged data from other sensors were sufficient to verify the exact number of whales taken and when and where they had been caught.

Field trials in 2005

System upgrading and instruction of personnel

After the 2004 season all BB hardware were upgraded and slightly modified. By thorough studies of the raw data from the 2004 season it was discovered that the flaws in the sensor data were mainly caused by inaccuracies in placement and calibration of the actual sensors. It was therefore decided to hold a new workshop prior to the 2005 season, where the main topics were sensor installation and configuration. A new installation and configuration manual was compiled and the personnel were trained in installation and calibration on one vessel under surveillance of experts before recalibration and modification of the system on the thirteen vessels that had been equipped with BB in 2004 and installation on sixteen new vessels was started. In 2005

the program manager has been present at installation and recalibration on most of the vessels.

The skippers on every boat attended a compulsory workshop in 2005. They were given an introduction to the function and the planned routines for the control of the BB in 2005. In addition they were given instructions in recording of a new logbook that had been prepared for the season.

There is a strong focus on assuring the integrity of the logged data in all parts of the system. In addition to the upgrading of BB and sensors and training of personnel for installation, twenty-two inspectors were trained in a two day workshop to supervise and control the hunting in 2005 and to record a separate log that will be used for the quality control of the system and logged data in 2005. The plan is that seven of the inspectors will be present and stay on

board the same vessel the whole season (mainly the largest vessels), while the other fifteen will stay on board alternate boats for shorter periods of time and do random checking of hunting boats at sea and in port.

When the hunting season is closed, the encrypted data will be collected from the BBs, decrypted and analysed. The development programme is expected to be concluded in 2005.

Analysis tool for data from BB

In 2004 the Ministry of Fisheries started an independent project to develop an automatic configuration and analysing tool to analyse data from the BB. An early version of this tool was used for the analysis of data from the 2004 season. The analysing tool is still under development, but is expected to be ready by Autumn 2005.



Fig. 1. The Blue Box (Control Box) of the Automated Electronic Monitoring System developed for monitoring the minke whale hunting in Norway.

Appendix 5

ADDITIONAL WORK ON A CATCH DOCUMENT AND LABELLING SCHEME

New Zealand, Sweden and the United Kingdom

This document is an updated version of the Catch Documentation Scheme that was discussed at the working group meeting and the Small Drafting Group meeting in Copenhagen, April 2005.

Proposed Schedule text paragraph 30b

[The Commission shall operate a standardised catch documentation system [in accordance with [best] international practice], in order to certify the authenticity of products from whales caught or obtained under the authority of Contracting Governments in accordance with the provisions of this [Schedule][Convention]. This system shall monitor the progress of such products from the point of harvest to the point of [entry/landing into the territory of the Contracting Government] [wholesale marketing] [retail sale]. The details of this system are set out in Annex X. The requirements of this Paragraph shall not apply to whales taken pursuant to Paragraph {asw}.]

ANNEX {CDS}: CATCH DOCUMENTATION AND LABELLING SYSTEM

General provisions

This Annex is an integral part of the Schedule. It applies to any Contracting Government that permits any vessel sailing under its flag to engage in whaling in accordance with the [Convention][Schedule]; and any Contracting Government into whose territory or from whose territory whale products are imported or exported. All information provided to the IWC Secretariat in accordance with this scheme shall remain confidential, but is to be made available to Contracting Governments on request and is to be used only in conjunction with this scheme.

The term 'Catch Document' may include an electronic version of any documents referred to in this section.

Authorisation of whaling vessels

Contracting Governments shall provide specific authorisation to their flagged vessels that intend to take whales. Contracting Governments shall issue such vessels with a unique number in accordance with a numbering system to be developed by the IWC Secretariat. This number shall be included on the Catch Document.

Contracting Governments shall report to the IWC Secretariat, at least three months before the start of the season, the name or identifying code of each vessel, and its vessel category (as recognised in the International Observer Scheme), home port and authorised dates of operation¹.

[Note that this requirement may be included elsewhere in the Schedule. It is included here in the meantime for completeness. If it remains here, it will need to be consistent with other provisions.]

Issue of Catch Documents

Contracting Governments shall issue non-transferable Catch Documents to their authorised whaling vessels for each whaling trip. Catch Documents shall not be issued to non-authorised vessels. Each Catch Document shall be issued with a unique number.

Completion of catch documents

Contracting Governments shall require that each master or authorised representative of its flag vessels:

- (a) complete a Catch Document for the catch landed and transhipped on each occasion that it lands or tranships any whale products; and
- (b) assign a unique Identification Code to each whale taken, in accordance with a numbering system to be developed by the IWC Secretariat.

The unique Identification Code directly links to the required biological information (sex, length, etc.) and can later be linked to the [national] [international] DNA register.

The transhipment and landing of whale products without a certified Catch Document is prohibited.

Certification of the Catch Document

The Catch Document must be certified as to the accuracy of the information contained therein by:

- (a) the master of the vessel;
- (b) the IWC observer (except in the case of export or re-export); and
- (c) the competent authority of the Contracting Government of landing.

Once certified, a copy of the Catch Document shall be transmitted to the IWC Secretariat.

Export, import and re-export

The export, import or re-export of whale products without a certified Catch Document is prohibited.

Following certification, Catch Documents shall be electronically transmitted to and held by the IWC Secretariat. On the request of a Contracting Government, the Secretariat shall forward copies of the relevant Catch Document to a Contracting Government on request, for purposes of validation.

Information to be included on the Catch Document

The Catch Document shall include the following information (in accordance with the standard form attached as Adjunct 1).

- (a) The Catch Document number.
- (b) The national issuing authority (including name, address, telephone, fax number and email address).
- (c) The unique vessel number, the name, home port, national registry number, call sign of the vessel and, if issued, its IMO/Lloyd's registration number.
- (d) The place where the whale was transhipped, landed, exported, imported or re-exported.
- (e) The date and the port at which the whale product was landed or the date and the vessel, its flag and national registry number, to which the catch was transhipped.
- (f) The IWC observer present.
- (g) The species of whale taken (both scientific and common names).
- (h) The date, time and location of each whale taken.
- (i) The unique code for each individual whale captured.

Barcoding/labelling requirements

An identification label (which may include a barcode), comprising the Catch Document Number and the Whale Identification Code, shall be affixed to each whale product. The appropriate identification label must be affixed to each whale product from the point of initial processing to the point of [entry/landing into the territory of the Contracting Government] [wholesale marketing] [retail sale]².

The transhipment, landing, export, import or re-export of whale products without an identification label is prohibited.

Provision of information to the IWC Secretariat

A Contracting Government shall promptly provide copies to the IWC Secretariat of all validated catch documents that it issued from and received into its territory, included instances of transhipment involving vessels sailing under its flag, using an electronic reporting system as shall, from time to time, be specified by the IWC Secretariat and notified to Contracting Governments.

Contracting Governments shall inform the IWC Secretariat of the national authority or authorities (including names, addresses, phone and fax numbers and email addresses) responsible for issuing and validating catch documents.

The Secretariat shall provide an annual report on all of the information received from Parties relating to the Catch Documentation and Monitoring Scheme.

This Scheme shall be consistent with the DNA scheme.

Note that products authorized for market from other sources, such as whales obtained from bycatch, scientific whaling, ship strikes or existing stockpiles, etc, shall also have to be given an individual authorization code according to the IWC system to help ensure the overall robustness of the inspection and monitoring regime.

¹ Note that this wording is based on paragraph 20 of the revised Schedule (IWC/D04/RMS SDG 4).

² Policy decisions still to be taken on this issue.



IWC Catch Documentation

**International Whaling
Commission**
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Impington,
Cambridge CB4 4NP, UK
+44 1223 233971
Secretariat@iwcoffice.org

1	Document number:			
2	Issuing authority:			
	Address:			
	Address:			
	Phone/fax/Email:			
3	Whaling vessel:			
	Flag state		Home Port, Ship Registration no., call sign	
	Master		Whaling permit no.	
	Dates of trip		IMO/Lloyd's Number	

4	Whaling operations			
	Location/time and date of each whale taken	Species (Scientific and common name)	Total	Individual whale codes
	Name of IWC observer present			

5	Landing/Transshipment information		Date of landing	
	Place of landing			
	Place of processing if not above:			
	Certification by Master: I certify that the above information is complete, true and correct to the best of my knowledge			
	Certification by IWC Observer: I certify that the above information is complete, true and correct to the best of my knowledge			

6	Certificate of landing: I certify that the above information is complete, true and correct to the best of my knowledge			
	Authorising officer		Date	
	Authority/address			
	Signature		Seal:	



IWC Catch Documentation

EXPORT/IMPORT DOCUMENT

One form per shipment

**International Whaling
Commission**
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Impington,
Cambridge CB4 4NP, UK
+44 1223 233971
Secretariat@iwcoffice.org

1	Document number:		
2	Issuing authority:		
	Address:		
	Address:		
	Phone/fax/Email:		

3	Export company:		
	Nationality	Company Registrn no.	
	Director	Export permit no.	
	Dates permit valid		

4	Whale products:		
	Nature of products		
	Origin		
	Identification number		

5	Certificate of EXPORT: I certify that the above information is complete, true and correct to the best of my knowledge, and that all products originate from whales taken under the IWC's regulations		
	Authorising officer	Date:	
	Authority/address		
	Signature	Seal:	

6	Certificate of IMPORT: I certify that the above information is complete, true and correct, and authorise the importation of these products into the country		
	Place of importation	Import license no.	
	Destination:		
	Importation Authority		
	Authorising Officer	Date	
	Signature	Seal	

Appendix 6

PAPER ON OPTIONS FOR COMPLIANCE MECHANISMS UNDER THE RMS

United Kingdom

An effective regime to ensure compliance is an essential component of an RMS if it is to command the confidence of the international community and the public at large. We therefore take some encouragement from the fact that there appears to be broad agreement emerging on the need to include more specific measures on compliance as part of an RMS package - although, as we shall explain, our view is that the text must contain further elements to strengthen the proposed regime.

We were particularly concerned at suggestions made by some States at the last meeting of the RMS Working Group in Copenhagen which appeared to challenge the legal basis for a compliance procedure within the Convention/RMS as contrary to the principle of State sovereignty.

Compliance raises questions at different levels. Clearly, at the first level, the question of prosecution of infractions committed by persons or vessels under the jurisdiction of a State party is for each Contracting Government to carry out within its own legal system. However the question of compliance also relates to ensuring that the Contracting Governments comply with their obligations under the ICRW at the level of international law, including their international obligation to ensure enforcement of the Convention in their national legal systems. This second level of compliance relates to the international responsibility of the Contracting Governments, and - far from being an infringement of sovereignty - it simply follows from the basic rule of treaty law that a treaty is binding on its Parties and must be performed by them in good faith (*pacta sunt servanda*).

Developments in international environmental and fisheries agreements

In recent years the Parties to an increasing number of international environmental and fisheries agreements have developed mechanisms aimed at securing compliance in new ways which reflect the broader community interests at stake. Accordingly multilateral procedures have been developed within various treaty regimes in which an organ under the treaty can investigate and make findings of non-compliance against a Party, and in some cases offer forms of inducement or impose forms of sanction to bring that Party into compliance. Some of these procedures are based on specific treaty provisions (for example the Montreal Protocol on Substances that Deplete the Ozone Layer and the Kyoto Protocol to the Climate Change Convention), but others have developed within pre-existing treaty structures (for example CITES and the Basel Convention on the Transboundary Movement of Hazardous Waste).

Whilst these processes share certain common features in that they provide a means by which the compliance by the Parties of their obligations under the relevant agreement can be assessed, there is considerable variation in the design of each regime and in particular the measures that may be taken where non-compliance is established. A number of such regimes work with a combination of measures in the nature of carrots and sticks, to promote compliance in a more cooperative and less confrontational way than traditional methods of dispute settlement in

international law. Thus for example under CITES at all stages of the process the Secretariat can offer advice and assistance to the Party concerned to try to solve the problem and offer technical advice or assistance as is required. In some cases the State concerned can seek to agree with the relevant Committee 'a compliance action plan' setting out the steps that should be taken to bring it into compliance. At the same time the CITES process is a disciplined process with for example firm time-limits to ensure its effectiveness, and it can ultimately end in the imposition of trade measures.

Basis for a compliance procedure under the ICRW

Under the ICRW there is not an express treaty basis for the establishment of a multilateral compliance procedure, but in our view this does not preclude the Contracting Governments from adopting such a procedure. The Contracting Governments could interpret more broadly their obligation in Article IX(1) to 'take appropriate measures to ensure the application of the provisions of this Convention', so that it is not limited only to measures by each Contracting Government to ensure the application of the Convention by persons or vessels under its jurisdiction. Such an interpretation could serve as the basis of an obligation on the Contracting Governments (collectively) to take measures to ensure the application of the provisions of the Convention by all Contracting Governments under an appropriate compliance procedure. However even for States which take a narrower view of Article IX, there is nothing in the Convention which would prevent the Contracting Governments from establishing a more effective compliance regime. In particular it might be noted that the Commission has broad powers to make recommendations under Article VI on 'any matters which relate to whales or whaling and to the objectives and purposes of this Convention'. Whilst in many cases 'recommendations' by international bodies are non-binding in international law, the member States can nevertheless agree to treat them as authoritative. Thus, for example, the Parties to CITES in practice treat resolutions of the Conference of the Parties, and other technically non-binding measures including those relating to administrative, investigative and compliance procedures as authoritative, and, as we have observed, trade measures can be imposed in cases of non-compliance. Similarly under ICCAT although the Commission only has powers of recommendation, the Contracting Parties have agreed to a compliance regime which includes the recommendations for imposition of a variety of types of sanctions in respect of non-complying Contracting Parties, including the restriction of quota, and the imposition of trade measures.

It appears therefore that there are no insurmountable legal obstacles to the development of an effective multilateral compliance regime in the ICRW. In our view it will be crucial to the credibility of an RMS that its compliance arrangements should be as robust as possible. Indeed it would be surprising and difficult to explain to the public if the Parties to the ICRW did not aim for the strongest measures possible.

Key components of a compliance regime

Experience of existing compliance mechanisms in the international environmental and fisheries fields, suggests that they broadly consist of three aspects:

- (1) reporting and monitoring obligations;
- (2) verification procedures; and
- (3) non-compliance response, including appropriate forms of enforcing/providing incentives for compliance.

In our view therefore the question of compliance is intrinsically bound up with the proposals on catch documentation; the International Observer Scheme; VMS; DNA registration and tissue archiving; as well as the proposals for the establishment of the Compliance Review Committee (CRC) and the question of responses to non-compliance. Whilst there has been some progress on a number of these fronts, further thought needs to be given to how the CRC should work and the range of responses that should be available in cases of non-compliance. The establishment of the CRC proposed in the RMS text should be further developed in the light of modern best practice in fisheries law and in international environmental law.

The obligations of Contracting Governments under Article IX require each Party to ensure that all alleged violations must be investigated thoroughly; where violations are established the violator is deprived of the benefit of non-compliance; and the Contracting Government in question is under an obligation to report to the Commission details of infractions and the measures they have taken to deal with them. The CRC should clearly have competence to consider how effectively these obligations have been carried out by the flag State concerned, and the Contracting Governments should be under an obligation to co-operate fully with it.

Unlike the present Infractions Committee, the new CRC procedure must have available to it a broader range of responses to ensure that infractions are dealt with effectively, and the Contracting Governments themselves comply with their obligations to implement the terms of the Convention.

In relation to those who commit infractions there should be possibilities for the CRC to recommend to the Commission that the Contracting Governments should adopt a more co-ordinated response. In the fisheries context this can involve listing and sharing information on vessels of known violators, and in some regimes can include recommending to all parties the revocation of licences and/or vessel registration (see for example the Forum Fisheries Agreement). We would therefore propose that the CRC should be empowered to recommend that similar measures could be taken in the IWC.

In relation to Contracting Governments which do not comply with their obligations the CRC should have a broad discretion to make recommendations to the Commission and its relevant Committees for appropriate action to be taken in response to non-compliance. There are fisheries organisations which have available to them the sanction of reducing quota levels, or to set new quota levels by reference to the Contracting Government's past record of compliance (see for example ICCAT recommendation 96-14, and see also the powers of the International Review Panel established under the AIDCP). In our view it will be key to the success of the CRC that it should be able to recommend to the Commission the reduction of catch limits/quotas in response to non-compliance by a Contracting Government. Whilst the system for the proposed allocation of quota has yet to be determined under the RMS, we believe that quotas should be set for a maximum of three years and should automatically revert to zero at the end of that period. The Commission should then take account of advice and/or recommendations from the CRC in deciding whether to set new catch quotas and, if so, at what levels.

We also wish to reiterate our long-standing proposal that in view of the grave damage that a serious violation can do to stocks of some whales, we believe that there should be available to the CRC, in exceptional cases, the power to reduce catch limits to zero pending a definitive resolution of the Commission.

Appendix 7

MINIMUM CONDITIONS UNDER WHICH WHALES COULD BE KILLED

United Kingdom

At the RMS Working Group in Copenhagen, the UK agreed to prepare text on each subsection of Option 3 of Annex 12 of IWC/57/RMS4 (as prepared in the RMS Specialist Technical Group on Animal Welfare). The aim is to establish a set of minimum standards that incorporate animal welfare conditions when specifying whale killing techniques.

While we recognise the need to set minimum conditions under which whales could be killed, it is clear that it will be difficult to propose accurate technical specifications without further research. Research priorities, which could be discussed and developed further as part of the WKM&AWI work topics, include:

- morphological differences between species, and sexes and ages of individuals (including any relevant

seasonal variations in blubber thickness) and how this relates to efficiency of different killing methods;

- the effectiveness of specified sizes of the penthrite explosive charge (on species of different size and anatomy) at inducing immediate and irreversible insensibility;
- procedures for preventing any animals being struck and lost;
- methods for ensuring that all animals are struck in the optimum location on the body to ensure an immediate death or immediate irreversible insensibility;
- physiological changes to the whale associated with different pursuit times and distance;
- impact of weather conditions on Instantaneous Death Rate or Time To Death; and

- defining training and qualifications for international observers and national inspectors.

Nevertheless, we believe that the conditions below would provide a suitable structure for minimum conditions under which whales could be killed and that these should be included in the RMS and, in time, developed further following technical expert advice.

ANNEX TO THE SCHEDULE CONCERNING MINIMUM CONDITIONS UNDER WHICH WHALES COULD BE KILLED

No whale may be killed (with the exception of ASW) unless the following conditions are met:

Generic principles:

- The killing method effectively and reliably achieves immediate insensibility or death;
- The killing method is appropriate for species targeted (on advice of the Working Group on Whale Killing Methods and Animal Welfare Issues).

1. Specific criteria or conditions

Penthrite grenades used as primary or secondary killing methods shall meet the following technical specifications:

- a charge which, as a minimum, provides sufficient power to guarantee immediate death or immediate irreversible insensibility for the specific species and the size of the individual targeted;
- a harpoon type able to deliver the correct charge to the specified location and depth of penetration into the cetacean's body, e.g. for minke whales, the minimum harpoon cannon calibre must be 60mm;
- a reliable harpoon grenade, that guarantees detonation of every harpoon fired;
- fuse length must be set for each species, to ensure an exact penetration distance before detonation occurs;
- a grenade head barb mechanism that ensures that the harpoon cannot disengage from the cetacean's body; and
- a strain gauge of the forerunner rope that exceeds the calculated maximum strain for the species being hunted, to ensure that it does not break.

2. Rifles shall meet the following technical specifications

- Rifles must not be used as a primary killing method. Rifle bullets shall only be used as a secondary killing method when they are guaranteed to be as effective or more effective than using a second harpoon.

The type and calibre of rifles and the type of ammunition necessary to ensure that adequate power is delivered by a single bullet to guarantee immediate death or immediate irreversible insensibility for the specific species, size, age and sex of the individual targeted.

As a secondary killing method for minke whales, the minimum calibre of rifle should be 9.3mm with metal jacketed round-nosed bullets.

3. Whales shall be harpooned or shot only by gunners whose qualifications and training meet the following minimum standards

Gunners should be able to hit a moving target at sea from a moving vessel and have received a certificate of

competency, which should only be granted when the gunner has fulfilled specified training/refresher training and demonstrates a high level of accuracy in an IWC-approved test, to be taken annually.

Annual certificate renewal is conditional on successful completion of refresher training and testing³.

4. All international observers [and national inspectors] shall meet the following training conditions and qualifications

International observers [and national inspectors] should be a veterinarian or trained in monitoring and interpreting scientifically approved criteria for determining insensibility and death in cetaceans, and collecting data as specified by the IWC.

5. Vessel hunting platform shall comply with the following requirements for size, structure and stability to ensure accurate shot

All vessel platforms must provide for an accurate trajectory from the cannon to the target cetacean to ensure a hit to the specified target area. All variables which might affect an accurate shot should be taken into account in determining the suitability of the platform⁴, including:

- vessel and platform specifications (including height above sea level according to loading of the platform and the height of the cannon above sea level);
- the possible influence of weather conditions on the vessel; and
- the distance between the vessel and the target animal.

6. Cetaceans should only be pursued under the following conditions

A maximum pursuit time of xx (as established with full consideration of the potential physiological harm caused by pursuit), must be established for each hunted species, as set by the IWC and according to species and to different environmental conditions [to be determined]. If the hunt exceeds this maximum pursuit time, the hunt shall cease immediately and not resume on that individual.

7. The following limits on body length and restrictions on sex of whales taken shall apply

Cetaceans should not be pursued if they are above or below the length/size set by the IWC and according to species [to be determined]⁵. Every effort should be made to ensure that

³ To determine this, the IWC should conduct simulation training on land for firing a harpoon and shooting bullets into the target area, using specifically designed software which incorporates the many variables associated with hitting a moving target at sea from a moving vessel.

⁴ To determine this, the IWC will need to conduct, or oversee, independent simulations using specifically designed software, to analyse the suitability of different vessel platforms for providing an accurate trajectory from the cannon and the target cetacean to ensure a hit to the target area. All variables including: vessel and platform specifications (including height above sea level according to loading of the platform and the high of the cannon above sea level); the possible influence of weather conditions on the vessel; and distance between the vessel and the target animal should be incorporated into the analysis.

⁵ To ensure that under- or over-sized animals, for which the killing methods have not been adequately adapted to ensure an instantaneous death, are not killed using inappropriate weapons, size range for each species should be evaluated by the IWC for each species and for each killing method. In addition where there is significant anatomical difference between sexes (of the same species) that would influence the efficiency of killing methods, this should be evaluated and additional limits considered.

where possible there is an even distribution of the sex of animals taken. There should be no take or targeting of lactating females or calves

8. Whaling shall only take place under the following weather conditions⁶

There must be clear visibility and stable conditions in order to allow the gunner to have a clear and accurate trajectory from the cannon to the target cetacean. Where these conditions do not exist, whaling should not take place. The following variables should be considered:

- sea state including wave height, dominant wave period and wave direction (relative to the vessel), e.g. no whaling in Beaufort sea state of 3 or more
- no whaling in a swell of 1m or more
- stability of the hunting platform,
- visibility including visibility of the whale and determination of its speed and orientation;
- accuracy of the gunner:
- cloud cover;
- precipitation (drizzle/rain/hail/snow);
- fog;
- wind speed and direction;
- air pressure, air temperature, relative humidity;
- ice conditions; and
- motions of the vessel.

9. Prescribed body target areas

In order to guarantee instantaneous death or irreversible insensibility, gunners must aim only at the following body target areas, as determined by the IWC and according to species [to be determined].

The harpoon must enter perpendicular to the body surface, to guarantee penetration. For minke whales (for which some data exist), the head or the upper thorax are the only acceptable target areas⁷. In situations where high calibre bullets are authorised by the IWC as an appropriate secondary killing method for a species, the grouping of rifle shots into a whale must not exceed 100mm in diameter and must be targeted at the brain.

Species should be evaluated by the IWC for each species and for each killing method. In addition where there is significant anatomical difference between sexes (of the same species) that would influence the efficiency of killing methods, this should be evaluated and additional limits considered.

10. Cold harpoons/electricity

The use of electricity for stunning or killing, as either a primary or a secondary killing method, is prohibited.

[The cold harpoon can only be used as a secondary killing method in situations where it will be as effective at inducing death as an explosive harpoon or high calibre rifle bullets]⁸.

11. Strike Limit (not landed limit)

Any whales 'struck and lost' should be recorded in Total Catches Over Time and reported as infractions since Time To Death is not immediate.

Nothing in these conditions shall prevent a Contracting Government from requiring its nationals or vessels to apply more stringent conditions with respect to the killing of whales.

⁶ To determine these minimum criteria, the IWC must undertake an analysis, using software simulations and data already collected, of the influence of the effect of the following variables on the stability of the hunting platform, visibility of the whale and determination of its speed and orientation, and accuracy of the gunner: sea state; visibility; cloud cover; precipitation (drizzle/rain/hail/snow); fog; wind speed and direction; air pressure; air temperature; relative humidity; sea state; wave height; dominant wave period; wave direction (relative to the vessel); ice conditions; motions of the vessel.

⁷ For other species, a review of all existing data on kills of sperm, sei, Bryde's, fin and humpback whales should be conducted. The IWC should then undertake extensive simulation research to determine the exact location and penetration depth that the grenade harpoon should strike in order to guarantee immediate death or irreversible insensibility.

