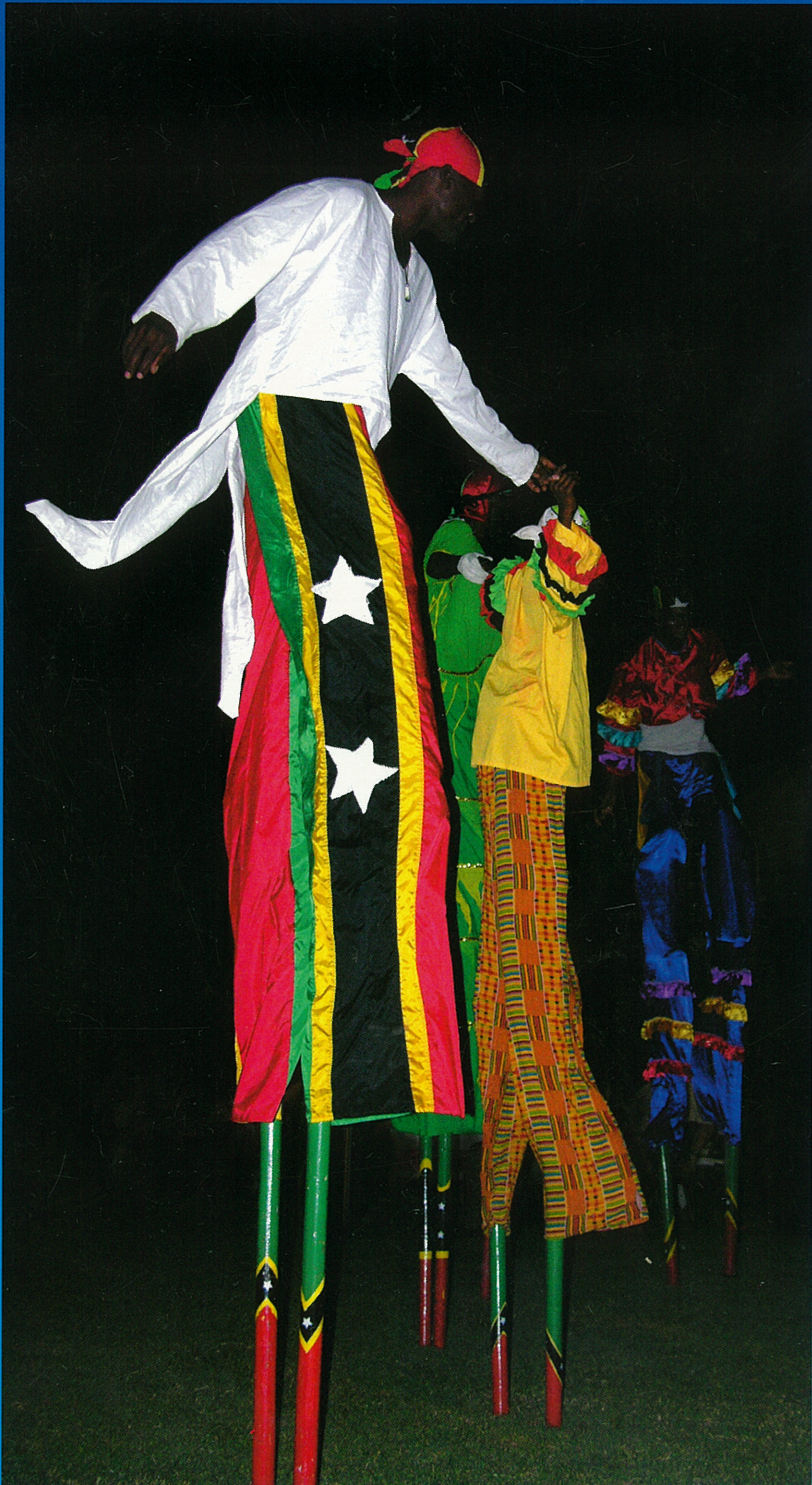


Annual Report of the International Whaling Commission 2006

Covering the
2005-2006
financial year
and the 58th
Annual Meeting
held in
St Kitts and Nevis
in 2006



Annual Report of the International Whaling Commission 2006

**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	Ambassador A. Liverpool	02.07.04
Argentina	18.05.60	Ambassador E.H. Iglesias	08.02.02
Australia	10.11.48	Mr. C. O'Connor	31.05.06
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	Ms. B. Wade	17.05.06
Benin	26.04.02	Mr. J. Ouake	06.05.02
Brazil	04.01.74	Coun. M. Pessoa	15.06.04
Cambodia	01.06.06	Mr. P. Try	06.06.06
Cameroon	14.06.05	Dr. B.M. Ousman	04.08.05
Chile	06.07.79	Ambassador C. Maquieira	05.06.06
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
Republic of Croatia	10.01.07	Mr. Z. Šikić	16.02.07
Cyprus	26.02.07	Not notified	
Czech Republic	26.01.05	Dr. P. Hýčova	17.03.05
Denmark	23.05.50	Mr. O. Samsing	01.10.06
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	Mr. J. Jabai	22.05.06
Germany	02.07.82	Not notified	
Grenada	07.04.93	Hon. G. Bowen	25.06.04
Guatemala	16.05.06	Not notified	
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. Lal	29.09.06
Ireland	02.01.85	Not notified	
Israel	07.06.06	Ms. E. Efrat-Smilg	07.06.06
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	Mrs. R. Nikuata Rimon	07.06.06
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
Republic of Marshall Islands	01.06.06	Mr. J. Silk	12.06.06
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	Mr. T. Damdin	16.05.02
Morocco	12.02.01	Mr. A. Fahfouhi	01.04.04
Nauru	15.06.05	Mr. J. Dowiyogo	20.02.07
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	Ambassador 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	Mrs. D. Sotomayor	26.10.06
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 and 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	Ms. K. Slabeyova	07.04.06
Slovenia	20.09.06	Not notified	
Solomon Islands	10.05.93	Mr. S. Diake	15.03.04
South Africa	10.11.48	Mr. H. Oosthuizen	10.04.06
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	Mr. A.S. Sonhaye	08.06.06
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, 28 February 2007

Preface

Welcome to the ninth 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-Eighth meeting of the IWC, held in St. Kitts and Nevis, West Indies in June 2006. 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 58TH ANNUAL MEETING**

The main outcomes, decisions and required actions arising from the 58th 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/59 in 2007. <p>Western North Pacific common minke whales</p> <ul style="list-style-type: none"> • The Scientific Committee agreed that sufficient information is now available to begin specifying plausible hypotheses for stock structure as part of the in-depth assessment. A workshop on research co-operation will be held in September 2006. <p>Southern Hemisphere humpback whales</p> <ul style="list-style-type: none"> • Substantive progress was made with the Comprehensive Assessment for three Breeding Stocks. The Scientific Committee agreed that the population size of Breeding Stock A (eastern South America) has increased in recent decades but that it remains well below pre-exploitation levels. No firm conclusions were drawn regarding the status of Stocks D (western Australia) or G (western South America) but it was agreed that both have shown substantial increase since protection. High priority was given to completing the assessment of Stocks B (western Africa) and C (eastern Africa) next year. <p>Southern Hemisphere blue whales</p> <ul style="list-style-type: none"> • The Comprehensive Assessment of blue whales was initiated with substantial new information being presented on past and present distribution, stock structure and abundance and trends. <p>Southern Hemisphere right whales</p> <ul style="list-style-type: none"> • The Commission welcomed reports that Southern right whales off Australia and South Africa are continuing to increase, with the highest number of cow-calf pairs being recorded in 2005 since surveys began in the late 1970s. <p>Western North Pacific gray whales</p> <ul style="list-style-type: none"> • The Scientific Committee and the Commission has expressed great concern over this critically endangered species whose only known feeding grounds lie along the northeastern coast of Sakhalin Island where existing and planned oil and gas developments pose potentially catastrophic threats. This year, conflicting advice was received on whether there had been any impact on gray whales due to activities related to the oil and gas industry in 2005. The Committee requested that sufficient documentation is provided to allow it to evaluate the evidence next year. An updated and more optimistic population assessment of about 120 animals was received, with a rate of increase of some 3% over the 1994-2005 period. However, the Committee noted that if whales continue to be entangled in nets at the 2005 level, then the population is predicted to decline, with a substantial risk of extinction by 2030. <p>Small cetaceans</p> <ul style="list-style-type: none"> • The Scientific Committee reviewed small cetaceans in the Caribbean and western tropical Atlantic and reviewed progress on previous recommendations with respect to the baiji, vaquita, harbour porpoise, franciscana, humpback dolphin, white whales and narwhals, small cetaceans in the Black Sea and Dall's porpoise.
Aboriginal subsistence whaling	<ul style="list-style-type: none"> • The Commission was pleased to receive new abundance estimates for the common minke whale (3,500, 95%CI 1,500-7,700) and fin whale (1,700 95%CI 840-3,500) off West Greenland, an area where recent estimates had been lacking. • The Commission agreed that no changes to the block quotas renewed in 2002 were needed. Consideration of the renewal of all aboriginal subsistence quotas is necessary at next year's meeting.

Issue	Outcomes, decisions and required actions
Whale killing methods and associated welfare issues	<ul style="list-style-type: none"> The Commission endorsed the report and recommendations from a workshop held from 11 to 13 June to consider: (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; (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. Eleven specific recommendations for improving whale killing methods were proposed relating to: (1) improved training of hunters in the best available practices; (2) exchange of information among member countries regarding best practices; and (3) the importance of maintaining equipment. The need for another scientific and technical workshop will be reviewed in two years time.
The Revised Management Scheme (RMS)	<ul style="list-style-type: none"> The Scientific Committee is on schedule to complete the RMP <i>Implementation</i> for western North Pacific Bryde's whales at next year's meeting. While it agreed that sufficient work had been completed to allow an <i>Implementation</i> to begin for North Atlantic fin whales this year, it recommended that initiation be delayed until 2007 given the already heavy work load on western North Pacific Bryde's whales. The RMS Working Group reviewed intersessional work on compliance and a possible code of conduct for whaling under special permit and reconsidered the outcome of its meeting in Cambridge earlier in the year. It was unable to recommend any further collective work to develop an RMS and confirmed that discussions remain at an impasse. The Commission noted the Working Group's report and did not identify any formal activity on the RMS for the coming year.
The future of the IWC	<ul style="list-style-type: none"> The Commission adopted Resolution 2006-1, the St. Kitts and Nevis Declaration which declares a commitment to '<i>normalising the functions of the IWC based on: the terms of the International Convention for the Regulation of Whaling and other relevant international law; respect for cultural diversity and traditions of coastal peoples and the fundamental principles of sustainable use of resources; and the need for science-based policy and rulemaking that are accepted as the world standard for the management of marine resources</i>'. Japan announced its intentions to host a conference prior to IWC/59 to address 'normalisation' of the IWC. The meeting will not be under the auspices of IWC.
Sanctuaries	<ul style="list-style-type: none"> A proposed Schedule amendment to create a South Atlantic Sanctuary was not adopted. 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>Interference with research programmes</p> <ul style="list-style-type: none"> As a result of certain recent protest activities against Japan's whale research vessels in the Antarctic, the Commission passed Resolution 2006-2 on the safety of vessels engaged in whaling and whale research-related activities. <p>Existing permits</p> <ul style="list-style-type: none"> The Scientific Committee reviewed results from Japan's research programmes in the Antarctic (i.e. the first year of JARPA II) and North Pacific and Iceland's programme in the North Atlantic. Different views on the value of these research programmes were expressed in the Scientific Committee and in the Commission. A workshop to review the results from the 18-year JARPA programme is scheduled for early December 2006.
Whalewatching	<ul style="list-style-type: none"> The Scientific Committee agreed that there is new compelling evidence that the fitness of individual small cetaceans repeatedly exposed to whalewatching vessel traffic can be compromised and that this can lead to population-level effects. It encouraged further similar studies to be undertaken on large whales.

Issue	Outcomes, decisions and required actions
Environmental and health concerns	<ul style="list-style-type: none"> • A workshop on the potential for seismic surveys to impact cetaceans advanced considerably the Committee's ability to address this issue and a number of important recommendations were made. • Plans were put in place regarding future collaboration with CCAMLR and FAO on ecosystem modelling. • Phase I of POLLUTION 2000+ was completed and the Committee agreed that it had contributed to the Commission's request to give priority to research on the effects of environmental changes on cetaceans. • The Commission endorsed the Committee's recommendation for a special symposium on infectious and non-infectious diseases in marine mammals and impacts on cetaceans prior to the next Annual Meeting.
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 Committee reviewed progress with two areas of work agreed last year: (1) an investigation of inedible 'stinky' gray whales in the Chukotkan aboriginal subsistence hunt; and (2) work to make progress on the issue of whales being killed or seriously injured by ship strikes, for which a working group was established. With respect to ship strikes, the Committee endorsed a number of recommendations for follow-up work and the Secretariat was asked to explore the possibility of establishing a co-operative agreement with IMO. • The Committee also reviewed: (1) two proposals for new whale sanctuaries in the South Atlantic and in the South Pacific, although only the former was put forward as a proposed Schedule amendment (see above); and (2) a number of voluntary national reports on cetacean conservation activities.
Future work of the Scientific Committee	<p>The Commission adopted the report from the Scientific Committee, including its proposed work plan for 2006/2007 that includes activities in the following areas:</p> <ul style="list-style-type: none"> • Revised Management Procedure (RMP), particularly with respect to (1) completing the <i>Implementation</i> for western North Pacific Bryde's whales; and (2) planning the start of <i>Implementation</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, completion of the bowhead <i>Implementation Review</i> and preparation for the gray whale <i>Implementation Review</i>; • Reviews of catch data and management advice (the current block quotas expire in 2007) 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 work on the 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; • Environmental concerns, with a focus on: (1) infections and non-infectious diseases of marine mammals and impacts on cetaceans; (2) ecosystem modelling; and (3) POLLUTION 2000+; • Whalewatching (WW), focusing on assessing biological impacts of WW on whales and on identifying data that may be obtained from platforms of opportunity that are of potential value to the Scientific Committee; • Review of existing scientific permits and the report of the intersessional JARPA review workshop; and • Small cetaceans, with a focus on the population structure, systematics and status of killer whales.
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 agreed on a process to improve interpretation and translation facilities for French and Spanish speaking countries and adopted Resolution 2006-3 on ‘French and Spanish as Working Languages of the Commission’. • The Commission agreed to hold a special session of the F&A Committee at next year’s meeting to try to come to a decision on the frequency of meetings of the Commission and its sub-groups. <p>Amendments to the Rules of Procedure and Financial Regulations</p> <ul style="list-style-type: none"> • The Commission adopted revisions to Rule of Debate C.1 and Rule of Procedure F.2 to clarify the procedure to be used when there is an appeal to a ruling of the Chair. <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/59.
Non-governmental organisations	<p>Code of Conduct</p> <ul style="list-style-type: none"> • The Commission adopted a Code of Conduct for NGO participation at IWC meetings. <p>Participation</p> <ul style="list-style-type: none"> • A proposal on how the Rules of Procedure might be amended regarding criteria and fees for NGO participation was not addressed by the Commission because of time constraints. It will be reviewed by the F&A Committee next year.
Financial Contributions	<ul style="list-style-type: none"> • The Commission agreed that the Contributions Task Force should meet intersessionally to further its work to revise the contributions formula.
Finance and budget	<p>One-off amnesty</p> <ul style="list-style-type: none"> • The Commission decided that a one-off amnesty to relieve the debit of developing countries was not the right course of action at present, bearing in mind decisions already taken in this regard in 2002. <p>Secretariat office accommodation</p> <ul style="list-style-type: none"> • The Commission requested the Secretariat to work with the Advisory Committee to develop a questionnaire for circulation to all Contracting Governments in September asking interested governments to identify what they would be prepared to offer to host the Secretariat in their country. <p>Financial statements and budget estimates</p> <ul style="list-style-type: none"> • The Commission approved: (1) the Provisional Financial Statement for 2005/06 subject to audit; (2) the budget for 2006/07, including the research budget, and (3) increases in the NGO observer fee from £610 to £625 and in the media fee from £40 to £45 for 2007. <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 59th Annual and associated meetings in 2007 will be held in Anchorage, Alaska, USA during the period 4-31 May. • The 60th Annual Meeting in 2008 will be held in Chile. • Offers by Portugal and Japan to host the 2009 meeting were noted.
Elections	<ul style="list-style-type: none"> • Bill Hogarth (USA) and Minoru Morimoto (Japan) were elected as Commission Chair and Vice-Chair respectively. • Anthony Liverpool (Antigua and Barbuda) was elected as F&A Committee Chair.
Advisory Committee	<ul style="list-style-type: none"> • The Cameroon Commissioner was elected onto the Advisory Committee to join the Chair, the Vice-Chair, the Chair of the F&A Committee and the Commissioner for the UK.

Chair's Report of the 58th Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 58th Annual Meeting of the International Whaling Commission (IWC) took place at the Marriott Hotel, St. Kitts and Nevis from 16 to 20 June 2006. It was chaired by Henrik Fischer (Denmark). It was attended by 67 of the 70 Contracting Governments. 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 26 May to 13 June.

1.2 Opening ceremony and welcome address

The opening ceremony included music from three local groups (St. Christopher Steel, ONE Voice, Jingle Bells String Band), an invocation (by the Rev. Father Isaiah Phillip), a monologue (from Loughlin Tatem) and welcome remarks from Dr Hermia Morton Anthony, Permanent Secretary in the Ministry of Housing, Agriculture, Fisheries and Consumer Affairs and Chair of the Local Organising Committee. The welcome address was given by the Honourable Dr Timothy Harris, Minister of Foreign Affairs.

Minister Harris welcomed all delegates and observers to the 58th Annual Meeting on behalf of the Prime Minister of St. Kitts and Nevis and his government. He believed that the islands would provide an ideal environment for the meeting and hoped that, rather than leaving with a view of the Caribbean as merely a holiday destination, participants would leave remembering the people of St. Kitts and Nevis as a people actively shaping a uniquely-textured Caribbean civilisation while grappling with the needs and challenges of development and globalisation. Noting that the process of globalisation is concentrating power and marginalising the poor, both countries and people, the Minister reported that the CARICOM¹ member states are seeking alternative development strategies and have committed themselves to deeper integration and to a Single Market Economy. He stressed the importance these states place on sustainable development (including sustainable livelihoods) and the role marine resources play within such development. Referring to the polarised nature of IWC and the propaganda associated with its meetings, the Minister noted that St. Kitts and Nevis takes exception to the view that St. Kitts and Nevis is the echo of any other IWC member. It makes no apology when there is a congruence of interests between its policy position and that of other countries. He called for countries to rise above the rancour and acrimony, to bring reason and respect to the deliberations and conclusions of the meeting and to move forward with the benefit of the available scientific body of knowledge to a comprehensive, just and equitable regime for the exploration of marine resources. He suggested that the needs of people should be given reasonable weight in the discussions.

1.3 Opening statements

The Chair reported that since Horst Kleinschmidt (South Africa) had resigned as Vice-Chair during the intersessional period, the Commissioners at their private meeting on 15 June had elected Bill Hogarth (USA) as Vice-Chair for the period of the meeting.

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

- Guatemala – adhered 16 May 2006 (but did not attend the Annual Meeting);
- Marshall Islands – adhered 1 June 2006;
- Cambodia – adhered 1 June 2006;
- Israel – adhered 7 June 2006.

The Chair invited the new member countries to address the meeting if they so wished. This invitation was also extended to Mali who had adhered prior to last year's meeting but had not been represented in Ulsan. Mali, Israel, Cambodia and the Marshall Islands made opening statements. They all thanked the Government of St. Kitts and Nevis for hosting the meeting.

Mali highlighted the importance of its fisheries sector to its national economy, noting that the activity also has an important socio-cultural role in its fishing communities. It noted that it is a member of a number of international organisations and a signatory to several agreements, protocols and conventions that advocate the sustainable use of natural resources, particularly fishery resources, based on scientific knowledge. Mali considered the sustainable use of resources to be vital for developing countries such as itself. It believed that IWC, like FAO, takes decisions that have repercussions for developing countries faced with food security issues. It was in light of these factors that Mali had adhered to the International Convention for the Regulation of Whaling, suggesting that IWC could contribute significantly to the reduction of poverty, hunger and malnutrition in the world. Mali explained that its interest in participating in IWC's activities rested not only in the information it could draw from the technical and scientific discussions, but also in its wish to mark its presence on the international scene and to have an influence over measures taken. Mali noted that the Convention has two objectives, conservation and exploitation, and believed that the credibility of IWC depended on its ability to address both of these. It therefore requested the refocusing of the organisation towards its stated objectives.

Israel noted the importance it attributes to the global ecosystem and that it is already a party to several international conventions dedicated to the protection of global biodiversity. Noting that its laws protect species which can be found in Israel as well as beyond its borders, it was able to adhere to the International Convention for the Regulation of Whaling without the need for additional legislation. Israel noted its concern regarding the over-exploitation of the past which had driven some whale species close to extinction. It therefore supported the taking of all measures necessary to protect whales and prevent over-exploitation and looked forward to working with other

¹ Caribbean Community and Common Market.

delegations to achieve this goal. Israel believed this to be important for the benefit of present and future generations.

Cambodia reported that its people are very dependent on natural resources, particularly marine and freshwater resources for their daily subsistence and livelihood. It was therefore committed to the principle of sustainable management and the rational utilisation of the world's marine resources. Cambodia was aware of the polarised positions regarding whaling and believed that IWC decisions should be based on the best available science. Noting that it must build additional capacity to be able to participate effectively in the Commission's work, Cambodia indicated that it would welcome technical support, assistance and guidance from the organisation and its members.

The Marshall Islands informed the Commission that in taking a decision to join IWC, it had to address a number of issues. Cost was one issue, but as an island nation it recognised that it should not stand by while nations and organisations made decisions that could affect the lives of its citizens and the future of its children. The Marshall Islands noted that it depends heavily on its fishery resources and was therefore interested in ongoing developments in ocean affairs and opportunities to consider appropriate management approaches and tools to sustain, conserve, manage and protect its marine resources. It was therefore committed to ensuring the proper and sustainable conservation and management of all marine resources for the sustainable development of its country and people.

1.4 Credentials and voting rights

The Secretary reported that the Credentials Committee (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 Costa Rica, The Gambia, Kenya, Peru and Togo. Voting rights of The Gambia and Togo were restored later in the meeting. The Secretary noted that when voting commenced, she would call on New Zealand 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.

1.6 Other

On Sunday 18 June, Japan reported to the meeting that a person who had been arranging its press relations for during the meeting had received an email stating 'we know who you are now, you are fragile'. Japan indicated that it could not tolerate such a threat and that security action had been taken. It encouraged other Contracting Governments to support its position. The Commission without hesitation gave its consensus support for Japan.

2. ADOPTION OF THE AGENDA

The Chair drew attention to the provisional annotated agenda and to his proposed order of business. Discussions focused on two proposals made by Japan when commenting on the Draft Agenda, i.e. its proposal to delete item 15.1.2 (Commission discussion and action arising in relation to small cetaceans) and its proposal to include an item on 'towards normalisation of IWC' (item 19). The proposed agenda item 19 was discussed first. Australia, while agreeing with Japan that discussions on the future of the organisation would be useful, considered that the term 'normalisation' in the context of IWC was not well defined. Noting that the Convention was agreed in 1946 and that much has changed since this time, Australia, supported by Brazil and Monaco asked Japan to consider substitution of 'normalisation' with 'modernisation'. Japan declined, noting that the term 'modernisation' was also not well-defined. The Chair drew attention to the fact that the Annotated Provisional Agenda, including Japan's proposed item 19, had been circulated in April and that no concern had been expressed earlier. Noting the comments expressed by Australia and others, he therefore proposed that the item be retained un-amended. The Commission agreed.

With respect to Japan's other proposal, when commenting on the Draft Agenda, it had indicated that it wanted the Commission to focus on its core responsibilities consistent with the Convention. While it would prefer that certain items were deleted from the agenda (i.e., item 6 on Whale Killing Methods and Associated Welfare Issues, item 9.2 on a proposal for a new sanctuary, item 12.5 on Health Issues, item 13 on Whalewatching, item 15.1 on Small Cetaceans and item 16 on the Conservation Committee), for IWC/58 it was only proposing deletion of item 15.1.2, i.e. Commission discussion and action arising in relation to Small Cetaceans. Japan was prepared to receive the Scientific Committee's report concerning Small Cetaceans (item 15.1.1), but it believed that since the Convention does not give a mandate to the Commission in respect of small cetaceans, it is inappropriate that there is an agenda item titled 'Commission discussions and action arising'. In addition to the legal issue, Japan considered that there are also practical matters that make it inappropriate for the Commission to involve itself in the management of small cetaceans, including the regional nature of their distribution, habitat situations and human activities including fisheries. Japan stressed its view that since the IWC is unable to manage whaling for those species for which it has a clearly defined mandate, it could not and should not attempt to 'manage' small cetaceans.

On a point of order, New Zealand indicated that it could not agree with Japan's comments to the Draft Agenda with respect to item 15.1.2. It drew attention to the Chair's ruling last year regarding a proposal to remove the item on new sanctuary proposals from the agenda. On that occasion the Chair had ruled that deletion of this item was not in accordance with the Convention since the Convention provides for the establishment of sanctuaries. The Commission upheld this ruling. New Zealand believed that last year's ruling creates the situation whereby when the Convention refers to a matter, this establishes a treaty right or expectation that the matter can be considered by the Commission and therefore included on its agenda. New Zealand therefore believed that since several small cetacean species are mentioned in the original Nomenclature of Whales annexed to the Convention and in

the Schedule to the Convention, the deletion of item 15.1.2 from the agenda would be contrary to the Convention.

The Chair expressed his disappointment that this discussion had already been initiated since he had intended to propose that, as in previous years, the differences of opinions regarding the competency of the Commission to address small cetaceans be noted and the agenda adopted with item 15.1.2 retained. This was acceptable to New Zealand and others, but not to Japan who asked that the matter be put to a vote. As there was clearly no consensus, the Chair indicated that he would have to make a ruling on how to proceed. He noted that he had two options (i.e. either to rule to allow Japan's proposal to be put to a vote or to rule that item 15.1.2 should not be deleted) but that whichever he chose his ruling would be challenged. Further noting that the Commission's competency to manage small cetaceans has long been disputed, and that some small cetaceans (pilot whales) are specifically referred to in the Schedule, he ruled that Japan's proposal could be put to a vote. His ruling was not challenged.

Before proceeding to a vote, Japan was invited to introduce its proposal. Japan noted that the possibility to propose deletion of agenda items has been an accepted right in the Commission for a long time. It recognised the different views among Contracting Governments regarding competency in the matter of small cetaceans and that while its basic position remained unchanged (i.e. the Commission does not have competency), in a spirit of compromise, this year it was only proposing to delete the item on Commission discussions and action arising. It was prepared to receive the Scientific Committee's report. As mentioned in the notes to the agenda, Japan considered that in addition to the legal issue of competency, there are practical difficulties with IWC managing small cetaceans (see above). Japan did not wish to be irresponsible, but believed that responsibility for management in this case lies with regional fisheries organisations or individual states. It noted that voting against its proposal implies that those countries accept IWC intervention in their 200 mile zones. St. Lucia reported that it has a small cetacean fishery that generates significant economic activity. It supported the proposal to delete item 15.1.2.

The UK, Ireland, Austria, New Zealand and Brazil spoke against the proposal. The UK noted that small cetaceans are some of the most critically endangered cetaceans. It argued that it is therefore vital that small cetaceans be kept on the Commission's agenda since the early-warning such discussions provide, help avoid the kind of mistakes IWC made in the past with respect to large whales. The UK considered that deletion of item 15.1.2 would prevent the Commission commenting on the status of stocks and would undermine international protection. It believed that since the sub-committee on small cetaceans was established in 1974, many extremely important reviews have been done which have fed into work elsewhere. Ireland considered that Article VI of the Convention provides the legal basis for allowing discussions on small cetaceans². It too recognised the important work of the Scientific Committee since 1974 and noted that Resolution 8.22 on Human Induced Impacts on

Cetaceans adopted by CMS at its Conference of Parties in November 2005 referred to IWC's competence in these matters. Austria drew attention to the comment by the Reverend Phillip during the opening ceremony that decisions of the Commission should be based on the empirical findings of the scientists. It noted that the Scientific Committee's work on small cetaceans, including that on pollution, is providing crucial information that is relevant to all cetaceans and therefore believed that those voting in support of Japan's proposal would be leaving the path of science. New Zealand believed that the Commission does have competency over small cetaceans and referred to Article 31 of the Vienna Convention on Treaties and Chapter 17 of Agenda 21. Brazil indicated that it regards IWC as the leading authority for small cetaceans and expressed concern that deleting item 15.1.2 would mean that information from the Scientific Committee would not be given proper consideration. It noted that because of the disagreement over competency, the Commission is not in fact managing small cetaceans but rather making the best use of scientific findings to recommend action. Contrary to Japan, Brazil therefore considered that maintaining the *status quo* did not infringe the rights of coastal states. It upheld Japan's right to have a different view over competency regarding small cetaceans, but believed that preventing discussion by the Commission on this issue could be an infringement of the rights of Contracting Governments. It asked Japan to consider this aspect.

From a legal perspective, the Netherlands questioned whether the Commission could proceed to a vote on Japan's proposal before a decision had been taken on whether IWC has competency over all cetaceans. The Chair repeated his earlier rulings. On being put to a vote, Japan's proposal failed to achieve a majority and therefore item 15.1.2 was retained on the agenda. There were 30 votes in support, 32 against and 1 abstention.

The adopted agenda is given in Annex B.

3. INTERFERENCE WITH WHALE RESEARCH

3.1 Introduction

Japan noted that it had requested this item to be placed on the Commission's agenda. It recalled that it has been conducting research under special permit in the Antarctic and presenting the results to the Scientific Committee for around the last 20 years. Japan noted that while its research is legal under Article VIII of the Convention, some Contracting Governments and NGOs are very critical of its activities. It accepted the right of others to express their views and to demonstrate in a peaceful way. However, it could not tolerate the recent series of dangerous activities designed, in its opinion, to interfere with Japan's research, gain the attention of the press and promote fund-raising. It considered that such activities jeopardise the navigation of vessels, endanger life and damage property. Japan was surprised that there had been no injuries or even fatalities to date. It drew attention to the fact that the IWC-accreditation of Sea Shepherd, one of the NGOs involved in recent interference activities, had been withdrawn by the Commission some years ago. It believed that other NGOs engaged in these activities deserved the same treatment. Japan reported that during the latest activities against its JARPAII programme, there was a collision between

² Article VI reads: 'The Commission may from time to time make recommendations to any or all Contracting Governments on any matters which are related to whales or whaling and to the objectives and purpose of the Convention'.

vessels. It was aware that some had blamed Japan for this collision. However, Japan disputed this, indicating that its own vessel was hit at the side, the weakest point on a vessel which no captain would put at risk. It noted however that as it is in the process of considering further action that it might take against those involved, it would refrain from going into further details of this case in the Commission at this time. In the meantime, Japan urged all Contracting Governments and NGOs to express their views in a peaceful manner, to avoid risks to human life and property and to obey international maritime law. Japan also reported that it had been in the process of drafting a Resolution on this matter, but that the consultation process revealed that other Contracting Governments were taking similar steps. It noted that the USA had then taken the initiative to reconcile differences between draft Resolutions, resulting in the draft Resolution now placed before the Commission. Japan supported the draft Resolution, which would be introduced by the USA. It hoped that it could be adopted by consensus as an indication that the Commission does not tolerate dangerous activities such as those recently occurring in the Antarctic.

Resolution on the safety of vessels engaged in whaling and whale research-related activities

The USA thanked Japan for its introduction. It noted that several countries had been discussing this matter and that while they believed that IWC is not the competent body to resolve issues involving collisions at sea, they agreed that they could not condone actions that put the safety of vessels and their crews at risk, whether these are vessels that are involved in harvesting whales or vessels protesting against such activities. The USA suggested that despite the controversies surrounding research whaling, it should be possible for the Commission to agree:

- (1) on the right for persons to express views through peaceful and reasonable protest;
- (2) that no-one wishes anyone to be harmed or to lose their lives at sea, regardless of what they are doing or the views they are trying to express (it believed that the best future for the Commission is one where deliberations are not clouded by violence or tragedies); and
- (3) that any incidence involving a collision between vessels or risk to human life or safety should be thoroughly investigated through the proper channels, i.e. by the Flag States of the vessels involved and following guidelines and regulations of the International Maritime Organisation.

The USA hoped that the draft Resolution, co-sponsored by Australia, the Netherlands, New Zealand and Japan could be adopted by consensus. Finally, it stressed that the USA was not taking a position on the incident described by Japan, indicating that this should be resolved outside the Commission by the governments involved.

3.2 Commission discussions and action arising

Discussions began with a statement from the Netherlands. The Netherlands indicated that it felt strongly about safety on the high seas, and that procedures of due process must apply when an incident is reported. It stressed that all vessels operating under its own flag are instructed and obliged under its national laws to adhere strictly to internationally-agreed rules. The Netherlands reported that following the incident in the Antarctic referred to by Japan,

these two countries had engaged in consultations. It noted that facts and film footage of the collision on 8 January 2006 had not led to a conclusion on which of the vessels is responsible for the collision. The Netherlands further reported that Japan had decided not to file an official complaint in accordance with Article 94 of the UN Convention on Law of the Sea. The Netherlands further noted that when an incident at sea involving one of its vessels is reported, it co-operates, under the authority of the Public Prosecutors of the Flag States of the ships involved, in an investigation of the alleged incident. Until a proper investigation has been concluded, under Dutch criminal law, the persons involved are considered not to be in breach of the law. The Netherlands called upon all seafaring nations to underline to their maritime sectors the need to comply with international rules at sea so as to guarantee the safety of human lives and property. With this in mind, it had co-sponsored the draft Resolution before the Commission.

The Republic of Korea appreciated the details received from Japan and the preparation of the draft Resolution. India noted that it is against violent protest. St. Kitts and Nevis stated that it adheres to the principal of safety of vessels on the high seas and expressed concern that the rights of a research vessel that had been operating within the provisions of the Convention had been violated. It indicated that it would like to join consensus on the proposed Resolution, but before doing so sought answers as to: (1) whether the Flag State of the vessel involved in the offence had taken any action; and (2) whether the Flag State is a member of IWC and whether in future it intends to do anything to sanction the action of the vessel, as is its duty under international law. The Netherlands suggested that it had already answered these questions. St. Kitts and Nevis indicated that the Dutch response had not clarified its concern and repeated its question on whether the Flag State of the vessel in question, operated by Greenpeace, is an IWC member. On a point of order, the UK suggested that the Commission is not a court. It noted that although the meeting had heard Japan's account of the incident, it would not hear that of Greenpeace as NGOs are not encouraged to speak in the Commission. The UK therefore suggested that IWC, which in any case does not have competency in this area, cannot determine whether an offence has been committed and that consequently any reference to an offence are invalid. The Chair agreed with the UK. St. Kitts and Nevis continued to believe that its questions were legitimate and that if it did not receive answers, it could not join consensus on the Resolution.

As there were no other comments, the Chair indicated that the Resolution (2006-2, see Annex C) was adopted by consensus, noting the comments of St. Kitts and Nevis.

4. SECRET BALLOTS

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

Japan again introduced its proposed amendment (that was unsuccessful at the 2001, 2002, 2003, 2004 and 2005 Annual Meetings³) to broaden the application of secret ballots, i.e.

³ *Ann. Rep. Int. Whaling Comm.* 2001:8; 2002:8; 2003:6; 2004:6 and 2005:5.

'Votes can be taken by show of hands, or by roll call, as in the opinion of the Chair 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 request the use of a secret ballot and where such requests are seconded by at least five other Commissioners.'

Under current rules, secret ballots can only be used for appointing the Secretary of the Commission and selecting Annual Meeting venues. Japan explained that broadening the circumstances under which secret ballots can be used is needed to protect some, particularly small, countries from harassment from others. It observed that the voting positions of some members at IWC is inconsistent with their positions in other organisations, such that while some countries may vote for sustainable use of living resources in other fora (e.g. in respect of large terrestrial animals), they vote against sustainable use of whales at IWC because of pressure imposed. Japan noted that there is precedent for secret ballots in many other organisations.

4.2 Commission discussions and action arising

Iceland, Marshall Islands, St. Kitts and Nevis and Gabon spoke in support of Japan's proposal. Iceland noted that previous experience has shown that small states have been threatened and have therefore not been able to take part in the work of IWC without undue pressure from others. The Marshall Islands indicated that newspaper reports had claimed that its participation in IWC had been bought by another. This was not true. It indicated that it is willing to vote on any issue whether it be by secret ballot or not, but it believed that Japan's proposal merited serious consideration. The Marshall Islands suggested that democracy means that one should be able to vote without intimidation and harassment by others. St. Kitts and Nevis associated itself with the remarks of Japan. It stressed that its vote is not for sale and that the Government has its own position. It noted that it is not just NGOs that intimidate and harass smaller countries, but also some of the large countries that are IWC members. Gabon believed the wider application of secret ballots is important particularly for developing countries.

New Zealand, Australia, USA, UK, Monaco, Sweden, Italy, Germany, Brazil, South Africa and India were against Japan's proposal believing it to be contrary to the principles of openness, transparency and the need for governments to be accountable to their citizens.

On being put to a vote, Japan's proposal failed to achieve a majority and was therefore not adopted. There were 30 votes in support, 33 against and one abstention.

5. WHALE STOCKS⁴

5.1 Antarctic minke whales

5.1.1 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 cruises⁵ 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; and
- (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 and 2005/06 cruises and further work will be undertaken on the 2006/07 cruise.

With respect to the 2004/2005 SOWER cruise, the Scientific Committee compared information from the SOWER vessel with that obtained from an icebreaker that operated in partly ice-covered waters. Estimated densities of minke whales in partly ice-covered areas and in open waters were not significantly different. Pending further analyses, the Committee agreed that there are indications of substantial densities of minke whales within the pack ice for the area covered, demonstrating the importance of accounting for whales within the ice field when estimating absolute abundance.

Updated abundance estimates using the standard IWC line transect methodology with some modifications were presented this year. For CPI, the central estimate was 645,000 animals, for CPII it was 786,000 and for CPIII it was 338,000. Thus the difference between CPII and III remains. However, although the Committee discussed possible reasons for the differences between minke whale abundance estimates from CPII and CPIII, it agreed that it is currently premature to advise on the extent of any decline in abundance.

Work to finalise an assessment of Antarctic minke whales is continuing in a number of ways and will again be a priority item for discussion at the 2007 meeting where the Scientific Committee hopes to be in a position to agree estimates.

⁴ For details of the Scientific Committee's deliberation on this item see *J. Cetacean Res. Manage. (Suppl.)* 9. (2007).

⁵ The IDCR/SOWER surveys between 1978/79 and 2003/04 have been grouped into three circumpolar sets of surveys, CPI, II and III.

5.1.2 *Commission discussion and action arising*

Australia expressed concern that the 60% reduction in abundance between CPII and CPIII remains unexplained, but looked forward to further work next year. Japan was pleased with the progress being made. It considered that there are now clearer indications that there are substantial numbers of minke whales within the pack ice and that this may be responsible for the lower numbers reported. It supported the Scientific Committee's work.

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

5.2 Western North Pacific common minke whales

5.2.1 *Report of the Scientific Committee*

After the completion of the *Implementation* of North Pacific common minke whales in 2003, it was agreed that preparations should begin for an in-depth assessment of common minke whales in the North Pacific, with special emphasis on the J stock.

This year the Scientific Committee agreed that there is now sufficient information available to begin specifying some plausible hypotheses for stock structure. The Committee continued to believe that it is very important to obtain information on the proportion of 'O' and 'J' stock animals in the Sea of Okhotsk and that the best way to achieve this is by biopsy sampling. Noting that permission had not been given for this during the 2003 survey, the Committee requested that the Commission urge the Russian Federation to give priority to granting the necessary permits to enable biopsy samples to be taken on surveys in the Sea of Okhotsk and other waters of their Exclusive Economic Zone (EEZ).

With respect to distribution and abundance, the Committee was pleased with the substantial intersessional progress made including receiving results from three cruises and a successful collaboration between Japanese and Korean scientists on genetic analysis. The Committee provided advice and recommendations for priorities for future surveys, further analytical work and telemetry and noted that obtaining abundance estimates from the un-surveyed areas will require co-operation from range states other than Japan and Korea. It re-iterated its recommendations of previous years that the Commission requests the Russian Federation to grant permission for sighting surveys to take place in the waters of their EEZ as a matter of priority. The Committee also made requests with respect to co-operation with Chinese scientists and fishing effort data from the Republic of Korea. It noted that this will be facilitated by a workshop of range state scientists being held in the Republic of Korea in late 2006.

5.2.2 *Commission discussion and action arising*

The Republic of Korea thanked the Scientific Committee for its work. It was pleased to hear that good progress had been made this year and expressed its gratitude to range states for their co-operation. However, the Republic of Korea was concerned to hear of difficulties encountered in surveys due to restricted access in some areas and reminded the Commission of Resolution 2005-2 adopted last year on facilitating closer co-operation among the range states to expedite the sighting survey on minke whales off the Korean Peninsula. Referring to the workshop mentioned in Resolution 2005-2, the Republic of Korea offered to host it in Ulsan in September 2006. It encouraged scientists from range states and others to take

part. Japan noted its appreciation of the progress with the analysis of the J stock and reaffirmed its commitment to co-operating with other range states. It thanked the Republic of Korea for its offer to host the September 2006 workshop.

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

5.3 Southern Hemisphere humpback whales

5.3.1 *Report of the Scientific Committee*

Last year, it was agreed that completion of the Comprehensive Assessment of Southern Hemisphere humpback whales at IWC/58 was a high priority. Substantive progress was made during an intersessional workshop held in Hobart, Australia in April 2006 and at the annual meeting towards completing the Comprehensive Assessment for three breeding stocks, i.e. A (eastern South America), D (western Australia) and G (western South America). The Scientific Committee agreed that there has been an observed increase in population size of Breeding Stock A in recent decades but that the stock remains well below pre-exploitation levels (i.e., 27-34%). No firm conclusions could be drawn regarding the status of Breeding Stocks D (because of the potential for exchange on the feeding grounds with breeding stock E found east of Australia) or G (because of the large variation in current abundance estimates) although the Committee agreed that both have shown substantial increase since protection. No further work can be undertaken on these until further information becomes available. The Committee has not yet been able to perform assessment modelling for Breeding Stocks B and C breeding off western and eastern Africa respectively and Breeding Stocks E and F breeding off eastern Australia and Oceania, because of uncertainty regarding stock structure. No abundance information is available for Breeding Stock X (a year-round resident of the Arabian Sea). High priority has been given to completing the assessment of Breeding Stocks B and C at next year's meeting.

5.3.2 *Commission discussions and action arising*

New Zealand indicated that it was grateful for the attention that the Scientific Committee has given to the Southern Hemisphere humpback populations because JARPAII will shortly target humpback whales. It recalled that last year, it had expressed deep concern about the potential impact of JARPAII takes on some of the very small and threatened populations that breed in the Pacific Islands region. New Zealand noted that these once-abundant stocks were brought to the brink of extinction by the whaling fleets of the 20th Century, and in its view, whales from these stocks should not be killed in order to be studied. New Zealand found the outcome of the Hobart workshop useful and informative, providing new information from non-lethal research on humpback whales in the South Pacific. It noted that the workshop report suggests that humpback whales of the Pacific Islands region are an aggregation of geographically and genetically distinct populations not previously recognised by IWC and that further information is required on the relationship between the Pacific Ocean breeding grounds and the Southern Ocean feeding grounds where JARPAII is conducted. New Zealand believed that to risk causing the extinction of one or more of these small vulnerable populations for 'so-called' research is not responsible.

Australia concurred with the comments of New Zealand. In particular, it noted with concern that the available data and analyses are not adequate to identify and differentiate where in the Southern Ocean the small and vulnerable Pacific Island populations feed. Australia believed that this means that JARPAII may well take humpback whales from very small populations.

Japan recalled that exactly the same points had been made last year and it was reluctant to repeat its previous response. However, for the record, Japan noted that in the Scientific Committee and at the workshop, no evidence had been presented that these small stocks around the Pacific Islands are coming into the research area of JARPAII. Japan reported that its research suggested that the takes of small numbers of humpback whales in the JARPAII area would not have any effect on the stocks.

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

5.4 Southern Hemisphere blue whales

5.4.1 Report of the Scientific Committee

The Committee is beginning the process of reviewing the status of Southern Hemisphere blue whales. An important part of this work is to try to develop methods to identify pygmy blue whales from 'true' blue whales at sea and progress is being made on this. Work on genetic and acoustic differentiation techniques is continuing and there is considerable progress with morphological methods. The Committee has agreed previously that the Antarctic blue whale population:

- (1) is, on average, 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) 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.

At this year's meeting, a Comprehensive Assessment was initiated. The Committee first considered past and present distribution of Southern Hemisphere blue whales. Data were presented suggesting that virtually all past catches occurred within the seasonal ice zone in waters less than 2°C, that abundance was uneven around the continent with greater abundance in the Atlantic, western Indian Sector and to the north of the Ross Sea. Apart from in the Antarctic Peninsula area, abundance was highly correlated to the extent of the seasonal ice zone. Surprisingly, correlation with krill density was lower. The Committee also received information from JARPA sightings, from fieldwork undertaken in the waters of southern Chile and from acoustic studies in the Indian and Southern Oceans. A number of recommendations for further work were made, particularly for the waters off Chile, with respect to acoustic studies and the completion of the major distributional review.

With respect to stock structure, the Committee reviewed preliminary results that confirmed its earlier view that only a very small proportion of pygmy blue whales might be found in Antarctic waters.

A new abundance estimate based on sightings from the JARPA surveys was received for the 2003/04 and 2004/05 seasons. It was some 1,300 animals for the area south of 60°S between 35°E and 145°W.

5.4.2 Commission discussion and action arising

Brazil congratulated the Scientific Committee for its work on blue whales and in particular the amount of information submitted to the Committee by Chilean scientists. Noting that Chile is considering establishing a Marine Protected Area for blue whales in its jurisdictional waters, Brazil commended this approach and indicated its willingness to co-operate formally. Argentina made similar comments. Chile thanked Brazil and Argentina for their remarks.