⁸ Analyses of existing data should be carried out by the WKM&AWI group to establish the relative effectiveness of the three potential secondary whale killing methods (grenade harpoon, cold harpoon, high calibre rifle).

Annex F

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

Monday 13 June 2005, Ulsan, Korea

The list of participants is given in Appendix 1. The Working Group was established to review information and documentation available with a view to advise the Commission on whale killing methods and associated welfare issues (*Ann. Rep. Int. Whaling Commn.* 2000:17).

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Esko Jaakkola (Finland) was appointed Chair of the Working Group.

1.2 Appointment of rapporteurs

Roger Eckert (USA) was appointed as Rapporteur.

1.3 Review of documents

The Chair reviewed the list of documents available to the Working Group (see Appendix 2) and drew attention to specific documents to be addressed under Agenda Items 3 and 4. Japan noted that IWC/57/WKM&AWI 11 addresses both Agenda Items 3 and 4.

The Chair noted that the following countries have become members of the Commission since IWC/56: Mali, Kiribati, the Czech Republic, the Slovak Republic, and Luxembourg. He welcomed their participation in the Commission.

2. ADOPTION OF AGENDA

The Agenda given in Appendix 3 was adopted by consensus. Japan made the following statement: 'Japan considers that the whale killing methods and associated welfare issues are outside the competence of the IWC. Therefore, its contributions, including provisions of data and attendance at the Working Group are made on a voluntary basis.' The UK stated its belief that the Commission has a moral responsibility to consider welfare issues.

3. DATA PROVIDED ON WHALES KILLED

Documents presented under this Agenda Item were provided to meet the request of IWC Resolutions 1999-1 and 2001-2.

The Chair noted that the Secretariat has updated the form used for reporting information on whale killing methods, in compliance with Resolution 2004-3.

Denmark (IWC/57/WKM&AWI 4 and IWC/57/WKM&AWI 6) offered detailed information regarding the 2004 Greenland hunt of minke and fin whales. New Zealand indicated that it would be helpful if the time to death information for the different killing methods could be separated in order to determine any differences between them. Denmark indicated that it will consider this for the next meeting. Australia asked about the availability of

assistance in validating the data, and questioned whether the minimum calibre of the rifles was adequate to ensure humane killing. Denmark responded by indicating that day to day management of the resources is the responsibility of the Greenland Home Rule government, but that it would provide additional assistance pertaining to veterinary issues, if requested. In addition, it would be difficult to have complete veterinarian coverage of the hunt due to limited space in whaling vessels. New Zealand stated that Denmark, not Greenland, is a signatory to the Convention, and is accountable for the hunt as a matter of international law. Denmark indicated that the question of animal welfare is important, and that Greenland has done much to improve the humaneness of the hunt over the years. Norway also indicated that there has been a huge effort in Greenland over the past 20 years to improve the hunt, that there are safety concerns for the hunters, and that it would be difficult to place a veterinarian in all boats because of their small size. Sweden asked whether there were obligatory shooting tests for hunters, and whether the minimum calibre size should be 9.3mm, as in Norway. Denmark indicated that there are shooting tests, but not a yearly obligation to take the test, and that the minimum calibre requirement is 7.63mm. Denmark expressed its confidence in the efforts of the Greenland Home Rule government, and does not plan to interfere with regard to the calibre of the rifles used in the hunt.

Japan presented document IWC/57/WKM&AWI 11, a summary of the 2003/2004 and 2004/2005 Japanese Whale Research Programme under Special Permit in the Antarctic (JARPA), and the 2003 and 2004 Japanese Whale Research Programme under Special Permit in the western North Pacific (JARPNI). Japan indicated that it had made significant efforts to improve whale killing methods, successfully reduced average time to death of minke whales to less than two minutes, and increased the instantaneous death rate. Japan stated that it will continue to reduce time to death by improving killing methods. The UK asked if there was any time to death data on sperm whales, and noted that the data in table 2 of IWC/57/WKM&AWI 11 pertaining to number of minke and sei whales killed did not add up. Japan responded that the number of sperm whales harvested is statistically too small to evaluate time to death data, and that it will provide data in an appropriate manner when enough become available. Also with regard to table 2, Japan indicated that the secondary killing column includes the number of whales taken using each secondary killing method, thus addition of each number results in a double-count of animals caught using both harpoon and rifle. New Zealand indicated that it should be easy to collect data on sperm whales and that animal welfare concerns are increased for sperm whales because of their larger size. New Zealand asked if there were any differences in the harpoon cannons and the grenade used to

kill different species. Japan commented that the purpose of collecting data is primarily for improvement of whale killing methods, and that it will share data with cooperating countries when enough data become available. However, Japan stated that it does not intend to provide data for the purpose of criticizing whaling countries. Japan also explained that there could be bias in sperm whale data given the small sample size. Regarding the whaling devices, Japan indicated that the cannons used to kill different species are the same size, but for larger species, the powder in the penthrite grenade is increased and a delayed-time fuse system is used. The UK asked about harpoons used as the secondary killing method. Japan indicated that a cold harpoon is used as the secondary method for killing minke whales and an explosive harpoon is used to kill large species. Australia noted that the instantaneous death rate for minke varies between 35-44% but that the instantaneous death rate for Norway's commercial whaling is 80%. Japan expressed irritation that the same questions were asked every year. However, Japan indicated that there are two reasons for the differences. First, Japan could not approach whales unnoticed under its random sampling method, whereas Norwegian whalers approach whales unnoticed. Second, the sea areas and conditions differ in that Japan's research is conducted in the open ocean, whereas Norway's hunt is coastal. New Zealand indicated that Japan's desire not to share data with countries that oppose commercial whaling is a non-sequitur because we all share a common objective, and that, in the past, New Zealand has collaborated with Japan on improving whale killing.

Norway presented document IWC/57/WKM&AWI 5 regarding Norwegian minke whaling in 2003 and 2004. The UK asked if the 19 struck and lost whales were hunted down, given that no whales were reported to have escaped wounded. Norway stated that most whales were lost after they were dead. If large swells occur while the animals are hanging in the harpoon line alongside the boat, i.e., before they are strapped and hauled on board, the harpoon might break or be torn loose if the whale is hoisted above water during swelling. If the harpoon breaks loose while the animal is still alive, the hunters normally chase down and kill the animal using another grenade. The UK expressed sadness that Norway's humane killing research programme was halted, and indicated that ongoing collection of data is necessary. The UK further stated that blue boxes cannot collect all data on killing methods.

The UK presented IWC/57/WKM&AWI 10, a summary review of Norwegian research on the humaneness of whale killing. The UK indicated that while the histological and pathological sample methodology was accurate, it took issue with the sampling reported and the conclusions of Dr. Knudsen's research. The UK also indicated that the research may not be representative of Norwegian commercial whaling as a whole. The UK stated that it would circulate a transcript of a film of a Norwegian commercial whaling vessel. The filmed hunt was undertaken in less than ideal sea conditions. The UK stated that the time to death of the whale killed in the film (14 minutes), and the number of rifle shots (7), indicate a need for observers and specified ocean conditions for a hunt. Norway stated that the UK paper should have been presented to an IWC forum of experts, as the Working Group is inappropriate for reviews of scientific papers. In addition, Norway did not appreciate the UK's last minute

submission of the report. Norway stated that two other well respected reviewers of Dr. Knudsen's work had concluded that she had been too conservative in her use of histological preparations to diagnose death. Norway also said that her research thesis studied potential brain damage as a result of harpoon hits and grenade explosions in different parts of the whale body, and was not intended to be a statistically random sample of whale brains from the Norwegian hunt, as suggested by the UK's reviewers. Norway also stated that the variations in Instantaneous Death Rate (IDR) from Dr. Knudsen's study and the reported IDR of 80.7% from the 2002 hunting season was mainly a result of the different grenades used in her study and the grenades used in 2002. Dr. Knudsen's sampling of brains was mainly carried out before the final version of the Norwegian grenade was introduced. With regard to the 46% of whales that had been re-shot with rifles, Norway stated that many hunters routinely re-shoot the whales with rifles in order to be certain that the animal is dead, but that the number of animals actually requiring a second shot is much lower. With regard to the film, Norway indicated that a 14 minute time to death only occurs in about 2% of the animals. It also indicated that, for some reason, the hunters in the film did not follow standard advice in that they did not haul the whale to the boat immediately after it was shot. Finally, Norway noted that it had always been open in providing data from its hunting activities. The UK indicated that it would have distributed the document sooner if it could have. The UK then proposed that the Working Group recommend holding a workshop in 2006 on whale killing methods and associated welfare issues.

The Russian Federation (IWC/57/WKM&AWI 4) gave a detailed presentation of the Chukotka hunt in 2004 after indicating that whale killing methods and associated welfare issues are outside the competence of the IWC, but that it was providing this information voluntarily. The hunt consisted of 110 gray whales and 1 bowhead whale. Concerning estimates of time to death, Russia stated that the mean time to death for gray whales was 29.3 minutes and the time to death for the bowhead whale was 30 minutes. Germany thanked Russia for its detailed information, but expressed concern about the killing methods used, and stated that a workshop in 2006 is needed. Germany would also like more information from Russia on its work to reduce time to death. Russia indicated that because of small boat size it was difficult to place scientists or non-hunters on boats in order to estimate time to death. Furthermore, it is generally difficult to determine time to death. Sweden asked if Russia has been able to lower the number of hunting accidents over the years. Russia indicated that hunter safety is a priority, and that the safety of hunters depends on the hunters themselves and their level of expertise. Russia also indicated that it has received assistance or advice from Norway, Japan, the Netherlands, and the Alaska Eskimo Whaling Commission (AEWC) to improve whale killing methods.

The USA reported the passing of Thomas Napageak, Chairman of the AEWC, on 6 May, 2005, and then gave a presentation of the Alaska Eskimo bowhead hunt for 2004 (IWC/57/WKM&AWI 4). Among other things, the efficiency of the Eskimo hunt was 84% last year, which is above the 75% efficiency goal set several years ago. The USA also indicated that there was no gray whale hunt in 2004 due to the need for the Makah Indian Tribe to satisfy domestic legal requirements. The USA referred to the

Working Group's 2002 report for a description of Makah hunting techniques.

The USA indicated that two initiatives of the AEWC are largely responsible for the improved efficiency in the bowhead whale hunt: regular hunter training and an extensive weapons improvement programme. Time to death is difficult to estimate in the bowhead whale hunt, in part because environmental conditions under which hunts are conducted are treacherous. Moreover, there is a need to protect hunter safety. The Eskimos use small boats made of seal or walrus skin and the bowheads are very large (averaging about 10m in length). Eugene Brower, Chairman of the AEWC's Weapons Improvement Committee and President of the Barrow Whaling Captains' Association, underscored the dangers of the bowhead subsistence hunt. A few years ago, a large pan of shore-fast ice where many crews had set up camp, broke off and drifted more than 20 miles out to sea off Pt. Barrow. But for the North Slope Borough Search and Rescue, 164 people would have been lost. Four people from the village of Gambell died in the hunt this year when they went out on a calm sea to help tow a bowhead. The weather changed suddenly, with high winds, the sea became rough, and the boat was swamped before it could get back to shore. Mr. Brower summarised the weapons improvement programme and efforts to determine time to death. The weapons improvement programme has three goals: the quick and humane death of harpooned whales, increased efficiency, and hunter safety. The AEWC hopes to achieve these goals through the introduction of the penthrite grenade into the hunt for use with the hand-held darting gun, the primary weapon in this hunt. With regard to the difficulty of collecting time to death information, Mr. Brower emphasised that the IWC mandate to report an accurate 'time to death' is extremely difficult to fulfil during the bowhead whale hunt, in part because sea, ice and weather conditions can be treacherous and there is an overriding need to protect hunter safety. Further, the small boats must be very close to a whale in order to use the darting gun, and crews must quickly move to a safe distance after striking a whale, then must wait for some time to ensure that the whale is in fact dead. In an incident several years ago, approximately 30 miles offshore of Cross Island, a whale was struck by a crew from the Village of Nuiqsut. The whale turned on its back, and was presumed killed; the crew waited half an hour, prayed, and then attached a tow line from the lead boat to the whale. As the boat was getting underway, the whale righted itself and dove, pulling the boat and its five crew members under the water. The crew members were recovered by other boats in the area, but the boat and all gear were lost. Therefore, time to death must be evaluated from a distance, with the whale partially or completely under the water. Mr. Brower indicated that a significant number of strikes with the new penthrite grenade appear to have resulted in a rapid cessation of movements. Finally, Mr. Brower stated that the weapons improvement programme has taken a number of years to develop, with design, production, and bench trials in Norway and field trials in Barrow. Norway stated that one of the explosive components needed for the penthrite grenade is produced in France. Unfortunately, France has refused to allow the export of this component because of an incorrect legal conclusion regarding its use. Norway indicated that this might delay implementation of the Alaska Eskimo's weapons improvement programme and

increase the costs, contrary to the goals of the Commission. France indicated that it will investigate this matter and would like more information on the company and on which ministry was contacted.

Germany, noting that most of the whaling countries gave reports on whale killing methods, stated that it would like to see data from Iceland and from St. Vincent and The Grenadines as well. Iceland indicated that it is using the same methods as the Norwegians, that there was no need to repeat the discussion, and that training has been provided. Germany asked if the Working Group could get data from Iceland on time to death. Iceland repeated that the killing method used is the same as the one used in Norway. Further, Iceland has not taken enough whales in its research programme for there to be statistically reliable results. Iceland indicated that it is continually trying to improve the effectiveness of its whaling methods and that the discussion on how to improve the methods that are used in Iceland and have been developed in Norway would not be facilitated by the small amount of data from Iceland. New Zealand asked whether Iceland believed it was under no obligation to report this information, or whether it considered it unnecessary to report this information. New Zealand also noted that Russia had presented detailed information on each whale taken. Iceland stated that it uses the same method used in Norway, based on Norwegian research, and that if it can improve whale killing methods it will do so. The UK indicated that it would be helpful to have Iceland's data, and given that Japan's research has resulted in higher time to death than Norway's operations, whether this is also true with Iceland's research methods. Iceland repeated that the numbers are too low to be statistically significant, but that it will revisit this matter in the future. Iceland pointed out that the relevant resolutions not only encourage governments to submit information regarding whaling but also comparative data from the killing of other large animals. Iceland noted that those countries who were calling for Iceland to submit data that has no significance in improving whale killing methods, had themselves not submitted the data they have available and is called for in IWC resolutions on whale killing methods and associated welfare issues. Returning to Germany's original question, St. Vincent and The Grenadines indicated that whale killing methods employed in the Vincentian hunt have not changed, and that its hunters catch about one whale per year. Further, St. Vincent and The Grenadines indicated that the hunters have very small boats and that it would be difficult to place observers on them. However, St. Vincent and The Grenadines would welcome help to improve the time to death.

4. INFORMATION ON IMPROVING THE HUMANENESS OF WHALING OPERATIONS

The Chair noted that Japan, the USA and Russia had already addressed Agenda Item 4 in their presentations under Agenda Item 3.

Denmark (IWC/57/WKM&AWI 7 and IWC/57/WKM&AWI 8) reported on improvements in whale hunting methods in Greenland. Among other things, the harpoon cannon renovating programme was finished in 1998. In 2004 there were 65 (not 73 as indicated in IWC/57/WKM&AWI 8) 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 maximizing the efficiency when killing whales. During July and September of 2004, two courses on the handling and instruction of the use of the penthrite grenade were held.

Norway (IWC/57/WKM&AWI 5) gave a presentation on improving the humaneness of its commercial whaling operations in 2003 and 2004. Norway has been conducting projects on hunting and killing methods for whales for nearly 25 years. Norway has given numerous training courses and has developed new technology. The research and development has been laborious and costly. However, the instantaneous death rate is over 80%. Norway has discontinued the research in this field for the time, and the hunting and killing of whales will be controlled using periodic or random checks when necessary.

5. ADDRESSING REQUESTS MADE IN RESOLUTION 2004-3

The UK (IWC/57/WKM&AWI 9) reported on two workshops on determining criteria for insensibility and death in stranded cetaceans. The UK stated that while much work has been done on the effects caused by harpoons and other devices used to capture whales, there needs to be additional work on the criteria for determining the time of onset of permanent insensibility in whales. The UK reported that significant work has been accomplished in this area, and that the existing IWC criteria are not among the suitable measures for determining unconsciousness and death in cetaceans. The UK stated that the overall consensus of experts who examined this matter was that a package of measures will provide the most accurate assessment of the state on sensibility of a whale, questioning the validity of the existing, single-measure IWC approach for determining death in a harpooned whale. Norway stated that the IWC criteria lead to an over-estimation of time to death, and that the IWC data should be used in conjunction with post-mortem data in order to give better estimates. Norway stated that during strandings it is easy to get close enough to the whales in order to examine them as suggested by the UK. However, during hunting it is impossible to perform such detailed

examinations. The UK responded by stating that there is no intention to risk human life, and that new technology may be developed to allow measurements to be taken from a distance. St. Lucia agreed with Norway and stated that life would be put at risk to implement the recommendations described by the UK.

The Chair concluded that the Working Group would not be able to advise the Commission on matters identified in IWC Resolution 2004-3, and that several of these matters require further work and expert knowledge.

6. OTHER

The Chair noted that several countries had indicated the need for a workshop on whale killing methods and associated welfare issues. Australia indicated that there are elements of the discussion that would benefit from a workshop, perhaps prior to IWC/58. Dominica inquired as to the cost of a workshop. Norway indicated that it could support a workshop if it was held in conjunction with IWC/58. New Zealand indicated that the last whale killing methods workshop was held in Berlin in 2003, that it was helpful, and that it is appropriate to have another workshop. The USA expressed the desire for any workshop agenda item to include consideration of the practical needs of aboriginal subsistence hunters, particularly with regard to estimating time to death. The UK indicated that it will coordinate with other countries and develop an IWC Resolution on this. Dominica indicated that it would like the workshop to consider costs to aboriginal subsistence hunters. Denmark indicated that the workshop should be in relation to IWC/58 and that there needs to be work on possible terms of reference. The Working Group recommended a workshop on whale killing methods and associated welfare issues to be held at the next annual meeting of the Commission. The UK will consult with other countries on possible terms of reference for the workshop.

7. ADOPTION OF THE REPORT

The report was adopted by the Working Group on 17 June 2005.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda

Tricia Lovell

Argentina

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South Africa

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Appendix 2
LIST OF DOCUMENTS

		Agenda item
IWC/57/WKM&AWI		
1	Draft Agenda	
2	List of documents	
3	Report on the use of the penthrite projectile in the 2000 through 2004 bowhead whale subsistence hunts in Barrow, Alaska (submitted by the USA)	4
4	Reports from Contracting Governments. Summary of activities related to the Action Plan on Whaling Killing Methods: Information on whales killed	3
5	Norwegian minke whaling 2003 and 2004 (submitted by Norway)	3, 4
6	A note regarding information encouraged in the IWC-Resolution 1999-1 with Appendix 1: 2004 quota allocation to individual municipalities (submitted by Denmark (Greenland))	3
7	Report on improvements in aboriginal subsistence whaling in Greenland (submitted by Denmark (Greenland))	4
8	Status for Greenland Action Plan on Whale Hunting Methods, 2004 (submitted by Denmark (Greenland))	4
9	Report of the United Kingdom and New Zealand workshops on determining criteria for insensibility and death in stranded cetaceans (submitted by the UK)	5
10	Review of Norwegian research on the humaneness of whale killing (submitted by the UK)	3
11	Improvement of the time to death in the Japanese Whale Research Programme in the Antarctic Sea (JARPA) and Northwestern Pacific Ocean (JARPNI and JARPNI) (submitted by Japan)	4

Appendix 3**AGENDA**

1. Introductory items
 - 1.1 Appointment of Chair
 - 1.2 Appointment of Rapporteurs
 - 1.3 Review of Documents
 2. Adoption of the agenda
 3. Data provided on whales killed
 4. Information on improving the humaneness of whaling operations
 5. Addressing requirements made in Resolution 2004-3
 6. Other
 7. Adoption of the report
-

Annex G

Proposal for a Workshop on Whale Killing Methods and Associated Welfare Issues

RECALLING that the scientific Workshop on Whale Killing Methods and Associated Welfare Issues held prior to IWC/55 in 2003, adopted a Revised Action Plan that encourages the IWC to hold a further scientific and technical workshop in 3-5 years;

NOTING that the Revised Action Plan on Whale Killing Methods, as noted in the Chair's report of the 2003 Workshop, recommends continued improvements in data collection and reporting; technical development of killing methods, and criteria and methods to determine death;

RECOGNISING that the Chair's report of the 2003 Whale Killing Methods and Associated Welfare Issues scientific workshop surmises that penthrite grenade technology represents the current state of 'best practice' for a primary killing method;

RECOGNISING the inherent importance of safety for whaling vessel crews in all proposals to improve whale killing methods; and

NOTING that the Working Group on Whale Killing Methods and Associated Welfare Issues agreed to convene a workshop meeting at IWC/58;

NOW THEREFORE THE COMMISSION:

AGREES the following Terms of Reference for the Workshop on Whale Killing Methods and Associated Welfare Issues at IWC/58.

The Workshop shall build on advances from previous years to consider the following issues and make recommendations as appropriate:

1. practical criteria for determining the onset of irreversible insensibility and death;
2. means of improving the efficiency of whale killing methods;
3. reducing times to death and other associated welfare issues;
4. means for reducing struck and lost rates in whaling operations;
5. the welfare implications of methods used to kill whales caught in nets where they are not released alive; and
6. practicable methods of reviewing and collecting data from aboriginal hunts.

Safety issues for the crew members of whaling vessels shall be taken into account in all proposals regarding improvements to existing and new methods, and gear, e.g. killing methods for whales caught in nets. Cost issues for aboriginal subsistence hunters shall also be taken into account.

In considering these issues the Workshop shall have regard, *inter alia*, to data furnished to the Working Group on Whale Killing Methods and Associated Welfare Issues and also to relevant comparative data from the killing of other large mammals.

Annex H

Report of the Conservation Committee

Monday 13 June 2005, Ulsan, Korea

The meeting was opened by Bo Fernholm (Sweden), who welcomed participants. A list of participants is given in Appendix 1.

1. INTRODUCTORY ITEMS

1.1 Election of Chair

In the absence of Horst Kleinschmidt (South Africa), who had not yet arrived, Bo Fernholm (Sweden) was confirmed as Chair.

1.2 Appointment of rapporteurs

Pam Eiser (Australia) was appointed rapporteur.

1.3 Review of documents

The following documents were relevant to the discussions of the Committee:

IWC/57/CC1 Revised Draft Agenda;
 IWC/57/CC2 List of documents;
 IWC/57/CC3 A South Pacific Whale Sanctuary;
 IWC/57/CC4 Australia: Voluntary National Conservation Report;
 IWC/57/CC5 [No Paper];
 IWC/57/CC6 Chile: Voluntary National Cetacean Conservation Report, 2005;
 IWC/57/CC7 Outline proposal for the IWC Conservation Agenda;
 IWC/57/CC8 Argentina: Voluntary National Cetacean Conservation Report;
 IWC/57/Rep1 Report of the Scientific Committee;
 IWC/57/4 The South Atlantic Sanctuary: A Sanctuary for Whales;
 IWC/57/8 Brazil: Voluntary National Cetacean Conservation Report, 2005;
 IWC/56/Rep5 Report of the Conservation Committee.

2. ADOPTION OF THE AGENDA

With the two following changes and/or additions, the agenda, as circulated, was adopted (see Appendix 2):

- (i) to include under Item 3 a discussion on the nature and establishment of the Conservation Committee, picking up from the discussion held on this item at IWC/56; and
- (ii) to reverse the order of Items 5.1 (South Pacific Whale Sanctuary) and 5.2 (South Atlantic Whale Sanctuary).

3. FURTHER CONSIDERATION OF TERMS OF REFERENCE AND WORKING METHODS

In introducing this Item, the Chair recognised that Agenda Items 3 and 4 may merge to some extent. He noted there had been a long discussion of this matter at the last meeting and referred to the outcomes of that discussion as set out in

the annotated agenda. He invited any further reflections. There were none.

Iceland recalled some of the history surrounding the establishment of the Conservation Committee, going back to the Commission's annual meeting in Berlin in 2003 where a draft resolution was presented which, it said, was openly hostile to about half the members of the Commission and with whom there had been no consultation. Iceland suggested that conservation is something on which all members should be able to agree and on which a discussion would be useful. Iceland could not understand why the Conservation Committee had been set up in such a way that half of the IWC's members felt they could not participate in it. It is not possible to have sustainable whaling without taking account of conservation issues. Iceland recalled that it had in 2003 tried to initiate some discussions with a view to finding a text which would be acceptable to all. In the end, however, these efforts were ignored. In 2004, there had then been a frank discussion, and a small group had been established from the Conservation Committee within which an open discussion could take place. At the time, Iceland said it had welcomed what it saw as a new-found willingness to discuss the nature of the Conservation Committee and hoped that the preparatory work to establish the Committee could now be done. It also expressed the belief that this must be done before the Committee enters into any substantive discussion. Since the 2004 meeting however, nothing has happened and this willingness appears to have faded away. It had made some attempt to set up a bit of dialogue but this had not been taken up. There is now an attempt to set up a programme of substantive work for the group. Iceland asked what those who had set up the small group had in mind and whether it is now the intention to just push on, or whether there is still a willingness to set up the Conservation Committee in a way that makes it possible for all members of the Commission to participate. It queried whether there was now a willingness to bridge the gap and change the foundation of the Conservation Committee to make it acceptable to all Commission members.