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

5.5 Other small stocks – bowhead, right and gray whales

5.5.1 Report of the Scientific Committee

5.5.1.1 SMALL STOCKS OF BOWHEAD WHALES

The Committee received information on the genetic relationships among bowhead whales based on samples collected in the waters of the eastern Canadian Arctic and western Greenland, as well as samples from the BCB bowhead whales. There was considerable discussion on whether the putative Davis Strait/Baffin Bay and Hudson Bay/Foxe Basin stocks should be combined or remain separated. The Committee agreed that several lines of evidence pointed toward one stock, but that genetic data could still be interpreted to indicate two stocks. The Committee therefore noted that it would welcome a synthesis of the available data and consolidated analyses at next year's meeting to help it determine the relative plausibility of one and two stock hypotheses.

Results were presented from aerial surveys conducted in 2002, 2003 and 2004 in the eastern Canadian Arctic to estimate abundance in the putative Davis Strait/Baffin Bay and Hudson Bay/Foxe Basin stocks so as to develop a better understanding of the summering distribution of these whales. The Committee commended the Canadian and Greenland researchers for collecting much-needed information on these bowhead whales but agreed that some concerns need to be addressed before the abundance estimates could be accepted.

There were no reports of any catches in 2005.

5.5.1.2 NORTH ATLANTIC RIGHT WHALES

North Atlantic right whales are among the most endangered of all the large whales, with a remaining western North Atlantic population of around 300 animals. The Scientific Committee has recommended on a number of occasions that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality in the North Atlantic right whale stock to zero. Right whales continue to die or become seriously injured by entanglements in fishing gear or ship strikes.

This year, the Committee received information on genetic analyses from bone samples that demonstrated that historical whaling markedly reduced the genetic variation in mitochondrial DNA.

5.5.1.3 SOUTHERN HEMISPHERE RIGHT WHALES

The Scientific Committee reviewed data for right whales off Australia and off South Africa. It was pleased to note information from western Australia, where the number of cow-calf pairs in 2005 was the highest recorded since surveys started (the annual series began off southern Western Australia in 1976 and expanded along the coast into South Australia from 1993). The rate of increase in the period 1993-2005 was over 7%. The Committee was also

pleased that the number of cow-calf pairs recorded off South Africa in 2005 was the highest field count in 27 years of surveys. The Committee repeated its recommendation that these long-term monitoring programmes continue.

Reports were also received on right whale sightings and biopsy sampling during JARPA and IWC-SOWER cruises in 2005/2006.

5.5.1.4 WESTERN NORTH PACIFIC GRAY WHALES

The Scientific Committee and the Commission has expressed great concern over the critically endangered western gray whale on a number of occasions. The only known feeding grounds lie along the northeastern coast of Sakhalin Island, where existing and planned oil and gas developments pose potentially catastrophic threats to the population through habitat damage, ship strikes, noise and oil spills.

At this year's meeting, the Scientific Committee welcomed the provision, by the joint Russia-US programme, of a freely-available photo-identification catalogue containing images of 150 gray whales collected between 1994 and 2005 off Sakhalin Island. The Committee re-iterated its agreement from last year that scientists working as part of oil companies' research programmes should compare their photos with this catalogue and that potential new whales are reviewed by a group of experts before being added to the catalogue.

The Committee received conflicting advice on whether there had been any impact on gray whales due to construction and other activities related to the oil and gas industry off Sakhalin Island in 2005. Given the importance of this issue to the conservation of western gray whales, the Committee strongly requested that sufficient documentation is provided to allow it to evaluate the evidence next year.

The Committee received a report of the entanglement of a cow and a calf in a set net off the coast of Japan in July 2005. It was reported that the Japanese Fishery Agency has initiated actions to eliminate further anthropogenic mortality.

An updated population assessment was received based on photo-identification data from the Russia-USA programme. The estimated abundance is about 120 animals with a rate of increase of some 3% over the 1994-2005 period. The updated assessment is more optimistic than the previous assessment (i.e. less than 100 animals), mainly due to shorter calving intervals observed in recent years, implying a higher reproductive rate. However, the Committee noted that if whales continue to be entangled in nets at the 2005 level, then the population is predicted to decline, with a substantial risk of extinction by 2030.

Given the critical position of this population, the Scientific Committee stressed the urgency of reducing anthropogenic mortality in this population to zero and made a number of recommendations in this regard. The Committee agreed that the general issue of the use of telemetry and its potential effect on whales should be considered next year and that the need for a special workshop be considered.

Finally, the Committee recommended that the Commission request China to submit any information it may hold on the past and present occurrence of gray whales in its waters, where the breeding grounds are suspected to occur.

5.5.2 Commission discussion and action arising

Several countries thanked the Scientific Committee for its work. Discussions within the Commission focused on western North Pacific gray whales. The Netherlands recalled that last year, the Commission had adopted Resolution 2005-3 on western North Pacific gray whales that *inter alia* supported the recommendation for a comprehensive strategy to save this stock and its habitat. It expressed its increasing concern over the status of this stock and endorsed the Scientific Committee recommendations re-iterated from last year. Mexico associated itself with these remarks.

Austria echoed the Scientific Committee's concerns. It suggested that since the western North Pacific gray whale is one of the most endangered of large whale stocks, the reputation of IWC would somehow be put at stake if the organisation failed to protect it. Austria questioned whether the utmost effort is being made in this regard and whether there is optimal co-operation among range states, scientists and industry. It therefore called for great effort and active IWC participation, particularly with respect to reducing bycatch and promoting the exchange of data in general and on bycaught whales in particular.

The UK supported the remarks of previous speakers. Referring to Resolution 2005-3, it too urged that data be shared and that every effort be made to put mitigation measures in place. The USA noted that it considers the conservation of this stock to be critical and urged that the issue should not become politicised. It agreed that work needs to be done on samples from the whales stranded in 2005 and stressed that this should be undertaken by the laboratory holding the genetic samples and photographs.

As a range state, the Republic of Korea reported that it continues to provide information on its monitoring of the winter migration of gray whales in its waters. It believed that it is important to know the migration routes as well as the breeding grounds for this stock and was willing to co-operate with the Scientific Committee and relevant scientists.

In response to a question from Sweden on what measures it was taking to eliminate anthropogenic mortality of this gray whale stock, Japan reported that it instructs its local governments to instruct local fishermen not to obstruct the migration of these whales and to release any animals caught in nets. It was prepared to make the utmost effort to reduce bycatch.

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

6. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

6.1 Report from the Workshop on Whale Killing Methods and Associated Welfare Issues

The Workshop was held in St. Kitts and Nevis from the 11-13 June 2006. It was chaired by Dr Torsten Mörner, head of Department and Wildlife, Fish and Environment of the Swedish National Veterinary Institute. The Workshop report is available as Annex D. As the Chair was unable to stay on for the Commission meeting, he prepared a short written report summarising his views on the Workshop outcome. This is given in the following paragraphs.

‘Twenty five working papers from nine Contracting Governments were presented and discussed in the context of the Workshop Agenda Items following the Terms of Reference adopted by the Commission at IWC/57 in Ulsan, Republic of Korea, and made recommendations concerning:

1. practical criteria for determining the onset of irreversible insensibility and death;
2. means of improving the efficiency of whale killing methods;
3. reducing time to death and other associated welfare issues;
4. means of 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.

Submitted papers were discussed under the following agenda items:

- description of whale hunting/euthanasia practices, improvements seen and remaining problem areas;
- criteria for determining the onset of irreversible insensibility and death;
- summary of recent advances and outstanding issues; and
- development recommendations.

The workshop did not have time to do a review of the revised action plan from the 2003 meeting in Berlin.

It was also noted that on 10 June 2006, aboriginal subsistence whalers from the countries of Denmark on behalf of Greenland (Organization of Fisherman and Hunters in Greenland), the Russian Federation (Association of Traditional Marine Mammal Hunters), and the USA (Alaska Eskimo Whaling Commission and Makah Whaling Commission) met for an historic, first-time meeting to share information on whale killing methods and animal welfare issues. The primary points of agreement from this meeting are provided in our Workshop Report.

Several reports were given demonstrating improvements that have been made in the development and application of killing methods in aboriginal subsistence whaling, and improved data on animal welfare and time to death.

Denmark reported that an Action Plan on Whale Hunting Methods started in 1989 and was implemented in 1991. The plan included the introduction of the Norwegian penthrite grenade, as well as renovation of harpoon cannons and training on handling and use of whaling equipment.

The USA noted that the Makah whale hunt was voluntarily ended in the 1920s due to depletion of the population by unregulated commercial whaling. In May 1999, the Tribe harvested their first whale in 70 years. The harvest method implemented sought to incorporate traditional aspects of the hunt, while at the same time employing a safe and humane harvest method. Regarding the Alaska Eskimo bowhead whale subsistence hunt, it was reported that subsistence hunters make every effort to dispatch the whale as quickly as possible to provide a humane

death for the whale, to reduce the chance of losing the whale, and to reduce the amount of time hunters in small boats must spend in the frigid waters of the Arctic Ocean. It was further reported that the Alaska Eskimo Whaling Commission has undertaken an extensive program to upgrade the safety and humaneness of its traditional weapons used in the hunt.

The Russian Federation reported that the aboriginal hunters use a single hunting method, but one where subtle differences in the hunt are based on the size of the whale and the species (i.e., bowhead versus gray whale). In the gray whale hunt, animals are harpooned before being shot with a high caliber rifle. For the bowhead whale hunt, animals are harpooned and then shot with a darting gun. The native hunters expressed concern that individuals not familiar with the hunt and hunting conditions would not appreciate the harsh conditions under which they are required to hunt. Therefore, as was the case with the bowhead hunt in Alaska, safety of the hunters is of primary importance.

An extensive report was provided by Norway regarding progress in whale killing methods and animal welfare made in Norwegian whaling. The improvements were attributed to improvements in the penthrite grenade and a better harpoon delivery system, as well as advancements in the secondary killing methods. It was noted that many of these advancements were exported to several other countries and also in aboriginal subsistence whaling.

A number of papers were presented reviewing the Norwegian whale hunting method. Summaries of these papers are presented in the report. There was no consensus within the Workshop regarding the conclusions of these papers, although several key recommendations regarding future research were agreed (see below).

Several papers were also presented reviewing whaling under special permit. The primary findings and comments regarding these papers are also found in the report of the workshop. As was the case for commercial whaling, there were no points of agreement reached by workshop participants other than the general recommendations discussed below.

Workshop members agreed eleven specific recommendations for making improvements in whale killing methods. These recommendations are also presented in the workshop report. Many of the recommendations address issues related to (1) adequate or improved training of hunters or whalers in the best available practices; (2) exchange of information regarding best practices among member nations; and (3) the importance of maintaining equipment.

There has been encouraging improvements in the provision of relevant data on whale killing methods from Contracting Governments, and it is hoped that this trend will continue. However, it is important to point out that the submission of data necessary to achieve the goals of this workshop and similar workshops should be appreciated and the submission of data to future workshops encouraged. During this workshop, several of the comments directed at the reports containing this information were

unnecessarily critical and in some cases irrelevant. It should be recognized that such actions are likely to discourage the submission of the information to future meetings, which are needed to achieve the management objectives of the IWC regarding Whale Killing Methods and Associated Welfare Issues.'

6.2 Commission discussions and action arising

Several delegates thanked the workshop Chair, rapporteurs and Organising Committee.

The UK recalled that welfare issues have been discussed within the Commission since 1980, when the first workshop was held, and noted that the extent of concern over this matter, at least in the UK, is demonstrated by the fact that over a two-day period, his delegation had received over 700 emails urging improvements to the welfare of hunted whales. The UK was pleased with the level of engagement at this year's workshop and particularly with the number of papers presented by the aboriginal subsistence hunters. It recognised that aboriginal subsistence hunting techniques have been determined by centuries of culture and tradition and that there are constraints on the extent to which modern killing techniques can be transferred successfully from a commercial whaling or scientific permit whaling environment to an aboriginal subsistence environment. Nevertheless, the UK believed that improvements have and can be made by recourse to training and to the availability of more powerful weapons. However, despite considerable improvements in killing methods, notably by Norway, the UK believed that unacceptable times to death are not uncommon. It believed that if the Commission is ever to authorise the resumption of commercial whaling, then it is under an ethical and moral obligation to take steps to minimise suffering and distress caused to hunted whales. The UK felt that the ability to make improvements depends crucially on the availability of data on killing methods and times to death and therefore expressed deep concern that Norway, by replacing on-board observers with the 'blue box', will fail to collect vital welfare data. It urged all those countries engaged in whale hunts to provide data on individual whales so that an assessment can be made of whether and how improvements are being made and to encourage the transfer of best practice. The UK emphasised, however, that data collection can never resolve the serious and inherent welfare concerns over the killing of whales, which are highly sentient, and urged the Commission to continue to strive to prevent the prolonged suffering of hunted whales as a matter of urgency. The UK noted that the workshop had made important recommendations, such as the need to improve the accuracy of primary and secondary shots. The use of underpowered weaponry was of concern to the UK when larger species are being taken, and it was particularly concerned that the same weaponry as used for an 8m minke whale is being used for whales that can exceed 20m length. The expansion of special permit whaling by Japan and possibly Iceland to include significant takes of larger whales, together with Greenland's wish to take fin and bowhead whales increased the UK's concern, and it believed that the robust discussion on this matter during the workshop highlighted the need for further work in this area. Finally, the UK noted that although there had not been time at the workshop to review the Plan of Action, it

believed it remained in place and that its review should be a priority for the Working Group next year.

Luxembourg associated itself with the UK's comments, particularly regarding the concern expressed over Norway's introduction of the 'blue box', and stressed the need to continue work on whale killing methods and welfare issues within IWC and with the involvement of all whale-hunting nations. Argentina, Spain and Hungary made similar remarks. New Zealand agreed with the UK and also expressed concern regarding: (1) regarding the use of underpowered weapons to kill larger species (e.g. fin whales by Japan), which it had addressed with one of its workshop papers; and (2) the statements of Japan and Iceland in the workshop that in future they would provide information to fora of their own choosing. Japan clarified that while the calibre of the weapons used to kill fin whales in JARPAII is the same as that used to kill minke whales, the power had been increased by increasing the amount of penthrite used. It therefore considered New Zealand's criticism irrelevant. India believed that wherever whale killing is permitted, it should be done humanely.

The USA noted that prior to the workshop there had been an historic meeting of aboriginal subsistence hunters, and that their input to the workshop had been crucial. In particular, the USA drew attention to the four major points affecting each aboriginal hunt agreed at the pre-meeting, i.e., in summary:

- (1) subsistence hunting is for food to meet cultural and nutritional needs, guaranteeing the survival of the Native people;
- (2) the safety of his crew is a whaling captain's most important responsibility;
- (3) with safety assured, achieving a humane death for the whale is the highest priority; and
- (4) efforts to modernise aboriginal subsistence whaling equipment and practices can be made only within the context of each communities' economic resources and the need to preserve the continuity of hunting traditions.

The USA considered that the workshop had been successful in identifying practical recommendations with which it agreed. It looked forward to further work and co-operation among aboriginal subsistence hunters and to a future thorough review of the Plan of Action. Finally it welcomed the efforts underway to reduced times to death in commercial whaling and whaling under special permit and looked forward to further improvements to the humaneness of these hunts.

Denmark had hoped to learn something new from the workshop, such as new ways to kill whales more humanely, but found that it was largely a meeting where different points of view were presented. It suggested that this demonstrates that either a situation has been reached where whale killing methods cannot be further improved or that participants do not really care, using the occasion only to further their political aims. In this regard, Denmark expressed concern regarding the quality of some of the papers and considered that much of the information now being requested has nothing to do with refining killing methods but rather to attacking those nations taking whales, as reflected at the end of the summary prepared by the workshop Chair. It agreed with the recommendation that a further workshop should not be contemplated for two years at which time progress and the need for another

meeting could be assessed. Lastly Denmark stressed the importance to animal welfare of Norway's work to develop the penthrite grenade which it considered a leap forward in reducing animal suffering. Noting that one small component part (the time delay fuse) now has to be imported to Norway from another Contracting Government, it expressed concern that the latter has refused to allow export. Denmark hoped that this country would reconsider its export policy since having to revert to other killing methods (e.g. using the cold harpoon or rifles) once the current stock of fuses have been used would be detrimental to animal welfare.

St. Lucia associated itself with Denmark and noted that the problem with export of the fuses to Norway also has repercussions for the Alaskan hunt. It believed that the Commission is continually raising the bar for aboriginal subsistence hunts. It is asking them to improve their equipment without ensuring that they can get access to specific equipment. St. Lucia hoped that the intention was not to use this as a way of phasing-out aboriginal subsistence hunts. It considered that no comprehensive information was provided at the workshop to help these hunts improve times to death. Rather the workshop provided a forum to criticise data generally provided by whaling countries. St. Lucia requested the Commission to respect cultural diversity.

St. Vincent and The Grenadines associated itself with St. Lucia. It noted that it has co-operated in recent years by providing available data to the Commission and that it still uses traditional methods to catch whales. It reported that all whales struck over the last six years have been taken (i.e. no struck and lost) and that times to death have decreased considerably to around 20 minutes. This has been due mainly to perfecting the use of the darting gun, which in turn has had a bearing on the men involved in the hunt. Prior to the last six years, the average age of the whalers was 50 to 60, whereas now it is 25 to 40. The youthful nature of the whalers now allows them to go closer to the whale and to strike it nearer to its vital organs. Whales killed generally sink and are retrieved using compressed air tanks, a technique not possible 50 years ago. St. Vincent and The Grenadines believed it was very much on track in improving times to death and hunting efficiency. Sweden was pleased to note these improvements. Antigua and Barbuda appreciated concerns regarding times to death and other welfare issues, but commended the efforts of aboriginal subsistence hunts given the challenges they face. Dominica also understood the wish to reduce times to death and to increase instantaneous death rates, but hoped that the Commission would not seek to impose methods and conditions that would make the livelihoods of subsistence hunters more difficult than they are at present.

Austria was not as pessimistic about the workshop as Denmark, noting that 25 papers had been presented and discussed and a 27-page report had been produced. While it considered that much had been achieved, it believed animal welfare could still be improved and looked forward to reviewing the action plan and to receiving new high quality data like that provided this year by the subsistence hunters. Austria believed that only with data could progress be achieved. Switzerland believed that whale killing methods could continue to be improved. It noted that Norway is using very effective calibre rifles as back-up weapons and believed that it should be possible to use more powerful weapons in other hunts. Switzerland recalled that in the

workshop it had proposed that hunts should preferably move away from using rifles as the primary killing technique and use exploding harpoons, or at least have some tests made with higher calibre rifles. Like Austria, Australia felt that there was much of value that emerged from the workshop, and like others was impressed by the way that the aboriginal subsistence hunters had met prior to the meeting and by the way they were able to present to the workshop a clear picture of their hunts, the challenges faced, and the social and environmental factors involved. It believed the Commission owed the subsistence hunters a significant debt for providing a window into their lives that it did not have previously.

The Russian Federation considered that whale killing is a very specific issue that should only be discussed among professionals. Like Denmark, its hunters had not learned anything new from the workshop, rather the two Russian hunters attending had lost time both whaling (it was the height of the season) and in training new hunters. The Russian Federation considered that perhaps Switzerland had misunderstood their hunters' reports in which they stated which calibre weapons should be used under which hunting conditions. However, if Switzerland was genuinely willing to help improve the hunt, the Russian Federation was willing to talk to them. Switzerland noted that while it did not have experience in whaling, it has long experience in hunting and undertook to discuss this matter further outside the meeting. The Russian Federation stressed that in subsistence whaling, the highest priority is safety of the hunters and although it agreed that methods could be improved, noted that economic considerations in these hunts cannot be neglected. Nevertheless, the Russian Federation reported that its hunters will continue to try to improve and that it should have further information on methods and needs for next year's Annual Meeting in Anchorage. Finally, the Russian Federation underlined that it is providing whale killing information to the Commission on a voluntary basis.

Mainly in response to the comments of Switzerland, Denmark indicated that the Greenland Action Plan is in place and is helping to improve hunting gear, taking hunter safety into account. In addition, Greenland has been reducing the number of rifle quotas issued over at least the last five years, and has limited them to areas where boats without mounted harpoons are not in place. Furthermore, the hunter association has set a limit of 30 animals per year to be taken with rifles. Higher calibre rifles are used in Greenland with those of 7.62 being used in some places. While this will continue to be recommended, Denmark noted that the hunters' experience is that struck and lost rates could be higher, which cannot be ignored. With respect to fin whale hunting, the use of penthrite grenades started in the late 1980s and beginning of the 1990s, with the gear not being the same as that used in the minke whale hunt. Finally Denmark noted that Greenland participates and provides information on whale killing on a voluntary basis. While it intends to continue to contribute to future workshops, it would reconsider its position if it believed the information provided is misused.

Japan also stressed that it provides data on whale killing methods and times to death on a voluntary basis, believing that animal welfare is outside the mandate of the Commission. It noted that in its hunts, times to death have reduced and instantaneous death rates increased. Japan therefore considered that it had made significant

improvements and was disappointed that at the workshop, which was supposed to be a gathering of experts, some participants had ignored the accumulated knowledge. It hoped for normal discussions in future under a normalised IWC and until then reported that it will provide data to NAMMCO and other fora where there could be more constructive debate. Sweden regretted this move, believing that it would not help the process of normalisation and urged Japan to reconsider. The Netherlands also urged countries with whale hunts to share data at IWC so as to contribute to the process of improving killing methods.

Norway commended the work of the aboriginal subsistence communities to improve their whale hunts, and reminded the meeting that it was Japan that had developed the first prototype of the penthrite harpoon grenade. Regarding its own commercial hunt, it reported that since the first whale killing methods workshop it has submitted over 25 extensive reports and scientific publications on its work to improve the humaneness and efficiency of its hunt which had led to substantial increases in instantaneous death rates and decreases in times to death. Between 1981 and 1983 when the cold harpoon was used, only 17% of whales died instantaneously, the average time to death was over 11 minutes and more than 17% of animals needed re-shooting with harpoons. The latest data, from the period 2000 to 2002 during which a new and improved harpoon grenade has been used, show an instantaneous death rate of 80%, an average time to death of 2 minutes and 17 seconds (using IWC criteria) and that only 0.5% needed a second shot. Norway noted the tendency of some to compare data from the hunting of wild animals with the euthanasia of animals or the killing of animals in slaughter houses. It stressed that different methods were used in these different situations, rendering a meaningful comparison impossible. In slaughter houses, animals are first rendered unconscious by stunning and are then killed. These animals are usually tame and used to human contact. In contrast, under hunting conditions, animals must be rendered unconscious and bled out more or less in one and the same operation. Norway further noted that welfare is only one of the many aspects taken into account in regulations governing the slaughter of domestic animals, others including economics, trade, safety of personnel and in some countries, religion and tradition. It explained that techniques for slaughter houses are not applicable to wild animals or animals unaccustomed to being enclosed or handled by people. However, Norway noted that none of the projectiles used in slaughter houses or in hunting are so effective that an animal will die instantaneously regardless of where the projectile hits the body; the effect will largely depend on the site of impact. As projectiles in hunting are fired from longer distances, the risk of only wounding an animal is higher than in slaughter houses. Whales are not domestic animals and cannot be restrained before being killed. Therefore the killing of whales has to be done to the same principles of killing wild terrestrial animals. Norway considered that the weapons it uses in its whale hunt are highly effective in causing instantaneous death when used as recommended.

7. ABORIGINAL SUBSISTENCE WHALING⁶

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on 11 June 2006. It was chaired by

Conall O'Connell (Australia) and attended by delegates from 30 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 E.

7.1 Aboriginal Subsistence Whaling Management Procedure (AWMP)

7.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee

7.1.1.1 PROGRESS WITH THE GREENLANDIC RESEARCH PROGRAMME

The SWG Chair had reminded the Sub-committee that since the Commission has now endorsed the *Bowhead SLA (Strike Limit Algorithm)* and the *Gray whale SLA*, the next priority with respect to management procedures is the Greenland fisheries. He noted that the Committee has informed the Commission on several occasions 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, the main questions for both common minke whales and fin whales off West Greenland revolving around how the abundance estimates derived from sightings made during surveys relate to the number of animals 'available' to the hunters. It has been generally accepted for both species that the animals found off West Greenland do not comprise the total population; the evidence is particularly strong for the common minke whale. However, there is no information on the extent of the total population.

The SWG Chair reported on progress with genetic analyses and with abundance estimates. Good progress was made particularly with the latter. Last year, the Scientific Committee had been unable to accept the results from a photographic aerial survey and *inter alia* had strongly recommended that a traditional aerial survey be undertaken as soon as possible. The results of two surveys (a dedicated aerial survey and a shipboard survey) undertaken in 2005 were therefore welcomed. Poor weather conditions, particularly in southwest Greenland, resulted in poor and restricted coverage in that region that meant that the estimates from the shipboard survey could not be used. However, the aerial survey was extremely successful. Although some further analyses are to be carried out, the Scientific Committee was able to accept the estimates presented by the Greenlandic scientists, recognising that they were, for a variety of reasons, probably underestimates. The estimate for common minke whales was about 3,500 (95%CI 1,500-7,700) and for fin whales about 1,700 (95%CI 840-3,500). The Scientific Committee had thanked Greenland and the Greenlandic scientists for the tremendous effort put in to following the recommendations of last year.

With respect to the development of *SLAs*, the SWG had received a paper regarding an approach that might be used as a candidate *SLA* for the common minke whale off West Greenland. Unlike traditional *SLAs*, it requires only sex-specific catch data. Some concerns were expressed with this approach and the Scientific Committee formed an intersessional working group that will meet to fully consider the use of sex ratio data in conjunction with the development of an *SLA*.

⁶ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 9 (2007).

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

7.1.1.2 PLANNING FOR THE IMPLEMENTATION REVIEW FOR BOWHEAD WHALES

The Chair of the SWG reported that considerable work towards completing an *Implementation Review* in 2007 had been undertaken during the year, both at an intersessional workshop and at the Annual Meeting. The primary focus had been on reviewing the available evidence, particularly genetic data, on stock structure. Stock structure hypotheses serve two different but related purposes, one concerning biology and the other the development of RMP trials. The workshop reviewed the available information thoroughly and considered both of these issues, agreeing a number of one- and two-stock scenarios to be examined in the *Implementation Review*. Additional genetic evidence was examined at the Annual Meeting but it was agreed that no further hypotheses were needed. Further genetic analyses will be considered at the next intersessional workshop to be held in mid-January 2006.

When more than a single stock hypothesis has to be investigated, good knowledge of the timing and positions of the historical catches is important and the Scientific Committee urged that every effort be made to obtain data on 19th century bowhead whaling included in a 1983 paper by Bockstoce and Botkin. This would be done under Procedure A of the Data Availability Agreement. Work to refine the data set for the aboriginal subsistence catches to as fine a level as possible (village and if possible position) is proceeding well.

The SWG Chair reported that the Scientific Committee had welcomed provision of a preliminary abundance estimate for bowhead whales migrating past the Cape Dezhnev area of Chukotka (the first of its kind) and encouraged further work. Most of the animals counted would not have been included in the census at Barrow. The series of abundance estimates from the Barrow censuses represent some of the best estimates for any cetacean population and they will play a valuable role in the *Implementation Review*. Good progress was made in developing the modelling framework for the 2007 Review. In particular, a new computer program ('AWMP-lite') has been developed that will greatly speed up the process and allow a wide variety of scenarios to be tested.

In the Sub-committee, the USA reported that it would seek the Bockstoce and Botkin data on bowhead whales, currently privately held, as a priority. The USA thanked the subsistence hunters and local communities for their willingness to co-operate with the IWC and in particular for their ongoing efforts in the areas of conservation management, biological research, and the improvement of hunting techniques without which the work of the IWC would not be possible. The USA also thanked the Scientific Committee for its ongoing and excellent work, noting that the Committee had completed its annual review of information relevant to the management of bowhead whales and reaffirmed its advice that the current level of the aboriginal subsistence hunt on these whales is sustainable and that the *Bowhead SLA* is the most appropriate management tool for this hunt. The USA emphasised that as of 2001, the population estimate for the Bering-Chukchi-Beaufort Seas stock of bowhead whales was 10,500, with an estimated annual increase of 3.4% and pointed out that in that year a record number of calves were counted.

The AEWEC Chair reported that under the AEWEC's management of the Alaskan bowhead whale subsistence hunt, the Bering-Chukchi-Beaufort Seas stock of bowhead whales remains healthy and is continuing to increase. He noted that the AEWEC hunters have co-operated with research scientists throughout many years of bowhead research, assisting with the collection of whale bone samples from past hunts and giving scientists meat, muktuk, organs and other parts of the whales caught for food, despite the sacrifice this entailed. They recognise that this co-operation is important for the best possible management of subsistence resources. He thanked NOAA for giving the AEWEC the opportunity to manage the bowhead subsistence hunt and thanked the USA and the North Slope Borough for the very significant contributions of financial support for research on bowhead whale biology. The AEWEC Chair reported that during the 2005 subsistence hunt in Alaska, 68 whales were struck and 55 were landed, giving an efficiency rate of 81 percent. This is higher than the 10-year average of 79 percent, which is well above the AEWEC's 1978 commitment to the IWC to achieve an annual average efficiency rate of 75 percent. However, he also observed that, despite the climate warming trend, last winter in Alaska had been unusually cold with a lot of heavy multi-year ice. This, in combination with unfavourable winds had kept the spring lead system closed in many areas resulting in few whales being harvested.

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

7.1.2 Commission discussions and action arising

With respect to progress with the Greenlandic Research Programme, Germany, supported by Mexico, commended Greenland's efforts to improve abundance estimates for minke and fin whales. It saw this as a very positive approach and encouraged further efforts in this regard. Germany also drew attention to the voluntary reduction in the fin whale quota agreed by Denmark at last year's Annual Meeting and implemented this year.

There were no comments on the planning for the *Implementation Review* for bowhead whales.

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

7.2 Aboriginal Whaling Scheme

7.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

The Chair of the SWG had 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 the Sub-committee. At the 2003 and 2004 meetings, the SWG Chair had discussed such matters with interested Commissioners and hunter representatives. Last year, the Commission again did not adopt the AWS and the SWG Chair re-iterated his willingness to discuss any aspects of the scheme with interested delegations. He reported that the Scientific Committee again recommended 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*.

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

7.2.2 Commission discussions and action arising

The USA noted that while it supported the AWS 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.

7.3 Aboriginal subsistence whaling catch limits

7.3.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

7.3.1.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the SWG reported the catch information for the 2005 subsistence harvest. In Alaska, a total of 68 bowhead whales were struck, resulting in 55 animals landed (25 males, 28 females, 2 not determined). He also noted an addendum to the 2004 harvest report: one female landed on 31 December 2004 at Gambell had been inadvertently left out of the original report. Two bowhead whales (one male and one female) were landed in 2005 in Chukotka. The SWG Chair reported that the Scientific Committee had agreed that the same management advice as that given in 2005 is appropriate. The *Bowhead SLA* remains the most appropriate tool for providing management advice for this harvest, at least in the short term, and the results from the *Bowhead SLA* indicate that no change is needed for the current block quota for 2003-2007.

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

7.3.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no comments on the report and the Commission noted this part of the Sub-committee report and endorsed its recommendations.

7.3.2 North Pacific Eastern stock of gray whales

7.3.2.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The SWG Chair reported that in 2005, 115 eastern North Pacific gray whales (45 males and 70 females) were landed by native people of the Chukotka Autonomous region. An additional nine whales were struck and lost compared to only one the previous year. Two of the gray whales harvested in 2005 had a strong chemical smell and were inedible. The Makah Indian Tribe was unable to conduct whaling on this stock in 2005 because of domestic legal requirements.

The SWG Chair noted that the Scientific Committee had reaffirmed its advice from last year that the *Gray whale SLA* remains the most appropriate tool for providing management advice for this harvest and that no change is needed 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 and its recommendations.

7.3.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Austria asked whether:

- (1) there had been a final decision in relation to domestic legal requirements for the Makah hunt or whether law suits are still on-going;
- (2) it is true that some Makah went hunting with Chukotkan hunters; and

- (3) why struck and lost rates are so high in the Chukotkan gray whale hunt.

Responding to the first question, the USA reported that the Makah have applied for authorisation for hunting under the Marine Mammal Protection Act and that this process is currently underway. Responding to the second question, the Russian Federation recalled that Resolution 1999-1 adopted at IWC/51 in Grenada *inter alia* called for Contracting Governments to provide appropriate technical assistance to reduce time to unconsciousness and death in all aboriginal subsistence whaling. The Russian Federation reported that an agreement had been signed between the Makah Tribal Council and the Association of Traditional Marine Mammal Hunters of Chukotka, through which Chukotkan hunters would provide training, including safety training, to Makah representatives. It noted that the Makah have not been able to harvest whales for many years and have therefore lost some of their basic hunting skills. The most experienced Chukotkan hunters had invited several Makah representatives to observe their hunt. The Makah were in the boats with the Chukotkans and saw all aspects of the hunt from the take to how a whale is cut up and distributed in the community. The Makah also participated in the Chukotkan's traditional holiday giving thanks for the whale harvest. The Russian Federation noted that this had been an historic event, with these two groups of hunters meeting after 2,000 years.

With respect to struck and lost rates, the Russian Federation reported that this had increased in 2005 partly because the hunters had decided to try to harvest larger whales. It also noted that there had been a shortage of darting gun projectiles because of difficulties exporting/importing darting guns and projectiles into Russia from the USA. There had also been difficult weather and ice conditions.

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

7.3.3 Minke whale stocks off West Greenland

7.3.3.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the SWG noted that last year, catches of common minke whales off West Greenland totalled 173 (34 males; 134 females; 5 unidentified sex; 3 struck and lost).

Last year, the Scientific Committee had agreed that attempts should be made to use sex ratio data in assessments while noting some of the potential limitations of such an approach. This year, two papers were received on this subject, with one of them concluding that the current catch of 175 whales was probably sustainable. Although the SWG had welcomed these papers, no agreement was reached on their suitability for providing management advice at this meeting. These discussions and disagreements highlighted the importance of a consolidated co-operative effort to determine whether, and if so how, sex ratio data can be used to conduct a suitable assessment of common minke whales and/or be incorporated into an *SLA*. The Scientific Committee had therefore agreed to establish an intersessional working group (that also would meet for a number of days) to examine this issue and report back to the next annual meeting.

Last year, when faced with the new information provided from photographic surveys, the Scientific Committee had urged that considerable caution be

exercised in setting catch limits for this fishery because it had no scientific basis for providing advice on safe catch limits. It had noted that if an AWS was in place, this fishery would be at or near the place where the grace period would begin. This year, the Scientific Committee stressed that it was in a considerably stronger position. In particular, it had accepted a new abundance estimate from the aerial survey. In addition, progress had been made: (1) on incorporating the sex ratio data into an assessment; and (2) in examining whether the genetic data can be used to obtain a lower bound for the abundance of the total population. Further progress will be made on these issues during the intersessional period, although it could not guarantee that this work would necessarily result in an acceptable assessment in 2007.

The new abundance estimate is not significantly different to the 1993 estimate accepted by the Committee although the power to detect trends is low. Its acceptance of course, also means that the question of a grace period under the proposed AWS no longer applies. However, the problem of stock structure remains. Although it is agreed that the survey estimate does not apply to the whole population available (*inter alia* given the consistent strong female bias in the catches), it is not presently possible to determine the proportion of the population to which it does apply. Thus, despite the great improvement in the situation compared to last year, the Scientific Committee remained concerned that it was not in a position to give authoritative advice on safe catch limits this year and agreed that the Commission should exercise caution when setting catch limits for this stock.

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

7.3.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

The UK noted that it has commented previously, with some concern, on the sex ratio in the West Greenland minke whale hunt. It was pleased to note the continuing attention given by the Scientific Committee to the use of the sex ratio information. It also noted that the sex of five of the whales were unknown and sought clarification on this, i.e. was it that the information was not reported or that, for some reason, the sex could not be determined. Denmark confirmed that it was the former.

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

7.3.4 *Fin whale stocks off West Greenland*

7.3.4.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the SWG noted that last year, catches of fin whales off West Greenland totalled 13 (1 male; 11 females; 1 struck and lost).

Last year, in the light of the photo-survey results and the fact that the previous estimate dated from the late 1980s, the Scientific Committee had urged that considerable caution be exercised in setting catch limits for this fishery and as an interim measure advised that a take of 4-10 animals 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. The SWG noted that at last year's Commission meeting, Denmark had voluntarily agreed to limit its catch of fin whales to 10 for the years 2006 and 2007.

This year, the Committee had received an updated assessment that concluded that a catch of up to 19 whales per year had an 88% chance of fulfilling the AWMP objectives. The SWG had welcomed this paper, although some concerns were expressed about aspects of the method that might cause it to be overoptimistic. However, it was agreed that, provided certain factors were addressed, the method was acceptable. Some members, however, expressed the view that the available information was too uninformative for the method to produce reliable results in the near future. Others believed that it was appropriate to provide interim management advice this year.

While the Committee was still not in the position of providing satisfactory long-term management advice, it stressed that it was in a considerably stronger position than it was last year because of the intersessional work conducted. In particular, it had accepted a new abundance estimate from the aerial survey, which it recognises is an underestimate. In addition, considerable progress had been made on developing an assessment method.

The present abundance estimate was not significantly different from that accepted for 1987/88, although the power to detect trends was low. Although not accepted by the SWG as an agreed assessment at this meeting, some members believed that the results suggest that an annual catch of 19 whales is safe.

The Scientific Committee also made some research recommendations applicable to both the fin whales and common minke whales and re-iterated the need for genetic samples from each of the captured whales as a matter of priority and welcomed the progress that has been made in this regard.

In the Sub-committee, Iceland and Australia congratulated Greenland/Denmark on their efforts over the past year and welcomed the fact that the Scientific Committee was able to agree an abundance estimate. Iceland noted that for both minke whales and fin whales, the abundance estimates are recognised as being negatively biased because the surveys only cover a part of the population area and they are not corrected for animals missed by observers. Iceland suggested that the consequences of this new information are: (a) there is no need for consideration of a grace period; and (b) the present quotas can be maintained until the comprehensive review of these stocks in 2007 when the present block quota expires.

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

7.3.4.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no comments. The Commission noted this part of the Sub-committee report and endorsed its recommendations.

7.3.5 *North Atlantic humpback whales off St. Vincent and The Grenadines*

7.3.5.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The SWG Chair had reported that a single female humpback was caught in April 2006. It was not lactating and was not accompanied by a calf. He recalled that in recent years, the Scientific Committee has agreed that the animals found off St. Vincent and The Grenadines are part of the large West Indies breeding population and that the Commission has adopted a total block catch limit of 20 for the period 2003-2007, a catch limit that the Scientific Committee agreed will not harm the stock. The Scientific

Committee had also repeated its recommendations of previous years that wherever possible, photographs and genetic material are collected from the catch. The progress reported in this regard was welcomed and the Committee thanked those involved in St Vincent and The Grenadines for their co-operation in this matter.

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

7.3.5.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no comments. The Commission noted this part of the Sub-committee report and endorsed its recommendations.

7.4 Other matters

7.4.1 Report of the Aboriginal Subsistence Whaling Sub-committee

Denmark, on behalf of Greenland, gave notice that during the plenary it would ask the Scientific Committee to provide advice on other whale stocks.

7.4.2 Commission discussions and action arising

Denmark noted that it supports the principle of sustainable use of all living resources by all peoples dependent on those resources. It noted that Greenland is satisfied with the outcome of the Scientific Committee discussions and that it appreciates the work done so far by the biologists. Denmark repeated its statement of the last two years that the Greenland Home Rule Government does not accept any reduction or elimination of minke or fin whale quotas before scientific advice is in place. However, it noted that in taking a precautionary approach and in view of the great concern expressed by the Commission last year, the Greenland Home Rule Government had voluntarily reduced its fin whale quota from 19 to 10 for each of the years 2006 and 2007. Denmark pointed out, however, that the current quotas in West Greenland do not meet the documented need, accepted by the Commission, of 670 tons of meat from large whales, supplying only 450 tons, i.e. 220 tons less than the need. Bearing in mind that the absence of scientific knowledge on minke and fin whale stocks could lead to a reduction in quota of large whales, Denmark indicated that on behalf of Greenland, it would like to request the Scientific Committee to evaluate the situation regarding other large whales off West Greenland. In particular, it was seeking advice on the viability of obtaining the missing 220 tons of meat from catches of other species of large whale such as bowheads and humpbacks. It was noted that these two species have been caught by Greenland in the past and that there are signs that the West Greenland stocks are increasing and that they could sustain a small and well-regulated catch.

The UK did not question the need reported by Denmark but expressed concern about asking the Scientific Committee to give advice on other whale stocks. It believed that a principal requirement before such advice could even be contemplated would be a reasonably detailed understanding of stock structure (i.e. whether there are single or multi-population stocks) and sought information from the Scientific Committee Chair on this matter. The Scientific Committee Chair reported that a preliminary assessment of bowhead whales off Greenland has led to one- and two-stock hypotheses and that the Committee's work plan includes a more in-depth assessment of these hypotheses. He noted that West Greenland represents a local feeding area for a consistent and small proportion of a

broader humpback whale breeding population and that a more in-depth review of the implications of hunting from this 'feeding stock' would be needed.

The Commission agreed to allow the Scientific Committee to address Denmark's request.

8. REVISED MANAGEMENT SCHEME

8.1 Revised Management Procedure (RMP)⁷

8.1.1 Report of the Scientific Committee

8.1.1.1 GENERAL RMP ISSUES

Discussions focused on two issues: (1) finalising the guidelines and requirements for implementing the RMP; and (2) a proposal from Norway for revision of the *Catch Limit Algorithm (CLA)*.

With regard to the former, when the Committee developed the Guidelines and Requirements for *Implementations* two years ago, it had not specified the exact numerical guidelines for the thresholds that define 'acceptable', 'borderline' and 'unacceptable' conservation performance for classifying the performance of RMP variants for *Implementation Simulation Trials*. Good progress was made on this intersessionally and at the Annual Meeting and the Committee hopes to conclude its discussions on threshold levels next year. The Committee also received a paper reviewing the process for defining stocks during RMP *Implementations* of North Pacific common minke and Bryde's whales. It concluded that discussion on stock structure for different *Implementations* should be carried out on a consistent basis and that the same criteria should be used to define stocks in different *Implementations*. The paper also highlighted the need for peer-review of new methods for the analysis of genetic data. The Committee concurred with this view and agreed that this can best be achieved through the Committee itself. Such reviews should be undertaken by a Working Group separate from the Working Group undertaking the *Implementation*.

Norway first notified four possible changes to the 'base-case' and *Robustness Trials* and *CLA* at the Annual Meeting in 2004. At this year's meeting, Norway presented preliminary results of an exploration of two of four possible changes (i.e. running the simulation trials for a period of 300 rather than 100 years and choosing to use *MSYR* to refer to the 1+ year old component of the population rather than the mature component of the population). In reviewing Norway's proposal this year, the Committee used the protocol developed in 1992 for evaluating proposed amendments to the RMP. Under this protocol, for a proposed amendment to be considered, there needs to be some evidence, in the form of simulation trial results or otherwise, that the proposed amendment would result in improved performance in at least some respect. The Committee did not have time to review fully the results of the Trials presented by Norway. Discussions focused on the general changes included in the proposal and the nature of the work the proponents would need to carry out for the Committee to decide whether they might represent an improvement over the present situation. Only if the Committee is satisfied that the proposed changes

⁷ For details of the Scientific Committee's deliberations of this Item see *J. Cetacean Res. Manage. (Suppl.)* 9 (2007).

represent an improvement, will it consider undertaking a full set of trials. The Committee agreed:

- (1) that comparison of any proposed revision will be for a 100 year time period;
- (2) an appropriate range of maximum sustainable yield rates for trials after a review at the 2007 meeting;
- (3) requirements for an appropriate set of trials including additional trials to model environmental degradation; and
- (4) requirements for an appropriate set of performance statistics.

8.1.1.2 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 is half-way through the two-year *Implementation* for North Pacific Bryde's whales. Considerable progress was made at an intersessional workshop in Japan in October 2005 at which a set of *Implementation Simulation Trials* for the various stock structure hypotheses and other factors were agreed. These were reviewed at the Annual Meeting and a final set of trials was developed and weights assigned to them in accordance with the Committee's Guidelines. An intersessional workshop will be held in Japan in December 2006 to take the process forward. The Committee is on schedule to complete the *Implementation* next year.

NORTH ATLANTIC FIN WHALES

The Committee is in the *pre-Implementation assessment* process for North Atlantic fin whales. As agreed last year, a joint workshop was held with the NAMMCO Scientific Committee to consider stock structure, catch history, biological parameters and abundance. The workshop was successful and the Committee endorsed the report and its recommendations. Several of the recommendations had already been acted upon and these, together with the report of the intersessional working group were reviewed by the Committee. While the Committee believed that sufficient work had been completed to allow an *Implementation* to begin this year, it considered that this would be impractical given an already heavy workload, especially with respect to western North Pacific Bryde's whales. The Committee therefore recommended that the *Implementation* for North Atlantic fin whales be initiated in 2007.

The Committee drew attention to its request that the Commission encourage relevant governments participating in the international redfish survey (being co-ordinated by ICES) to include a cetacean component.

OTHER

The Committee noted that it had developed Requirements and Guidelines for Surveys under the RMP which were discussed in relation to Norwegian surveys and the proposed North Atlantic Sighting Survey for summer 2007.

8.1.1.3 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 bycatches in fishing gear and ship strikes, for example.

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 methods fall under two headings:

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

ESTIMATION OF BYCATCH BASED ON FISHERIES DATA AND OBSERVER PROGRAMMES

These have been used successfully for several small cetacean populations and the Committee has agreed that independent observer schemes are generally the most reliable means of estimating bycatch rates in a statistically rigorous manner, but that they may not always be practical and will require careful design.

The Committee reviewed progress with co-operation with FAO on fishing fleet data and the Fishery Resources Monitoring System (FIRMS) partnership. With respect to the FIRMS partnership, appropriate memoranda of understanding are awaiting signatures pending a further elaboration of the data structures that are required for the IWC to provide whale bycatch data in an appropriate format for inclusion into the FIRMS data structure. It was noted that the inclusion this year in the National Progress Reports of a description of the gear category involved in the bycatch event will make linking records of whale bycatch with the FAO fishery inventory much easier.