Some other members disagreed with Iceland's interpretation of the process by which the Conservation Committee had been established and its legitimacy. Reference was made to the discussion in section 15.2 of the 2004 Annual Report of the Commission in which the Plenary had put the issue of further work on these matters as the responsibility of the IWC or its Chair, not the Conservation Committee. They also noted that the need to get on with business had been recognised, as was the need for these difficulties to be settled in due course. It was hoped that all countries could see the necessity for, and merits of, the Conservation Committee, irrespective of their views on whale hunting.

Norway advised that it had not yet made a final decision as to whether or not to participate in this Committee. Such a decision will depend on what happens this year.

Recognising the overlap here with Agenda Item 4, the Chair invited Belgium to present document IWC/57/CC7. Belgium recalled that Resolution 2003-1, establishing the Conservation Committee, had assigned to the Committee three tasks:

- the preparation and recommendation to the Commission of its future Conservation Agenda
- the implementation of those items in the Agenda which the Commission refers to it; and
- making recommendations to the Commission to maintain and update the Conservation Agenda on a continuing basis.

Paper IWC/57/CC7 contains three parts:

- a proposal for an initial Conservation Agenda;
- some proposals for working methods of the Committee; and
- an annex containing some suggestions for an initial programme of work for selected items in the Conservation Agenda.

Belgium noted that the annex was not intended as part of its formal proposal. It hoped that the initial Conservation Agenda proposed would receive broad support. By adopting it, including any amendments or additions members of the Committee might make, and forwarding it to the Commission, the Conservation Committee will have fulfilled item (1) of its mandate. Belgium recognised that there were concerns by some that the Conservation Agenda and provisional programme of work outlined in document IWC/57/CC7 appeared overly ambitious, but stressed that it was not intended to address every item on the Agenda in every year. Rather, as specified in item (2) of its mandate, the Committee in any particular year would be tasked with implementing just those specific items on the Agenda which the Commission refers to it, in accordance with the Commission's priorities.

Turning to the second part of document IWC/57/CC7 – working methods of the Committee – Belgium stated its firm intention for the Conservation Committee to pro-actively avoid duplication with the work of other bodies, including the IWC's own Scientific Committee, or other international bodies concerned with cetacean conservation, including notably CMS. The document sets out how it is envisaged that the Conservation Committee might interact with these other bodies. Special reference was made to a document produced by CMS entitled '*CMS, its Agreements and the IWC Conservation Committee: possible synergies*'.

Belgium then suggested that in forwarding the proposal for the Conservation Agenda to the Commission, it would be helpful to highlight those topics on which the Committee believed it could most fruitfully focus initially. In this context, Belgium proposed three global issues: ship strikes, bycatch and anthropogenic marine noise; and one endangered species issue: the western North Pacific gray whale. By focussing the work of the Conservation Committee on a few key issues, Belgium believed this would lead to more effective progress, and also provide an opportunity for the Committee to develop, clarify and adjust its working methods and interactions with other Commission sub-groups and other relevant international organisations. It stressed however, that issues not selected for the initial focus would nevertheless remain on the Conservation Agenda and members would be encouraged to report on progress with these.

Finally, Belgium raised the possibility that once the Committee had agreed on a few high priority issues on which it would focus initially, that a group of interested national delegates should meet intersessionally to develop more specific proposals for review and decision-making at next year's annual meeting. It proposed that the Chair and Vice-Chair of the Scientific Committee, and members of the Secretariat also be involved in this exercise and suggested that selected international organisations with competence for these issues should also be invited to participate. Belgium emphasised that in order to make real progress, it hoped for the broadest of collaboration and consensus-seeking both between organisations and individuals concerned.

Iceland regretted what it perceived as a lack of willingness and spirit to find a common understanding. It said that the Committee was now going into a substantive debate about its agenda and working methods without first working out the issues concerning the foundation of the Committee, and noted that it had not accepted Iceland's invitation to work on this. Iceland advised that it would not take part in any further substantive discussion and requested that the record reflect for each agenda item that Iceland did not take part in the substantive discussion for the reasons explained earlier.

The delegate from Norway stated that he was mostly there to listen to the discussion. Expressing some personal opinions though, he welcomed the attempt to establish some priorities for work and saw this as a positive step forward. He felt positive to the proposed relationship with the Scientific Committee as proposed in the document. With respect to the proposal that selection of endangered species and populations be based on the IUCN Red List, he believed the Scientific Committee should be the authority.

The Republic of Korea recalled that it had participated as a member of the small group convened by the Netherlands at last year's meeting and that this had been conducted in an open-minded way, incorporating all opinions. A number of points had been made on the establishment of the Conservation Committee and it had expected that discussion on outstanding points and the future of the Committee should continue. This does not seem to be the case. The Republic of Korea stated that in its view the principle for the Conservation Committee is not defined. It had appreciated the presence of Iceland in the small group and had hoped that a collaborative spirit would continue to develop. The Republic of Korea emphasised that at some stage the discussion of the outstanding points concerning the nature and establishment of the Conservation Committee needs to be continued and resolved and a mechanism to involve all members found. It suggested that this might be better done in another small group meeting.

In further discussion, a number of delegations endorsed the proposal from Belgium and thanked it for preparing this paper. Support was expressed by one country for the proposal from Norway to use the IWC's Scientific Committee for classification of stocks, rather than IUCN. Other delegations emphasised the proposal that the Conservation Committee focus on threats to whales other than direct hunting, and appreciated this as an attempt to draw a line that might be useful to all parties. Sustainable use is considered in other parts of the Commission's agenda.

The Chair proposed at this point to close Agenda Item 3 and to take up further discussion of the more specific proposals outlined in document IWC/57/CC7, under Agenda Item 4.

4. FURTHER CONSIDERATION OF ITEMS TO FALL UNDER THE AUSPICES OF THE CONSERVATION COMMITTEE AND DEVELOPMENT OF A CONSERVATION AGENDA

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

4.1 Items and issues to address as part of the 'Conservation Agenda'

Many countries endorsed and welcomed the contribution from Belgium to establish a targeted set of priority areas for work. There was some support for adding pollution to the list of three global issues identified by Belgium as priorities.

Denmark regretted that it had not been possible in Berlin to establish the Conservation Committee on the basis of broad consensus. It expressed some concern regarding reopening the sensitive question of small cetaceans in the annexes tabled by the proposers in Berlin and was keen to ensure that the Committee did not replicate work done by other organisations or other groups within the IWC.

There was also some concern that the list of topics was still too large and the USA proposed going forward with only one or at most two items that would demonstrate to the Commission the value added provided by the Conservation Committee and on which it can work collaboratively with the Scientific Committee. It proposed a criteria for identifying priority topics: is the issue protecting an endangered species and/or addressing a significant problem in some way; is there a broad constituency within the Commission; is it possible to complete the project or at least make significant progress within 1-2 years; does the project involve little additional funding; is it consistent with the priorities of the Scientific Committee. The USA agreed with the proposal to include pollution as one of the issues and proposed that the specific situation concerning the Eastern gray whale and the appearance of 'stinky' whales in the aboriginal subsistence hunt be investigated. It advised that it had broached this proposal with the Russian Federation which had indicated that it would need some time to formulate its views. The USA also reported that it had spoken with the Chair of the Scientific Committee to provide an outline of the work required and an indication of whether work by the Conservation Committee would contribute to the Scientific Committee's work. An approximate cost of the work required had also been sought and it would be \$US 30,000-50,000.

There was considerable support for the proposal of the USA to limit the immediate work programme to two priorities while maintaining the full Conservation Agenda as proposed by Belgium. In agreeing to focus items for next year, it was recognised that the broader conservation agenda as set out in paper IWC/57/CC7 would still remain and it would be for each meeting of the Committee to identify priority topics to be developed and set up for subsequent years.

The Conservation Committee agreed to recommend pollution, especially the problem of 'stinky' gray whales,

and ship strikes as its first two priority items of work, and to refer other items on the Conservation Agenda as proposed in IWC/57/CC7 to the Plenary for further discussion and for the Conservation Committee to return to at a later time.

With this decision and referring to the first item of work, the USA identified three actions now required: to seek the views of the Russian delegation; assuming that the Russian Federation is supportive, to ask the Chair of the Scientific Committee for advice regarding a protocol to address the matter proposed by the USA; and to prepare for submission a formal draft proposal. On this latter point, the USA offered to work with other interested parties to prepare the draft.

The Russian Federation said that it had intended to raise this matter at the Scientific Committee and the Aboriginal Whaling Sub-Committee and expressed appreciation to the USA for raising this issue at the Conservation Committee. It said that this is a really serious issue for its aboriginal subsistence hunters, who report that up to 10 percent of the whales have a strong medicine smell. Last year, six 'stinky' whales were landed which the Russian Federation considered should be excluded from the annual catch limit. Samples had been taken from three 'stinky' whales and one regular one and these were analysed by toxicologists. The Russian Federation expressed thanks to scientists from Norway and Japan who had made their own conclusions about the whales. Results of these analyses had been forwarded to scientists in the USA and a report from them had not yet been received. Differing opinions had been given by toxicologists as to whether the meat from these whales could be used for eating. It is hoped that a final conclusion can be reached this year. The Russian Federation said that a meeting of toxicologists this year, to find out their opinion would be useful and helpful. There is information that the winter habitat areas of gray whales in Mexico are chemically polluted so the health of aboriginal people and the welfare of whales are issues of interest for the two committees: Aboriginal Subsistence Whaling and Conservation. Russia, the USA and Mexico should collaborate to prepare a specific proposal for this work.

The Chair of the Scientific Committee then responded to the questions posed by the USA. On the question of significance of the problem, he advised that the Scientific Committee did not recognise this as a priority conservation issue for the stock but did recognise it as a phenomenon that was obviously of importance to the hunters concerned. On the question of protocols to address the matter, the Chair of the Scientific Committee confirmed that it could be made. He stressed that the phenomenon is not understood and may be due to causes other than pollution, for example a disease or other natural phenomenon; a cetacean pathologist would therefore be required to be involved in this work. On the third point of the estimate of cost, the Chair of the Scientific Committee said that this could be developed, or perhaps several estimates depending on how extensive the work required is and over how many years it is to be pursued.

The Chair advised that two years is proposed for the work. He then sought advice as to how to move forward. A small group, chaired by USA, and comprising the Russian Federation and Mexico, was established to consult together, and with the current and incoming Chairs of the Scientific Committee, and bring forward to the Plenary meeting a

proposal for this work. Any other interested delegations should approach the USA.

With respect to the second priority area identified by the Conservation Committee – ship strikes – it was recognised that a specific work proposal was less well-defined. The Belgian delegate, subject to approval from his Government, offered to lead a group of interested parties to set up a working group and work intersessionally by email. The proposal for an intersessional group operating by email was agreed. A small working group led by Belgium and comprising Brazil, Australia, Argentina, New Zealand, Luxembourg, UK, South Africa, USA, Italy and France was then established to consult and prepare some thoughts as to a work plan/programme for this work for presentation to the Plenary meeting. (The subsequent report of this group is attached as Appendix 3.) If then agreed by the Commission, work would proceed intersessionally.

4.2 Collaboration with other organisations

The Chair recalled the document prepared by the Secretariat for the 2004 meeting which described the arrangements the IWC had with various organisations, and noted that there was no concrete proposal before the meeting as to further collaborations.

Australia suggested drawing from the paper just discussed in considering this item. It proposed seeking practical ways to collaborate on specific issues. It felt it was perhaps premature to consider more formal memorandum of understanding as exist with CMS and that the Committee should proceed by collaboration with other bodies as appropriate on specific issues and that over time a set of relations may emerge that need to be more formalised. The UK pointed out that there was bound to be issues on which collaboration with some other organisations would be useful and appropriate. It was probably easiest to deal with this on an individual basis.

The Chair proposed leaving existing arrangements as is, continuing the exchange of observers, and moving ahead on specific issues and associated appropriate collaborations, allowing the need for any more formal relationships to develop over time.

5. WHALE SANCTUARIES

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

5.1 Proposal to establish a South Atlantic Whale Sanctuary

5.1.1 Introduction by Brazil/Argentina/South Africa

In bringing the proposal for the establishment of a South Atlantic Whale Sanctuary (IWC/57/4) to the attention of the Conservation Committee, Brazil noted that scientific issues with respect to the proposed sanctuary have previously been discussed by the Scientific Committee and stated it was now appropriate for this Committee to review it within the context of a management tool. Brazil noted that the proposal is presented jointly with Argentina and South Africa and has a very clear stated goal: that of promoting and consolidating a non-lethal management regime for cetacean resources in the area the sanctuary encompasses. Brazil noted that the issue of whether the Sanctuary is based on scientific findings has been raised in the past. Whilst stating its belief that it does, Brazil also

stressed the Sanctuary as a management tool. It noted that scientific findings prove that large whale populations in the sanctuary area have been mostly depleted by commercial whaling and show that while some are slowly recovering many may not be. The lack of scientific findings on most cetacean species living there shows how much there is still to be done to assess them properly. Brazil also highlighted that further scientific findings from diverse branches of Science prove that the non-lethal management option can be of great benefit to the peoples in the region, thereby justifying the proposal in management terms. It emphasised that there is no specific guidance in Article V of the Convention to specify which scientific findings are necessary to determine whether a sanctuary is admissible under the Convention or not.

Brazil noted that the proposal reflects the IWC's recommendations on the review of sanctuary proposals, adopted at a previous meeting. The proposed Sanctuary is based on scientific findings; the boundaries proposed are appropriate, especially if taken in conjunction with the existing Southern Ocean Sanctuary; will stimulate research important to the fulfilment of IWC objectives; and is entirely consistent with the Precautionary Approach, more specifically with the Precautionary Principle or Principle 15 as outlined in the UNCED 1992 Declaration.

Brazil recalled that it had made particular remarks regarding its interpretation of the recommendation on the review of sanctuary proposals when it had been adopted. These dealt with the extent that IWC sanctuaries can address potential threats to cetaceans other than direct takes, and whether specific management actions could be prescribed for these threats and for so-called critical habitat. It noted therefore that its proposal addresses these questions not only in the light of the greatly outdated 1946 founding treaty of the IWC but also addresses potential threats in the context of the broader current legal regime, in particular UNCLOS and the Convention on Biological Diversity. IWC/57/4 therefore proposes that management issues should be addressed through close cooperation amongst range states, with the participation of the International Whaling Commission, within the limits of its legal mandate.

Brazil further added that the proponents have, in document IWC/57/4 tried to incorporate to the extent possible the discussion at and recommendations from the 2004 meeting of the Scientific Committee. It noted that an adequate management plan, which recognises the limits of IWC jurisdiction and promotes the integration of national efforts in a concerted way, can only be adopted once the Sanctuary is created. Concerning past comments about the relationship between sanctuaries and the RMP, Brazil emphasised that the stated goal of the proposed Sanctuary is to promote the non-lethal use of whales and the proposal should not therefore in this context be judged in relation to the RMP. Further, its establishment should not be constrained by the possible future existence of RMP-based management regimes in other areas, as management decisions concerning whale resources should not be solely based on lethal harvests.

In conclusion, Brazil recognised that the Commission is deeply divided, ideologically more than anything, about the issue of sanctuaries and their role in cetacean management. This discussion however can be a valuable exercise in crafting a way out of the current deadlock. In this respect Brazil reiterated its position: there can be no agreement on

the possible future resumption of commercial whaling unless there is a will to recognise and protect the rights of peoples and nations for the non-lethal management of whale resources.

Argentina said that in its view the proposal has a very clear stated goal, as outlined by Brazil. It noted its strong support for the non-lethal use of cetaceans and its long whale watching tradition. This activity has expanded to become one of the most important economic activities in coastal towns along Argentine Patagonia. It referred also to its long-standing whale research programmes which have contributed scientific information relevant to the goals of the proposed sanctuary. Results from these studies have been presented in the IWC Scientific Committee and at other international forums. Argentina said that the proposed sanctuary will provide long-term protection and recovery of cetacean populations, will support research on depleted stocks and their habitats, will promote regional conservation measures and educational activities, and contribute to the development of environmentally friendly tourism along the South American and African coasts.

As the third co-sponsor of the proposal, South Africa stated its position as being for the non-consumptive use of cetaceans. It noted that two of the world's oceans already have sanctuaries, and that this will complement them. It emphasised that the proposed sanctuary would be a management tool, and was not in opposition to the RMS.

5.1.2 Report from the Scientific Committee

The relevant extract from the draft Report of the Scientific Committee (IWC/57/Rep1) was presented by the Chair of the Scientific Committee. In summary, the Chair of the Scientific Committee noted that proposals similar to IWC/57/4 had been reviewed in the past by the Scientific Committee. A summary of the most recent comprehensive review was published in IWC (2002)¹. The Scientific Committee was unable to reach a consensus view during its past meetings. At this year's meeting of the Scientific Committee, a review following the instructions received from the Commission at their 2001 annual meeting, as well as a review following the recommendation from the Committee developed during its 2004 annual meeting, was undertaken. Consensus was not reached for either review.

5.1.3 Committee discussion and recommendations

A number of countries expressed their strong support for the proposed South Atlantic Whale Sanctuary. In their comments they considered that sanctuaries can and do play an important role in whale conservation and management, and are not incompatible with other uses in other parts of the world. Perceived inconsistencies, both with the RMP and the ICRW, were also addressed in comments. On the first issue, it was pointed out that the RMP, which is a tool for setting catch limits, has a different objective to that of a sanctuary, which is for the non-lethal use of whales. The notion that sanctuaries are inconsistent with the Convention was also refuted in comments, with proponents of the Sanctuary saying it is quite clear that Article V allows for sanctuaries.

Brazil acknowledged all the other co-sponsors of the proposal from last year and reassured them that their sponsorship is being carried forward.

Norway said that its position is well-known and it will vote against the sanctuary at the appropriate time.

Returning to the extract from the draft report of the Scientific Committee, the Republic of Korea expressed its disappointment that the report does not reflect or show any compromise or consensus. It suggested if the five points raised by the external reviewers in their review of the IWC's approach to sanctuaries could be addressed by proponents, sanctuary proposals would have the full support of the Scientific Committee.

In response, the Chair of the Scientific Committee said that consensus on the proposal had been sought over four meetings of the Scientific Committee, but it had not been possible to achieve this. He expressed the belief that the report as presented is a reasonable, balanced report of what could be agreed and, what was agreed, could not be agreed.

5.2 Proposal to establish a South Pacific Whale Sanctuary

5.2.1 Introduction by Australia/New Zealand

In opening the presentation on the proposed South Pacific Whale Sanctuary (IWC/57/CC3), Australia said that the establishment of the Conservation Committee provides an opportunity for the Commission to receive advice on issues related to the conservation of whale populations and it was with this in mind that Australia and New Zealand have submitted the South Pacific Whale Sanctuary proposal to the Conservation Committee. Whilst the proposal for a South Pacific Whale Sanctuary has been before the Commission since 2001, it has not yet benefited from a review by the Conservation Committee. By such a review, it hoped that the Commission would be better informed about the important conservation issues associated with the Sanctuary and that it would further advance the adoption of the Sanctuary by the Commission in the future.

Australia then outlined some of the key features of the South Pacific Whale Sanctuary proposal. The primary goal of the Sanctuary is to promote the biodiversity, conservation and non-lethal utilisation of whale resources in the South Pacific Ocean. It stressed that the sanctuary is essential to: facilitate the recovery of great whale populations which remain seriously depleted by protecting them throughout their range; complement the protection for species that feed within the IWC's Southern Ocean Whale Sanctuary; and support the people of the South Pacific who wish to profit from whales in a sustainable, non-lethal way, and whose interests are not taken into account with the RMP. Australia also reviewed the status and trends of whale populations within the proposed sanctuary area. With respect to the boundaries proposed, Australian noted that the South Pacific Whale Sanctuary takes account of: the boundary of the Southern Ocean Sanctuary, in order to provide entire ecosystem coverage for great whales; the Equator being a natural divider of Northern and Southern Hemisphere whale populations; the known winter breeding and calving grounds of five humpback whale populations; and critical migratory routes between feeding and breeding grounds. It is also precautionary in that it recognises that some breeding grounds and migratory routes are yet to be identified. In concluding its presentation, Australia highlighted some of the key benefits of the Sanctuary, as set out in paper IWC/57/CC3.

As the other proponent of this proposal, New Zealand highlighted the state of knowledge of threats to great whale populations in the South Pacific region. These include: ship

¹ *J. Cetacean Res. Manage. (Suppl.)* 4: 65-67 (2002).

strikes; marine noise; entanglement and bycatch; and pollution. Whilst whalewatching is an important economic activity in several Pacific Island countries there also remains some unresolved issues associated with this. New Zealand advised that some time ago the Secretariat of the Pacific Regional Environment Programme (SPREP), as the coordinating agency for the region, had been asked to provide advice on priority issues in the region. Funding for this task has now been received and it is hoped that by next year some of the information gaps can be filled and that Australia and New Zealand will be able to put forward a proposal that will garner additional support.

5.2.2 Committee discussion and recommendations

In discussion, a number of countries affirmed their strong support for the proposed South Pacific Whale Sanctuary. Reference was made to the needs of the Southern Hemisphere which some felt were not given due consideration within the Commission. It was also felt unsatisfactory by some that the proposal had not been adopted by the Commission, given the support that exists for it.

6. NATIONAL REPORTS ON CETACEAN CONSERVATION

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

6.1 Introduction of national reports

The Chair noted that four countries had submitted voluntary national cetacean conservation reports: Brazil (document IWC/57/8); Australia (IWC/57/CC4); Chile (IWC/57/CC6); and Argentina (IWC/57/CC8) and invited these countries to introduce their reports in turn.

Brazil recalled that together with Argentina it had proposed at last year's IWC meeting that countries submit on a voluntary basis national cetacean conservation reports. It believed that it was a useful exercise, not just for the IWC but for the world at large as well, for countries to submit reports on cetacean management and management actions for cetaceans, detailing for example concerns, weaknesses, and areas where cooperative action could be of benefit. Brazil noted its intention to also submit this report to the IWC Plenary as a model of what could be done, and to make preparation of such a report a permanent undertaking by Brazil.

In presenting its report, Australia noted that it had used a similar structure to that of Brazil and observed that it had not been a labour-intensive exercise. It felt that an exercise at this level was a relatively resource effective way of promoting information exchange between countries. It commended the approach to other countries as a useful way of exchanging information on cetacean matters.

Introducing its report, Chile emphasised that whale populations in Chilean waters are important in the development of non-lethal activities and provide a great opportunity for development.

Argentina presented its report and recalled the joint proposal with Brazil in 2004 for the presentation of conservation reports, including information on habitat protection. The report therefore gives details of 21 protected areas in Argentina where whales and dolphins are protected or observed. Another important issue is that of legislation and relevant national legislation is listed in the report. It also documents international affiliations and cooperative programmes with which Argentina is engaged.

6.2 Committee discussion and recommendation

Mexico welcomed the reports of the four countries and expressed its appreciation. It stated its intention to join with these countries next year in presenting a national cetacean conservation report. New Zealand apologised that it had not been able to prepare a report for this year, but stated that it would next year. The UK similarly expressed its regret.

The Chair commented that he personally had found the presentation of these reports a useful, interesting exercise. He asked if it was sufficient to leave the existing recommendation for voluntary reports as it was, or whether the process should now be formalised more. Replying to the Chair's question, Australia suggested that each country should look at its own resource base and manage the process as it sees fit. The voluntary nature of the reports allows a country to settle at the level it finds manageable and most useful. It urged against making the process too prescriptive, leading to reporting fatigue. In concluding this item, the Chair noted the useful nature of these reports and proposed that the submission of voluntary reports remain on the same basis as before.

7. OTHER MATTERS

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

Brazil requested that the Conservation Committee meeting in 2006 be allocated at least one whole day for deliberations. This proposal was supported by Belgium and Australia.

The Republic of Korea also re-stated its basic position with respect to sanctuaries: without the endorsement of the Scientific Committee, it is reluctant to support sanctuary proposals.