The Committee welcomed the provision of more detailed information in the National Progress Reports of most member states which enables a clearer understanding of the fisheries involved in whale bycatch events. It recommended that in future:

- (1) the target fish should be identified by scientific name to avoid confusion among common names; and
- (2) the use of a revised template that includes an additional code for derelict fishing gear.

Information was provided on:

- (1) new European Union bycatch monitoring schemes;
- (2) the entanglement of large whales in lost or abandoned fishing gear; and
- (3) new evidence that baleen whales are highly susceptible to oral entanglement.

With respect to the latter, the Committee agreed that it would be useful to gather data on survival rates of whales with entanglements to the mouth and recommended that it should be considered next year. This would be co-ordinated with the handling and release discussions that will be entertained by the Environmental Concerns sub-committee (see section 12.1.1.4).

ESTIMATION OF BYCATCH BASED ON GENETIC DATA

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. As a result, the Committee agreed that market sampling provided potentially useful methods to supplement bycatch reporting schemes and agreed to a proposal for a follow-up workshop to investigate this further. 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.

At the 2006 Annual Meeting papers were presented regarding:

- (1) the structure of the Japanese market for whale meat to assist in the development of a sampling design that would reduce potential sources of bias;
- (2) genetic analyses of cetacean meat products purchased in Korean markets between February 2003 and February 2005; and
- (3) results from a simple simulation model developed to evaluate the bias and precision of mark-recapture methods for estimates of bycatch based on market surveys.

The Committee recommended that further simulation work should continue intersessionally.

The Committee also discussed plans for a second workshop as a follow-up to that held in 2005 to evaluate whether market surveys would provide reliable bycatch estimates. A list of further work requirements was agreed as a pre-requisite to holding a further workshop. The Committee recognised that new data are unlikely to be available before next year's meeting and that it should therefore review progress on intersessional work at IWC/59 and decide on the need for, and the optimum timing of, a second workshop.

VESSEL STRIKES

The Committee reviewed the report of a workshop on large whale ship strikes in the Mediterranean held by ACCOBAMS and the Pelagos Sanctuary and endorsed its recommendations on work related to estimating the number of whales struck and on possible mitigation measures. It agreed on the need to establish an international database of vessel strikes and established a working group to take this forward. It also recommended further work on histopathological techniques to determine if whales have been struck by vessels. It was noted that these techniques are also very relevant for determining gas and fat embolic pathology following exposure to naval sonar (see below). The Committee made a number of recommendations related to improved reporting of ship strikes.

MORTALITIES CAUSED BY OTHER HUMAN ACTIVITIES

The Committee reviewed a study of lesions in a mass stranding of beaked whales in the Canary Islands following naval exercises. The study provided a possible explanation

of the relationship between anthropogenic sonar activities and the stranding and death of marine mammals. Aspects of the histopathological techniques relevant to the determination of vessel strikes were discussed under the vessel strikes item above. The Committee recommended that the applicability of these techniques to baleen whales be investigated.

8.1.2 Commission discussions and action arising

8.1.2.1 GENERAL ISSUES

Discussions focused on Norway's proposal to revise the *CLA*.

Australia expressed some concern regarding Norway's notification of possible changes to the *CLA* as these would alter the way in which the Commission has agreed to tune and assess *CLA* performance. It noted that Norway is proposing four possible changes at once (i.e. changing the performance time-horizon from 100 to 300 years, examining two new lower target depletion levels and assuming a higher population growth rate as part of the tuning process) and considered that the summation of these differences would create difficulties in assessing the performance of the new candidate *CLAs* relative to those agreed previously. Australia noted that the Scientific Committee had only a brief discussion of Norway's proposals, but that it appears to have rejected the 300-year element of the proposal. It therefore assumed that, when looking at its work next year in relation to any further discussions on the RMP, the Committee would do so without considering the 300-year element. Australia sought clarification on its understanding from the Scientific Committee Chair together with an explanation of how the Committee intended to take this work forward. The UK endorsed these remarks and in addition recalled that Resolution 1994-5 on the Revised Management Scheme, in which the Commission accepted the specification of the RMP proposed by the Scientific Committee, stipulated that the specification should not be revised unless expressly instructed by the Commission. The UK recognised that Norway had given notice of its proposed changes, but asked why the Scientific Committee is working on this matter.

Responding to Australia and the UK, the Scientific Committee Chair and Head of Science noted that Norway's proposals had been submitted in accordance with the agreed protocol for making changes to the *CLA*/RMP and the Norwegian intention had been discussed previously by the Committee and the Commission. As any work to review the performance of Norway's proposals would be part of the Committee's work plan, the Commission would be entitled to delete this item if it so chose. With respect to comparison of Norway's proposals with the current *CLA*, the Head of Science reported that it is the strong view of the Committee that any comparison of performance should be done against the performance of the current *CLA*, including an evaluation over 100 years. The UK noted these remarks but expressed considerable concern that the work appeared to be going forward.

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

8.1.2.2 PREPARATION FOR IMPLEMENTATION

Japan was pleased with the progress made by the Scientific Committee on the *Implementation Simulation Trials* for western North Pacific Bryde's whales.

Iceland, however, noted with some surprise that even though the Scientific Committee had concluded that the *pre-Implementation assessment* on North Atlantic fin whales had been completed, it had recommended that *Implementation* not be initiated until 2007 because of a lack of resources. Iceland indicated that at all stages of the process to date, the Committee had concluded that it had sufficient quality data to proceed, suggesting a data-rich situation that should facilitate progress compared with other situations. It saw the recent formalisation of the RMP *Implementation* process as a positive step forward, but given the time-frame now foreseen for North Atlantic fin whales, sought clarification on: (1) whether the Scientific Committee Chair considered this time-frame as satisfactory or whether there are special circumstances causing the delay; and (2) what is meant by a lack of resources and whether efficiency could be increased by reallocating funds from other areas (e.g. whalewatching and small cetaceans). In response, the Committee Chair agreed that although the Committee was dealing with a data-rich situation, the 'Requirements and Guidelines for *Implementations*'⁸ stated that: (1) an *Implementation* must be completed in two years i.e. the Bryde's whales *Implementation* must be completed this year; and (2) practical difficulties may preclude carrying out more than one *Implementation* simultaneously. The Committee therefore planned to start the North Atlantic fin whale *Implementation* in 2007 and finish it in 2009. The Committee Chair explained that in the present circumstances the practical difficulties referred to the fact that the same scientists are needed for work on both stocks; additional financial resources would not help.

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

8.1.2.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

Regarding the estimation of bycatch based on genetic work, Sweden noted that the Committee had reported that estimates from market surveys could be improved considerably if data from DNA registers were used in a collaborative manner and only a relatively low level of sampling would be required. Sweden strongly recommended that this type of data sharing should occur.

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

8.2 Revised Management Scheme (RMS)

8.2.1 Report of the RMS Working Group

The meeting of the RMS Working Group took place on 10 June 2006 chaired by Doug DeMaster (USA). Delegates from 32 Contracting Governments participated. A summary of the discussions is given below. The full report is given in Annex F.

At its meeting, the RMS Chair recalled that through Resolution 2005-4 adopted last year, the Commission had agreed that to try to advance the RMS process, the RMS Working Group should meet twice before the Commission at IWC/58, i.e. an intersessional meeting (that took place in Cambridge from 28 February to 2 March 2006), and another in conjunction with IWC/58. The Commission had also agreed to consider, if appropriate, ministerial,

diplomatic or other high-level possibilities to resolve RMS issues among the Contracting Governments to the Convention.

With respect to the intersessional meeting in Cambridge, the RMS Chair recalled that there had been a valuable exchange of views and ideas on a number of the difficult issues surrounding completion of an RMS. He noted however, that while some further work was agreed in relation to compliance and the code of conduct for whaling under special permit, the Working Group had agreed that an impasse had been reached in discussions and that further collective work should be postponed for the time being (except on the two specific activities) but with individual governments or groups of governments free to work together if they so choose. With respect to a high level meeting, the Chair reported that there had clearly been no consensus for such an approach at the present time.

Given the outcome of the discussions in Cambridge, the RMS Working Group met during IWC/58 to:

- (1) review the intersessional work agreed on the draft code of conduct and on compliance and to assess whether further progress could be made in these areas and if so, how;
- (2) consider any other intersessional activities that may have occurred;
- (3) consider whether there was anything further that could be done to make progress on an RMS or whether discussions remain at an impasse; and
- (4) develop recommendations as appropriate to the Commission.

With respect to a code of conduct for 'scientific whaling', some countries re-iterated that such a code is an essential part of the RMS process and must be binding. A number of countries stated that they believe it is premature to consider the issue of a code of conduct in an RMS context before the Scientific Committee has completed its discussions on how its present procedures for reviewing special permit proposals and results can be improved. Several of these also re-iterated their view that a code of conduct is not acceptable to them and that the only acceptable approach is to amend the Convention and phase-out special permit catches altogether. With respect to compliance, the RMS Working Group noted a paper on options for compliance mechanisms, including enforcement, under the RMS but there was no discussion.

The RMS Working Group was unable to recommend any further collective work to develop an RMS and confirmed that discussions remain at an impasse.

8.2.2 Commission discussions and action arising

Japan expressed regret that RMS discussions appeared to remain at an impasse despite the many years of discussions in which it had participated. It believed that this situation signifies that IWC has lost its function as a management organisation. Japan reminded the Commission of its proposed Schedule amendment to incorporate the RMS submitted at IWC/57 which it was still prepared to discuss. Regarding the meeting of the RMS Working Group at IWC/58, Japan expressed its gratitude to the authors of the document dealing with further thoughts on a code of conduct for whaling under special permit. It indicated that if there was agreement that adopting an RMS would be linked to the lifting of the moratorium, then it would be prepared to discuss a voluntary code of conduct. As it had at the international RMS Working Group meeting, Japan

⁸ International Whaling Commission. 2005. Report of the Scientific Committee. Annex D. Report of the Sub-Committee on the Revised Management Procedure. Appendix 2. Requirements and guidelines for *Implementations*. *J. Cetacean Res. Manage. (Suppl.)* 7: 84-92.

again called for 'normalisation' of the Commission so as to refocus the organisation back to its fundamental purpose as mandated by the 1946 Convention. It believed that such 'normalisation' would need to take place before an RMS could be agreed. The Republic of Palau, the Republic of Guinea, St. Lucia, St. Kitts and Nevis, St. Vincent and The Grenadines and Antigua and Barbuda also expressed concern that RMS discussions had come to a halt and agreed that other alternatives such as that proposed by Japan should be pursued to make progress. Antigua and Barbuda considered that it is difficult to reach a compromise on the RMS due to differing strong ideological positions and the lack of respect of some countries for, and unwillingness to recognise the rights of, coastal states to use whale resources for food. St. Kitts and Nevis hoped that a way forward could be identified at this meeting so that discussions on the RMS could resume. In Iceland's view, it was already clear at last year's meeting that there was no will to make progress in finalising an RMS in the near future. Subsequent discussions had not changed its view.

Denmark believed that the Chair's proposal for an RMS presented at IWC/56 in Sorrento in 2004⁹ had provided a glimmer of hope that an RMS could be developed. It reminded the Commission that the Chair's proposal had indicated that it is only through international regulation that the long-term conservation of whales can be ensured, that the RMP is the most advanced method for the conservation and management of a natural resource and that the present stalemate will jeopardise IWC's future. Referring to the Resolution it proposed last year together with the Republic of Korea regarding a way forward with the RMS¹⁰, Denmark indicated that while it could understand why countries taking whales had not supported it since adoption of an RMS may lead to reduced catches, it could not understand why those countries that do not take whales voted against it¹¹. Denmark believed that those voting against its proposed Resolution cemented the level of current catches taken under objection and through whaling under special permit. Denmark noted its willingness to work to secure the long-term conservation of whales, but considered that the time is not yet right for further work. The Republic of Korea also believed that the Chair's RMS proposal should form the basis for future discussions to achieve a reasonable and practical RMS. It expected all Contracting Governments to co-operate to this end.

The UK suggested that Japan and Iceland interpret Article VIII of the Convention as giving themselves complete discretion in pursuit of their special permit whaling activities and that they claim that the regulations for such whaling, including reporting requirements under Chapter VI of the Schedule, fall outside the remit of the Commission. The UK therefore concluded that a code of conduct for scientific permit whaling would have no effect other than to reduce the transparency of such operations and their review by the Scientific Committee. It noted that the Commission has attempted to regulate special permit whaling through the adoption of over 30 Resolutions but that these have been disregarded by the whaling nations. It recalled that at the intersessional meeting in Cambridge,

there had been the suggestion that, while recognising that Article VIII means that any code of conduct would be voluntary, governments might agree to follow it if it was agreed by consensus and if all Governments made a formal declaration that they would abide by it. The UK believed that the only way to have a binding agreement would be to have a Schedule amendment to which no objections or reservations are taken. It went on to identify further problems it had with the proposals for a code of conduct, including that the draft code gives too much discretion to Contracting Governments conducting special permit whaling. The UK refuted the view that it is those not taking whales that are deliberately frustrating the adoption of an RMS, noting that it had participated in RMS discussions in good faith over the years and had pushed for a robust RMS. It recalled that as part of the RMS Expert Drafting Group discussions, significant compromises had been offered by the UK and others with a similar position, but that these were not accepted by the whaling countries. The UK therefore questioned whether the latter actually wanted a credible RMS and if they did whether they would be prepared to return to the negotiating table. The UK stressed its view that an RMS ignoring special permit whaling and without a proper compliance mechanism is no basis on which even the most open government could consider the lifting of the moratorium.

Sweden had sympathy with Denmark, also believing that it is not in the best interest of whales to not adopt a rigorous RMS. It reported that it had not supported the Resolution proposed last year by Denmark and the Republic of Korea as the proposal did not have sufficiently broad support. It agreed with the UK's detailed comments.

Australia reminded the Commission that its basic position is that it does not want to see a resumption of commercial whaling and that it will not agree to an RMS. Referring to Denmark's comments, it could not agree that it is the conservation-minded members that are responsible for the number of whales killed under objection or under special permit whaling because they will not agree to an RMS. It believed that conservation-minded countries do not kill whales. Australia indicated that there had not been an RMS proposal that has purported to control special permit whaling and that in any case, as highlighted by the UK, this would not be possible under the current Convention.

New Zealand noted that while the Resolution proposed last year by Denmark and the Republic of Korea was not accepted, an alternative Resolution proposed by Germany, Ireland and South Africa was adopted¹², resulting in the Cambridge intersessional meeting. It associated itself with the remarks of the UK. Like the UK, New Zealand reported that it had participated actively in RMS discussions, had attended every RMS meeting held since work on an RMS was initiated, and had had continuity in its representation and views regarding what it considered to be an acceptable RMS. From its perspective, an RMS should include provisions for international observers on all vessels, tracking of products through the market without restricting trade, vessel monitoring and real-time reporting of vessel positions, reporting of animal welfare information, a strong compliance mechanism and costs borne by those profiting from commercial whaling. New Zealand believed these to be in line with the best practice of other marine resource

⁹ *Ann. Rep. Int. Whaling Comm.* 2004: 82-91.

¹⁰ *Ann. Rep. Int. Whaling Comm.* 2005: 27-29.

¹¹ There were 2 votes in support of the Resolution on the RMS proposed by Denmark and the Republic of Korea, 26 against and 27 abstentions.

¹² Resolution 2005-4, *Ann. Rep. Int. Whaling Comm.* 2005: 67.

management bodies. However, New Zealand noted that during RMS discussions, whaling countries had rejected certain elements, such as a Catch Document Scheme, that they are prepared to accept in other fora. In addition, it believed that the RMS proposed by Japan last year failed to include many of the provisions required for a robust RMS. New Zealand indicated its willingness to participate in future RMS discussions, but stressed that it considered reaching agreement on an RMS and the lifting of the commercial whaling moratorium to be issues that should be dealt with separately.

Belgium, Monaco, the Czech Republic, South Africa, Germany, Mexico and Brazil associated themselves with the remarks of the UK, Australia and New Zealand. Monaco considered that some Contracting Governments were abusing the provisions of Article VIII which it saw as being incompatible with the adoption of an RMS. Brazil questioned why whaling countries refuse to accept best international practice in IWC when they accept it elsewhere. It also asked why the same nations refuse to discuss, recognise and negotiate the rights of coastal states to appropriate whale resources non-lethally and whether it is conducive to the negotiating process for a highly-developed nation from the Northern Hemisphere to take whales from the Southern Hemisphere without consultation with range states of those shared resources, as mandated by modern international law. Spain stressed that a robust and modern RMS is needed and that it could not accept anything less than what is best practice in other resource management organisations. Finland agreed. France could not accept a link between reaching agreement on an RMS and the lifting of the moratorium and suggested that some issues should not be subject to objection or reservations. It supported amendment of the Convention with respect to special permit whaling and the ability for the Commission to impose sanctions.

Noting that IWC is the body responsible for whale management, the USA suggested that many people believe it is failing to fulfil its responsibilities particularly since the number of whales being taken without international control is increasing each year. To the USA, it was a foregone conclusion that a way forward must be found if whales are to be protected and stocks rebuilt for the future, but it noted that a lack of trust among Contracting Governments makes this difficult. The USA was, however, committed to finding a solution so that a robust RMS could be developed, although whether or not it would vote for an RMS would be another question. It was opposed to the simultaneous lifting of the moratorium as an RMS is agreed. Italy, South Africa and Mexico appreciated the remarks of the USA. Italy considered reaching agreement on an RMS to be of utmost importance, but identified special permit whaling as being a significant obstacle to progress being made. It considered that notwithstanding the provisions of Article VIII, a binding code of conduct for special permit whaling is required, and one that avoids confusion between such operations and any trade or commercial use of its proceeds. It did not believe that trade of whale products from special permit whaling should be allowed. Switzerland also believed that reaching agreement on an RMS is crucial for the future of IWC and that if most can agree on this, then hope is still alive. However it stressed that governments have to seek compromises rather than to blame others.

Responding to a number of comments, Japan stated that it had never denied the rights of coastal states to use whale

resources non-consumptively and noted that whaling and whalewatching activities can and do co-exist, including in Japan. It generally agreed with the comments of the USA, re-iterating its view that IWC should be a management organisation. Japan was reluctant to repeat comments it had made at earlier meetings, but considered this to be necessary since in its view, some facts were being conveniently dropped from the record by some countries. It therefore reminded the Commission that Japan has supported the Chair's RMS proposal, which it believes includes in a balanced way many of the elements of so-called 'best practice'. It stressed that accepting 'best practice' does not mean that a management regime has to necessarily include every possible measure. Japan believed the Chair's proposal to be the only way forward in making progress.

At the end of discussions, the Commission noted the Working Group's report, accepted that an impasse had been reached at the Commission level and did not identify any formal activity on the RMS for the coming year. However, it noted that individual governments or groups of governments could work towards the development of an RMS during the intersessional period.

9. SANCTUARIES

9.1 Issues raised in the Scientific Committee

No issues were raised.

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

9.2.1 Report from the Conservation Committee

Brazil had introduced the proposal presented by Argentina, Brazil and South Africa at IWC/57 for a South Atlantic Whale Sanctuary, indicating that the clearly stated goal of the sanctuary is to promote and consolidate a non-lethal management regime for cetacean resources in the area the sanctuary encompasses. Brazil stressed the sanctuary as a management tool and noted that the lack of scientific data on most cetacean species living there shows how much there is still to be done to assess them properly. It also highlighted that further scientific findings and socio-economic reality 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. Brazil also noted that the parties to the Convention on Biological Diversity embrace non-lethal uses of resources, and that ensuring protection of coastal nations' rights to non-lethal uses is important. Argentina added that the proposed sanctuary will support research on depleted stocks and their habitats and will promote regional conservation measures and educational activities.

The Conservation Committee endorsed the South Atlantic Whale Sanctuary proposal, with the exception of Denmark. Denmark was not supportive because in its view the proposal does not satisfy the necessary scientific criteria. See Annex G for the full report of the Conservation Committee's discussions on the sanctuary proposal.

9.2.2 Introduction of the proposal to plenary

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 five 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 reported that it had consulted with all range states, both IWC members and non-members, regarding the proposed sanctuary. It had done this through its mission at the UN and through its embassies in those range states where it had them. No objections to the proposal were received from range states contacted. While the sanctuary would provide a shared international management regime, Brazil stressed that it is not intended to replace national efforts in cetacean conservation. Rather it would serve as an umbrella under which co-ordination, co-operation and synergy could be promoted towards achieving common goals. Brazil considered this to be particularly important for species migrating through coastal states' jurisdictional waters and between these and the high seas, as well as for those species whose off-shore habitat has yet to be properly understood. It noted that the sanctuary would be in line with the precautionary principle as described in Principle 15 of the 1992 UNCED Rio Declaration and would provide a low-risk, cost-effective management strategy that took full account of the needs and values of coastal communities in the region. Brazil suggested that non-lethal use of whale resources, such as through whalewatching, adds value to tourism and is therefore good for local economies. In addition such activities do not require large investment or advanced technology. Noting that all range states of the proposed sanctuary are developing countries, Brazil invited the range states and other developing countries that have recently joined IWC to reflect on the proposal. Brazil stressed that these countries were not being asked to not seek to profit from their whale resources, but rather to seek to make profit in the service sector through non-lethal use of whale resources. It noted that the sanctuary proposal had been endorsed by the Conservation Committee with the exception of Denmark.

Argentina recalled that the proposed sanctuary has the support of those countries that signed the Buenos Aires Declaration in November 2005. It noted that Argentina was the first South American country to initiate whalewatching activities which began in 1983 at the Southern right whale nursery wintering grounds of the Valdes Peninsula. Argentina reported that this activity has since expanded to four further locations and is now one of the most important economic activities in coastal towns along Argentine

Patagonia. It noted that the proposed sanctuary would: provide long-term protection and afford the recovery of cetacean populations; support research on depleted stocks and their habitats; promote regional conservation measures and educational activities; and contribute to the development of environmentally-friendly tourism and research along the South American and African coasts. Argentina further noted that while whales are protected by national legislation of the South Atlantic range states and by the Southern Ocean Sanctuary in their feeding grounds, they remain highly vulnerable during their migration and residence outside national jurisdictional waters. Argentina believed that closing this gap is essential in ensuring that the conservation and sustainable use policies of IWC Contracting Governments in the region are upheld by the Commission. Adding to Brazil's reference to the precautionary principle, Argentina noted that the proposed sanctuary would also be fully consistent with UNCLOS Article 194 that stipulates measures to protect rare and fragile ecosystems as well as the habitat of depleted, threatened or endangered species. It would also not bring economic hardship to range states since none of these currently take whales as an economic activity or for aboriginal subsistence purposes. Argentina indicated that it considers sanctuaries to be a tool for promoting and consolidating non-lethal management regimes for cetacean resources, just as other communities elsewhere benefit from aboriginal subsistence whaling.

South Africa considered that some IWC members: (1) believe whaling to be the only option for the sustainable use of whale resources; and (2) view countries not in favour of lifting the commercial whaling moratorium as having no respect for the socio-economic needs of developing countries. South Africa found this to be untrue and noted that as a developing country itself with significant socio-economic difficulties, it has recognised that whale resources can be used to address poverty. It reported that its own socio-economic studies have indicated that the best way to reduce poverty in coastal communities is ecotourism such as whalewatching. To be sustainable, it is necessary to give whale stocks all the protection they need so as to provide sufficient numbers for whalewatching. Noting that tourists prefer to visit protected areas, South Africa suggested that the proposed sanctuary could be a powerful marketing tool that developing country range states could use to attract tourists, thus contributing to economic growth. It believed that the sanctuary, if created, would greatly assist in the non-consumptive sustainable use of whale resources, bring much-needed economic relief to impoverished coastal communities, create jobs and through the income generated, provide food security given the decline in fisheries resources.