8. ADOPTION OF THE REPORT

The report was adopted 'by post' at 18:00 on Saturday 18 June 2005.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Conall O'Connell
Pam Eiser (rapporteur)
Gillian Slocum

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Koen Van Waerebeek

Brazil

Karina Groch
Regis de Lima
José Palazzo

Chile

Elsa Cabrera

Denmark

Henrik Fischer
Ole Heinrich
Amalie Jessen

Finland

Esko Jaakkola

France

Vincent Ridoux

Germany

Peter Bradhering
Marlies Reimann

Iceland

Stefan Asmundsson
Asta Eingsdottir
Kristjan Loftsson
Gisli Vikingsson

Italy

Caterina Fortuna

Republic of Korea

Yeong Gong
Zang Geun Kim
Hyun-Jin Park
Sung Kwon Soh

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

New Zealand

Alan Cook
Mike Donoghue
Al Gillespie
Geoffrey Palmer

Netherlands

Benno Bruggink

Norway

Anniken R. Krutnes
Lars Walløe

Russian Federation

Rudolf Borodin
Valentin Ilyashenko
Olga Ipatova
Igor Mikhno

South Africa

Herman Oosthuizen

Spain

Santiago Lens

Sweden

Bo Fernholm (Chair)
Anna Roos

Switzerland

Bruno Mainini

UK

Richard Cowan
James Gray
Laurence Kell
Jennifer Lonsdale
Trevor Perfect
Mark Simmonds
Chanaka Wickremasinghe

USA

Roger Eckert
Maggie Hayes
Cheri McCarty
Micah McCarty
Rolland Schmitten

Chair of Scientific Committee

Doug DeMaster

Appendix 2

AGENDA

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Election of Chair 1.2 Appointment of rapporteurs 1.3 Review of documents 2. Adoption of the Agenda 3. Further consideration of Terms of Reference and working methods 4. Further consideration of items to fall under the auspices of the Conservation Committee and development of a conservation agenda <ol style="list-style-type: none"> 4.1 Items and issues to address as part of the 'Conservation Agenda' 4.2 Collaboration with other organisations. 5. Whale sanctuaries | <ol style="list-style-type: none"> 5.1 Proposal to establish a South Pacific Whale Sanctuary <ol style="list-style-type: none"> 5.1.1 Introduction by Australia/New Zealand 5.1.2 Committee discussion and recommendations 5.2 Proposal to establish a South Atlantic Whale Sanctuary <ol style="list-style-type: none"> 5.2.1 Introduction by Brazil/Argentina/S. Africa 5.2.2 Report from the Scientific Committee 5.2.3 Committee discussion and recommendations 6. National reports on cetacean conservation <ol style="list-style-type: none"> 6.1 Introduction of national reports 6.2 Committee discussion and recommendations 7. Other matters 8. Adoption of the report |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

ADMISSION OF OBSERVERS

Rule of Procedure C.2

Observers accredited in accordance with Rule [of Procedure] 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.

Appendix 3

REPORT OF THE SHIP STRIKES WORKING GROUP (SSWG) CONSULTATIVE MEETING

Members: Belgium (convenor), Argentina, Australia, Brazil, France, Italy, Luxembourg, New Zealand, South Africa, UK, USA

Observers²: Denmark/Greenland, Korea

1. INTRODUCTORY ITEMS

A first, consultative, meeting of the new Ship Strikes Working Group (SSWG) took place at the Lotte Hotel, Ulsan, Korea, on 14 June 2005. A list of participants is given in Adjunct 1. It was convened subsequent to a call for interested Parties to define terms of reference for such a working group, in the context of discussion of document IWC/57/CC7 as presented by Belgium the previous day. The main purpose of the meeting was to define terms and propose to the Commission that ship strikes with whales be approved as one of two high priority issues³ to be implemented initially in the Conservation Committee (CC) (cf. task 2 of Resolution 2003-1). The SSWG recognises that the data review aspects of the work plan as indicated below are of interest also to the Scientific Committee's (SC) Bycatch and other human-induced mortality sub-committee.

2. APPOINTMENT OF CHAIR

Koen Van Waerebeek (Belgium) was appointed Chair. He also served as rapporteur.

3. TERMS OF REFERENCE

3.1 Comprehensive global review of information on ship strikes with whales

Scattered information on ship strikes exists in published papers, unpublished reports, conference abstracts and personal communications. Ship collisions have most recently been reviewed by Laist *et al.* (2001), however these authors concentrated on the North Atlantic and did not address waters off South/Central America, Africa (except South Africa), Middle East, Asia nor Oceania. Indications are that substantial new information has become available since 2001. Paper SC/57/BC1 (Felix and Van Waerebeek, 2005) showed that the problem may be

vastly underreported. Measures to reduce ship strikes in North Atlantic right whales were discussed by Russell (2001) and may serve as a template for other species and areas.

Belgium proposed to draft a technical document 'Global Review of information on Ship Collisions with Whales and other cetaceans, with an evaluation of current monitoring and mitigation initiatives', to be submitted at IWC/58, firstly, to the Scientific Committee Meeting at IWC/58 and subsequently to the Conservation Committee. An outline of issues to be addressed was earlier provided as a guideline by Belgium and cosponsors in document IWC/57/CC7 (relevant section reproduced in Adjunct 2).

The USA indicated that experts were available who could contribute to the exercise. The USA has worked with the International Maritime Organisation (IMO) on mitigation of ship strikes with endangered North Atlantic right whales in the NW Atlantic shipping corridors. It was stated that besides reviewing technical aspects, recommendations should be formulated and aspects of outreach and education on the issue of ship strikes should also be considered. NZ emphasized the importance of meaningful involvement with the IMO in this area, as ultimately any solutions seeking to control vessels on the high seas will have to substantively involve them. The UK encouraged that the reporting of ship strikes be presented in a positive manner, rather than implying punitive implications could result. Belgium agreed that raising awareness for the issue will be important also to improve response when requesting information.

Australia noted that in the intersessional period Australia and New Zealand hoped to work with the South Pacific Regional Environment Program (SPREP) to gather information on threats to whale populations in the South Pacific. They offered to provide relevant information to this group. South Africa reiterated that recommendations should form an integral part of the technical document to be presented to the Scientific Committee and suggested that a distinction be made between domestic shipping traversing coastal waters, which resorts under national regulations, and shipping traffic in international waters which however may be transient through EEZ and territorial waters. South Africa also reminded that a source of (relatively modest) funding would need to be identified (~€5,000). The Belgian Government, the IWC and international NGOs were suggested as potential co-sponsors.

² The delegate of Dominica planned to attend but was unable to participate due to last minute commitments.

³ The other so-called 'stinky whale' issue, a suspected case of pollution affecting gray whales, the cause of which will be investigated by the USA, the Russian Federation and Mexico.

3.2 Intersessional e-mail discussion group

Proposed initial work plan

- (1) Identify and liaise with organisations that already have (e.g. ASCOBANS, ACCOBAMS), or are preparing to set up, programmes of data collection and/or mitigation of ship collisions.
- (2) For each region or subregion identify persons active or interested in this field.
- (3) Establish contacts with national and international bodies that may potentially contribute with valuable information and open avenues for collaborative efforts on future mitigation measures. These include e.g. member nations, International Maritime Organization (IMO), UNCLOS, selected large shipping companies and port authorities (e.g. Hong Kong Port Authority already collaborating with local dolphin research and conservation) and others.
- (4) Identify further sources of information.
- (5) Report back to next Conservation Committee meeting.

Output would consist mainly of a progress report to the Conservation Committee at IWC/58. Membership should be kept flexible and open to changes as needs develop. It was agreed that the chair of the SC Bycatch subcommittee (Per Berggren, Sweden) and the SC Chair (Arne Bjørge) be invited to join the Email discussion group.

3. OTHER

Denmark suggested that national legislation relating to the reporting of ship strikes also be reviewed. IWC national progress reports which already request reporting of ship strikes could be expanded so as to include more technical details. However, information on legislation would best be solicited from member nations to be made available through the voluntary National Conservation Reports.

France and Luxembourg suggested that certain maritime insurance companies might favourably view upon, and

encourage, shipping companies to report collisions (and near-misses) with whales. The UK noted that some yachting organizations could contribute with reported cases of collisions and damage caused to yachts.

Denmark and Italy stated that ASCOBANS and ACCOBAMS³ have for years compiled information on ship strikes in European waters, and should be contacted. The USA recommended that national points of contact be identified among IWC members. Panama and Japan, considering their huge shipping industry, were suggested as potential important contributors of data. It was agreed that special attention be paid to critical areas where high shipping traffic and vulnerable cetaceans coincide.

It is important to separate out those areas that are primarily scientific and those that are not. For example, promoting the reporting of ship strike information is essentially a technical issue that the CC is in a good position to address. Receiving and interpreting the data, and where necessary recommend action is a SC matter. Implementing SC advice is again essentially a technical/policy matter that the CC can address.

4. ADOPTION OF REPORT

The report was adopted on 17 June 2005.

REFERENCES

- Felix, F. and Van Waerebeek, K. 2005. Whale mortality from ship collisions underreported, case studies from Ecuador and West Africa. Paper SC/57/BC1 presented to the IWC Scientific Committee, June 2005, Ulsan, Korea. 6pp. [Paper available from the office of this Journal].
- Laist, D.W., Knowlton, A.R., Mead, J.G., Collet, A.S. and Podesta, M. 2001. Collisions between ships and whales. *Marine Mammal Science* 17(1): 35-75.
- Russell, B. 2001. Recommended measures to reduce ship strikes of North Atlantic right whales. NMFS Contract Report No. 40EMF9000223. 57pp. [Available from National Marine Fisheries Service, Silver Spring, Maryland, USA].

Adjunct 1

List of participants

Argentina

Miguel Iñiguez

Australia

Gillian Slocum

Belgium

Koen Van Waerebeek (Chair)

Denmark/Greenland

Maj F. Munk

Michael Kingsley

France

Vincent Ridoux

Italy

Caterina Fortuna

Republic of Korea

Zang Geun Kim

Luxembourg

Pierre Gallego

New Zealand

Al Gillespie

South Africa

Herman Oosthuizen

UK

Jenny Lonsdale

USA

Roger Eckert

Diana Weigmann

Rollie Schmitten

⁴ Confirmed (pers. comm. to KVV) by Mr. Marco Barbieri, Technical Officer with CMS, Bonn.

Adjunct 2

Text extract

The following text was excerpted from IWC/57/CC7.

1.1 Ship strikes

Collisions with ships can and do kill whales, especially the larger species and those inhabiting waters with high shipping volumes. For at least one species (North Atlantic right whale), ship strikes have been identified along with entanglements as the top two factors that threaten the species with extinction. Apart from certain species and areas (e.g. right whales off USA and Canada) the issue is mainly still at the stage where more information on the extent of the problem and the options for counter-measures needs to be gathered.

Outline Program of Work

- (1) Conduct a study of shipping traffic volumes around the world in relation to cetacean occurrence to identify:
 - areas of potentially high interaction;
 - areas of uncertain status due to lack of information on cetacean occurrence;
 - areas of uncertain status due to lack of information on shipping volumes; and
 - areas where interaction can be assumed to be relatively low.
 - (2) Promote, review and collate research into assessing and improving the efficacy of counter-measures, including:
 - systems for warning vessels of whale presence in the area;
 - arrangements for sighting whales and taking avoiding action;
 - mechanisms for alerting whales to oncoming vessels;
 - relocation of shipping lanes; and
 - speed limits.
 - (3) Develop and implement in conjunction with the appropriate maritime organisations of a global scheme for reporting observed or suspected ship strikes. This should be web-based and supervised in close to real time so that the database supervisor can solicit further information from those reporting ship strikes soon after the event.
 - (4) Based on the information gathered, identify areas, routes, seasons and species for which priority for preventive action is highest. Develop mitigation plans for these priority cases in collaboration with coastal states and relevant organisations.
-

Annex I

Report of the Infractions Sub-committee

Tuesday 14 June 2005, Ulsan, Korea

Terms of reference: 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. INTRODUCTORY ITEMS

A list of participants is given in Appendix 1.

1.1 Appointment of Chair

Sung Kwon Soh, Republic of 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/57/Inf1 Revised Draft Agenda

IWC/57/Inf2 Secretariat: Annotated Draft Agenda

IWC/57/Inf3 Secretariat: National Legislation details supplied to the IWC

IWC/57/Inf4 Draft Secretariat: Summary of Infraction Reports Received by the Commission in 2004

IWC/57/Inf5 Quota monitoring on minke and fin whale hunting in Greenland, 2004

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, 2004

The Secretariat introduced IWC/57/Inf3, the draft summary of infraction reports received by the Commission in 2004, which is given as Appendix 3 to this report.

The Republic of Korea sincerely regretted the reported incidents of illegal catches by its nationals in 2004, particularly in view of its role as host government this year. Following the identification of illegal hunting by poachers from 2000 to 2002, the Ministry of Maritime Affairs and Fisheries and the marine police of Korea have strengthened their intensive efforts to monitor and investigate suspected poachers, vessels and their movements, and also to enhance public awareness of poaching activities through the mass

media. As a result of these measures, four incidents were identified in 2004 in which eight minke whales had been caught illegally. The Government of Korea will continue its strong effort to bring an end to these illegal activities.

Denmark also expressed its regret for the illegal take of one humpback in Upernavik, Greenland in 2004. Details are given in Appendix 3.

The USA was pleased that Korea had imposed severe penalties on those responsible for illegal catching as it was important that severe punishments were adopted in order to deter further infractions. It hoped these measures would lead to a reduction in the number of infractions reported next year. This view was endorsed by the UK.

Sweden noted that, despite the stringent measures imposed, the number of infractions reported by Korea had increased each year since 2000. Korea believed that the publicity given to the incident in 2000 had attracted poachers to the hunt, particularly in view of the high prices that can be realised for whale meat. However, it believed that the extensive efforts that it was making to eliminate illegal whaling activities, including severe punishments for anyone convicted of taking, selling or transporting illegal whales, would soon bring an end to this illegal activity.

The UK asked Korea if it was possible to provide information as to the killing methods used in the illegal hunt and the probable times to death. Korea responded that as these were illegal operations, they were carried out covertly and so it was not possible to provide such information. The UK noted that although this type of operation could not be monitored, nevertheless it might be possible to ascertain the probable killing methods used.

Argentina expressed concern over 4 humpback whales, 212 minke, 1 north Pacific right and 1 Bryde's whale listed in last year's IWC/56 Scientific Committee report as being caught in fishing gear in Japan and Korea in 2003. Argentina asked if a whale is found alive in fishing gear, whether any effort was made to release the whale, or if as in the case in Japan, are Korean fishermen allowed to kill the whale to protect their fishing gear. Korea responded that such bycaught animals are not allowed to be killed. No statistics are available on this matter, but most bycaught animals are found dead.

The USA reported the possible take of a bowhead calf, a 6.7m male taken in September 2004 which was found to contain milk in its stomach. The whale had not been accompanied by a cow. The USA requested that the Scientific Committee provide a definition of a bowhead calf based on its length. The Chair **agreed** to forward this request to the Commission.

4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Reports submitted by the USA and the Russian Federation stated that 100% of their catches were under direct national inspection. Denmark (Greenland) stated that their catches were subjected to a random check.

Table 1
National legislation details supplied to the IWC¹

Country	Date of most recent material	Country	Date of most recent material
Antigua and Barbuda	None	Mali	None
Argentina	2005 ⁴	Mauritania	None
Australia	2000	Mexico	1982
Austria	1998	Monaco	None
Belgium	None	Mongolia	None
Belize	None	Morocco	None
Benin	None	Netherlands, The	2002
Brazil	1987	New Zealand	1992
Chile	1983	Nicaragua	None
China, People's Republic of	1983	Norway	2000
Costa Rica	None	Oman	1984
Côte d'Ivoire	None	Palau, Republic of	None
Czech Republic	None	Panama	None
Denmark (including Greenland)	1998	Peru	1984
Dominica	None	Portugal	2004
Finland	1983	Russian Federation	1998
France	1994	Saint Kitts and Nevis	None
Gabon	None	Saint Lucia	1984
Germany	1982	Saint Vincent and The Grenadines	2003
Grenada	None	San Marino	None
Guinea, Republic of	None	Senegal	None
Hungary	None	Slovak Republic	None
Iceland	1985	Solomon Islands	None
India	1981	South Africa	1998
Ireland	2000	Spain	1987
Italy	None	Suriname	None
Japan	1983	Sweden	1987
Kenya	None	Switzerland	1986
Kiribati	None	Tuvalu	None
Korea, Republic of	1996	UK	1996
Luxembourg	None	USA	2004

¹Up to the middle of June 2005. 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 European Commission. 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. ⁴Information was provided by Argentina on 14th June 2005.

Denmark introduced their document IWC/57/Inf5, giving details of quota monitoring of minke and fin whale hunting in Greenland in 2004.

Following a question from Grenada, the Secretariat clarified that St. Vincent and The Grenadines had submitted an Infractions form and that it had not taken any whales in 2004 but had reported that 100% of their catches were under direct national inspection.

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, sex and the length and sex of any foetus if present is collected for between 84-100% 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, the length and sex of any foetus if 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 58% of animals.

Russian Federation

Information on date, time, species, position, length, sex, the length and sex of any foetus if present, 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/57/Rep1).

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of national legislation supplied to the Commission is given in Table 1. New information had been provided in the past year by Portugal, the USA and Argentina.

In response to a question from Mexico, the Secretariat clarified that some errors in previous versions of Table 1 had been corrected this year.

The UK questioned why no new legislation had been provided to the Commission by Japan and Iceland since the IWC moratorium on commercial whaling came into effect in 1986, as it would have expected these nations to have enacted laws to implement the moratorium. Iceland noted that there had been no commercial whaling by Iceland since the moratorium came into effect, so it had no new

legislation to report. Japan reported that licences are required in Japan before whaling operations can take place and the moratorium was implemented simply by not issuing such licences. Thus it also had no new legislation to report.

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.
- 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.

7.2 Other

Austria noted that some infractions may not be fully resolved during the meeting to which they were reported. The Sub-committee **agreed** to the suggestion to include an item on the Agenda in future to bring such items forward to the following year.

New Zealand expressed its regret at the lack of a binding enforcement mechanism available to the Sub-committee, which could lead to a situation in which infractions are

systematically unpunished. It further stated that if one examined the reports of the Infractions Sub-committee over the past decade or so they demonstrate that Governments presently control the entire IWC compliance process. They unilaterally decide the appropriate threshold for qualification of infractions on a case-by-case basis. Governments can choose not to communicate information on infractions to the Commission. Governments are free to take or not take appropriate action to pursue an infraction. In New Zealand's view this was thoroughly unsatisfactory.

Sweden pointed out that it is not the Convention that is deficient but rather the application of it. Article IX of the Convention states:

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.

The Russian Federation agreed with New Zealand that infractions need to be condemned and punished, but it underlined that punishment is the affair of the Sovereign state and is not within the competence of the Commission.

Korea reiterated that it regretted the eight whales it had reported as infractions. Its Government was imposing severe punishments on anyone convicted of involvement in the hunt and was making strenuous efforts to reduce illegal catching of whales.

8. ADOPTION OF REPORT

The report was adopted 'by post' on 18 June 2005.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda
Tricia Lovell

Argentina
Miguel Iñiguez

Australia
Pam Eiser
Conall O'Connell
Gillian Slocum

Austria
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Michael Stachowitsch

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Brazil
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Frank Hester
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Iceland

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Italy

Caterina Fortuna

Japan

Akihiro Mae
Joji Morishita
Haruo Tominaga

Korea, Republic of

Chiguk Ahn
Yeong Gong
Zang Geum Kim
Hyun-Jin Park
Sung Kwon Soh (Chair)
Bun Do Yoon

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

New Zealand

Mike Donoghue
Al Gillespie
Geoffrey Palmer

Norway

Halvard P. Johansen
Egil O. Øen
Hanne Østgard
Jorn E. Pedersen

Russian Federation

Rudolf Borodin
Vladimir Etylin
Valentin Ilyashenko
Gennady Inankeuyas
Olga Ipatova
Vlalilen Kavry
Igor Mikhno
John Tichotsky

Saint Lucia

Jeannine Rambally

Sweden

Bo Fernholm
Anna Roos

Switzerland

Bruno Mainini

UK

Richard Cowan
James Gray
Laurence Kell
Jennifer Lonsdale
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Mark Simmonds
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USA

Roger Eckert
Maggie Hayes
Cheri McCarty
Micah McCarty
Daniel J. Morast
Rolland Schmitten
Diana Weigmann

Secretariat

Cherry Allison (rapporteur)

Appendix 2**AGENDA**

1. Introduction 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, 2004
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 2004

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/57/Rep1). Catch and associated data for commercial and scientific permit catches were submitted to the IWC Secretariat (IWC/57/Rep1). 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	5	6	11	2	13	None
	Minke	44	129	175 ¹	4	179	None
	Humpback			1			1 ²
East Greenland	Minke	4	7	11	0	11	None
St Vincent and The Grenadines							
	Humpback	0	0	0	0	0	None
USA							
	Bowhead	13	22	36 ³	7	43	None
Russian Federation							
	Gray	43	67	110	1	111	None
	Bowhead	1	0	1	0	1	None
Republic of Korea							
	Minke			8			8 ⁴

¹Includes 2 animals of unknown sex.

²On 7 September 2004, a report was received from a cruise ship and the police in Upernavik about a male humpback whale of length 11m that could hardly swim. The wildlife officer from Upernavik was sent for, and observed that the whale had old wounds due to rifle strikes. After authorisation from the Department of Fisheries and Hunting the whale was killed by hunters from the nearest villages and meat, blubber and qiporaq was distributed to institutions in the nearby villages and Upernavik. The incident was reported to the police. The investigation is not complete, but it is considered that the incident will not be solved due to the lack of possibilities of further investigation.

³Includes 1 animal of unknown sex.

⁴The Government of the Republic of Korea reported 8 illegal direct catches of minke whales by its nationals in Korean waters in 2004. It identified and confirmed these as infractions. The details are as follows:

(i) Four minke whales were caught between October and November 2004 near Pohang city. Two vessels were involved in the incident and two transporters were also arrested. Penalty: 30kg of meat were confiscated, a 10 month prison sentence and a fine of 1 million won imposed. In addition the fishing permits of the two vessels were suspended. The matter is under appeal (2005.1.12).

(ii) A minke whale of length 5m was caught on 14 March 2004 by a vessel using iron harpoons in waters 1 mile off Ulsan. Penalty: all money (35 million won) from meat sales was confiscated and a 6 month prison sentence imposed with 2 years probation. In addition the fishing licence and seamanship license were revoked and the fishing permit cancelled.

(iii) Two minke whales of length 5.1m and 4.2m were caught on 23 July 2004 and transported 12 miles off Ulsan. Penalty: all money (46 million won) from meat sales was confiscated and a 6 month prison sentence imposed with 2 years probation. In addition the fishing licence and seamanship license were suspended and the fishing permit suspended.

(iv) A minke whale of length 4.5m was caught on 29 July 2004 by three vessels using iron harpoons 12 miles off Ulsan. Penalty: a fine of 7 million won was imposed. Administrative punishments for the 3 vessels concerned is in progress. The matter is under appeal.

Annex J

Catches by IWC Member Nations in the 2004 and 2004/2005 Seasons

Prepared by the Secretariat

	Fin	Humpback	Minke	Sperm	Bowhead	Gray	Sei	Bryde's	Operation
North Atlantic									
Denmark									
(West Greenland)	13 ¹	1 ²	179 ³	-	-	-	-	-	Aboriginal subsistence
(East Greenland)	-	-	11	-	-	-	-	-	Aboriginal subsistence
Iceland	-	-	25	-	-	-	-	-	Special Permit
Norway	-	-	544 ⁴	-	-	-	-	-	Whaling under Objection
St. Vincent and The Grenadines	-	-	-	-	-	-	-	-	Aboriginal subsistence (no catch in 2004)
North Pacific									
Japan	-	-	160 ⁵	3	-	-	100	51 ⁵	Special Permit
Korea	-	-	8 ⁶	-	-	-	-	-	
Russian Federation	-	-	-	-	1	111 ⁵	-	-	Aboriginal subsistence
USA	-	-	-	-	43 ⁴	-	-	-	Aboriginal subsistence
Antarctic									
Japan	-	-	441 ⁵	-	-	-	-	-	Special Permit

¹Including 2 struck and lost; ²Denmark reported that a humpback, which could hardly swim and had old rifle wounds, was killed; ³including 4 struck and lost; ⁴including 7 struck and lost; ⁵including 1 struck and lost; ⁶the Republic of Korea reported that 8 minke whales had been deliberately killed (see IWC/57/Rep 4 for details).

Annex K

Report of the Finance and Administration Committee

Friday 17 June 2005, Ulsan, Korea

1. INTRODUCTORY ITEMS

The list of participants is given in Appendix 1.

1.1 Appointment of Chair

Halvard Johansen (Norway) was appointed as Chair of the Committee. He 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 documents available to the Committee are listed in Appendix 2.

2. ADOPTION OF THE AGENDA

The agenda was adopted without amendment (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. As last year, 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 interpretation

REPORT FROM THE SECRETARIAT

At IWC/56, the Commission acknowledged the importance of facilitating the effective participation of all Contracting Governments in its work and that no government should be disadvantaged by language. It therefore agreed that in the first instance, equipment for the provision of simultaneous interpretation facilities be provided from IWC/57 for French and Spanish for the Commission's sub-groups (but not the Scientific Committee), the Commission plenary and Commissioners' private meetings. Arrangements and costs for interpreters would continue to be the responsibility of Contracting Governments wishing to use them.

In preparation for IWC/57, the Secretariat sent out a Circular reminding governments of the decision at IWC/56 and asking them to inform the Secretariat if they wished to use simultaneous interpretation equipment for interpretation for French or Spanish. The Secretariat offered to put these governments in touch with each other so that they could come to an arrangement amongst themselves regarding the provision of interpreters.

Only France responded, indicating that they were seeking a simultaneous interpretation service that could be provided by local or regional agencies. The intention was to make this facility available for the private Commissioners' meeting and plenary. This information was circulated to other francophone countries who were asked to contact the French Commissioner directly if they were interested in sharing this facility. As it received no expressions of interest, and because of the difficulty in making suitable arrangements in the time available, France decided not to take the matter further with respect to IWC/57. However, France had indicated the possibility of contributing financially towards the provision of interpreters at IWC/58. France confirmed this during the F&A Committee meeting.

The Secretariat noted that francophone countries were making use of the interpretation equipment provided by the Government of Korea, but that so far no Spanish-speaking country was doing so.

F&A COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

Several francophone countries thanked France for its initiative, but expressed the view that contrary to the decision taken last year, the Secretariat should be responsible for arranging for interpreters and that the Commission should cover the costs. Only then would they be able to participate fully in the meetings. It was suggested that these comments indicate that last year's decision was short-sighted and should be reviewed so that all governments can take part in meetings on an equal footing.

Other countries (many of them non-anglophone countries), while acknowledging the difficulties for delegates for whom English is not their first language, felt that the decision taken at IWC/56 was not unreasonable given the costs involved, and noted that it could be reviewed once more experience had been gained. It was also suggested that under this arrangement, the Secretariat should give a deadline to countries to indicate their wish to use simultaneous interpretation facilities. In the absence of interest, the Secretariat should not arrange for facilities to be available.

The view was expressed that if the ICRW does not state that English is the official language of the Commission, then the Commission should provide facilities for French and Spanish. The Secretariat clarified that English is the official language of the Commission as given in Rule of Procedure N.1¹.

In drawing discussions to a close, the Chair noted the different views expressed and the F&A Committee agreed that he should report these to the Commission.

¹ 'N. Language of the Commission. 1. English shall be the official 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.'

3.1.3 Translation of documents

INTRODUCTION BY THE SECRETARIAT

At IWC/56, some Contracting Governments believed that in addition to providing facilities for simultaneous interpretation, provision should also be made for the translation of documents. Others however were reluctant to address this issue before the implications, particularly of cost, could be properly addressed. The Commission had therefore agreed that the Secretariat should work intersessionally with a small Task Force to develop cost estimates and implications for the provision of document translation at Annual Meetings and to report back to the F&A Committee at IWC/57 in Ulsan. A letter inviting Contracting Governments to join the Task Force was circulated to Contracting Governments, but as only one Government (Japan) expressed interest, a Task Force was not established. A preliminary exploration of costs and implications for the provision of document translation for IWC Annual Meetings, together with an overview of the practice in a number of other international organisations, was therefore developed by the Secretariat alone (IWC/57/F&A3).

Cost estimates (based on information from four translation companies) were developed for the translation of the following documents.

- Report of the Scientific Committee (including Annexes, i.e. the sub-committee reports).
- Documents prepared for the meetings of the Commission's various sub-groups.
- Commission plenary documents (including reports from the Commission's sub-groups, Resolutions and Opening Statements).
- Chair's Report of the Annual Meeting.

In developing these estimates consideration was given to a number of associated issues including turn-around time (i.e. the time between the document being available and being discussed at a meeting), who does the translation and where they are based (e.g. at the meeting or at a location elsewhere – 'offsite') and confidentiality arrangements. An indication of the translation costs by meeting/document type is provided in Table 1.

Document	Off-site translation	<i>In situ</i> translation
Report of the Scientific Committee	£20,600 incl. Annexes, or £4,500 excl. Annexes	£41,700 incl. Annexes, or £9,100 excl. Annexes
Commission sub-group documents	£9,400	£19,000
Commission plenary documents	£20,000 incl. Opening Statements, or £16,000 excl. Opening Statements	£40,400 incl. Opening Statements, or £32,000 excl. Opening Statements
Chair's Report	£4,500	<i>No need for in situ translation – assume off-site translation at £4,500</i>
Total cost per language (depends on which documents are translated)	£33,500-£54,000	£64,600-105,600

The Secretariat stressed that cost is not the only factor that needs to be considered when deciding whether or not to translate documents. It is also necessary to consider the feasibility and implications of doing so. While translation of documents submitted in advance of the Annual Meeting series ought not to be a particular problem, the Secretariat

suggested that translation of documents written during the meeting series represents a significant challenge depending on which documents are translated. This is particularly true with respect to translation of the reports of the Scientific Committee and Commission sub-groups. These only become available 1-3 days before the Commission plenary. Translation of these documents would therefore require a team of translators almost certainly working *in situ*. For translation into one language, this would represent some 286,500 words (92 days translation – 31 translators over 3 days) if the whole Scientific Committee report plus sub-group reports are translated, some 83,000 words (27 days translation – 9 translators over 3 days) if only the main body of the Scientific Committee report plus sub-group reports are translated, or some 26,000 words (8 days translation – 3 translators over 3 days) if only the sub-group reports are translated. Given the current nature of the Commission Plenary where a number of Resolutions and Schedule amendments are submitted during the meeting, the Secretariat suggested that it would probably be necessary to have translators *in situ* during this period also. The Secretariat noted that, based on the requirement for translating all documents, each of the four companies contacted expressed extreme concern as to the difficulty of organising a group of translators of an appropriate size to travel to the Annual Meeting.

Finally the Secretariat pointed out that a move to translation of documents is not a trivial matter either in terms of costs or logistics and suggested that matters requiring particular consideration include at least the following:

- (1) Identification of those documents for which translation is necessary and possible. While the Report of the Scientific Committee is one of the most important documents to be considered by the Commission, its translation would present significant logistical problems. It may also be of too technical a nature. On the other hand, it would presumably be useful to translate shorter, less technical documents on which action is required, such as Resolutions and Schedule amendments, but translation of Opening Statements, for example, may be considered as lower priority. The decision on which documents should be translated will have an impact on how many translators would be needed *in situ* during a meeting and the length of time they would need to be present. The usefulness of translating only a summary of certain types of documents, rather than the full documents could also be considered. Some translation companies also offer an abstraction service where the texts are summarised rather than being translated in total. This would reduce costs and time-scale for translation. Another option would be to set a maximum number of pages per document. Parties submitting longer documents would be required to translate the documents themselves.
- (2) Languages. Into which language(s) documents should be translated? If a decision is taken to translate documents, it will be necessary to revise Rule of Procedure N. 1 accordingly.
- (3) Quality control. Particularly in the case of technical documents, it will be important to ensure that translation has been done accurately.
- (4) Translators and administration. Should translating companies or freelance translators be used? Should the

Secretariat engage its own in-house translators (a draw-back to this is that the work load would be very uneven during the year)? Is there scope for a mixture of both internal and external translation? Is there a need for translators to be working *in situ* at a meeting? Is there scope for using translation software? The need for, and workload of, the Secretariat to administer external translation should not be overlooked.

- (5) Document submission deadlines. It would be useful to have as many documents as possible submitted well in advance in order that they can be translated before the Annual Meeting.
- (6) Costs and how they should be met.

On the basis of this preliminary review, the Secretariat strongly recommended that if the Commission wishes to pursue the issue of document translation, further consideration should be given to how to handle this in the context of IWC before any decision is taken to move to full-scale translation. Certainly the Secretariat would wish to have more in-depth consultations with other comparable organisations already translating documents to build on their practices and experiences. Consideration could also usefully be given to, *inter alia*:

- (1) the usefulness of establishing a Task Force or Working Group that could develop detailed and properly-costed recommendations for the Commission to review at its next meeting; and
- (2) pilot projects.

F&A COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

The Committee thanked the Secretariat for its comprehensive and useful document.

Views on the possibility of moving to document translation fell broadly into two groups. Some countries, while understanding and sympathising with the difficulties faced by others felt that the Commission should take time to understand all the implications before moving in this direction. Based on their experiences with other organisations like CITES and CCAMLR which have more than one official language, some non-anglophone countries commented on the advantage IWC has in terms of simplicity and meeting efficiency with having only one official language. There was a suggestion that the difficulties for non-anglophone countries might be eased if more documents, including Resolutions, were available further in advance thus allowing more time for review. It was also suggested that given the importance of the Scientific Committee report to the work of the Commission, divorcing the Scientific Committee meeting from the Commission meeting may also be advantageous.

Other countries recognised the significant implications to the Commission of moving to document translation but called for equity among all Contracting Governments and urged that steps be taken in this direction. They did not believe that the Commission could continue with the status quo, particularly given the increasing membership. One non-anglophone country commented that while it could handle documents in English made available well in advance of meetings, it had more difficulties with those provided at short notice during meetings – such documents often being very important and requiring a lot of discussion. There was general agreement that priorities for document translation needed to be developed. There were suggestions that:

- (1) the costs of document translation be compared/offset with having Annual Meetings every two years instead of annually;
- (2) a phased-approach be taken, starting with translation into French on a trial basis before consideration of other languages; and
- (3) that the possibility of pilot projects be considered.

After this exchange of views the F&A Committee **agreed** to recommend to the Commission that the Secretariat explore the matter further, taking into account the various suggestions proposed by delegates and ideas it had put forward in IWC/57/F&A3. It would develop a paper for review by all Contracting Governments with a view to some decisions being taken at IWC/58 next year.

3.1.4 Frequency of meetings

INTRODUCTION BY THE SECRETARIAT

Through Resolution 2004-7, adopted at IWC/56, the Commission decided that a Working Group be established to investigate and make recommendations on the implications of less frequent meetings of the IWC and to report to IWC/57 in Ulsan. Argentina, Germany, Ireland, Peru, Kenya, Spain, Tuvalu, Chile, Norway and the Republic of Korea subsequently indicated their wish to join the group. As the Commissioner for Ireland had been the principle proponent of the Resolution, the Secretariat, after consultation with the Commission Chair, invited him to convene the group with support from the Secretariat. He agreed. Subsequently during discussions between the Commissioner for Ireland and the Secretariat, it was also agreed that as a starting point it would be useful to pull together the following background information for consideration by the Working Group.

- A review of those activities (if any) that are required by the Convention, the Schedule and/or the Rules of Procedure and Financial Regulations to be done on an annual basis.
- An overview of the frequency of meetings of the principle decision-making and subsidiary bodies of selected Conventions and the extent of the intersessional activities of these Conventions.

Due the other commitments, the Secretariat had been unable to develop this background information in time to send it to the Working Group for review prior to the F&A Committee meeting at IWC/57 in Ulsan. Document IWC/57/F&A9 therefore represented a preliminary exploration by the Secretariat in response to Resolution 2004-7. It could also form part of the basis for future discussions of the Working Group if the Commission so wished.

The Secretariat reported that it had reviewed the organisational structure and frequency of meetings of the decision-making and subsidiary bodies of the following Conventions: Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES); Convention on Biodiversity (CBD); Convention on Migratory Species (CMS); Convention on Wetlands (Ramsar); Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR); Inter-American Tropical Tuna Commission (IATTC); and International Convention for the Conservation of Atlantic Tunas (ICCAT). CITES, CBD, CMS and Ramsar were selected as their principle decision-making bodies (Conference of Parties – COP) meet at intervals of 2 or 3 years, depending

on the organisation. CCAMLR, IATTC and ICATT were selected as, like IWC, they are involved with conservation and management of marine resources.

CONVENTIONS WHOSE DECISION-MAKING BODIES MEET AT INTERVALS OF GREATER THAN ONE YEAR

Although the COPs of CITES, CBD, CMS and Ramsar meet at intervals of more than one year, the Secretariat noted that all four organisations have sizeable subsidiary bodies (some are open to all Parties, some have restricted membership) that meet between COPs, with a number meeting on at least an annual basis. CITES, CMS and Ramsar have Standing Committees that guide the implementation of their Conventions between COPs. The CBD has a Bureau that provides guidance to the Executive Secretary during the intersessional period. These Standing Committees and Bureau are not open to all Parties; rather members are Parties representing different geographic regions. The budgets of CITES, CMS and Ramsar are developed on a 3-year cycle with financial contributions from Parties due on an annual basis. The CBD operates on a 2-year budgetary cycle, but with contributions due on an annual basis. CITES and the CBD commented that one of the drivers for increasing the period between COPs was cost.

CONVENTIONS WHOSE DECISION-MAKING BODIES MEET ON AN ANNUAL BASIS

CCAMLR, IATTC and ICCAT have organisational structures similar to IWC, with meetings of their Commissions and most subsidiary bodies taking place on an annual basis. Most subsidiary bodies meet in conjunction with the respective Commissions. While IATTC and ICCAT are moving towards setting management measures (including Total Allowable Catches, i.e. TACs) on a multi-annual basis, they indicated that the nature of their work currently necessitates annual meetings (one reason being because the multi-year measures will not be over the same period for all species). CCAMLR explained that the main reason for its annual cycle is because its approach to managing the Antarctic marine ecosystem is precautionary and much of its work is in its infancy.

IMPLICATIONS/CONSIDERATIONS IF IWC MEETINGS HELD LESS FREQUENTLY

The Secretariat reported that it had reviewed the activities required by the Convention, the Schedule and/or the Rules of Procedure and Financial Regulations to be done on an annual basis and the Terms of Reference of the Commission's sub-groups. It noted that there is nothing in the Convention that requires the Commission to meet annually. The requirement for annual meetings is written in Rule of Procedure B.1 and therefore could be changed by simple majority.

The only provision in the Schedule requiring action by the Commission on an annual basis is the review of the quotas for the taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock and the Eastern stock of gray whales in the North Pacific). The Schedule does not require annual reviews for the aboriginal hunts of fin and minke whales off Greenland or humpback whales off St. Vincent and The Grenadines, although this is done in practice. If the Commission were no longer to meet on an annual basis, the Secretariat suggested that consideration would need to be given to mechanisms for the review of aboriginal subsistence catch limits. It noted that the management approaches being developed for aboriginal subsistence

whaling will, when implemented, set quotas for a 5-year period thus reducing the need to review them annually. However, the 5-year periods may not be concurrent for all the hunts, thus meeting every five years would not be an option. Review of catch limits by the Commission by correspondence would be difficult. Similar considerations would arise should the Commission decide to set commercial whaling catch limits other than zero using the RMP. From the point of view of the work of the Scientific Committee, it would not be practical if *Implementation Reviews* and *Implementations* of all catch limits for aboriginal subsistence whaling (and possibly in the future commercial whaling) occurred at the same meeting.

The Secretariat noted that the Schedule also requires that proposed special permits are reviewed and commented on by the Scientific Committee at Annual Meetings when possible. The Schedule does allow for review by correspondence, but if the Scientific Committee were no longer to meet annually, then this provision would need to be revised.

The Commission's Rules of Procedure and Financial Regulations refer to a number of activities that are currently required on an annual basis. Most would require relatively minor editorial changes should there be a decision for the Commission to no longer meet on an annual basis. Consideration would, however, need to be given to how the Commission's budget was developed and managed. Lengthening the period between Commission meetings would have implications on the duration of office of the Chair and Vice-Chair. Currently it is usually the case that the Vice Chair becomes Chair, implying a 6-year commitment from those involved. If the Commission met every two years, then it might be acceptable for the period of office to be 4 years, giving a commitment of 8 years. However it is unlikely that government officials could commit to anything longer (and 8 years may already be too long). Whether the period between Commission meetings was to be 2 or 3 years, consideration could be given to having the term be equal to the period between meetings, recognising that this would mean a new Chair and Vice-Chair at every main Commission meeting. Like other Conventions whose decision-making bodies meet at intervals of more than one year, if the IWC Commission was to meet on a less-frequent basis, there may be a need to establish a Standing Committee, Bureau or other body that would be able to guide the implementation of the Convention between meetings.

The Rules of Procedure for the Scientific Committee require a certain number of activities on an annual basis, dealing mainly with organisation and running of its meetings and appointment of its Chair and Vice-Chair. These could all be revised given simple majority support. Lengthening the period between meetings of the Scientific Committee would have the same implications on the term of office for its officers as would lengthening the period between meetings of the Commission have on its Chair and Vice-Chair. The work programme of the Scientific Committee is currently agreed by the Commission on an annual basis. The present workload of the Scientific Committee is such that it requires a number of intersessional workshops and/or pre-meetings for it to complete its work. The iterative nature of much of its work requires continuity and regular review of the work of the sub-groups by the full Committee to allow progress to be made.

Given the terms of reference for the Commissions other sub-groups (e.g. Infractions Sub-committee, Aboriginal Subsistence Whaling Sub-committee, Working Group on Whale Killing Methods and Associated Animal Welfare Issues) the Secretariat noted that there are no particular implications should the Commission decide that they meet on a less frequent basis than annually.

F&A COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

The Committee thanked the Secretariat for its report. All members making interventions viewed favourably a move to biennial meetings at least in principle. Some however noted the considerations and practical consequences highlighted by the Secretariat, especially in relation to the setting and review of aboriginal subsistence quotas, and possibly, in the future, commercial whaling quotas, and the current heavy workload of the Scientific Committee and urged that a decision not be taken in haste. Given the efforts currently underway to try to agree an RMS, some also questioned whether now is the right time to reduce meeting frequency as this may further delay progress on this issue. Caution was also expressed about the possibility that lengthening the period between Commission/Scientific Committee meetings might increase the number of intersessional meetings since this could create difficulties for some, particularly developing, countries to participate fully. There was a suggestion that consideration be given to reducing the duration of the Annual Meeting series rather than the frequency between meetings. Others however, believed that the obstacles to reducing meeting frequency were not great and could be overcome without too much difficulty. It was suggested that the Secretariat consider and develop proposed timelines relating to how the necessary revisions to the Schedule, in particular, could be addressed. The link between off-setting costs of interpretation and document translation by reducing meeting frequency was also mentioned.

The Chair noted that since plans are already in place for IWC/58 next year, and that a meeting is needed in 2007 to consider renewal of aboriginal subsistence catch limits, there is sufficient time for further reflection on the issue of meeting frequency. Given that the Working Group established after IWC/56 had not yet had a opportunity to address the requests in Resolution 2004-7, the Chair proposed that this be done between IWC/57 and 58 (via email correspondence) with a view to making recommendations to the Commission next year. He suggested that document IWC/57/F&A9 and comments/suggestions at this meeting be used as a basis for discussions. The F&A Committee **agreed** to the Chair's proposal. The Committee also **agreed** to augment the Working Group with interested countries that have aboriginal subsistence whaling hunts given the potential implications to these hunts of lengthening the period between meetings of the Commission.

3.2 Legal advice in relation to the IWC

At the 5th Special Meeting of the Commission in Cambridge in October 2002, the Netherlands raised the issue of how the Commission might better address legal issues it may face in the future. The Netherlands presented some ideas on this matter to the Commission at IWC/55 and on the basis of these, the Commission agreed to ask the Secretariat to explore how other Conventions deal with legal issues and the legal issues they have faced. The

Secretariat reported on these aspects to the Commission at IWC/56 last year (IWC/56/13). The Netherlands also introduced a paper at IWC/56 (IWC/56/18) that set out options for addressing future legal issues. The Commission did not have time to discuss the Dutch paper in detail and agreed that it should be referred to the F&A Committee at IWC/57 in Ulsan for review.

At the F&A Committee meeting in Ulsan, the Netherlands introduced document IWC/56/18 that included a number of options on how legal issues that may arise within IWC could be addressed. These included:

Option 1

Appointment of a legal officer to the IWC Secretariat staff.

Option 2

Establishment of a legal committee, which could be standing or convened on an *ad hoc* basis.

Option 3

Roster of legal experts on which IWC could call for advice and which could consist of experts nominated by Parties.

Option 4

Recourse to external legal advice on an *ad hoc* basis (e.g. private advice from a consultant, law firm, or panel of lawyers convened for this purpose, from legal offices of other international organisations, from the Depositary government).

Option 5

Access to existing international judicial institutions (e.g. the International Court of Justice, the International Tribunal for the Law of the Sea, the Permanent Court of Arbitration).

The Netherlands noted that these options are not mutually exclusive and that an optimal legal function may require the selection of a mix of options. The Netherlands also pointed out that it had not included options for the settlement of disputes that may arise between Contracting Governments or in connection with compliance with the Convention by Contracting Governments. Several delegations welcomed the documents from the Netherlands and the Secretariat.

New Zealand re-iterated its view that the 1946 International Convention for the Regulation of Whaling is deficient in its legal mechanisms (e.g. for dispute settlement and compliance issues), lagging behind international best practice. It considered that legal issues would continue to cause difficulties with the work of the Commission. Of the options offered by the Netherlands, New Zealand favoured Option 2, noting the considerable legal expertise amongst delegations to IWC. It suggested that such a committee could be particularly useful with respect to work on the RMS (itself a legal instrument), particularly in relation to drafting Schedule text which is difficult to do in a larger group.

While Australia understood the rationale behind the views of New Zealand, its preference was to continue to address legal issues within the Commission by working with *ad hoc* groupings of Contracting Governments. It believed that a legal committee may develop views that would be contrary to those of Contracting Governments which would create problems. Denmark believed that legal advice should be sought from impartial persons and expressed a preference for appointing someone with legal expertise to the Secretariat staff (Option 1). The Secretary

noted that there would not normally be sufficient legal issues to justify having a staff person for just these matters and that anyone appointed would need to be able to take on other duties. The UK believed that none of the options suggested are without difficulties and that no legal advice is impartial. It thought Australia's view had great merits. Monaco had a similar opinion.

Dominica noted that it would need to solicit further advice on this matter before making any substantive comments. Japan sensed that there were differences of opinion regarding the scope and target of legal advice. It noted that the Netherlands' paper did not cover issues relating to dispute settlement or compliance with the Convention, although these matters had been referred to by New Zealand. It was Japan's view that different mechanisms would be needed to deal with different issues.

Given the different views expressed, the Chair suggested that it would not be possible to reach agreement on any particular option or way to proceed and suggested that these different views simply be reported to the Commission. The F&A Committee **agreed**.

3.3 Amendments to the Rules of Procedure

At IWC/55 in Berlin in 2003, the Commission agreed to add the following footnote to Financial Regulation F to clarify what is meant by the phrase 'received by the Commission' as used in Financial Regulation F.1²:

'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.'

The Secretariat reported to the F&A Committee that after further consideration, it does not consider that presentation of a cheque to the Secretariat should qualify as the annual payment being 'received by the Commission' as a cheque does not guarantee payment unlike a bankers draft or international money order. The Secretariat therefore proposed that the footnote be revised as follows:

'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 or bankers draft/**international money order** of the correct value.'

The F&A Committee **agreed** and **recommends** to the Commission that the revised footnote be adopted and take effect after IWC/57.

² F. 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.

4. FORMULA FOR CALCULATING CONTRIBUTIONS

4.1 Revision of the Contributions Formula

4.1.1 Overview of the work to date

The Secretariat introduced document IWC/57/F&A8 that gave a summary and status of work to revise the financial contributions scheme. It was noted that a proposal to revise the contributions formula was first made by Antigua and Barbuda at the 51st Annual Meeting in Grenada in 1999. A Contributions Task Force was then established at IWC/52 charged with developing a revised set of principles to guide the IWC in developing an alternative contributions formula. The Commission endorsed a set of guiding principles at its 53rd meeting in 2001 (i.e. openness, stability, fairness, and user pays) and agreed that the Task Force should continue its work to develop a new contributions formula and performance criteria against which future models would be assessed. It met twice between IWC/53 and IWC/54. At IWC/54, the number of models being considered by the Task Force was reduced to two. These models placed Contracting Governments into bands (groups) for their capacity to pay ('wealth factor') and used bands to allocate shares for delegation size at Annual Meetings. With respect to taking into account whaling activity, both models converted catches into minke whale 'equivalents' and both presented options on how to weight the different types of whaling. Again the Commission agreed that the Task Force should continue with its work intersessionally between IWC/54 and IWC/55.

During this period, the Task Force took a 'fresh look' at the ways in which the revised scheme was being put together. The 'fresh look' involved some re-examination of certain aspects of the contribution scheme on which there had been broad agreement, but also suggested approaches on how to handle issues related to the treatment of whaling and the inclusion of whalewatching and small cetaceans as requested by the Commission at IWC/54. One of the biggest changes resulting from the 'fresh look' was the proposal to move away from banding data (i.e. in the case of economic data and attendance at meetings) to the use of the real data themselves. The use of actual economic data in particular was seen by the Task Force as having advantages over the use of bands in terms of stability and fairness³. The Task Force remained unable to reach agreement on the % of the total contribution that each of the four elements (membership, wealth/capacity to pay, use and meeting attendance) should represent. Further work also remained regarding development of an appropriate index to represent realistically the capacity-to-pay of Contracting Governments.

At IWC/55, the Commission agreed that the Task Force should continue to try to make progress and that this should involve an intersessional meeting prior to IWC/56 in Sorrento. However, the Commission also agreed to allow Henrik Fischer, Chair of the Commission, to convene a small group of his choosing to explore ways of taking the RMS process forward, including consideration of how RMS costs might be apportioned. Given this intersessional

³ While the use of bands for economic data has an attraction of simplicity, it may result in problems of stability and fairness when countries are near a border and unfairness when the bands are broad. With modern computers the need for the banding approach for simplicity is largely unnecessary.

work on the RMS and its potential implications for any revised contributions formula, the Commission Chair 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 Advisory Committee, to postpone the meeting of the Task Force scheduled to take place prior to IWC/56. Last year, the Commission again agreed (via Resolution 2004-6) to significant intersessional work on the RMS. Accordingly no work was scheduled for the Contributions Task Force. The status of the work on revision of the contributions scheme therefore remains as it was at the end of IWC/55 (see Appendix 4).

4.1.2 F&A Committee discussions and recommendations

A number of countries were of the opinion that the work of the Task Force to develop a more permanent revised contributions formula should be resumed. They noted that even under the Interim Measure adopted at IWC/54, some less developed countries still had difficulties in paying their financial contributions. It was suggested that the Task Force meet intersessionally between IWC/57 and IWC/58 and that consideration be given to seeking advice from the UN 5th Commission, Committee on Contributions.

Several countries from capacity-to-pay Groups 3 and 4 noted that their financial contributions had risen sharply under the Interim Measure and considered that there is no merit in further work to revise the contributions formula before the cost implications of any RMS were known.