9.2.3 Commission discussions and action arising

Italy, Luxembourg, Australia, New Zealand, the USA, Ireland, Mexico, France, UK, Chile, India, Monaco, Spain, Netherlands, Switzerland and Hungary all spoke in support of the proposed sanctuary. A number of them noted the support for the sanctuary by the range states as reported by Brazil. Australia believed that a South Atlantic whale sanctuary would complement the protection already afforded by the Southern Ocean and Indian Ocean sanctuaries and the protection that would be provided by a South Pacific sanctuary, to which Australia remained committed (see section 16.1.2.1). New Zealand noted the

contradictory positions to protected areas some Contracting Governments take in different fora, noting that Japan takes a different position at the World Heritage Committee to that at IWC. Monaco believed that sanctuaries are an essential tool for the proper protection of diminishing marine resources.

Iceland, Japan, Gabon, Republic of Palau, Denmark, Antigua and Barbuda, Côte d'Ivoire, Benin and Kiribati spoke against the proposed sanctuary, noting that there was insufficient scientific justification for such a provision. Iceland recognised each country's right to designate sanctuaries in their national waters but did not agree that there is the same right with the high seas. As previously, 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)¹³ and as a consequence did not consider the proposal as being permissible under the terms of the Convention. Responding to the comments of New Zealand, Japan indicated that it can support marine protected areas provided they meet scientific criteria, which is why it has been able to support such measures in other fora. It drew attention to the outcome of the 2004 independent review of the Southern Ocean Sanctuary by three scientists at the invitation of the Commission. Japan believed many parts of this review are also relevant to the proposed South Atlantic whale sanctuary. It noted *inter alia* that the reviewers had stated that the Southern Ocean Sanctuary:

- (1) is based on vague goals and objectives that are difficult to measure;
- (2) lacks a rigorous approach to its design and operation;
- (3) represents a 'shotgun' approach to conservation, whereby a large area is protected with little apparent rationale for boundary selection and management prescriptions; and
- (4) is more prohibitive than precautionary.

Like Iceland, Japan considered the sanctuary proposal to be inconsistent with Article V.2 of the Convention and that in any case it is not necessary given that the commercial whaling moratorium remains in place and that governments are free to establish sanctuaries in their own 200 mile zones. Antigua and Barbuda made similar remarks. Noting the reference to the economic benefits of whalewatching, Antigua and Barbuda suggested that it would take these more seriously if the information provided to IWC showed the real trickle-down effect to those people who most need to benefit. Gabon noted that it had created 12 national parks, including marine parks, but stressed that such measures should be based on science and should not be created for emotional or recreational reasons. Denmark could not support the proposed sanctuary because it would not protect whale stocks from other threats. Benin believed that food security should not be compromised for the sake of eco-tourism. Kiribati reported that it takes the same position in other fora regarding the establishment of protected areas (i.e. that they must be based on a thorough scientific assessment) and noted its reliance on the ocean for its sustainable development. Kiribati indicated that it would welcome further research on whale sanctuaries, and

was grateful to the efforts in this regard already made by others (e.g. Australia, New Zealand).

On behalf of the other co-sponsors, Brazil indicated that they would not put the proposal to a vote. Brazil thanked those countries that spoke in support of the proposed sanctuary and urged those range states that had spoken against it to reconsider their position. It believed that the establishment of whaling-free zones is a necessary condition that would be conducive to discussions to resolve the current impasse within the Commission.

9.3 Southern Ocean Sanctuary

9.3.1 Proposal to delete paragraph 7(b) of the Schedule

Japan introduced a proposal to delete Schedule paragraph 7(b) from the Schedule. This would abolish the Southern Ocean Sanctuary. The rationale Japan gave for this measure was in line with the reasons it gave when it indicated it could not support the proposal for a South Atlantic whale sanctuary (see section 9.2.3 above).

9.3.2 Commission discussions and action arising

The Russian Federation noted that it had supported establishment of the sanctuary in 1994 but believed that it is no longer relevant given that the commercial whaling moratorium remains in place. It therefore supported Japan's proposal, as did Iceland and the Republic of Guinea. Iceland believed that the sanctuary is not based on scientific findings. The Republic of Guinea noted that the RMP, together with an RMS would guarantee protection of whale stocks and allow sustainable use, thus making a sanctuary unnecessary.

New Zealand, France, Brazil, Australia, Spain, Mexico, Monaco, South Africa, USA, Finland, Belgium, the UK, Sweden, Italy, Luxembourg, Argentina and Switzerland called for continuation of the Southern Ocean Sanctuary. Several countries disagreed that the sanctuary lacks a scientific basis. New Zealand recalled that when the sanctuary was established, only one Contracting Government (Japan) had voted against it, and only then in respect to minke whales. Since establishment, New Zealand noted that the sanctuary had been the focus of many research activities, but that regrettably, it had also been the site of special permit whaling, initially through the JARPA programme and now through JARPAII. Several other countries also spoke against the conduct of special permit whaling in the sanctuary. New Zealand believed that establishment of the sanctuary was of particular significance for nations of the South Pacific since the whales of this region were the last stocks to be hunted by commercial whaling fleets and have thus had the least time to recover. It noted that humpback whales constitute a number of genetically and geographically distinct populations many of which remain threatened or critically endangered. New Zealand encouraged the non-consumptive use of whale resources for the economic benefit of South Pacific nations through eco-tourism. France believed that the sanctuary is consistent with Article V of the Convention, and hoped that its existence would not continue to be questioned. Belgium noted that the external scientists that reviewed the Southern Ocean Sanctuary in 2004 were not cetacean specialists and that their findings were not in agreement with all members of the Scientific Committee.

On being put to a vote the proposed Schedule amendment did not receive the required three-quarter

¹³ i.e. That Schedule amendments be: as necessary to carry out the objectives and purposes of the Convention and to provide for the conservation, development, and optimum utilisation of the whale resources; based on scientific findings; and take into consideration the interests of consumers of whale products and the whaling industry.

majority support to be adopted, there being 28 votes in favour, 33 against and four abstentions. Japan thanked those that supported the proposal and observed that the Commission has again ignored a third-party peer review of the sanctuary.

The Southern Ocean Sanctuary remains in place.

9.4 Other - a French initiative for a whale sanctuary in Caribbean French maritime space

9.4.1 Introduction

France gave an overview of a recent initiative to create a sanctuary for marine mammals in the French West Indies. It noted that the area covered includes the Exclusive Economic Zones of Martinique, Guadeloupe, St. Martin and St. Bartholomew and that the plan for the sanctuary is based upon broad consultations with all competent bodies in the area and all concerned stakeholders, including representatives of ministries responsible for fisheries, the fishing industry, tourist industries, maritime companies, scientists and NGOs. By taking this initiative, France is seeking to provide for genuine management of the stocks in the Caribbean basin, and to integrate those resources into the economy for the sustainable development of the islands.

9.4.2 Commission discussions

Dominica, St. Lucia, St. Vincent and The Grenadines, St. Kitts and Nevis, Grenada and Antigua and Barbuda respected the right of France to establish sanctuaries in its own territorial waters. However, they considered it regrettable that the sanctuary had been established at a time when maritime boundaries in the region are under dispute and when negotiations are underway at CARICOM and OECS to try to resolve such matters. They considered it inappropriate for IWC to discuss this sanctuary before the boundary disputes have been resolved. In addition, while it was their understanding that France had discussed the sanctuary with NGOs in the region, there had been no consultation with range states. They stressed that their sovereign rights must be respected. St. Lucia and Antigua and Barbuda considered that the biggest problem with fisheries in the area is illegal fishing by boats from neighbouring French Departments.

The UK, Austria, Monaco and Brazil welcomed France's initiative. The UK was concerned that range states felt neglected, but doubted that this was intentional. Together with Monaco, it hoped that in due course, the sanctuary would be extended to other areas in the region. France thanked these countries for their support. It agreed that disputes over boundaries of territorial waters is not a matter for IWC, and stressed that it had no wish to infringe the sovereign rights of other countries. France stressed that the sanctuary is currently only a national initiative, but that it would like to see the area covered by it increased, but only after appropriate consultation with range states. It noted that at this point, it simply wished to provide information to other members of the Commission.

10. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

The Chairman of the Town Council of Taiji reported on the Fifth Summit of Japanese Traditional Whaling Regions held in Taiji, Wakayama Prefecture on 23 April 2006. The Summit adopted the 'Taiji Declaration on Traditional

Whaling', that has been endorsed by the Japanese government.

10.1 Proposed Schedule amendment

Japan 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 the same as those proposed at IWC/57 last year¹⁴.

Before introducing its proposals, Japan noted that it was a privilege for the town of Taiji to be able to express its views directly to the Commission. However, it believed that the failure of the Commission to grant an interim relief allocation for small-type coastal whaling in Japan was in effect killing communities like Taiji, Abashiri, Ayukawa and Wada for whom small-type whaling is an important part of their culture.

Japan then focused on its proposed Schedule amendment relating to the taking of minke whales, i.e. to add the following sub-paragraph (f) under paragraph 10 of the Schedule:

'(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.

Japan recalled that last year, a number of countries gave reasons why they could not support the proposed Schedule amendment, including concern over the status of the stock, the possible take of 'J' stock animals, and the need for Scientific Committee advice as a pre-requisite to consideration of any such proposal. Regarding the status of the stock, Japan noted that the Comprehensive Assessment had been completed in 1991 and that it was clear that a small take would have no effect. Regarding concern over the 'J' stock, Japan emphasised that its proposal would not involve a take of 'J' stock animals because of area restrictions on the operations, i.e. waters within 10 miles of the coast, the area in which the 'J' stock migrates, would be closed to whaling. Regarding the need for Scientific Committee advice, Japan reminded the meeting that this already exists. On completion of the RMP *Implementation Simulation Trials* the Committee had made two recommendations on the most appropriate RMP variant for consideration by the Commission and that the Committee had indicated that some take would be possible.

Japan also recalled that some countries, while recognising the difficulties of the small coastal communities, could not support the proposed Schedule amendment because of its commercial nature. Japan considered this attitude to be inconsistent given that there are some monetary transactions associated with some aboriginal subsistence whaling and that whalewatching is a commercial activity. It asked why a commercial aspect in whaling is unacceptable.

Japan noted that some countries have indicated that completion of the RMS is a pre-requisite to allocating a take for Japan's coastal whaling communities. It also noted however, that discussions on the RMS have come to an impasse. Japan mentioned that some believe whaling to be immoral. It noted that the coastal whaling communities,

¹⁴ *Ann. Rep. Int. Whaling Comm.* 2005: 34-36.

while taking whales, also respect them and furthermore do not try to impose their own morals on others.

Japan agreed that conservation of whale stocks is important. However, it did not believe that conservation precludes consumptive use, and noted that under CCAMLR, the term 'conservation' includes rationale use. Given that many members of the Commission look favourably on CCAMLR, Japan believed that CCAMLR's definition of conservation should be accepted.

Japan drew attention to certain aspects of the proposed whaling operation, including:

- (1) that it would take place within Japan's 200 mile zone;
- (2) that only five vessels would be involved; and
- (3) that there would be strict monitoring and compliance procedures in place, including vessel monitoring systems, international observers and a DNA register of all whales taken.

It stressed that it was not asking for the commercial whaling moratorium to be lifted via this proposal, but rather that an exemption to this be granted.

Finally, noting that under the Convention, the IWC has responsibilities to consumers of whale products and to the whaling industry, Japan stated that the responsibility for the over-harvesting of the past should not be attributed to small communities who were not responsible.

10.2 Commission discussions and action arising

The discussions focused on the proposed Schedule amendment relating to the taking of minke whales.

Nicaragua, Iceland, St. Lucia, St. Vincent and The Grenadines, St. Kitts and Nevis and the Russian Federation spoke in support of Japan's proposal. Nicaragua noted that Japan's requests for an interim quota have been continually rejected by the Commission even though the Commission, through a number of Resolutions, had recognised the economic, social and cultural hardships on the communities resulting from the moratorium and had agreed to work expeditiously to alleviate their distress. It strongly supported the cultural needs and traditions of coastal peoples around the world, and believed that denying Japan's request would be discriminatory. Iceland supported the proposal as it was based on sustainable whaling and called for consistent treatment among member countries. St. Lucia noted that the scientific data show that the proposed takes of minke whales would not have an effect on the stock and urged the Commission to exercise a degree of tolerance. St. Vincent and The Grenadines suggested that those with a high per capita income cannot understand the situation of those eking out a living from what resources are available. St. Kitts and Nevis welcomed the information from Japan on how the proposed small-type whaling would be conducted and managed and stressed that Japan was not requesting the lifting of the commercial whaling moratorium.

Denmark observed that any such proposals in the future should first be submitted to the Scientific Committee. Noting that Japan's proposal was for a 5-year period, Denmark indicated that it could support the request for a take if the period was reduced to 3 years. Japan agreed to this proposal.

The UK, India, Austria, USA, Monaco, New Zealand, Australia, Argentina and Luxembourg indicated that they could not support Japan's proposal. The UK considered that the need for these coastal communities is already

fulfilled through: (1) bycaught animals, which are allowed to be marketed and consumed in Japan and number over 100 per year; and (2) the fact that the small-type whaling catcher boats have been involved in Japan's special permit whaling programme in the North Pacific (JARPNII). Referring to Japan's claim that the minke whale stock is abundant and robust, the UK noted that in 2005, although the Scientific Committee had completed the RMP *Implementation*, it had not defined a specific abundance estimate, past catches and past and future anthropogenic removals, all of which are needed for the RMP. It therefore did not believe that it is possible to say whether the proposed removal level would be sustainable. Furthermore, the UK believed that because of a stockpile of whale meat, Japan's market is already flooded which has led to falling prices. The UK therefore thought it unlikely that any whaling industry could provide economic relief to the coastal communities. Austria and Luxembourg associated themselves with the UK's remarks. India and Argentina viewed the proposal as commercial whaling and could not support it. The USA indicated that it had sympathy with Japan, but continued to encourage it to present an action plan for small-type whaling that would be consistent with the commercial whaling moratorium. Monaco understood the tradition of Japan's coastal whaling culture. However, it noted that over 5,000 tons of whale meat from scientific permit whaling has accumulated and that this finds its way not only to restaurants in Tokyo and elsewhere, but also to the coastal communities in question. Monaco therefore believed that lack of whale meat is not an issue since there is more than enough to meet Japan's demands. It indicated that as soon as Japan renounced its whaling under special permit, Monaco would support its request for regulated small-type whaling out of respect for cultural needs. New Zealand associated itself with the remarks of the UK and the USA and like Monaco referred to the supply of minke whale meat already available through JARPNII. It would continue to object to Japan's requests, although stressed that it was not against the coastal communities and the sincerity with which they put their case. Australia indicated that since it opposes commercial whaling, it also opposed Japan's proposal. It noted that none of the safeguards in the proposed Schedule amendment referred to by Japan in its introduction had been included in the proposal.

The Russian Federation believed that it is irrelevant that some whale meat is available from Japan's whale research programmes and stressed the need to preserve cultural traditions. It noted that Japan's proposals may differ formally from aboriginal subsistence whaling, but it believed that in their nature they follow the principle of aboriginal needs. The Russian Federation believed that sufficient scientific information was available to show that the proposed takes would have an insignificant effect on the stocks.

The Scientific Committee Chair confirmed that the RMP *Implementation Simulation Trials* for western North Pacific minke whales had been completed at the Annual Meeting in 2003 and that a majority recommendation and a minority recommendation on the most appropriate RMP variant to use were presented to the Commission. He also confirmed that the Committee is currently doing a new review (in-depth assessment) of western North Pacific minke whales and that more work is needed before an abundance estimate for the entire area can be recommended. The Scientific Committee Chair noted that

the Secretariat would not run the *CLA* to calculate catch limits until instructed to do so by the Commission.

Responding to a number of comments made, Japan noted that the current in-depth assessment of western North Pacific minke whales is mainly looking at the 'J' stock but that its request for a take was with respect to 'O' stock animals. With respect to safeguards to ensure that any quota would not be exceeded, Japan noted that these details were provided in the body of its document rather than included as draft Schedule text. It considered the reference to stockpiles of whale meat to be irrelevant and not a valid reason to prevent whaling activities.

On being put to a vote the proposed Schedule amendment did not receive the required three-quarter majority support to be adopted. There were 30 votes in favour, 31 against and 4 abstentions. Japan thanked those countries that had supported its proposal and noted with disappointment that double standards continued to prevail. It withdrew its proposed Schedule amendment to allow the taking of 150 Bryde's whales annually from the western stock of the North Pacific.

11. SCIENTIFIC PERMITS¹⁵

11.1 Report of the Scientific Committee

11.1.1 Improving procedures for reviewing scientific permit proposals

The Scientific Committee agreed that the process it currently uses for reviewing scientific permit proposals needs to be improved and there was considerable debate on this matter. It agreed and recommended to the Commission a *pro forma* to be used by the proponents of special permit proposals when submitting proposals to the Scientific Committee. This requires information to be provided on:

- (1) objectives (quantified where possible);
- (2) methods to address objectives;
- (3) assessment of potential effects of catches on the stocks involved; and
- (4) a note on provisions for co-operative research.

Proposals were developed on ways to improve the review process and the Committee agreed to use these as a starting point for discussions next year.

11.1.2 Review of results from existing permits

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.

The Scientific Committee reviewed results from Japan's research programmes in the Antarctic (i.e. the first year of JARPAII) and North Pacific (JARPNII) and Iceland's programme in the North Atlantic.

JARPAII - Japanese Whale Research Program under Special Permit in the Antarctic - is a new large-scale Antarctic programme that commenced with the first year of a two-year feasibility study during the austral summer of 2005/06. The objectives are defined by Japan as:

- (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 Antarctic minke whale stocks.

JARPAII will focus on Antarctic minke, humpback and fin whales and possibly other species in the Antarctic ecosystem that are major predators of Antarctic krill. During the 2-year feasibility study a maximum of 850±10% Antarctic minke whales and ten fin whales will be killed and sampled in each season. Annual sample sizes for the proposed full-scale research (lethal sampling) are 850±10% Antarctic minke whales, 50 humpback whales and 50 fin whales. Last season, a total of 853 Antarctic minke whales and 10 fin whales were caught. Discussion in the Committee focused on the representativeness of samples. The need to take Antarctic minke whales in the second year of the feasibility study was questioned, given the success in sampling them during the first year. Japan indicated that the takes are necessary since only half of the study area had been sampled.

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 annually in the western North Pacific. Under the lethal component of the offshore programme a total of 100 common minke, 50 Bryde's, 100 sei and 5 sperm whales were caught. In the coastal component, 60 common minke whales were taken in the spring and 60 in the autumn. The Committee's deliberations covered issues related to:

- (1) contaminant levels and diseases;
- (2) changes in diet over the last two years; and
- (3) possible bias due to weather conditions and the nature of the vessels used.

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. In the event, Iceland issued a permit to take 38 common minke whales in 2003 and 25 minke whales in 2004. The take for 2005 was 39 minke whales. The Committee's discussions focused on whether the sampling could be considered representative given the lack of sampling in the offshore parts of the study area due to unfavourable weather conditions.

Finally, the Committee continued preparations for a full review of the JARPA programme (an 18 year programme that finished in 2004). Now that the complete set of results is available, the review workshop will be held in December 2006.

11.1.3 Review of new or continuing proposals

There were no new special permit proposals to review this year. The Scientific Committee did not have time to consider the continuing research proposals of Japan and Iceland, but noted that there were no substantial changes in these proposals since the previous reviews by the Committee. The Committee therefore referred the Commission to its previous comments¹⁶.

¹⁵ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 9 (2007).

¹⁶ See for example *Ann. Rep. Int. Whaling Comm.* 2005:37-38; 2004:38; 2003:29.

It was noted that it is many years since a number of the stocks taken under special permit have been assessed. The Committee therefore agreed to assign priority for in-depth assessment of these stocks in accordance with the time since last assessment. It agreed that consideration should be given to beginning an assessment of North Pacific sei whales. An intersessional working group was therefore established to prepare the information required to enable a decision on whether to begin an assessment to be taken at next year's meeting.

11.2 Commission discussions and action arising

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

The Commission's discussions then focused on brief PowerPoint presentations by Japan of results from its JARPAII and JARPNII programmes and a presentation by Australia on scientific research in the Southern Ocean. A more general discussion then followed.

11.2.1 JARPAII

Japan re-iterated the goal of JARPAII, i.e. to develop an ecosystem model leading to sustainable use through multi-species management. It reported that the feasibility study carried out in 2005/06, the first survey, had confirmed:

- (1) the practicability and appropriateness of the sighting method used in the enlarged study area;
- (2) the sampling procedures used for the increased sample size of Antarctic minke whale and additional species; and
- (3) the methods for catching, flensing and taking biological measurements of fin whales.

Japan reported that the 853 minke whales and 10 fin whales taken, represent 0.37% and 0.03% of the stocks respectively. It noted that these low numbers of takes would have no adverse effect on the stocks. Japan showed sightings data for minke, fin and humpback whales, noting that unlike in the past, humpback whales were sighted throughout the survey area and suggested that minke whale distribution has been pushed south by the presence of humpback and fin whales, with many minke whales being within the pack ice. It presented data showing recent increases in abundance estimates of fin and humpback whales, noting that they have been recovering rapidly in recent years. Japan presented data demonstrating an increase in baleen whale biomass from 1997/98. It noted that while minke whale biomass has remained fairly constant, the biomass of humpback whales has increased and that humpback and fin whales are an important part of the ecosystem. Japan reported that analysis of stomach contents indicated that fin whales are competing with minke whales for krill.

Noting that Japan claimed that its minke whale takes represented 0.37% of the stock, New Zealand sought clarification on: (1) which abundance estimate was used; and (2) on which areas was the abundance estimate based. Japan indicated that the abundance estimate used was 228,000 and was based on JARPA data for Areas III and IV.

Austria noted that it was surprised that minke whale biomass had remained fairly constant over a long period of time since this would contradict the indications that there has been a decrease in minke whale abundance. Japan noted that abundance estimates from its JARPA programme have been stable. It recognised that abundance

estimates between the CPII and CPIII surveys have shown some decline, but that this may not necessarily be due to a decrease in numbers – there may be other reasons (see section 5.1).

Belgium noted that Japan's assertion that minke whale distribution is being pushed south by fin and humpback whales is simply an hypothesis that has not been agreed by the Scientific Committee. It urged Japan to make distinctions between what are hypotheses and what are agreed facts.

Australia asked how Japan was able to conclude that the 10 fin whales taken represented only 0.03% of the stock when the Scientific Committee has not agreed an abundance estimate. Japan noted that its abundance estimate of 31,000 was from its JARPA data. Australia expressed deep concern that Japan was taking fin whales in the absence of an agreed Scientific Committee abundance estimate, particularly when the species is listed as endangered. It believed that lethal research programmes should not target endangered species.

Responding to a question from Sweden regarding how long the JARPAII would continue, Japan reported that it would be reviewed every six years and revised as appropriate. Switzerland questioned why Japan could not give a better indication of the number of years its research programme would be conducted. Japan explained that the review period is to decide whether there is a need to continue. There would not be an automatic extension.

11.2.2 JARPNII

Japan showed data illustrating decreasing fisheries catch (Pacific saury, walleye Pollock, mackerel, Japanese anchovy, Japanese sardine) and increasing whale abundance (minke, Bryde's and sei whales) in the period 1985 to 2001 and showed film footage of a minke whale close to a Pacific saury fishing boat. Information on prey species and daily food consumption of minke whales was presented, together with the outline of an ecosystem model. Japan noted that its management goals were:

- (1) an optimum balance between fish and whales;
- (2) recovery of fisheries resources; and
- (3) sustainable utilisation of whales.

Australia considered the approach to developing an ecosystem model described in Japan's presentation as being too simplistic, noting that in particular it appeared to be missing an assessment of the fishing effort for the species mentioned (e.g. saury, walleye Pollock, mackerel, Japanese anchovy and sardine). Japan responded that its presentation had perhaps been shortened too much and assured Australia that it is collecting data on fisheries and fishing effort and that these aspects would be incorporated into the model.

Brazil shared Australia's concerns. It believed the 'whales eat fish' argument to be too simplistic and that it could not be accepted by any serious scientific body. Brazil believed that it is clear that the depletion of world fishery resources is a result of over-fishing. Japan noted that the fishing effort in its territorial waters has been decreasing. It stressed that it had not attributed a decline in fishery resources to consumption by whales, but indicated that whales cannot be ignored as a component of the ecosystem in Japanese waters. It believed it has a responsibility to its fishing communities to investigate this issue.

Mexico suggested that showing a film of a minke whale near fishing nets does not prove that there is competition

between whales and fisheries. Luxembourg agreed. Mexico noted that this year the Scientific Committee agreed that there remains a critical lack of data, particularly on low trophic levels, to allow an evaluation of the reliability of multi-species models. It further noted that the Committee had agreed that multi-species models are useful in allowing the Committee to develop hypotheses regarding trophic dynamics. It therefore was concerned that Japan seemed to be presenting information as facts rather than hypotheses. Spain associated itself with Mexico's remarks.

Monaco suggested that there are good multi-species models available for the South Atlantic and Pacific waters that demonstrate that it is not whales that are the main culprit in reducing fish stocks, but rather the industrial fishing effort. It was embarrassed to see the presentation of incomplete or old models and noted that hypotheses that have been shown to be false should not be repeated. In response, Japan suggested that there is too much generalisation of arguments. It accepted that some studies may show that there is no competition between whales and fisheries but noted that the degree of competition differs from region to region. It is not possible therefore to generalise findings from one part of the world to another. Japan added that the film footage showing a minke whale near fishing nets was only part of the evidence of competition.

Portugal questioned how whale populations can be increasing if they are in competition with fisheries at a time when fish catches are declining. It considered Japan's model to be an over-simplification of the situation and that the hypothesis needed further testing. Japan suggested that this interpretation is reversing the cause and effect seen in its territorial waters. It explained that prior to the moratorium, the average harvest over a long period was 350 minke whales per year without a decrease in CPUE (catch per unit effort). On the introduction of the moratorium, this take suddenly stopped, but at the same time the fish catch began to reduce. Japan noted that one hypothesis to explain this situation is that it is the increase in whale numbers that is causing the decrease in fisheries catch.

Dominica sought clarification from Japan regarding the extent to which its research provides information to address questions related to the precautionary principle. Noting that the basic concept of the precautionary principle is that lack of scientific evidence should not prevent action, Japan indicated that its research programme meets this goal in that it wishes to take action before anything serious happens to its coastal fisheries.

The USA noted its opposition to lethal research whaling. It considered that the Commission's discussions on this matter illustrates why it is important to reach agreement on an RMS to phase out special permit whaling. The USA also noted the importance of having existing and new research programmes reviewed thoroughly to determine the best way to gather information on target species prior to any decision to conduct lethal takes and to determine if the experimental design is adequate. It believed that such a review should be done by the Scientific Committee. In response, Japan questioned whether the USA has the same policy with respect to lethal research with other animals. It questioned why whales are being treated differently.

Norway, Gabon, St. Vincent and The Grenadines, Iceland and Denmark spoke in support of Japan. Norway

congratulated Japan on its ecosystem modelling work. It noted that it is a difficult issue and one that it is struggling with, together with Iceland, in the North Atlantic. Norway recognised that it is too early in Japan's research programme to draw firm conclusions, but it was certain that there is an important relationship between fish and whales in the North Pacific. It believed the research should continue. Iceland associated itself with these remarks. In contrast to the comments of Brazil, Iceland suggested that all major fisheries research organisations regard multi-species research as very important in improving management of fisheries. St. Vincent and The Grenadines considered that IWC should base its discussions on scientific findings. It believed that some countries were simply taking the opportunity to criticise the work of Japan. Denmark indicated that it could not be denied that whales eat fish. It noted that there is a problem in the North Atlantic with fisheries and believed that a sensible multi-species approach is needed.

11.2.3 Scientific research in the Southern Ocean

Australia gave a brief PowerPoint presentation on lethal whaling in the Southern Ocean and on non-lethal research. With respect to the 18-year JARPA programme (1987 to 2005), Australia noted that:

- (1) more than 6,800 minke whales had been killed;
- (2) there had been few peer-reviewed papers published;
- (3) no formal review had been completed by the Scientific Committee; and
- (4) the data derived from the programme are not required for management purposes.

With respect to JARPAII, Australia drew attention to Resolution 2005-1 adopted in Ulsan last year that urged Japan to withdraw the programme or to revise it so that any information would be obtained using non-lethal means. It further noted that after the two-year feasibility study during 2005/06 and 2006/07, Japan was proposing to take 935 minke, 50 fin whales and 50 humpback whales per year for an undefined period. With respect to humpback whales, Australia noted that:

- (1) they are listed by IUCN as 'vulnerable';
- (2) the Southern Hemisphere Humpback Whale Comprehensive Assessment Workshop in April 2006 concluded that the stock structure of Southern Hemisphere whale populations is more complex than previously thought and that knowledge gaps could be filled with non-lethal techniques (e.g. genetics and remote telemetry);
- (3) a small take of humpback whales that migrate between the Southern Ocean and the South Pacific could have severe conservation implications; and
- (4) humpback whales are the basis for whalewatching in Australia and the South Pacific.

With respect to fin whales, Australia noted that:

- (1) they are the second largest animal in the world after blue whales;
- (2) about 723,000 were killed up to 1979;
- (3) they are so rare that there is not even a rough estimate of numbers;
- (4) they are listed as 'endangered' on the IUCN red list; and
- (5) lethal sampling would not improve knowledge of this species and would threaten its survival.

Australia reported that non-lethal research techniques being used by Australia and others included:

- (1) visual and acoustic surveys to determine population numbers;
- (2) satellite tracking to gain information on whale movements necessary to determine population boundaries and structure;
- (3) faeces sampling to gain a complete picture of whale feeding habits; and
- (4) biopsy sampling.

Biopsy sampling provides material to assist with:

- (1) population structure and pre-exploitation stock size, using genetic techniques;
- (2) reproductive hormone status (hormone analysis);
- (3) age profiling (through emerging DNA research); and
- (4) toxin concentrations (e.g. heavy metals and pesticides).

Australia believed that non-lethal research techniques can and should be used in all circumstances.

Japan made a number of comments on Australia's presentation. With respect to peer-reviewed publications, Japan indicated that there are many such publications and that it has made many submissions to the IWC Scientific Committee on the results from its special permit research programmes. Like last year, Japan reported that for ethical reasons, many western scientific journals refuse to accept papers based on lethal studies of whales. This has led to a bias in the number of publications in the academic press which Japan regretted. Referring to Australia's comment that lethal research is not required for management purposes, Japan indicated that while the data obtained from its research programmes are not required for management under the RMP, the Scientific Committee had agreed that the data can be used to improve the RMP itself. Regarding the IUCN listings of humpback and fin whales, while Japan acknowledged IUCN listings as being one of the most authoritative listings of species 'under difficult conditions', it noted that many scientists consider that the current IUCN criteria, which are based mainly on terrestrial fauna, are not exactly applicable to marine species. It further noted that CITES, which was using similar criteria, have recently agreed to modify them for the listing of marine species. Regarding satellite tagging, Japan agreed that it is a very useful technique for some species, but that it has not found it feasible to use with minke whales in the Antarctic, despite several years of trying. It asked whether Australia had been more successful. Regarding the use of whale faeces to gather information on the diet of whales, Japan agreed that this technique could provide some indication of what food is consumed, but noted that it does not provide information on where, when, how much and the rate of digestion which are important for ecosystem modelling. Iceland reported that its own lethal research programme involves *inter alia* the evaluation of non-lethal methods, including the use of faeces, but noted that the collection of whale faeces had been unsuccessful even after a period of over two months. Regarding the use of DNA techniques for age-profiling, Japan noted that while this is an emerging area of research, it understood that it would not be ready for use for another 5-10 years. In the meantime, the only accurate way to determine age is to use earplugs. Regarding toxin concentrations, Japan noted that as different toxins accumulate in different tissues/organs,

samples need to be taken from a range of tissues. Biopsy techniques would only provide limited information on body burdens. It reported that Antarctic minke whales have very low levels of mercury and PCBs, i.e. almost at the limit of detection and below the precautionary level set for food. Finally Japan emphasised that extensive parts of its research programmes in the Antarctic and North Pacific use non-lethal techniques, including large sightings surveys. It believed it is using the best combination of techniques to achieve the stated objectives of the programmes.

Responding to Japan, Australia acknowledged that data from JARPA had been submitted to the Scientific Committee but noted that its concern is that JARPAII has begun before the review of the outcome of JARPA had been completed. With respect to Japan's comments on ecosystem modelling, Australia suggested that while Japan may wish to find ways to manipulate the ecosystem, it did not believe this aspect fell under IWC's mandate. Japan noted that it believed that work involving whales should be reported to IWC.

Regarding Japan's comments on the IUCN listing, Australia asked Japan if it is asserting that fin and humpback whales are neither vulnerable nor endangered. Japan indicated that it is in the process of considering asking CITES to change its listings.

Australia empathised with the difficulties encountered by Japan with respect to the use of satellite tags on minke whales. However, it considered that it had made great strides with this technique and offered to share the technology with Japan if it would cease lethal whale research. Australia also offered to provide advice to Icelandic scientists on the collection of whale faeces.

With respect to the use of earplugs to ascertain age, Australia believed that gathering earplugs from so many animals was not an effective or precautionary approach to obtaining the information sought. Japan noted that this would be wasteful if it was only taking whales to collect earplugs to determine age, and indicated that it takes many samples (>100) from each whale killed for a range of studies.

Australia noted that it was well-aware that Japan incorporates non-lethal techniques in its research programmes and acknowledged that Japan does good work on these aspects. It believed that the way forward was for Japan and Australia to co-operate. Japan noted that it already co-operates with Australia. It also noted that it provides vessels for SOWER and that the scientists on board are international. In addition, Japan welcomed the participation of foreign scientists in its Antarctic and North Pacific programmes.

Responding to a question from Gabon, Australia reported that its own research programmes have clear and defined goals based on core IWC mandates, including work on abundance estimates, the evaluation of the recovery of depleted species and whalewatching.

11.2.4 General discussion

The Netherlands noted that it supports the principle that policies and decisions of the Commission should be based on scientific knowledge and it considered knowledge of the ecology of whales to be very relevant. It suggested that the Commission should ask the Scientific Committee to give more time to ecosystem modelling and to invite the participation of external scientists. The Netherlands was

convinced that non-lethal techniques are sufficient for such studies. Mali welcomed the presentations of Japan and Australia and called for better co-operation on research.

New Zealand believed that the issue of special permit whaling has been a major source of controversy within the Commission for many years and that addressing this activity is the most vital issue facing the Commission. However, it noted that Japan had ignored calls and Resolutions urging it to end its lethal research programmes. New Zealand considered that through JARPAII, Japan had created a new level of permit whaling, generating so much whale meat that it is necessary for a vessel to go down to the Southern Ocean half-way through the season to transfer the meat back to Japan. New Zealand believed that Japan's conduct had tarnished IWC in the eyes of the world and that it is a widely held view that its research is unnecessary and that its science is dubious. It considered it unnecessary to kill whales to study them unless there is an ulterior commercial motive and questioned whether Japan's research programmes were really science-driven. New Zealand considered special permit whaling to be a disgrace and thought it time that the Commission recognised this.

Sweden continued to oppose extensive special permit whaling outside of IWC control and believed that it undermined the IWC. It was deeply concerned regarding the expansion proposed in JARPAII regarding the species and numbers to be taken and wanted this programme to end. Sweden did not believe, however, that Japan's data should be neglected, recognising that there is an ongoing discussion on possible competition between whales and fisheries. However, it considered this to be an issue for the Scientific Committee and not the Commission. Sweden urged members to recognise that over-fishing is perpetrated by many countries from both whaling 'camps', including the European Union, and suggested that countries should try to regulate their own fisheries to maintain the integrity of the ecosystems, including the establishment of sanctuaries for whales and fish so as to restore populations and facilitate high quality research.

Mexico associated itself with the remarks of Sweden. While it welcomed the efforts to illustrate what a code of conduct might look like, Mexico indicated that it could not support an RMS that does not set clear limits to special permit whaling. It believed that no permit proposal should be considered by the Scientific Committee or Commission without agreed abundance estimates of the targeted stocks and it expressed disappointment that JARPAII would be targeting vulnerable populations of whales.

The UK associated itself with the comments of New Zealand and Sweden. It noted that while Japan's presentation on JARPNII had suggested that whale numbers of several species in the Southern Ocean are increasing, it understood that the Scientific Committee had not been able to make such estimates. The UK also noted its concern regarding the effect of JARPNII on the 'J' stock of minke whales. It requested Japan to continue to report the proportion of the 'J' stock taken, although it would prefer the ending of takes altogether.

India indicated that it is against lethal research. It therefore supported the development and use of non-lethal techniques and congratulated Australia on its work in this regard. India believed that the issuance of research permits should be based on a comprehensive evaluation of a programme's objectives and past performance.

Brazil believed its position against special permit whaling to be well known. It considered that Japan is abusing its rights under Article VIII of the Convention. It saw no scientific justification in Japan's programmes, believing them to be political manipulation of the Convention to slow negotiations. Argentina made similar remarks.

Italy considered research on whales to be fundamental to the Convention and, like New Zealand, believed the issue of special permit whaling to be the most important item being addressed by the Commission. It took the view that further progress on an RMS will not be made until the issue is resolved. Referring to its earlier comments during RMS discussions (see section 8.2.2), Italy considered that confusion between special permit operations and any trade or commercial use of its proceeds should be avoided and that trade of whale products from such activities should not be allowed.

Regarding comments on the absence of abundance estimates for Southern Hemisphere humpback whales, Japan drew the meeting's attention to the estimates and trends endorsed by the Scientific Committee at its 58th Annual Meeting. It noted the criticism of its research programmes by anti-whaling countries to which it had provided detailed responses. Japan regretted the nature of the discussions.

12. ENVIRONMENTAL AND HEALTH ISSUES

12.1 Scientific Committee activities¹⁷

12.1.1 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.

12.1.1.1 SEISMIC SURVEYS AND CETACEANS

At the 2006 meeting, a pre-meeting was held on the potential for seismic surveys to impact cetaceans. This included members of the Scientific Committee as well as industry representatives, geophysical contractors, members of national regulatory agencies and individuals representing funding bodies.

The issues addressed are complex and it was agreed that any approach to addressing the potential impacts of seismic surveys on cetaceans needs to be scientifically-based and risk-averse. Overall, the scientific presentations and

¹⁷ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 9 (2007).

discussions considerably advanced the Committee's ability to:

- (1) evaluate the potential impacts from seismic surveys on cetaceans;
- (2) help interpret observed scientific results in the context of effects on critical life functions and on animals at the population level;
- (3) provide a current synthesis of studies addressing issues related to seismic surveys and cetaceans;
- (4) advance the dialogue, communication and exchange of ideas and information between the IWC Scientific Committee, the wider scientific community and members of industry in order to address this issue effectively;
- (5) identify areas where additional research, review and discussion are needed (especially related to measuring and translating scientific results into assessments of biological significance, as well as to improving existing and developing new mitigation and monitoring approaches);
- (6) highlight areas where risk to cetaceans may be reduced by greater consideration to these issues in the planning stages of seismic surveys; and
- (7) to serve as a resource for member nations that issue permits authorising seismic surveys within their EEZ.

The Committee made a large number of recommendations for further work on this important issue, stressing the need for co-operation amongst stakeholders including governments. Particularly important were recommendations on monitoring and mitigation measures and advice to member governments. Governments were recommended to implement appropriate monitoring programmes, develop and/or evaluate nationally relevant mitigation procedures and identify and facilitate research and monitoring and mitigation measures that address the recommendations detailed in the Committee's report. The Committee also recommended the earliest possible establishment of long-term monitoring programmes for vulnerable species, and that seismic surveys be designed to use only the amount of acoustic output required for the desired geological objectives.

12.1.1.2 POLLUTION 2000+

The Committee considered the final report of the two sub-projects (on bottlenose dolphins and on harbour porpoises) comprising Phase 1 of the POLLUTION 2000+. The objectives of the bottlenose dolphin sub-project were (1) to select and examine a number of biomarkers of exposure to and/or effect of PCBs and determine whether a predictive and quantifiable relationship with PCB levels in certain tissues exists; and (2) to examine the relationships between concentrations of variables obtained by biopsy sampling with those of concentrations in other tissues that can only be obtained from fresh carcasses. For the first time an individual based model was constructed that simulated the accumulation of PCBs in the population and allowed modification of first year calf survival based on maternal blubber PCB levels. The objective of the harbour porpoise sub-project was to determine changes in concentrations of selected variables with post-mortem times. This makes it possible to use incidentally caught animals in pollutant studies.

The Committee commended the scientific output of Phase I and agreed that it had certainly contributed to the Commission's request to give priority to research on the

effects of environmental changes on cetaceans. The Committee concurred with a recommendation from the POLLUTION 2000+ Steering Group that before any decision is taken on implementing Phase II, an interdisciplinary workshop should be held to identify the needs for a Phase II and, if appropriate, design an outline research proposal for continuation of the programme.

12.1.1.3 ECOSYSTEM MODELLING

The question of ecosystem modelling in the context of cetacean conservation is an important one and has been addressed by the Scientific Committee on a number of occasions before. This year the Committee agreed to work collaboratively with both CCAMLR and FAO initiatives. The Committee agreed on the following with respect to the applicability of ecosystem models for the use of the Committee in providing advice to the Commission:

- (1) spatial modelling is a valuable tool to explore possible effects of anthropogenic stressors;
- (2) there is a great need for the proper incorporation of uncertainty in ecosystem models;
- (3) there is a critical lack of data, in particular at the lower trophic levels, to evaluate the reliability of models;
- (4) some models can be useful to generate hypotheses regarding trophic dynamics; and finally
- (5) that there is a need for an increased collaboration between scientists designing field studies and those developing analytical models.

12.1.1.4 OTHER HABITAT RELATED MATTERS

The Committee also discussed further collaboration in Southern Ocean research with organisations such as CCAMLR and SO-GLOBEC. It received the State of the Cetacean Environment Report (SOCER) that had a regional focus on the Indian Ocean and considered issues related to sea ice. The Committee agreed to hold a special symposium on infectious and non-infectious diseases in marine mammals prior to the next Annual Meeting. It also agreed to hold a session next year to help develop Terms of Reference for a possible future workshop regarding information that might be gained from the handling and release of cetaceans entangled in fishing nets and marine debris.

12.1.2 Commission discussions and action arising

Brazil, the UK, Australia, Chile and Mexico congratulated the Committee for its work on assessing the potential for seismic surveys to impact cetaceans. Brazil reported that it has adopted precautionary regulations to prevent such damage, and noted that an international seminar on this issue was held last year in Rio de Janeiro. Brazil indicated that it would try to implement the Committee's recommendations. The UK believed that the gathering together of scientists and industry experts for the 2-day workshop had been a major achievement. Australia reported that it is currently reviewing its own guidelines and would report back to the Commission on this review in due course.

With respect to ecosystem modelling, Japan expressed appreciation for the Committee's work this year and supported both the proposed joint workshop with CCAMLR and the participation of IWC scientists in the FAO Expert Consultation. Japan considered that results from its research programmes in the Antarctic and North Pacific could contribute to these activities.

Mexico thanked the Scientific Committee for its ground-breaking work associated with POLLUTION 2000+ and in particular wished to recognise the hard work of Dr Peter Reijnders (Netherlands). Argentina also expressed appreciation for this work and hoped that it would continue.

The UK indicated that it was pleased to receive another SOCER this year. It found the report to be an excellent digest of information and looked forward to receiving further reports. With respect to the handling and release of entangled cetaceans, the UK suggested that in future it would be useful to identify whale populations most likely to be threatened on a global basis.

New Zealand noted the new environmental concerns highlighted by the sub-committee this year, including the potential impacts of ocean acidification on cetacean populations. It supported further examination of this issue in the context of a possible workshop on climate change (see section 15.3 on future work plan). New Zealand endorsed the proposed sub-committee work plan and encouraged Contracting Governments to provide financial and other support.

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

12.2 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.

12.3 Health issues

No matters were raised.

13. WHALEWATCHING

13.1 Report of the Scientific Committee¹⁸

The major topic addressed this year by the Committee concerned quantitative methods for assessing the impacts of whalewatching on cetaceans. The results of three studies, two carried out in Australia, suggested that cumulative effects could jeopardise the viability of populations already at risk or small closed or resident populations. It was agreed that long-term studies are essential to assess whether changes at the individual and/or population level are caused by the whalewatching activities. It is also essential to obtain baseline data from prospective whalewatching areas.

The Committee reviewed a number of studies (in New Zealand, Australia, Canada and Croatia) that provided compelling evidence that the fitness of individual odontocetes repeatedly exposed to whalewatching vessel traffic can be compromised and that this can lead to population level effects. The Committee recommended that similar studies be carried out, wherever possible. The Committee also strongly encouraged the development of similar studies on large whales, in particular, research to determine sustainable levels of whalewatching.

The Committee stressed the need for appropriate study design and analytical methods to enable discrimination between natural ecological variability and anthropogenic

impacts when examining short-term behavioural changes. The Committee recommended that a dedicated workshop to develop a world-wide research design be held.

The Committee also reviewed: data sources from platforms of opportunity of potential value to the Committee; reports from a number of intersessional working groups; potential impacts of 'swim with' programmes; progress on developing a compendium of whalewatching guidelines and regulations from around the world; and risk to cetaceans from colliding with whalewatching vessels.

13.2 Commission discussions and action arising

Australia, New Zealand, the UK, South Africa, Spain, the USA, Chile, Brazil and Monaco welcomed the Scientific Committee's report and its recommendations and encouraged further work on this issue. Australia recognised that its expanding whalewatching industry must grow in a way that avoids damage to cetacean populations. It therefore took seriously the Committee's conclusions and recommendations regarding the Western Australian population of bottlenose dolphins, and would take these into account in future management of whalewatching on this population. Australia informed the meeting that since the study reviewed by the Committee had been completed, it had revised its national guidelines on whale and dolphin watching and would keep them under review.