The Chair noted the two views expressed and the F&A Committee **agreed** that these should be reported to the Commission.

4.2 Possible criteria to define 'very small' countries in the context of the interim measure for calculating financial contributions

4.2.1 Background

During IWC/56 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:

Group 1	Countries with GNI <US\$10,000,000,000 and GNI/capita <US\$10,000;
Group 2	Countries with GNI >US\$10,000,000,000 and GNI/capita <US\$10,000;
Group 3	Countries with GNI <US\$1,000,000,000,000 and GNI/capita >US\$10,000; and
Group 4	Countries with GNI >US\$1,000,000,000,000 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. 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.

The proposal was adopted on being put to a vote (Resolution 2004-4). The Chair suggested the Contributions Task Force give further consideration to defining what is meant by 'very small countries' in order that similar future decisions could be based on agreed criteria rather than being on an *ad hoc* basis. Monaco suggested that one criterion might be countries with GNI less than 5 billion US\$.

4.2.2. Possible criteria to define 'very small countries'

The Secretariat presented a paper (IWC/57/F&A6) containing possible criteria to define very small countries. The factors to be considered when classifying a country as 'very small' in the context of the Interim Measure might include: Gross National Income (GNI); Gross National Income per Capita (GNIPC); population; and land area.

The paper used the World Bank's 'World Development Indicators database' (WDID) to assess possible criteria to define 'very small country status'. The World Bank (WB) data applies to 'economies', rather than to countries in every instance. The paper therefore used 'economies' as identified by the WB as the initial unit of assessment and a comparison of population, GNI and GNIPC of smaller economies e.g. island states, city states and small autonomous economies (40 in all) was made. The WB does not always provide complete data for the smaller economies. In these cases and in the absence of perhaps more appropriately-sourced data, an alternative source was used, i.e. Lonely Planet (LP) Travel Guides. As many of the smaller economies are also tourist destinations, LP provides a single source of data for the purposes of the discussion paper.

A land area of 5,000 square kilometres and/or a population of 100,000 were arbitrarily taken as an initial filter to be applied to the available data. Monaco referred to land area as a function of a country's size. Whilst this is true in terms of geography, it is of much less importance economically. Land area was therefore not suggested as an appropriate criterion to be used to define 'very small countries'.

If a population of less than 100,000 is taken as one measure of a 'very small country' then the 40 economies initially identified are reduced to the 19 shown in Table 2 below. Table 2 includes Antigua and Barbuda, Dominica, Grenada, Kiribati, Palau and St. Kitts and Nevis, all existing members of the IWC with Group 1 status, but also includes Monaco and San Marino. A further rule might be applied which recognises an enhanced ability to pay in comparison with a Group 1 country, but without the burden

that Group 3 status would place on a 'very small country'. If a further rule is applied, i.e. to only include those economies with a GNIPC in excess of US\$10,000, the result is Table 3.

Table 3 includes Monaco and San Marino i.e. the two IWC members who proposed the introduction of the category of 'very small countries'. The other 7 'economies' are more developed than the Group 1 members in Table 2, but nevertheless have limited resources due to small populations.

As indicated above, at IWC/56 Monaco suggested that one criterion might be countries with GNI < 5 billion US\$. In the context of 'very small countries', this amount might be a viable maximum, beyond which Group 3 status would be both justifiable and equitable.

4.2.3 Secretariat's proposal

While the criteria to define the four capacity-to-pay groups adopted in Resolution 2004-4 allot countries in a sensible way in most cases, it would appear that the criteria for Group 3 catch some countries that, because of their very small 'size' (relatively lower GNI usually linked with a small population), have a more limited capacity to pay than others in Group 3. The Secretariat therefore proposed that the Finance and Administration Committee consider whether the following criteria, should be put forward to the Commission to define a 'very small country' for the purpose of calculating Financial Contributions.

'Out of consideration of their very small size, and therefore limited capacity to pay a 'very small country' will have:

(a) a population of less than 100,000; AND

(b) a GNI of less than US\$ 5 billion; AND

(c) a GNIPC of more than US\$ 10,000;

and as a 'very small country' will be placed in capacity-to-pay Group 2.'

The Finance and Administration Committee was also asked to consider and comment on the use of Lonely Planet data as an interim source of population and economic data until a reputable institutional source can be found to replace it. Alternatively Contracting Governments could be asked to provide their own information.

4.2.4 F&A Committee discussions and recommendations

Denmark requested that the status of the Faeroe Islands and Greenland as distinct economies (in the data used for the discussion paper) be highlighted and not confused with their administration under the Danish Crown.

The Committee **agreed** that the criteria shown above are appropriate to define a 'very small country' and **recommends** to the Commission that they be applied in the calculation of Financial Contributions for the financial year 2005-2006 onwards.

The Committee further agreed that the use of Lonely Planet data as an interim source of population and economic data until a reputable institutional source can be found to replace it is acceptable and **recommends** to the Commission that they be applied in the calculation of Financial Contributions for the financial year 2005-2006 onwards.

Table 2

A comparison of Population, GNI and GNIPC of Smaller Economies (using data from World Bank and Lonely Planet) for economies with populations less than 100,000.

Economy	Population from LP	Population from WB	Pop WB/LP	GDP from LP	GNI from WB	GNI WB/LP	GDP per capita from LP	GNIPC from WB	GNIPC WB/LP
	000	000		(US\$ billion)	(US\$ billion)				
American Samoa	69	57	83%	0.50	..	..	8,000	..	..
Andorra	68	66	97%	1.30	..	..	19,000	..	..
Antigua and Barbuda	66	79	119%	0.52	0.72	137%	8,200	9,160	112%
Aruba	69	99	144%	1.50	..	..	22,000	..	..
Bermuda	63	64	102%	1.98	..	..	30,000	..	..
Cayman Islands	39	42	107%	0.93	..	..	24,500	..	..
Dominica	72	71	99%	0.23	0.24	105%	3,400	3,330	98%
Faeroe Islands	46	47	101%	1.00	..	..	22,000	..	..
Greenland	56	56	99%	1.10	..	..	20,000	..	..
Grenada	90	105	117%	0.34	0.39	114%	3,500	3,710	106%
Kiribati	84	96	114%	0.06	0.08	151%	910	860	95%
Liechtenstein	33	33	100%	0.83	..	..	25,000	..	..
Marshall Islands	60	53	88%	0.11	0.14	129%	1,830	2,710	148%
Monaco	32	33	103%	0.87	..	..	27,000	..	..
Northern Mariana Islands	80	76	95%	0.49	..	..	8,400	..	..
Palau	18	20	109%	0.16	0.13	81%	8,700	6,500	75%
San Marino	28	28	100%	0.94	0.65	69%	34,600	..	..
Seychelles	79	84	106%	0.59	0.63	106%	7,000	7,490	107%
St. Kitts and Nevis	41	47	115%	0.19	0.31	161%	4,529	6,630	146%

Table 3

A comparison of population, GNI and GNIPC of Smaller Economies (using data from World Bank and Lonely Planet) for economies with populations less than 100,000 and a GNIPC in excess of USD10,000.

Economy	Population from LP	Population from WB	Pop WB/LP	GDP from LP (US\$ billion)	GNI from WB (US\$ billion)	GNI WB/LP	GDP per capita from LP	GNIPC from WB	GNIPC WB/LP
	000	000							
Andorra	68	66	97%	1.30	..	..	19,000	..	..
Aruba	69	99	144%	1.50	..	..	22,000	..	..
Bermuda	63	64	102%	1.98	..	..	30,000	..	..
Cayman Islands	39	42	107%	0.93	..	..	24,500	..	..
Faeroe Islands	46	47	101%	1.00	..	..	22,000	..	..
Greenland	56	56	99%	1.10	..	..	20,000	..	..
Liechtenstein	33	33	100%	0.83	..	..	25,000	..	..
Monaco	32	33	103%	0.87	..	..	27,000	..	..
San Marino	28	28	100%	0.94	0.65	69%	34,600	..	..

5. FINANCIAL STATEMENTS, BUDGETS AND OTHER MATTERS ADDRESSED BY THE BUDGETARY SUB-COMMITTEE⁴

5.1. Review of the Provisional Financial Statement, 2004-2005

5.1.1 Report of the Budgetary Sub-committee

The report of the Budgetary Sub-committee (IWC/57/F&A4) was introduced by its Chair, Joji Morishita. The Provisional Financial Statement presented in IWC/57/6rev was circulated to the Sub-committee in April 2005.

The Secretariat introduced an updated version of Table 1 in IWC/57/6rev and reviewed briefly the changes that had occurred to produce an updated out-turn for 2004-2005. Total income is forecasted to exceed budget by £50k mainly due to financial contributions from new members, additional penalty interest and more bank interest received due to increases in the bank base rate of interest. Operational expenditure is forecasted to be below budget by £15k. due to savings in Secretarial costs (£20.5k), Publication costs (£14.6k) and Small Cetacean programmes (£23k of expenditure deferred), which were mainly offset by, increased expenditure on Research Programmes (£34.5k - mainly items deferred from previous financial years which had already been funded) and Other Meetings (£8k). Provision for Severance Pay has been reduced to reflect changes in staff at the Secretariat. This gives a projected surplus of income over expenditure of £40.5k, which, after transfers between funds, translates into a surplus of £110.5k. The balance on the General Fund is projected at about £1,070k at the end of the current financial year (31 August 2005). This represents about 130% of the target level (6 months expenditure: £1,640k x 50%).

Concern was expressed by some members at the size of reserves and whether they were necessary. Suggestions were made that a reduction in Financial Contributions could bring reserves down to the target level (50% of operating expenditure) and be of benefit to contributing governments with budgetary difficulties. Contrary suggestions were made that reserves above the target level were beneficial and allowed unexpected issues to be dealt with (e.g. contributing governments failing to pay financial contributions or an Annual Meeting having to be funded directly by the IWC if no contributing government offered to host the Annual Meeting). A further suggestion was

made that reserves above the target were advantageous if the accumulation of funds was required to enable the purchase of property to accommodate the Secretariat. The subject of reserves was held open for further discussion.

5.1.2 Secretary's report on the collection of financial contributions

The Secretariat referred to document IWC/57/F&A5. Total financial contributions and interest outstanding amounted to £541.7k, of which £138.3k referred to former members and £403.4k referred to current members. Of the eight current members shown, five had their right to vote suspended for not paying financial contributions for the year 2004-2005 within 3 months of the due date.

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 for 2004-2005 be approved subject to audit (Appendix 5).

The Secretary's report on the collection of financial contributions was noted by the Committee. It was noted that while decisions taken at IWC/54 in Shimonoseki in 2002 resulted in reductions to outstanding debts of a number of countries, some considerable debts remained. Given this and given that ways to relieve the debt burden of developing nations are being actively explored in other International Organisations, there was a suggestion made that IWC might wish to give some consideration to a one-off amnesty to relieve the debt burden of its own developing country members. The intention was not to take a decision at this meeting. While having sympathy for this suggestion, a number of countries expressed concern regarding precedents that might be set and possible knock-on effects such a move might have to other organisations. Nevertheless, the Committee **agreed** that the suggestion merits further consideration and **recommends** to the Commission that this be explored by the Secretariat who should develop proposals, including possible changes to Financial Regulations that might be needed, for possible decision-making next year.

5.2 Consideration of estimated budgets, 2005-2006 and 2006-2007, including the budget for the Scientific Programme

5.2.1 Report of the Budgetary Sub-committee

REVIEW OF PROPOSED BUDGET 2005-2006 (APPENDIX 6)

This aspect of the work done by the Budgetary Sub-committee was introduced by its Chair, Joji Morishita. He

⁴ £ k denotes thousands (' 000).

highlighted the main factors affecting the formulation of the 2005-2006 proposed budget which were as follows:

Income

Income is projected to fall overall by about 2.0% (from £1,680k in the 2004-2005 revised out-turn to £1,646k in the proposed budget). This is due to the setting of sales of publications, voluntary contributions, meeting fees and bank interest at conservative levels.

Contracting Government Contributions

The total contributions required from Contracting Governments increase by 1.2% over the 2004-2005 budget, but contributions from individual Contracting governments decrease slightly compared with those for 2004-2005, with the exception of some Group 4 countries, because of the increase in the number of Contracting Governments. The very recent adherence of Luxembourg as a Group 3 country is expected to continue this trend.

Expenditure

3.2% has generally been used to allow for cost increases throughout the budgets for both years except where there are positive indications that different levels are required. This reflects current levels of inflation in the UK. Expenses are expected to be much the same as last year with the exception of one-off purchases such as the replacement of the Red House central heating boiler and the construction of a meeting room in 2004-2005. These items were excluded from 2005-2006 estimates as the boiler was replaced and the meeting-room built during the current financial year.

Reserves

The projected levels of the reserves at 124% for the projected budget 2005-2006 may be considered satisfactory. It is recognised that the most prudent method to keep the General Fund at or above the target level (50% of operating expenditure in any year) is for income to match expenditure in any year. However because expenditure can be delayed or deferred to a later period, a surplus may result in one year when a break-even was expected. Timing differences can be dealt with by ensuring that the General Fund is maintained at the target level. This means that expenditure can exceed income in a given year and still maintain the General Fund at the target level. Unforeseen expenditure can obviously reduce the General Fund below its target level in a given year, which would then require higher Financial Contributions in the following year to bring the General Fund back to its target level.

The Budgetary Sub-committee Chair noted that the response of the Sub-committee to these main items of income and expenditure in the 2005/06 proposed budget were as follows:

Income and expenditure

No specific comments were received which the Chair regarded as agreement with the proposals.

Reserves

- The level of reserves should be considered over time, such that if a long-term upward trend emerged then alternative action should be considered to reduce them.
- The target level of reserves are indicative and not an exact amount.
- The target level of reserves should be followed as closely as possible.

- Could a distinction be drawn between a 'surplus' and 'reserves' and would guidelines be useful to manage them?
- Reserves provided a 'cushion' for expenditure authorised in plenary for which no budget allocation had been made.
- If the IWC wishes to purchase property in a few years time then reserves should not be used now but maintained until they were needed to provide a down-payment.

The Chair commented that some guidelines from the Secretariat might be useful regarding the management of funds, e.g. if the reserves are 20% above target then 10% might be applied to the annual budget to increase expenditure or reduce financial contributions or if the reserves are below target, that financial contributions be increased to allow reserves to reach the target level. Any guidelines would be subject to the wider consideration of the use of reserves, e.g. accumulating funds towards the purchase of a property or maintaining sufficient funds within the IWC to meet unforeseen expenditure such as the funding of an Annual Meeting. He suggested that the Secretariat prepare a paper for next year addressing this issue, keeping in mind the above points when developing a proposed budget.

NGO and media fees

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 2005-2006. The Secretariat had used levels of £610 and £40 respectively, based on the procedure used in 2004/05 for determining the level of increase in these fees, i.e. by linking the NGO fees to the rate of UK inflation (3.2% used for budgeting purposes) and by raising the media fee by a fixed amount of £5. The Sub-committee agreed that the levels originally outlined by the Secretariat should be adopted. Accordingly the Sub-committee **recommended** that for 2005-2006 the NGO fee be set at £610 and the media fee at £40.

Research expenditure proposed by the Scientific Committee for 2005-2006 (Appendix 7)

The Budgetary Sub-committee Chair explained that the Scientific Committee had identified projects totalling £409,400, which it considered necessary to properly carry out the Commission's requirements. However, the Scientific 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 £265,000. The Scientific Committee had developed a reduced budget of £266,000 and 'strongly recommended that, at a minimum, the Commission accepts its reduced budget of £266,000, although it recognises that this is £1,000 over the suggested target of £265,000'.

The Budgetary Sub-committee Chair concluded that the Sub-committee was generally comfortable with the Scientific Committee's reduced budget, including the £1,000 increase above the target figure of £265,000 initially suggested.

The Sub-committee therefore recommended that the Finance and Administration Committee consider and forward the proposed budget for 2005-2006 (Appendix 6) 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 8. Note however, that this is indicative only and subject to adjustment and confirmation in the light of e.g. actual meeting attendance).

FORECAST FOR 2006-2007

The Budgetary Sub-committee Chair explained that due to the many decisions that may follow from IWC/57, a detailed forecast budget prepared prior to the Annual Meeting in Ulsan would only have limited value. The forecast budget is therefore only intended to show the general trend if income and expenditure rise at the current level of UK inflation.

The Sub-committee therefore recommended that the Finance and Administration Committee take note and forward the forecast budget for 2006-2007 (Appendix 6) to the Commission.

5.2.2 F&A Committee discussions and recommendations

With respect to NGO fees, the question was raised as to whether all NGO's should be charged the same amount given the great variation in size between the organisations represented. The Secretariat indicated that this topic would be addressed under agenda item 6.

SUMMARY OF RECOMMENDATIONS TO THE COMMISSION

The F&A Committee **recommends** that:

- the proposed budget for 2005-2006 (Appendix 6) be forward to the Commission for its adoption;
- that the Commission takes note of the Forecast Budget for 2006-2007; and
- that for 2005-2006, the NGO fee be set at £610 and the media fee at £40.

5.3 Secretariat offices

5.3.1 Report of the Budgetary Sub-committee

The Chair of the Budgetary Sub-committee reminded the Committee of discussions at the previous two meetings of the Sub-committee.

At IWC/55, the Sub-committee recommended that the Secretariat explore a range of alternatives for the Secretariat's offices, including:

- (1) continuing to rent the Red House;
- (2) purchasing the Red House or another suitable property for the Secretariat's offices in Cambridge or elsewhere in the UK; and
- (3) relocation of the Secretariat to another member country; and report back to the Budgetary Sub-committee.

At IWC/56 the Sub-committee 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 was still over 5 years until the current lease expired (it expires in March 2009), the Sub-committee had recommended that the Secretariat explore alternatives within the Cambridge area which might include the following:

- (1) 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.

- (2) The possibility of the Red House being 'gifted' if tax laws allowed.
- (3) To keep the property market in Cambridge under active review.

In response to the BSC at IWC/56, the Secretariat had contacted NASCO and sought the advice of a Cambridge-based firm of Property Consultants with respect to alternatives in the Cambridge area. With respect to (2) above the Secretariat noted that there are currently many changes being proposed to UK inheritance tax law, so the options that may be available by 2009 are as yet unclear.

The Chair of the Budgetary Sub-committee described the advice provided by NASCO and the Cambridge-based firm of Property Consultants, possible alternatives to the Red House and a comparison of the renewal of the Red House lease with the purchase of commercial freehold property.

EXPERIENCE OF NASCO

NASCO purchased its property in 1984 for £350,000 (a large city residence in Edinburgh, Scotland, converted to office use). The purchase was financed by a 10-year loan. The current market value of the property is approximately £1,500,000. The building is at present too large for NASCO to fully occupy and so part of the property is sub-let, for which rental income is received.

The Secretary to NASCO offered several observations, some of which are included below.

- (a) A one-off increase in Financial Contributions to fund the purchase was unacceptable to members.
- (b) A ten-year purchase term allowed for acceptable increases in Financial Contributions.
- (c) Countries were initially sceptical and a vote was required to allow the purchase to proceed (most voted yes).
- (d) He prepared two ten-year cash flows, one for purchasing and one for leasing. He encouraged a longer view to be taken and highlighted the favourable cash flow that resulted from purchasing. The effect of two rent reviews in 10 years had a significant effect on making the option to purchase more attractive.
- (e) Purchasing property required more cash earlier compared to leasing (20% of property value as a deposit) so the long-term benefits had to be emphasised to overcome short-term scepticism.
- (f) Rights to the proceeds of sale of the property in the event of NASCO ceasing to exist were examined. A formula was agreed whereby ownership would be attributed in proportion to the contributions made by member countries over the purchase period.

PROPERTY CONSULTANTS (BIDWELLS)

Bidwells identified three market sectors that are relevant to the IWC with regard to office accommodation, i.e. Office Market, Industrial Market and Investment Market. They were also asked to provide indication of value of the Red House on the following bases: Freehold subject to the existing lease, Freehold with vacant possession.

OFFICE MARKET

Bidwells forecasted that prime rents will rise from £22.50 per sq ft in 2005 to £27 per sq ft in 2009 (4.7% p.a.).

INDUSTRIAL MARKET

Bidwells forecasted that prime rents will rise from £7.75 per sq ft in 2005 to £8.75 per sq ft in 2009 (3.1% p.a.).

INVESTMENT MARKET

Bidwells noted that the property investment market is currently strong as interest rates are still historically low and there has been relatively poor performance from alternative types of investment. The state of the investment market has implications for the supply of property to rent and the price that any property purchased as an investment might fetch on the open market.

VALUATION OF THE RED HOUSE

Existing lease: approx: £800,000; Vacant possession: approx. £785,000

ALTERNATIVES TO THE RED HOUSE

The Red House is occupied by the IWC on a full repairing and insuring lease, at a rent of £75,000 per annum payable from the 23 June 2005 until the lease expires in March 2009.

Most non-residential property in the Cambridge area is either dedicated to office use, storage or industrial use. The Red House is a little unusual in that it has dual-use i.e. (office and storage) and as such attracts a lower rental per square foot than a dedicated office building. Bidwells noted that generally industrial premises are cheaper to acquire than offices. However, to find a quasi office/industrial property, which is located in a suitable environment (e.g. not pure industrial location), will be difficult, as there is a limited supply.

Bidwells provided information showing dedicated office space available within 2 miles of Red House at a rent per square foot varying between £16.50 and £18.00. Industrial premises within 6 miles of the Red House are available with rents varying between £6.75 and £7.75 per square foot. The current rental for the Red House of approximately £12.60 per square foot is between the rent levels for the two previous classes of property and is a reflection of its dual use.

The Red House has an office/warehouse area of 5,946 sq feet. As the property is a converted house, not all of the area can be fully utilised. Relocation to a more modern building might allow a smaller area to be used more effectively.

At this early stage, a comparison of the renewal of the Red House lease with the purchase of commercial freehold property may be informative. The assumption has been made that property intended for mixed use will continue to be required by the IWC and will need to present an appropriate image for an Inter-governmental Organisation. From the sample properties supplied by Bidwells, a mixed-use property located in a village 7 miles from Cambridge city centre (valued at £440,000) provided a reasonable example, although the Secretariat is not sure how suitable such a property would be.

COMPARISON OF THE RENEWAL OF THE RED HOUSE LEASE WITH THE PURCHASE OF COMMERCIAL FREEHOLD PROPERTY

The sample property is located on a small business park to the south of Cambridge. The property is constructed with a steel portal frame with flat panel cladding. The property comprises 2 units out of a total of 18. The interior could be partitioned according to IWC requirements.

Our bankers have provided a sample calculation for a commercial mortgage of £400,000, repayable over 10 years

with a variable rate of interest. Any mortgage will represent a maximum of 80% of the value of the property being purchased. This means that the IWC has to find a deposit of 20% of the purchase price before any property is purchased, funded either from reserves, financial contributions or a combination of both.

An example is shown below comparing the outline funding requirements (cash flow) purchase of the sample property for £440,000 (deposit £88,000, mortgage £352,000), the purchase of the Red House for £800,000 (deposit £160,000, mortgage £640,000) and a new lease for the Red House.

A new lease for the Red House is assumed to have a 5-year rent review applied (as with the current lease in which no reduction is permitted). The rent review provides a 'step increase' which is fixed until the next review date. In order to give a projected cash-flow comparable with the life of the commercial mortgage, a second rent review increase has been included. The same percentage increase has been applied to both rent reviews, i.e. 16.45%.

It should be noted that the current lease has no 'break clause' which includes pre-agreed dates when either party can withdraw from the lease. Under the current lease, if the IWC wished to move to other premises, they would still be liable to pay the rent unless a sub-letting agreement could be arranged with a sub-tenant. If a new lease is negotiated, a 'break clause' should be included.

Period no.	Financial year	Purchase of sample property (£)	Purchase of Red House (£)	Rental of Red House (£)
1	2009-2010	138,424	251,680	87,384
2	2010-2011	50,424	91,680	87,384
3	2011-2012	50,424	91,680	87,384
4	2012-2013	50,424	91,680	87,384
5	2013-2014	50,424	91,680	87,384
6	2014-2015	50,424	91,680	101,760
7	2015-2016	50,424	91,680	101,760
8	2016-2017	50,424	91,680	101,760
9	2017-2018	50,424	91,680	101,760
10	2018-2019	50,424	91,680	101,760
Total cashflow		592,240	1,076,800	945,716

Purchase price (£)	440,000	800,000
Deposit (£)	88,000	160,000
Loan (£)	352,000	640,000

Note 1: For the purpose of this illustration the period of the lease is assumed to coincide with the financial year.

Note 2: An interest rate of 7.65% has been assumed for the life of the mortgage.

The outline funding requirement shown above follows the pattern described by the Secretary of NASCO and his observations are also worthy of note, i.e. purchasing property required more cash earlier compared to leasing and so the long-term benefits had to be emphasised to overcome short-term scepticism.

The above illustration allied to the favourable experience of NASCO suggest that the purchase of freehold property merits serious consideration. There are of course other variables that should be assessed, e.g.

- Cost of occupying office vs industrial property.
- Freehold or leasehold cost and control implications.
- Location of the premises – does the IWC need to be on a prestigious business park or in a quasi-industrial/office location?
- Staffing issues associated with relocation.

- Type of space required e.g. office/storage, open plan or cellular, air-cooled or not. Also a space planning exercise would be needed to decide how much space is required for operations.
- How to finance any deposit e.g. as a one off increase in Financial Contributions, to spread financing over the life of the mortgage or allocate a proportion of existing reserves (or a mix of these).
- Consider if owning a realisable asset after 10 years is preferable to the open-ended payment of rent.

SUB-COMMITTEE DISCUSSIONS

The Chair of the Sub-committee reported the following comments and questions from sub-committee members.

- Was the higher cash outflow in the first year required for a deposit?
- How realistic was the sample property with a purchase price of £440,000 in terms of lifespan, maintenance requirements, set-up costs etc?
- Concern was expressed about the true comparability and/or completeness of cash flows.
- Did the current rent paid for the Red House include cover for repairs and maintenance?
- Did the purchase price of £440,000 include the cost of equipping a new building?
- How realistic was the sample property with a purchase price of £440,000, was this at the lower end of the market and if so was this an appropriate choice, what would be a more realistic price for property?
- Purchasing was generally regarded favourably as long as the cash flows did not exceed those of renting the Red House. The ownership of an asset with a disposable value, which required a finite cash outflow, was regarded favourably when compared to leasing a property.
- Concern was expressed that acquiring property was a lengthy process and that the concept should be approved now to enable enough time for studies to be made and allow decisions to be made on the basis of comprehensive information.
- Is 'home-working' a possible solution (i.e. having no, or much smaller office accommodation)?
- The possibility of the Red House being gifted to the IWC should not be overlooked.
- A more comprehensive picture of the steps required in purchasing a property, the identification of all relevant costs, the timing of events and cash-flows, a sufficiently long projection of cash-flows to show where the break-even point is when comparing purchasing and rental, and the process to be followed if the IWC folds, were highlighted as issues requiring further work.
- The use of any surplus and the level of reserves required to fund any purchase were highlighted.

The Chair of the Sub-committee concluded that the BSC took a generally favourable view to purchasing property but that even with the responses given by the Secretariat to the above comments and questions, it needs more information to decide whether the options that may become available will provide a viable alternative to renting property.

5.3.2 F&A Committee discussions and recommendations

During discussions it was noted that:

- NASCO received substantial rental income from its property. The Chair of the Sub-committee reported that

this information had been known to the Sub-committee but did not affect their views.

- that more space might be needed by the Secretariat for administration of the RMS if at some point this was agreed and implemented. The Chair of the Sub-committee reported that as the Red House was an old property with limitations on how its space might be used effectively, a modern smaller property might accommodate any new work to be done by the Secretariat through better space utilisation.
- it is common for governments hosting the seat of intergovernmental organisations to provide rent-free accommodation to these organisations. It was noted that this option did not feature in the BSC's considerations and that it might be appropriate to enquire as to whether this might be a possibility for IWC.

After considering the above points, the Committee **recommends** to the Commission that the Secretariat be asked to provide a more comprehensive picture of the steps required in purchasing a property, the identification of all relevant costs, the timing of events and cash-flows, a sufficiently long projection of cash-flows to show where the break-even point is when comparing purchasing and rental, and the process to be followed if the IWC folds. This information will be used as the basis of further discussion next year. This recommendation for the provision of more comprehensive information recognises the approach of the end of the current lease (i.e. March 2009) leaving only three more Annual Meetings at which this issue can be discussed and a decision made.

5.4 Budgetary Sub-Committee operations

5.4.1 Report of the Budgetary Sub-committee

The Sub-committee Chair recalled that at IWC/56 the Commission endorsed the F&A Committee recommendation that the Budgetary Sub-committee be asked to develop clearer guidance on its operation in relation to:

- (i) election of Chair and Vice-Chair;
 - (ii) term of 'open-seats'; and
 - (iii) clarification of arrangements for Contracting Governments not members of the BSC to attend as observers.
- The Budgetary Sub-committee was to report back to the F&A Committee at IWC/57.

The Sub-committee Chair then identified the issues and options in relation to items (i) to (iii) above.

ELECTION OF CHAIR AND VICE-CHAIR

It was agreed at IWC/56 that the BSC should, like other Commission sub-groups, elect its own Chair and Vice-Chair. Issues that the BSC considered in relation to this included:

- (1) The term of the Chair and Vice-Chair.

At IWC/56, the Commission agreed to extend the term of BSC members from 2 to 3 years and to appoint a Chair and Vice-Chair. It was assumed that (1) under normal circumstances, the Vice-Chair would replace the outgoing Chair, and (2) that the term of Chair and Vice-Chair would be 3 years for each – suggesting an overall commitment of 6 years for some BSC members. Six years may be rather a long commitment for a Sub-committee and the BSC may wish to consider whether a shorter term (i.e. 1 or 2 years) might be more practical and appropriate. (Note that if a

term of 2 or 3 years is chosen, this will mean that two members will serve on the BSC for longer than the usual 3-year period for all countries except Japan and the USA who have permanent seats). The BSC was also asked to consider whether a BSC member should have served on the BSC for at least a year prior to appointment as Chair/Vice-Chair.

(2) The timing of elections.

For other Commission sub-groups, the Chair is appointed at the beginning of a meeting, while for the Commission, elections, when necessary, are held at the end of a meeting. Given that the aim of the BSC is to conduct much of its work intersessionally by correspondence, it may be more practical for it to elect its officers at the end of a meeting, thus establishing the Chair and Vice-Chair for the following intersessional period. This would have the effect that individuals joining the BSC at the end of an Annual Meeting would not be eligible for election until the BSC meeting the following year.⁵

(3) Whether the individuals holding the posts of Chair and Vice-Chair should reflect the different capacity-to-pay groups (e.g. if the Chair is from a Group 1 or 2 country, should the Vice-Chair be from a Group 3 or 4 country?) or whether the Chair and Vice-Chair can be elected from any BSC member regardless of capacity-to-pay group.

The Sub-committee Chair reported that after brief discussion the sub-committee agreed and recommended to the F&A Committee that:

- The term for Chair and Vice-Chair should be three years and that under normal circumstances the Vice-Chair would replace the outgoing Chair.
- Elections should take place at the end of sub-committee meetings.
- Any member should be eligible to serve as Chair or Vice-Chair.

OPEN SEATS

At IWC/56 the Commission agreed to the addition of two 'open seats' (i.e. for any interested countries) as a fifth category in the BSC rota. Norway and Germany indicated their interest in taking these seats and this was agreed to by the Commission. However, there was no discussion of the term for the open seats, i.e. should the term be 3 years, as for members from other categories, or might there be merit in reducing the term, for example, to two years? A two-year term might offer a balance between achieving wider participation and sufficient continuity.

The BSC was also invited to give consideration to the following practical issues:

- How to call for expressions of interest in taking an open seat when one becomes available.
- How to deal with the situation if the number of countries expressing an interest in an open seat exceeds the number of open seats available.
- Whether the term of the open seats should be consecutive or off-set (as is the case for the two seats for Commissioners on the Advisory Committee to broadly represent the interests within IWC).

The Sub-committee Chair reported that after discussion the Sub-committee agreed and recommended to the F&A Committee that:

- A two year term for the 'open-seat' offers a good balance between continuity and wider participation.
- To call for expressions of interest in taking an open seat when one becomes available by notification by Circular in advance of an Annual Meeting. The open seat(s) would be allocated at the F&A Committee meeting.
- If the level of demand in any one year for 'open seats' exceeded the number of seats available, then preference be given to a country that has not served on the BSC before or served the longest time ago.

It was also noted that the appointment as Chair or Vice-Chair of a BSC member who was coming to the end of their term might block participation of other interested countries. The BSC agreed, and recommended to the F&A Committee that the Secretariat should prepare a paper for review next year regarding how this situation might be handled.

CONTRACTING GOVERNMENTS AS OBSERVERS TO THE BSC

The Chair of the Sub-committee recalled that in previous Annual Meetings several governments have attended the BSC meetings as observers on an informal basis. At IWC/56 this matter was raised and clarification sought as to the status of observers.

The Secretariat introduced the topic and invited the BSC to give consideration to:

- any restrictions on attendance;
- availability of space to accommodate interested parties;
- speaking rights; and
- availability of documents.

The Chair of the Sub-committee reported comments from members, which included the following.

- A clear distinction exists between members and observers. Members work collectively and receive documents intersessionally. Members can also serve as Chair and Vice-Chair. Observers can do none of these things.
- No restrictions on attendance were proposed and accommodation at IWC/57 was not an issue.
- The Chair should have the discretion to invite comments from observers. The Chair should generally know in advance which observers will be participating and can direct proceedings accordingly. The general feeling was to avoid complex rules and to allow flexibility.
- The availability of documents to observers intersessionally was raised as an option. This might be done on request but all documents will be available to observers at the Sub-committee meeting.

After discussion the sub-committee agreed and recommended to the F&A Committee that:

- non BSC members would not receive documents intersessionally or be eligible to be appointed as Chair or Vice Chair;
- there should be no restriction to contributing countries wishing to attend as observers;
- the Chair should have the discretion to invite comments from observers; and
- all documents should be available to observers at the BSC meeting.

⁵ Ideally, membership of the BSC should be confirmed before the end of the Annual Commission meeting.

5.4.2 F&A Committee discussions and recommendations

The Chair of the Sub-committee noted that the separation of the selection of Chair and Vice-Chair from the allocation of 'open seats' might prevent the blocking of participation of interested contributing countries. The Secretariat would look into this matter and report to the next annual meeting.

The F&A Committee therefore **recommends** to the Commission:

- That the recommendations regarding the election of Chair and Vice-Chair; the term of 'open-seats' and clarifying arrangements for Contracting Governments not members of the BSC to attend as observers as described in section 5.4.1 above be incorporated into the operations of the Sub-committee.
- The Secretariat should prepare a paper for review next year regarding how the appointment as Chair or Vice Chair of a BSC member who was coming to the end of their term might block participation of other interested countries in 'open seats' and how this might be handled.

6. NGO PARTICIPATION IN IWC

6.1 NGO Code of Conduct

At IWC/56 last year, the Commission agreed to establish a Working Group to prepare a draft Code of Conduct relating to the participation of NGOs at IWC meetings. Iceland was appointed as the convenor, with other members being Dominica, Japan, the Netherlands, New Zealand, St Kitts and Nevis, Sweden and the USA.

The Commissioner for Iceland recalled that the decision to establish the Working Group was taken at a private meeting of Commissioners during IWC/56. He reported that at an initial meeting in Sorrento, the Working Group agreed to work only through email and to not meet intersessionally, and to take account of work that had already been done within other international bodies. It also agreed to the following terms of reference: 'The Working Group shall work towards developing draft relevant rules relating to issues of participation of NGOs at IWC meetings'.

Iceland reported however, that in subsequent email exchanges after IWC/56, it became apparent that there was not a common understanding within the group of what the terms of reference actually meant. Some members felt that the group should be working towards a broad scheme for the IWC regarding NGO participation, which might include:

- (a) criteria for the granting of observer status;
- (b) decisions on what obligations an NGO would undertake by accepting observer status;
- (c) a Code of Conduct for NGOs at IWC meetings; and
- (d) procedures for suspending and/or withdrawing observer status.

Other members felt that the mandate was more limited and that the Working Group should concern itself only with developing a Code of Conduct. Some of those holding this view suggested that the other issues might possibly be considered once a Code of Conduct had been developed. Given this difference of opinions among group members, Iceland sought direction from the F&A Committee on how to proceed.

After a brief discussion, the F&A Committee **agreed** that in the first instance the Working Group should focus on developing a Code of Conduct. Once this had been

achieved, the F&A Committee could make a decision on whether the other items listed above should be addressed. The Working Group agreed to proceed on this basis.

6.2 NGO participation in Annual Meetings

Before IWC/56 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 F&A 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.

The paper prepared for IWC/56 focused on NGO participation in the Commission and its sub-groups excluding the Scientific Committee, and 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); and
- (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.

Following recommendations from the F&A Committee, the Commission had agreed that the Secretariat should work with the Advisory Committee intersessionally to explore how items 1-3 above might be implemented and to report to the F&A Committee at IWC/57. The Commission agreed that the issue of speaking rights be set aside for the time being.

Austria found it unsatisfactory that only one person per NGO can officially attend the meetings, leading to an unnecessary multiplication of NGO groups and distorting the actual situation and therefore asked the Secretariat to explore a cost-neutral solution.

At the F&A Committee meeting in Ulsan, the Secretariat reported that due to other commitments during the year, no work had taken place on this matter. The F&A Committee therefore **agreed** to carry this work forward to the next intersessional period. Recognising the differences in scale of different NGOs, it was also agreed that the Working Group should, in addition to items 1-3, give consideration to the fee structure for NGOs.

7. OTHER MATTERS

There were no other matters.

8. ADOPTION OF THE REPORT

The report was adopted 'by post' on 18 June 2005.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda

Antony Liverpool
Tricia Lovell

Argentina

Miguel Iniguez

Australia

Conall O'Connell
Gillian Slocum

Austria

Andrea Nouak

Brazil

Karina Groch
Regis Pinto de Lima
Jose Palazzo

Chile

Elsa Cabera

Denmark

Ole Heinrich
Amalie Jessen
Maj Friis Munk
Ole Samsing

Dominica

Andrew Magloire

Finland

Esko Jaakkole

France

Martine Bigan
Vincent Ridoux

Germany

Peter Bradthering
Marlies Reimann

Grenada

Frank Hester
Justin Rennie

Guinea, Republic of

Amadou Telivel Diallo

Iceland

Stefan Asmundsson
Asta Eingsdottir

Italy

Caterina Fortuna
Riccardo Rigillo

Japan

Minoru Morimoto
Joji Morishita
Yoshimi Suenaga
Haruo Tominaga

Kiribati

Maruia Kamatie

Korea, Republic of

Chiguk Ahn
Yeong Gong
Kwang Suk Oh
Hyun-Jin Park
Sung Kwon Soh

Luxembourg

Pierre Gallego

Mauritania

Sidi Mohamed Ould Sidina

Mexico

Lorenzo Rojas-Bracho

Netherlands

Henk Eggink
Benno Bruggink

New Zealand

Al Gillespie
Geoffrey Palmer

Norway

Halvard Johansen (Chair)
Anniken Krutnes
Hanne Østgard

Saint Kitts and Nevis

Ian Liburd
Josephs Simmonds

Saint Lucia

Vaughn Charles
Jeannine Rambally

Saint Vincent and The Grenadines

Raymond Ryan

Senegal

Thiam Moustapha

South Africa

Herman Oosthuizen

Solomon Islands

Paul Maenuú
Sylvester Diake

Spain

Carmen Asencio

Sweden

Bo Fernholm
Stellan Hamrin
Anna Roos

Switzerland

Bruno Mainini
Martin Krebs

Tuvalu

Simeti Lopati
Tupulaga Poulasi

UK

Richard Cowan
James Gray
Jennifer Lonsdale
Mark Simmonds
Chanaka Wickremasinghe

USA

Roger Eckert
Maggie Hayes
Cheri McCarty
Daniel J. Morast

Secretariat

Nicky Grandy (rapporteur)
Sean Moran (rapporteur)



Appendix 2

LIST OF DOCUMENTS

F&A Committee documents

IWC/57/F&A

1. Revised Draft Agenda
2. List of documents
3. Preliminary exploration of costs and implications for the provision of document translation for IWC Annual Meetings
4. Report of the Budgetary Sub-committee
5. Secretary's report on the collection of financial contributions
6. Discussion Document: Possible criteria to define 'very small' countries in the context of the Interim Measure for calculating financial contributions
7. Secretariat proposal to revise the definition of the phrase 'received by the Commission' in the context of Financial Regulations F 'Arrears of Contributions'

8. Summary and status of work to revise the financial contributions formula
9. A preliminary exploration of the possibilities and implications of less frequent meetings of the Commission and its subsidiary groups (prepared by the Secretariat)
10. Scientific Committee Invited Participants 2005

Commission Documents

IWC/57/Rep1 (Extracts from the) Report of the Scientific Committee

IWC/57/6 Financial Statements

IWC/56/13 Secretary's report on how other Conventions deal with legal issues

IWC/56/18 The resolution of legal issues within the IWC

Appendix 3

AGENDA

1. Introductory items
 - 1.1 Appointment of Chair
 - 1.2 Appointment of rapporteurs
 - 1.3 Review of documents
2. Adoption of the Agenda
3. Administrative matters
 - 3.1 Annual Meeting Arrangements and Procedures
 - 3.1.1 Need for a Technical Committee
 - 3.1.2 Use of simultaneous interpretation
 - 3.1.3 Translation of documents
 - 3.1.4 Frequency of meetings
 - 3.1.5 Other
 - 3.2 Legal advice in relation to the IWC
 - 3.3 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
4. Formula for calculating contributions
5. Financial statements, budgets and other matters addressed by the Budgetary Sub-committee
 - 5.1 Review of the provisional financial statement, 2004/2005
 - 5.1.1 Report of the Budgetary Sub-committee
 - 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, 2005/2006 and 2006/2007, including the budget for the Scientific Programme
 - 5.2.1 Report of the Budgetary Sub-committee
 - 5.2.2 F&A Committee discussions and recommendations
- 5.3 Secretariat offices
 - 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
 - 5.4.1 Report of the Budgetary Sub-committee
 - 5.4.2 F&A Committee discussions and recommendations
6. NGO participation in IWC
 - 6.1 NGO Code of Conduct
 - 6.1.1 Report of the Working Group
 - 6.1.2 F&A Committee discussions and recommendations
 - 6.2 NGO participation in Annual Meetings
 - 6.2.1 Report from the Secretariat on intersessional work
 - 6.2.2 F&A Committee discussions and recommendations
7. Other matters
8. Adoption of the Report

TERMS OF REFERENCE

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 (*Rules of Procedure*, Rule M.8).

ADMISSION OF OBSERVERS

Rule of Procedure C.2

Observers accredited in accordance with Rule [of Procedure] 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.**

Appendix 4

SUMMARY OF THE STATUS OF MAIN AGREEMENTS⁶ REACHED BY THE TASK FORCE AND REMAINING ISSUES AS OF IWC/55

Issue	Main agreements reached by the Task Force	Remaining issues
ELEMENTS OF THE CONTRIBUTIONS FORMULA		
Annual membership	<ul style="list-style-type: none"> The Task Force reconfirmed its earlier agreement that one of the elements of the contributions formula should be an annual membership charge that: (1) would be the same for all Contracting Governments (i.e. a flat fee); and (2) should be set at a level to reflect a real commitment to the organisation by Contracting Governments without creating an obstacle to membership by developing countries. 	<ul style="list-style-type: none"> The % of the total contribution this element should represent.
Wealth/capacity to pay	<ul style="list-style-type: none"> The Task Force agreed that there are real advantages in terms of stability and fairness in using actual economic data for each Contracting Government rather than to divide Contracting Governments into groups based on a combination of GNI and GNI per capita, i.e. the banding approach proposed earlier and used in the Interim Measure. Inclusion of a specific separate factor to take external debt into account was not supported by the Task Force. The Task Force agreed not to recommend use of purchasing power parity (ppp) at present in recognition of problems with the quality of some existing ppp data and that new data will be available following a data-collection exercise of the World Bank during 2003. However, the Task Force also agreed that the Finance and Administration Committee might wish to review the use of 'ppp' at some point in the future. The Task Force reaffirmed that the intention is to use the most recent data available from the World Bank and recognised that updating could be critically important, especially for countries whose economies are under strain. The Task Force agreed that to ensure transparency, it will be essential that documents defining the contributions scheme and presenting the contributions required from Contracting Governments, state clearly the exact source and effective date of economic data used. 	<ul style="list-style-type: none"> Development of an appropriate index that will represent realistically the capacity to pay of Contracting Governments. Confirmation of how frequently the World Bank updates its data, whether there is a regular target date for publication of these data, and to what extent the target date is consistently achieved. The % of the total contribution this element should represent.
Use	<ul style="list-style-type: none"> The Task Force determined that the data available for both whalewatching and small cetaceans are not sufficient or consistent enough to include in a contributions formula, and, in light of the difficulties presented by the question of competence in relation to both issues, agreed that neither should be included in any proposal it might make to the Commission. Regarding bycatch, some Task Force members believed that bycatch should not be taken into account while others believed that by-caught animals entering the market should be included, although they recognised the problems with the availability of good data. The Task Force was unable to reconcile these opposing views, and for the purposes of the present work did not include bycatch. The Task Force agreed that ship-strikes should not be included as removals. At its March 2003 meeting, while some Task Force members restated their principled positions with respect to how to treat different types of whaling, in a spirit of compromise and as a way to move forward but without conceding on their positions, the Task Force expressed their willingness to treat all whaling equally (i.e. give equal weighting) in any further simulations. 	<ul style="list-style-type: none"> The % of the total contribution this element should represent

Cont.

⁶ The Task Force noted that in the context of developing a revised contributions formula, 'nothing is agreed until everything is agreed'.

Main agreements cont.

Issue	Main agreements reached by the Task Force	Remaining issues
ELEMENTS OF THE CONTRIBUTIONS FORMULA cont.		
Use cont.	<ul style="list-style-type: none"> • The Task Force confirmed that they preferred to use minke whale units rather than actual numbers of whales caught, but agreed that the Scientific Committee should review the conversion factors from time to time (e.g. every 5 years). • The Task Force, confirmed its previous agreement to use the catches from the previous year (converted to minke whale units). 	<ul style="list-style-type: none"> •
Meeting attendance	<ul style="list-style-type: none"> • The Task Force agreed that the use of real data based on the previous year's attendance by each Contracting Government is preferable to the use of bands. • The Task Force recalled the Commission's agreement at IWC/54 that attendance for the host country should be based on an average of the previous three years and that the Chair of the Commission be excluded for the purposes of calculating financial contributions. • The Task Force agreed that only delegates should be allowed entry into the Commission meeting rooms. Support Staff (who do not have access to the meeting rooms) may need distinguishing badges, e.g. to facilitate admission to the conference venue and/or delegation rooms. 	<ul style="list-style-type: none"> • The % of the total contribution this element should represent • Whether there should be any free delegates and if so, how many.
PERFORMANCE CRITERIA		
	<ul style="list-style-type: none"> • The Task Force identified a number of statistics that may prove useful in characterising the performance of different simulations and that could be used to assess them in terms of the general principles of stability and fairness, i.e.: <ul style="list-style-type: none"> • The average, median (i.e. middle), maximum and minimum contribution; • The standard deviation from the 'average' contribution; • The 5th and 95th percentiles of contributions; • The 5th percentile means that 95% of countries are paying more than this particular value • The 95th percentile means that 5% of countries are paying more than this particular value • The ratio of maximum to minimum contribution; • The percentage of the budget contribution allocated to the top 5, 10, 15, 20 paying countries. • The Task Force focused on two of these, i.e. the ratio of maximum to minimum contribution and the percentage of the budget allocated to the top 5 paying countries. 	<ul style="list-style-type: none"> • Which performance criteria to use and what the acceptable ranges of the criteria selected might be.
SELECTION OF A MODEL		
	<ul style="list-style-type: none"> • The Task Force noted that all recent simulations were run based on the structure of Model 7 and that it appeared that the group is converging on this as the model to put forward to the Commission. 	

Appendix 5

PROVISIONAL FINANCIAL STATEMENT 2004 -2005

Income and Expenditure Account

	Approved Budget		Projected Out-turn (updated)	
	£	£	£	£
Income				
Contracting Government contributions		1,342,900		1,366,700
Recovery of arrears		0		0
Interest on overdue financial contributions		0		30,580
Voluntary contributions for research, small cetaceans work and publications		13,700		7,000
Sales of publications		10,300		5,400
Sales of sponsored publications		2,000		1,000
Observers' registration fees		62,200		49,500
UK taxes recoverable		30,200		25,109
Staff assessments		138,300		136,000
Interest receivable		30,800		58,400
Sundry income		0		400
		<u>1,630,400</u>		<u>1,680,089</u>
Expenditure				
Secretariat	974,900		954,398	
Publications	47,600		33,000	
Annual meetings	315,100		315,100	
Other meetings	5,500		13,700	
Research expenditure	265,000		299,476	
Small cetaceans	46,900		23,863	
Sundry	0		0	
	<u>1,655,000</u>		<u>1,639,537</u>	
Provisions				
Unpaid contributions	0		0	
Unpaid interest on overdue contributions	0		0	
Severance pay provision	16,600		0	
Provision for other doubtful debts	0		0	
		<u>1,671,600</u>		<u>1,639,537</u>
Surplus of income over expenditure		<u>-41,200</u>		<u>40,552</u>
Net transfers from or to (-):				
Sponsored publications fund		-800		400
Small cetaceans fund		20,500		-53,967
Research fund		32,600		-16,363
Surplus/deficit (-) for the year after transfers		<u>11,100</u>		<u>110,482</u>

Appendix 6

PROPOSED BUDGET 2005-2006

See Annex L of the Chair's Report.

Appendix 7

SCIENTIFIC COMMITTEE FUNDING REQUIREMENTS FOR 2005-2006

See Annex M of the Chair's Report.

Annex L

Approved Budget for 2005/2006 and Forecast Budget for 2006/2007

Income and Expenditure Account

	Proposed Budget 2005-2006		Forecast Budget 2006-2007	
	£	£	£	£
Income				
Contracting Government contributions		1,359,200		1,402,690
Recovery of arrears		0		0
Interest on late financial contributions		0		0
Voluntary contributions		1,000		1,030
Sales of publications		5,600		5,780
Sales of sponsored publications		1,000		1,030
Observers' registration fees		51,700		53,350
UK taxes recoverable		28,930		29,860
Staff assessments		148,200		152,940
Interest receivable		50,100		51,700
Sundry income		0		0
		1,645,730		1,698,380
Expenditure				
Secretariat	992,960		1,024,740	
Publications	50,070		51,670	
Annual meetings	326,000		336,430	
Other meetings	20,000		20,640	
Research expenditure	266,000		273,480	
Small cetaceans	1,000		1,030	
Sundry	0		0	
	1,656,030		1,707,990	
Provisions				
Unpaid contributions	0		0	
Unpaid interest on overdue contributions	0		0	
Severance pay provision	-12,100		10,000	
Provision for other doubtful debts	0		0	
	0		0	
		1,643,930		1,717,990
Surplus of income over expenditure		1,800		-19,610
Net Transfers from or to (-):				
Sponsored publications fund		2,010		2,070
Research fund		-4,000		-5,160
Small cetaceans fund		-50		-50
Surplus/Deficit (-) for the year after transfers		-240		-22,750

Annex M

Approved Research Budget for 2005/2006

	Budget
RMP	
North Pacific Bryde's whales <i>Implementation</i> . 1st intersessional workshop	£10,000
North Atlantic fin whales. Participate at workshop	£2,000
AWMP	
AWMP developers fund	£8,500
West Greenland common minke whales. Abundance estimation from genetic data	£3,500
Bowhead whale. Intersessional workshop to prepare for <i>Implementation Review</i>	£0
IA	
<i>Furthering estimation and interpretation of abundance estimates</i>	
SOWER cruise 2005/6	£80,000
DESS maintenance	£7,500
DESS standard analysis method	£4,000
Integrated model analysis	£2,000
CPII and CPIII explanation: VPA analysis	£5,000
CPII and CPIII explanation: catch-at-age analysis	£20,000
E – some with IA and BRG	
ICCED science planning and analysis/SO-collaboration. Cruise coordination	£13,000
German SO-GLOBEC, Weddell Sea. IWC participation	£17,500
Deakin University SOC database completion	£10,000
Whales and shelf break krill distribution	£1,000
Arctic Sea ice - population dynamics	£14,500
Impact on cetaceans from seismic surveys. Workshop	£4,000
Arctic Sea ice - body condition and health	£0
SOCER. Coordination, literature search and editing	£0
SH	
SH humpback. Workshop	£8,000
SH humpback. Code and run population dynamics model	£1,000
SH humpback. Finalise catch series	£1,000
Cataloguing of Antarctic humpback whales for online access	£5,300
SH blue whales. Initiate Comprehensive Assessment	£3,000
SD	
TOSSM Intersessional workshop with non-SC developer of genetic methods	£8,000
BC	
Co-ordination with FAO	£1,200
Estimation of bycatch. Simulation modelling	£1,000
Estimation of bycatch. Data collection and market pathways	£5,000
Scientific Committee	
Invited participants	£30,000
TOTAL	£266,000

Annex N

Amendments to the Schedule Adopted at the 57th Annual Meeting

At the 57th Annual Meeting of the International Whaling Commission held in Ulsan from 20-24 June 2005, no modifications were made to the provision for zero catch limits for commercial whaling with effect from the 1986 coastal and the 1985/86 pelagic seasons. No modifications were made to provisions for aboriginal subsistence catch limits, although Denmark (Greenland) voluntarily reduced the catch limit for the West Greenland Stock of fin whales from 19 to 10 for each of the years 2006 and 2007.

Only the following amendments to the Schedule of the International Convention for the Regulation of Whaling are therefore necessary (changes in *bold italics* type):

Paragraphs 11 and 12, and Tables 1, 2 and 3:

Substitute the dates *2005/2006* pelagic season, *2006* coastal season, *2006* season, or *2006* as appropriate.

Financial Statements
for the
Year ended 31 August 2005

Financial Statements for the year ended 31 August 2005

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 Commissions 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 Commissions 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

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 Commissions 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 2005.

D. A. Green & Sons, Chartered Certified Accountants, St Ives, 31 January 2006

The Secretary's Responsibilities

The financial responsibilities of the Secretary to the Commission are set out in its Rules of Procedure and Financial Regulations. Fulfilment of those responsibilities requires the Secretary to prepare financial statements for each financial year which set out the state of affairs of the Commission as at the end of the financial year and the surplus or deficit of the Commission for that period. In preparing those financial statements, the Secretary should:

- Select suitable accounting policies and then apply them consistently;

- Make judgements and estimates that are reasonable and prudent;
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Commission will continue in operation.

The Secretary is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Commission. The Secretary is also responsible for safeguarding the assets of the Commission and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Accounting Policies - Year Ended 31 August 2005

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 £174,000 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 Commissions contributions payable to the scheme in respect of the accounting period.

Income and Expenditure Account (Year Ended 31 August 2005)

		2005		2004	
	[Note]	£	£	£	£
Income: continuing operations					
Contributions from member governments			1,376,204		1,298,789
Interest on overdue financial contributions			30,591		45,045
Voluntary contributions for research, small cetaceans work and publications			6,539		64,359
Sales of publications			14,483		17,852
Sales of sponsored publications	[1]/8		1,730		1,737
Observers registration fees			48,018		55,240
UK taxes recoverable			20,957		23,103
Staff assessments			140,184		132,632
Interest receivable			66,842		48,811
Sundry income			433		1,230
			<u>1,705,981</u>		<u>1,688,798</u>
Expenditure					
Secretariat	6	941,600		882,190	
Publications	6	29,486		47,165	
Annual meetings		315,100		300,800	
Other meetings		13,268		1,556	
Research expenditure	[2]/6	256,895		251,062	
Small cetaceans	[3]/6	25,672		2,721	
Sundry		2,445		2,033	
		<u>1,584,466</u>		<u>1,487,527</u>	
Provisions made for:					
Unpaid contributions		23,885		(43,865)	
Unpaid interest on overdue contributions		(55,465)		(12,457)	
Severance pay	[5]	1,200		28,600	
Other doubtful debts		(1,796)	1,552,290	(964)	1,458,841
Surplus of income:					
Continuing operations	[7]		153,691		229,957
Net transfers from/(to) funds:					
Publications fund	[1]	(2,152)		(1,958)	
Research fund	[2]	10,035		(46,834)	
Small cetaceans fund	[3]	18,762	26,645	(467)	(49,259)
Surplus for the year after transfers	[4]		<u>180,336</u>		<u>180,698</u>

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 2005)

	2005	2004
	£	£
SECRETARIAT		
Salaries, national insurance and allowances	609,339	586,146
Retirement and other Benefit Schemes	123,178	108,963
Travelling expenses	3,699	2,749
Office rent, heating and maintenance	113,483	96,479
Insurance	5,443	3,702
Postage and telecommunications	18,926	21,829
Office equipment and consumables	54,272	52,594
Professional fees	7,797	7,688
Training & Recruitment	2,405	765
Photocopying	3,058	1,275
Sundries	0	0
	<u>941,600</u>	<u>882,190</u>
PUBLICATIONS		
Annual Report	5,746	8,730
Journal Cetacean Research and Management	23,740	38,435
	<u>29,486</u>	<u>47,165</u>
RESEARCH		
Invited participants	30,670	27,544
SOWER:		
2003/2004 SOWER cruise	0	84,199
2004/2005 SOWER cruise	82,537	0
Contract 9 - Genetics - Palsbøll	1,046	0
Contract 14 - Analysis support including DESS maintenance/development	13,236	11,750
Contract 16 - Southern Hemisphere Humpback catalogue	5,161	5,105
SO-GLOBEC	36,448	34,839
Pollution 2000+	0	29,137
BC Workshop on Market Sampling	4,527	0
AWMP fund for developers	9,874	0
AWMP Intersessional Workshop	8,717	12,531
AWMP Genetic Simulation Studies	10,277	0
IA Development support	27,003	7,946
Gray Whales USA/Russia Workshop	0	2,253
Habitat Degradation Workshop	14,838	0
RMP (SC) Intersessional Workshop (Bryde's Whales)	7,151	0
FAO Fisheries statistics	0	606
AS Greenland Research	0	17,984
SOS Review	0	6,746
TOSSM Project	0	9,511
E/IA/BRG Sea-Ice and Whale Habitat	3,411	0
Other (including exchange differences)	1,999	911
	<u>256,895</u>	<u>251,062</u>
SMALL CETACEANS		
Invited participants	5,442	2,702
Byatch Reduction	19,847	0
Common Dolphins in South America	182	0
Other (including exchange losses)	201	19
	<u>25,672</u>	<u>2,721</u>

Balance Sheet 31 August 2005

	[note]	2005 £	£	2004 £	£
CURRENT ASSETS					
Cash on short term deposit					
General fund		1,524,028		1,313,771	
Research fund		157,295		124,455	
Publications fund		29,107		29,986	
Small Cetaceans fund		10,227	1,720,657	31,063	1,499,275
Cash at bank on current account					
Research fund		1,000		815	
Publications fund		1,000		1,000	
Small Cetaceans fund		1,000		1,000	
Cash in hand		131	3,131	120	2,935
			1,723,788		1,502,210
Outstanding contributions from members, including interest		528,764		573,674	
Less provision for doubtful debts		(528,764)	0	(560,277)	13,397
Other debtors and prepayments			92,787		82,538
			1,816,575		1,598,145
CREDITORS:					
Amounts falling due within one year	[6]	(156,842)		(93,303)	
NET CURRENT ASSETS		1,659,733		1,504,842	
PROVISION FOR SEVERANCE PAY	[5]	(332,700)		(331,500)	
		1,327,033		1,173,342	
<i>Financed by</i>					
Publications fund	[1]	33,361		31,209	
Research fund	[2]	138,812		148,847	
Small cetaceans fund	[3]	14,893		33,655	
General fund	[4]	1,139,967		959,631	
	[7]	1,327,033		1,173,342	

Approved on behalf of the Commission
Nicola J. Grandy (Secretary)
31 January 2006

Notes to the Accounts

	2005 £	2004 £
1. Publications fund		
Interest receivable	422	221
Receipts from sales of sponsored publications	1,730	1,737
Net transfers to income and expenditure account	2,152	1,958
Opening balances at 1 September 2004	31,209	29,251
Closing balances at 31 August 2005	<u>33,361</u>	<u>31,209</u>
2. Research fund		
Allocation for research	240,850	231,073
UK taxes recoverable	1,359	2,665
Voluntary contributions received	0	61,616
Interest receivable	4,651	2,542
Expenditure	(256,895)	(251,062)
Net transfers (to) income and expenditure account	(10,035)	46,834
Opening balances at 1 September 2004	148,847	102,013
Closing balances at 31 August 2005	<u>138,812</u>	<u>148,847</u>
3. Small cetaceans fund		
Voluntary contributions received	6,539	2,743
Interest receivable	371	445
Expenditure	(25,672)	(2,721)
Net transfer from/(to) income and expenditure account	(18,762)	467
Opening balances at 1 September 2004	33,655	33,188
Closing balances at 31 August 2005	<u>14,893</u>	<u>33,655</u>
4. General fund		
Opening balances at 1 September 2004	959,631	778,933
Surplus transferred from income and expenditure account	180,336	180,698
Closing balances at 31 August 2005	<u>1,139,967</u>	<u>959,631</u>
5. Provision for severance pay		
Opening balances at 1 September 2004	331,500	302,900
Transfer from (to) income and expenditure account, being:		
Allocation	(9,749)	19,760
Interest received	10,949	8,840
Closing balances at 31 August 2005	<u>332,700</u>	<u>331,500</u>
6. Creditors: amounts falling due in one year		
Deferred contributions income	95,880	53,554
Other creditors and accruals	60,962	39,749
	<u>156,842</u>	<u>93,303</u>
7. Reconciliation of movement in funds		
Surplus of income over expenditure	153,691	229,957
Opening Funds	1,173,342	943,385
	<u>1,327,033</u>	<u>1,173,342</u>
8. Financial commitments		

The Commission had annual commitments at 31 August 2005 under non-cancellable operating leases as set out below and which expire:

	2005		2004	
	Land and buildings £	Office equipment £	Land and buildings £	Office equipment £
Within 2 to 5 years	0	22,630	0	22,078
After five years	75,000	0	69,500	0
	<u>75,000</u>	<u>22,630</u>	<u>69,500</u>	<u>22,078</u>

**International Convention
for the
Regulation of Whaling, 1946**

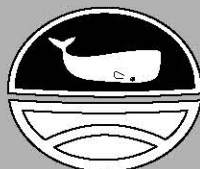
signed at Washington, 2 December 1946

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. 155 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 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 57th Annual Meeting
Ulsan, Republic of Korea, 20-24 June 2005**



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 57th Annual Meeting in June 2005. It also contains an additional editorial footnote to Table 1. The amendments, which are shown in *italic bold* type, came into effect on 28 September 2005.

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

- The following expressions have the meanings respectively assigned to them, that is to say:

A. Baleen whales

“baleen whale” means any whale which has baleen or whale bone in the mouth, i.e. any whale other than a toothed whale.

“blue whale” (*Balaenoptera musculus*) means any whale known as blue whale, Sibbald’s rorqual, or sulphur bottom, and including pygmy blue whale.

“bowhead whale” (*Balaena mysticetus*) means any whale known as bowhead, Arctic right whale, great polar whale, Greenland right whale, Greenland whale.

“Bryde’s whale” (*Balaenoptera edeni*, *B. brydei*) means any whale known as Bryde’s whale.

“fin whale” (*Balaenoptera physalus*) means any whale known as common finback, common rorqual, fin whale, herring whale, or true fin whale.

“gray whale” (*Eschrichtius robustus*) means any whale known as gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

“humpback whale” (*Megaptera novaeangliae*) means any whale known as bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale.

“minke whale” (*Balaenoptera acutorostrata*, *B. bonaerensis*) means any whale known as lesser rorqual, little piked whale, minke whale, pike-headed whale or sharp headed finner.

“pygmy right whale” (*Caperea marginata*) means any whale known as southern pygmy right whale or pygmy right whale.

“right whale” (*Eubalaena glacialis*, *E. australis*) means any whale known as Atlantic right whale, Arctic right whale, Biscayan right whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, or southern right whale.

“sei whale” (*Balaenoptera borealis*) means any whale known as sei whale, Rudolphi’s rorqual, pollack whale, or coalfish whale.

B. Toothed whales

“toothed whale” means any whale which has teeth in the jaws.

“beaked whale” means any whale belonging to the genus *Mesoplodon*, or any whale known as Cuvier’s beaked whale (*Ziphius cavirostris*), or Shepherd’s beaked whale (*Tasmacetus shepherdi*).

“bottlenose whale” means any whale known as Baird’s beaked whale (*Berardius bairdii*), Arnoux’s whale (*Berardius arnuxii*), southern bottlenose whale (*Hyperoodon planifrons*), or northern bottlenose whale (*Hyperoodon ampullatus*).

“killer whale” (*Orcinus orca*) means any whale known as killer whale or orca.

“pilot whale” means any whale known as long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*G. macrorhynchus*).

“sperm whale” (*Physeter macrocephalus*) means any whale known as sperm whale, 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, notwithstanding these criteria, a whale shall not be considered a lactating whale if scientific (histological or other biological) evidence is presented to the appropriate national authority establishing that the whale could not at that point in its physical cycle have had a calf dependent on it for milk.

“small-type whaling” means catching operations using powered vessels with mounted harpoon guns hunting exclusively for minke, bottlenose, beaked, pilot or killer whales.

II. SEASONS

Factory Ship Operations

2. (a) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating baleen whales except minke whales, in any waters south of 40° South Latitude except during the period from 12th December to 7th April following, both days inclusive.
- (b) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating sperm or minke whales, except as permitted by the Contracting Governments in accordance with sub-paragraphs (c) and (d) of this paragraph, and paragraph 5.
- (c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, an open season or seasons not to exceed eight months out of any period of twelve months during which the taking or killing of sperm whales by whale catchers may be permitted; provided that a separate open season may be declared for each factory ship and the whale catchers attached thereto.
- (d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by the whale catchers may be permitted provided that:
 - (1) a separate open season may be declared for each factory ship and the whale catchers attached thereto;
 - (2) the open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to sub-paragraph (a) of this paragraph.
3. It is forbidden to use a factory ship which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, except minke whales, in any other area except the North Pacific Ocean and its dependent waters north of the Equator for the same purpose within a period of one year from the termination of that season; provided that catch limits in the North Pacific Ocean and dependent waters are established as provided in paragraphs 12 and 16 of this Schedule and provided that this paragraph shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

Land Station Operations

4. (a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with sub-paragraphs (b), (c) and (d) of this paragraph.
- (b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen whales, except minke whales, by the whale catchers shall be permitted. Such open season shall be for a period of not more than six consecutive months in any period of twelve months and shall apply to all land stations under the jurisdiction of the Contracting Government: provided that a separate open season may be declared for any land station used for the taking or treating of baleen whales, except minke whales, which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen whales, except minke whales, under the jurisdiction of the same Contracting Government.
- (c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed eight continuous months in any one period of twelve months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, provided that a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000 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;
- (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 LIMITS¹ (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-2005/2006 pelagic season and 2006 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:														
				0		0		0		0		0		0
NORTHERN HEMISPHERE-2006 season														
ARCTIC														
NORTH PACIFIC														
Whole region	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
Okhotsk Sea-West Pacific Stock	.	.	-	0	.	.	.	.	.	.	.	.	.	.
Sea of Japan-Yellow Sea-East	.	.	-	0	.	.	.	.	.	.	.	.	.	.
China Sea Stock	.	.	PS	0	.	.	.	.	.	.	.	.	.	.
Remainder	.	.	IMS	0	.	.	.	.	.	.	.	.	SMS	.
Eastern Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	PS
Western Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	0
NORTH ATLANTIC														
Whole region	.	.	PS	0	.	.	PS	0	PS	0	PS	0	.	.
West Greenland Stock	.	.	PS	0	.	19 ^Δ	.	.	.	.	.	.	.	.
Newfoundland-Labrador Stock	.	.	.	0	.	.	.	.	.	.	.	.	.	.
Canadian East Coast Stock	.	.	.	0	.	.	.	.	.	.	.	.	.	.
Nova Scotia Stock	PS	0	.	.	PS	0	.	.	.	.	.	.	.	.
Central Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
East Greenland-Iceland Stock	.	.	.	.	SMS	0	.	.	.	.	.	.	.	.
Iceland-Denmark Strait Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Spain-Portugal-British Isles	.	0	.	.	.	.	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Northeastern Stock	.	.	PS*	0	.	.	.	.	.	.	.	.	.	.
West Norway-Faroe Islands	.	.	.	.	PS	0	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
North Norway Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Eastern Stock	.	0	.	.	.	.	.	.	.	.	.	.	.	.
NORTHERN INDIAN OCEAN														
	.	.	IMS	0	.	.	PS	0	PS	0	PS	0	.	.

¹ 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.

^Δ 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.

^Δ *At IWC/57 in Ulsan, Republic of Korea, June 2005, Denmark (Greenland) voluntarily reduced the catch limit for the West Greenland stock of fin whales from 19 to 10 for each of the years 2006 and 2007.*

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-2005/2006 pelagic season and 2006 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-2006 season		
Eastern Stock	IMS	0
Western Stock	IMS	0
East China Sea Stock	PS	0
NORTH ATLANTIC-2006 season	IMS	0
NORTHERN INDIAN OCEAN-2006 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.⁺

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-2006 season				
NORTH PACIFIC				
Western Division		PS		0 ¹
Eastern Division		-		0
NORTH ATLANTIC				
		-		0
NORTHERN INDIAN OCEAN				
		-		0
BOTTLENOSE				
NORTH ATLANTIC		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 **2005/2006** pelagic season and the **2006** 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 **2006** and in the North Atlantic Ocean in **2006** 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 for 2004 shall be binding on the parties involved and they shall modify the hunt accordingly.

¹ The Commission, on advice of the Scientific Committee, shall establish as far as possible (a) a minimum stock level for each stock below which whales shall not be taken, and (b) a rate of increase towards the MSY level for each stock. The Scientific Committee shall advise on a minimum stock level and on a range of rates of increase towards the MSY level under different catch regimes.

- (2) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or a Contracting Government on behalf of aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines.
- (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 carcass (except of a whale used as a fender, which shall be processed as soon as is reasonably practicable) shall remain in the sea for a longer period than thirty-three hours from the time of killing to the time when it is hauled up for treatment.
- (b) Whales taken by all whale catchers, whether for factory ships or land stations, shall be clearly marked so as to identify the catcher and to indicate the order of catching.

V. SUPERVISION AND CONTROL

21. (a) There shall be maintained on each factory ship at least two inspectors of whaling for the purpose of maintaining twenty-four hour inspection provided that at least one such inspector shall be maintained on each catcher functioning as a factory ship. These inspectors shall be appointed and paid by the Government having jurisdiction over the factory ship; provided that inspectors need not be appointed to ships which, apart from the storage of products, are used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.
- (b) Adequate inspection shall be maintained at each land station. The inspectors serving at each land station shall be appointed and paid by the Government having jurisdiction over the land station.
- (c) There shall be received such observers as the member countries may arrange to place on factory ships and land stations or groups of land stations of other member countries. The observers shall be appointed by the Commission acting through its Secretary and paid by the Government nominating them.
22. Gunners and crews of factory ships, land stations, and whale catchers, shall be engaged on such terms that their remuneration shall depend to a considerable extent upon such factors as the species, size and yield of whales and not merely upon the number of the whales taken. No bonus or other remuneration shall be paid to the gunners or crews of whale catchers in respect of the taking of lactating whales.
23. Whales must be measured when at rest on deck or platform after the hauling out wire and grasping device have been released, by means of a tape-measure made of a non-stretching material. The zero end of the tape-measure shall be attached to a spike or stable device to be positioned on the deck or platform abreast of one end of the whale. Alternatively the spike may be stuck into the tail fluke abreast of the apex of the notch. The tape-measure shall be held taut in a straight line parallel to the deck and the whale's body, and other than in exceptional circumstances along the whale's back, and read abreast of the other end of the whale. The ends of the whale for measurement purposes shall be the tip of the upper jaw, or in sperm whales the most forward part of the head, and the apex of the notch between the tail flukes.
- Measurements shall be logged to the nearest foot or 0.1 metre. That is to say, any whale between 75 feet 6 inches and 76 feet 6 inches shall be logged as 76 feet, and any whale between 76 feet 6 inches and 77 feet 6 inches shall be logged as 77 feet. Similarly, any whale between 10.15 metres and 10.25 metres shall be logged as 10.2 metres, and any whale between 10.25 metres and 10.35 metres shall be logged as 10.3 metres. The measurement of any whale which falls on an exact half foot or 0.05 metre shall be logged at the next half foot or 0.05 metre, e.g. 76 feet 6 inches precisely shall be logged as 77 feet and 10.25 metres precisely shall be logged as 10.3 metres.

VI. INFORMATION REQUIRED

24. (a) All whale catchers operating in conjunction with a factory ship shall report by radio to the factory ship:
- (1) the time when each whale is taken
 - (2) its species, and
 - (3) its marking effected pursuant to paragraph 20(b).
- (b) The information specified in sub-paragraph (a) of this paragraph shall be entered immediately by a factory ship in a permanent record which shall be available at all times for examination by the whaling inspectors; and in addition there shall be entered in such permanent record the following information as soon as it becomes available:
- (1) time of hauling up for treatment
 - (2) length, measured pursuant to paragraph 23
 - (3) sex
 - (4) if female, whether lactating
 - (5) length and sex of foetus, if present, and
 - (6) a full explanation of each infraction.
- (c) A record similar to that described in sub-paragraph (b) of this paragraph shall be maintained by land stations, and all of the information mentioned in the said sub-paragraph shall be entered therein as soon as available.
- (d) A record similar to that described in sub-paragraph (b) of this paragraph shall be maintained by "small-type whaling" operations conducted from shore or by pelagic fleets, and all of this information mentioned in the said sub-paragraph shall be entered therein as soon as available.
25. (a) All Contracting Governments shall report to the Commission for all whale catchers operating in conjunction with factory ships and land stations the following information:
- (1) methods used to kill each whale, other than a harpoon, and in particular compressed air; and
 - (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

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.....

Fin.....

Humpback.....

Right.....

Sci.....

Signed.....

Wind force and direction

Sea state

Visibility

Time

Bryde's

Minke

Sperm

Others (specify)

*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 57th Annual Meeting, June 2005
(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; and
 - (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

2. 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.
3. 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 should 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, or bankers draft/international money order 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 intergovernmental agencies as requiring, or likely to benefit from support through the Fund.
2. Where expenditure is proposed in support of invited participants, the following will apply:
 - (a) invited participants will be selected through consultation between the Chair of the Scientific Committee, the Convenor of the appropriate sub-committee and the Secretary;
 - (b) the government of the country where the scientists work will be advised of the invitation and asked if it can provide financial support.
3. Where expenditure involves research activity, the following will apply:
 - (a) the normal procedures for review of proposals and recommendations by the Scientific Committee will be followed;
 - (b) appropriate procedures for reporting of progress and outcomes will be applied and the work reviewed;
 - (c) the Secretariat shall solicit the involvement, as appropriate, of governments in the regions where the research activity is undertaken.

Rules of 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.

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.

¹ [Invited Participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

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

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 provides under this paragraph are made available to accredited persons.]



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