Referring to the Committee's report regarding bottlenose dolphin populations in Fiordland, New Zealand noted that there was no consensus in the Committee that the changes in the population were entirely due to vessel interactions. For clarification, it noted that the issue is fundamentally a vessel interaction issue, rather than a whalewatching issue, and that the vessels involved are tourist vessels, not whalewatching vessels. Consequently, the vessels are licensed under New Zealand's Resource Management Act rather than under its marine mammal protection regulations. New Zealand reported, however, that its Department of Conservation is looking at ways to address this problem.

The UK noted that it found the studies reviewed by the Committee this year to be particularly valuable. It agreed that it would be appropriate to develop a holistic approach to whalewatching impact assessment and supported the recommendations for a dedicated workshop to develop a world-wide research design. The UK also supported the establishment of an intersessional group to *inter alia* monitor and evaluate opportunistic data collection programmes, particularly those using whalewatching platforms. It believed such data collection programmes could make a valuable contribution to whale management science. The UK noted that it had recently developed a new code of conduct for whalewatching in Scotland and that in some areas of the UK, whalewatching constitutes up to 12% of income from tourists.

Spain reported that its guidelines for whalewatching in the Canaries had been recently modified to better protect cetaceans from disturbance. The USA noted that its whalewatching industry is growing quite rapidly and that it is providing income to communities where fishing has been reduced. Chile noted that it already has guidelines for whalewatching in some areas and that it was in the process of developing further guidance for other areas. It undertook to take the Scientific Committee recommendations into account in this process. Brazil considered that the

¹⁸ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 9 (2007).

whalewatching sub-committee is providing a lot of important information that will help guide countries interested in the non-lethal use of cetaceans. Monaco reported that whalewatching is expanding in the Mediterranean, attracting ecotourists. It noted that it would prefer that such industries are carried out by local people so that the economic benefits are retained by the local communities.

While Japan appreciated that the Scientific Committee had raised the issue of potential impacts of whalewatching on cetaceans, it believed that this work should take a lower priority than other issues. As it had in previous years, Japan considered that the collection of data from whalewatching platforms for scientific research has limitations. It also noted that whalewatching and whaling are often presented as being conflicting activities. However it believed that they can co-exist. Japan considered that it is not necessary to try to increase polarisation within the Commission by unnecessarily creating conflict and noted that both types of activities require abundant whale resources. Iceland associated itself with these remarks. St. Lucia expressed concern that whalewatching can be detrimental to cetaceans and believed that this should be studied closely. It noted that while St. Lucia is not a whalewatching destination, some whalewatching is available but that it is controlled, in the main, by a few rich individuals with little or no grass-roots involvement. St. Lucia reported that it has established a management regime to handle both its whalewatching and fishing activities but that certain external elements are trying to promote conflict. It noted that small cetaceans are part of St. Lucia's managed fisheries providing benefits to coastal communities. However, St. Lucia believed that NGOs in the region are trying to mislead people by suggesting that tourism will decline if the government continues to take a pro-use position in IWC. It noted that tourism is actually increasing. Like Japan and Iceland, St. Lucia considered that whalewatching and whaling can co-exist, but it believed that whalewatching should not replace its cetacean fishery.

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

Pacific Islands whale watch tourism: 2005 an economic valuation

Australia introduced a paper providing a summary of initial findings of an economic valuation of whalewatching in the Pacific Islands. This showed that cetacean-based marine tourism in this region has undergone a strong growth period since an earlier analysis in 1998¹⁹. The main findings included:

- (1) an estimated average annual growth rate of 45% for whalewatching in the region for the period 1998-2005;
- (2) an estimated increase in the numbers of people whalewatching from 10,309 in 1998 to 109,540 in 2005;
- (3) an increase in the number of countries in the region with whalewatching activities, i.e. from 9 in 1998 to 14 in 2005;
- (4) the countries with the strongest annual average growth rates were the Cook Islands, French Polynesia and Guam;

- (5) countries with well established industries in 1998, such as New Caledonia and Tonga, continued to experience sustained growth; and
- (6) countries with newly-identified whalewatching industries include Palau, Papua New Guinea, Samoa and the Solomon Islands.

The report noted that the whalewatching industry in the Pacific is made up of four main groups of operators: full-time dedicated whalewatching; seasonal dedicated whalewatching; opportunistic whalewatching; and land-based whalewatchers. It also noted that the key constraints to the further development of whalewatching in countries where cetaceans are prevalent include low tourist numbers due to accessibility difficulties (e.g. high travel costs) and that in countries where there is a strong tourism market but low whalewatching numbers, the key constraint is primarily due to the inconsistency of cetacean sightings.

First International Workshop on the Management and Non-lethal use of Cetaceans, Argentina, September 2005

Argentina reported on the recommendations from a workshop held in Puerto Pirámides, Valdes Peninsula, Argentina from 27-29 September 2005 on the management and non-lethal use of cetaceans. Recommendations with respect to whalewatching included:

- (1) continuation of work leading to the creation of an International Association for whalewatching operators;
- (2) creation and updating of standards regarding whalewatching activities to ensure their sustainability while taking into account local situations and species;
- (3) that countries adopt the necessary measures to enable effective and transparent auditing of whalewatching activities, including the imposition of sanctions in case of non-compliance with regulations;
- (4) that when adopting whalewatching policies, countries consider the specific situation of small businesses and local communities and adopt the necessary policies to ensure that benefits generated by whalewatching revert to the local communities, whalewatching activities and conservation of the cetacean populations;
- (5) development of a voluntary code of conduct for whalewatching enterprises;
- (6) development of a protocol of good whalewatching practices that incorporate the different cultural and geographical variants and species involved;
- (7) encouraging commitment and active participation of local communities in the conservation of cetaceans and their habitat;
- (8) that all those involved in whalewatching activities (public, private sector and NGOs) adopt the necessary measures to ensure the well-being of cetaceans and their habitat; and
- (9) that countries encourage, promote and protect whalewatching as a matter of national policy, safeguarding the activity from initiatives that may be incompatible with its development and sustainability.

A range of recommendations were also made regarding non-lethal research and regional strategies for the conservation and non-lethal use of cetaceans.

Brazil welcomed the reports from Australia and Argentina. It noted that it had taken part in the Puerto Pirámides workshop and looked forward to further collaboration.

¹⁹ Hoyt, E. 2001. *Whale Watching 2001: Worldwide tourism numbers, expenditures and expanding economic benefits*. A report for IFAW.

14. CO-OPERATION WITH OTHER ORGANISATIONS

14.1 Report of the Scientific Committee²⁰

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), IATTC (Inter-American Tropical Tuna Commission), 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), PICES (North Pacific Marine Science Organisation), ECCO (Eastern Caribbean Cetacean Commission) and UNEP (United Nations Environment Programme – Protocol on Specially Protected Areas and Wildlife of the Cartagena Convention for the Wider Caribbean). The FAO (Committee on Fisheries) had not met during the IWC intersessional period.

A representative from UNEP provided information on the Protocol on Specially Protected Areas and Wildlife (SPA) of the Cartagena Convention for the Wider Caribbean.

14.2 Commission discussions and action arising

The Commission noted the Scientific Committee report and the report by the representative from UNEP on SPA. During this report, the relevance of the SPA to the work of IWC was identified and recent developments, ongoing work and next steps were summarised.

Nicaragua noted what it considered to be the remarkable work on the conservation of dolphins that IATTC has done through the AIDCP (Agreement on the International Dolphin Conservation Programme) and urged the IWC Secretariat to co-ordinate with IATTC regarding information and data collection. It noted that in the Central American region, the tuna industry provides significant employment opportunities and indicated that the countries in this region give preference to the tuna Convention rather than to the IWC. In addition, Nicaragua requested that the Secretariats of the two conventions liaise regarding timing of their Annual Meetings which in the past have frequently overlapped.

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

15.1 Small cetaceans

15.1.1 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.

This year, the primary topic was small cetaceans in the Caribbean (excluding the Gulf of Mexico) and western tropical Atlantic. This area is characterised by complex oceanographic and topographic features, with over 26 species of small cetaceans occupying different and diverse habitats varying from coastal lagoon, mangrove and reef systems to open oceanic waters. In general, although work is being carried out in several areas, considerable additional work is needed to understand the distribution, stock structure, abundance and status of species in the region. Few abundance estimates exist and stock structure remains unknown in most cases. This requires local and international collaboration, co-operation, training and assistance. Directed takes in this area include subsistence removal for food and live capture for dolphinarium both within the region and globally. There was little new information on the subsistence takes and the extent of current directed hunts is unclear. There is evidence of incidental catches of several species in many fisheries but little information on levels. The situation with respect to live captures and dolphinarium is somewhat unclear. Boat traffic and habitat degradation, including chemical pollution, are also potential threats to cetaceans in the region. A collaborative effort is required to assess the impact of removals and other threats, and to document the status of populations in the region.

The Committee also reviewed progress on previous recommendations, in particular on the baiji of the Yangtze River, the world's most endangered cetacean. It welcomed news of some international collaboration. It noted that there are apparently plans to capture baijis and put them in a semi-natural oxbow reserve. While noting its previous discussions on the relative merits of this approach, it agreed that should any baijis be found and captures attempted, scientists with relevant expertise must be able to contribute directly to the process.

The vaquita is also critically endangered. The Committee welcomed new initiatives to estimate current abundance and to study habitat requirements, but emphasised that highest priority must be the urgent investment of more resources for bycatch mitigation. In this regard, the Committee emphasised that pingers are not an appropriate measure for the vaquita.

The harbour porpoise is exposed to high bycatches throughout most of its range. The Committee therefore welcomed new results on abundance in the North Sea and adjacent waters from the SCANS II project, and plans for further studies in the North Atlantic (e.g. as part of the trans-NASS programme). It noted information from NAMMCO that there are probably substantial levels of bycatch in Icelandic and Norwegian fisheries and endorsed the view of the NAMMCO Scientific Committee that better

²⁰ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 9 (2007).

estimates are needed to assess the sustainability of these bycatches as well as directed catches in Greenland.

The Committee has also previously expressed concern at the degradation of important habitats for humpback dolphins. It expressed serious concern over plans for industrial development in Sanniang Bay, Southern China where there is a small resident population in an as yet pristine area. Given information on captures of humpback dolphins in Guinea, the Committee recommended that appropriate surveys be implemented to obtain further information on distribution and abundance.

The Committee reviewed progress on other recommendations, *inter alia* on white whales and narwhals, small cetaceans in the Black Sea, and Dall's porpoise, and reiterated its previous concerns and recommendations. It also endorsed plans for a major survey in the ACCOBAMS region (which includes the Black Sea). In 2004, it had recommended surveys to be undertaken on the abundance of franciscana, and was pleased to receive new information from the southern coast of Brazil.

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.

15.1.2 Commission discussions and action arising

Belgium, Switzerland, the UK, Brazil, Mexico, Spain, Finland, Luxembourg, Argentina, the Netherlands and Chile thanked the Scientific Committee for its work.

Belgium welcomed the review of small cetaceans in the Caribbean and the western tropical Atlantic, but expressed some concern that the review was only partial since not all Caribbean countries had taken part. It noted that the lack of information on abundance estimates, incidental takes and life-history data prevented the assessment of the status of any of the species in the area. Belgium also noted with concern the illegal directed catch of botos – the Amazon river dolphin – in Brazil for use as fish bait. It encouraged studies to determine the scale of the catch and the status of the boto populations in Brazil and neighbouring countries. The UK associated itself with Belgium's remarks. Brazil indicated that it would take the Committee's recommendations seriously and investigate the matter further. Noting that the Scientific Committee had reiterated its concerns over the sustainability of Japan's Dall's porpoise hunt, the UK asked Japan whether it would be making information on abundance estimates of this stock publicly available as it had indicated it would do last year and whether revisions to the quota could be expected. Luxembourg associated itself with Belgium and the UK. Finland also expressed concern regarding Dall's porpoise. Switzerland and Mexico indicated that they consider that IWC has responsibility for all whales, both large and small, and Mexico noted that it had benefited from the Committee's work on the vaquita. Spain reported on the on-going work in the Mediterranean to develop methods for multi-species census, noting that an international workshop on this subject had been held in December 2004 in Segovia. The Netherlands commended the Committee's work on endangered species of small cetaceans.

Responding to the comments regarding its Dall's porpoise hunt, Japan recalled its well-known position that it believes small cetaceans to be outside the mandate of the Commission and that management of small cetaceans is

most appropriate at a regional or national level. It noted that it issues annual stock assessments of its major fisheries, which include information on cetaceans. It further noted that this report is available in Japanese only.

Responding to the comments of Belgium, St. Lucia recalled that it had made it clear at last year's Scientific Committee meeting that the islands of the Eastern Caribbean would not submit data to the small cetacean sub-committee as they do not recognise the competence of the IWC over small cetaceans. St. Lucia noted that at the meeting in 2004, it had reported that the islands of the Eastern Caribbean were conducting an FAO project – the lesser Antilles Pelagic Ecosystem Project – which involves *inter alia* comprehensive cetacean surveys. It is anticipated that abundance estimates for cetaceans in this area will be available in 2007. St. Lucia expressed disappointment with the comments on Dall's porpoise, particularly since this had not been a focus of the sub-committee's discussions. It expressed regret that there had been so little comment on other small cetacean species reviewed. St. Lucia believed that some countries were simply taking the opportunity to criticise Japan.

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

15.2 Other activities

15.2.1 Report of the Scientific Committee

15.2.1.1 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 was made on the most challenging module (i.e. the development and validation of a program to simulate realistic genetic datasets) and the Committee reviewed the results of an intersessional workshop to build on this and begin the testing of some existing methods held at the University of Potsdam in March 2006. The primary achievements of the workshop are summarised below.

- (1) Considerable progress was made in the detailed computing work needed to:
 - (a) identify and fix problems in the linking of the coalescent (SIMCOAL) and individual based

model (RMETASIM) required for simulating datasets; and

- (b) complete the control program that generates genetic samples from the datasets developed by RMETASIM, passes the samples to the boundary setting methods, runs the management algorithms, and collates the performance statistics.
- (2) The technical specifications for the initial TOSSM trials (demographic structure, genetic structure, initialising the population matrix, harvesting and catch control, sampling and trials) were completed.
- (3) An initial set of methods to be tested within the framework was identified, along with issues related to automation for boundary-setting, and the people who would 'champion' each method.
- (4) Preliminary results were available from two population structure methods, showing example boundary-setting algorithms in use through a complete run of TOSSM.

The Committee endorsed the report of the workshop and the plans to take this work forward during the intersessional period.

15.2.1.2 DNA TESTING

This item is discussed in response to Commission Resolution 1999-8²¹. Last year it was agreed that validation of DNA sequences in GenBank and other such repositories should be done routinely and an intersessional Working Group was established to develop and implement a protocol to carry this out. This year, the Committee reviewed the Working Group's report and agreed that:

- (a) the best available vehicle for the validation is DNA Surveillance;
- (b) three types of inconsistencies/errors should be targeted in the validation, i.e. quality of submitted sequences, accuracy of species identification and accuracy of geographical location;
- (c) validation should be performed annually; and
- (d) the first priority for validation should be given to baleen whale species currently under genetic investigation by the Committee.

Following a discussion on how to handle and report errors or anomalies detected in validations, the Committee agreed that there should also be feedback to GenBank.

The Committee welcomed information on the collection and archiving of samples from catches and bycatches for the DNA registers held by Norway, Japan and Iceland.

15.2.1.3 REPORTS AND PUBLICATIONS

The Committee reaffirmed its view of the importance of National Progress Reports on research and recommended that the Commission urged member countries to submit them following the approved guidelines. A modified report template, taking account of recent updates in relation to information on bycatch will be made available on the IWC website (www.iwcoffice.org). The Committee indicated that it would welcome reports from non-member governments.

A large number of papers had been published the previous year in the Commission's *Journal of Cetacean Research and Management* and it was noted that the *Journal* continues to attract increasing numbers of submissions. The importance of Committee members

urging their respective institutes and colleagues to subscribe to the *Journal* and to submit high quality papers to it was re-iterated. The success of the *Journal* will be greatly increased as it becomes established in more institutional libraries.

15.2.1.4 LONG-TERM ISSUES REGARDING SOWER CRUISES

The Committee noted that it has been, and remains very grateful to Japan for providing the vessels for the IDCR and SOWER cruises over many years. Before last year's cruise, Japan informed the Committee that for budgetary reasons, it would only be able to provide one vessel. At last year's SOWER planning meeting, a strong request was made for the Government of Japan to reconsider whether in the future it might be able to provide a second vessel and other IWC member nations were requested to consider contributing vessels or equivalent ship time to the SOWER programme. The need for cooperation with other organisations was also raised. The Committee concurred with these recommendations.

15.2.2 Commission discussions and action arising

With respect to work on DNA testing, Sweden noted the extensive work being done by Norwegian and Japanese scientists and asked to what extent this information was fed into a gene bank for others to use. Norway and Japan both indicated that the information is not fed into gene banks and that they had stated their policies on this work previously to the Commission.

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

15.3 Scientific Committee future work plan

15.3.1 Report of the Scientific Committee

The Chair of the Scientific Committee described the work plan drawn up by the sub-committee Convenors, with the agreement of the Scientific Committee, after the close of the Committee meeting. The work plan takes account of:

- (1) priority items agreed by the Committee last year and endorsed by the Commission and, within them the highest priority items agreed by the Committee on the basis of sub-committee discussions;
- (2) general discussions in the full Committee on this item and in particular the need to reduce the Committee's workload; and
- (3) budget discussions in the full Committee.

15.3.1.1 RMP

As last year, this Committee will concentrate on general issues as well as preparations for *Implementation*. The following were agreed. They all have high priority.

GENERAL ISSUES

- (1) Further evaluate proposed 'threshold' levels for the Guidelines and Requirements for *Implementation*.
- (2) Proposed amendments to the RMP, focus on *MSY* rates.

IMPLEMENTATION PROCESS

- (3) Complete western North Pacific Bryde's whale *Implementation* (one intersessional workshop).
- (4) Plan for start of North Atlantic fin whale *Implementation*.

²¹ *Ann. Rep. Int. Whal. Comm.* 1999: 55.

15.3.1.2 AWMP

The priority topics for this sub-committee are:

- (1) to complete the bowhead *Implementation Review* (two intersessional workshops);
- (2) to review progress on the Greenlandic Research programme and provide management advice;
- (3) advice on St. Vincent and The Grenadines fishery;
- (4) preparations for the gray whale *Implementation Review*; and
- (5) consideration of other large whale species in Greenlandic waters (at request of Commission meeting).

15.3.1.3 BOWHEAD, RIGHT AND GRAY WHALES

The highest priority will be to:

- (1) review new information on the B-C-B Seas stock of bowhead whales; and
- (2) based on advice from AWMP, undertake the annual review of catch information and new scientific information for the B-C-B Seas stock of bowhead and ENP gray whales in order to advise the Commission as request in Schedules 13(b)(1) and (2).

The sub-committee will also:

- (3) review new information on western North Pacific stock of gray whales; and
- (4) review new information on the eastern Arctic bowhead whales.

To the extent that time permits it may also consider:

- (5) right whales and other small stocks of bowhead whales.

15.3.1.4 IN-DEPTH ASSESSMENT

The highest priority will be given to:

- (1) producing agreed abundance estimates of Antarctic minke whales;
- (2) further examination and agreement on possible reasons for differences between minke abundance estimates from CPII and CPIII;
- (3) continued development of the catch-at-age analyses of the Antarctic minke whales; and
- (4) developing recommendations for future SOWER cruises, both for the short- and long-term.

It will also:

- (5) consider beginning a North Pacific sei whale in-depth assessment.

15.3.1.5 NORTH PACIFIC COMMON MINKE WHALES

A separate Working Group will continue with high priority to work towards completion of the in-depth assessment of western North Pacific common minke whales, with a focus on 'J' stock, and in particular:

- (1) continued investigation of stock structure;
- (2) continued work on distribution and abundance;

and, if documentation is available:

- (3) development of a standard CPUE series.

15.3.1.6 BYCATCHES AND OTHER ANTHROPOGENIC REMOVALS

Highest priority is given to the following.

- (1) Further review of information and methods to estimate bycatch based on fisheries data and observer programmes, including:

- (a) collaboration with FAO on collation of relevant fisheries data;
- (b) progress on joining the Fishery Resource Monitoring System (FIRMS) partnership;
- (c) review of modelling approaches to determining appropriate levels of observer coverage;
- (d) report back on EU bycatch monitoring schemes;
- (e) review report from NOAA Workshop on the bases for determining serious injuries in whales; and
- (f) review other methods of determining survival of previously entangled whales.

- (2) Further consider methods to estimate bycatch based on genetic data:

- (a) review progress on intersessional work related to market sampling.

- (3) Further review of information and methods to estimate mortality from ship strikes:

- (a) review results of data collected on vessels relevant to ship strikes.

If time and documentation allows, it may also:

- (4) consider methods for estimating additional human induced mortalities, e.g. from acoustic sources and marine debris.

15.3.1.7 SOUTHERN HEMISPHERE WHALES OTHER THAN ANTARCTIC MINKE WHALES

High priority will be given to the following.

- (1) Completion of assessment of humpback whale Breeding Stocks B and C including:

- (a) review of abundance estimates;
- (b) potential to estimate trends from mark-recapture analysis;
- (c) progress on stock structure hypothesis in the breeding grounds;
- (d) feeding ground/breeding ground differentiation and connectivity (for catch allocation);
- (e) stock structure of feeding grounds;
- (f) stock structure hypotheses, catch allocation, abundance estimates and trends in abundance; and
- (g) completion of assessment for Breeding Stocks B and C.

- (2) Finalisation of the Southern Hemisphere catch data series.

- (3) Progressing the blue whale Comprehensive Assessment:

- (a) updated catch series;
- (b) review progress of the intersessional working group;
- (c) complete work identified in last year's work plan;
- (d) review genetic, telemetry, photo-identification and acoustics information on migration and distribution; and
- (e) review photo-identification data and possibility of mark-recapture approaches.

It will also:

- (4) examine historic catch data and the JSV data to improve knowledge of humpback whale distribution at mid-latitudes; and

- (5) further examine issues of N_{min} and depensation for population modelling of humpback whales.

If time and documentation allows, it may also:

- (6) consider information for other humpback whale breeding stocks.

15.3.1.8 ENVIRONMENTAL CONCERNS

Highest priority will be given to reviewing:

- (1) the report of the symposium on infectious and non-infectious diseases of marine mammals and impacts on cetaceans (joint session with Small Cetaceans Subcommittee);
- (2) the report of intersessional workshop on POLLUTION 2000+;
- (3) progress under SOC;
- (4) planning and coordination of IWC's participation in the CCAMLR IPY survey in 2008; and
- (5) progress with respect to the Commission request on entanglement.

It will also:

- (6) review progress on a possible climate change workshop; and
- (7) receive the SOCER report (focus: Atlantic Ocean and Mediterranean and Black Seas).

If time and documentation allow it may consider:

- (8) progress on acoustics.

15.3.1.9 ECOSYSTEM MODELING (EE)

Priority will be given to:

- (1) reviewing progress on joint CCAMLR/IWC workshop on modelling Antarctic krill predators; and
- (2) reviewing collaboration with FAO.

15.3.1.10 STOCK DEFINITION

High priority will be given to:

- (1) statistical and genetic issues relating to stock definition;
- (2) reviewing progress with TOSSM (in particular with respect to STRUCTURE); and
- (3) considering issues of data quality.

If time and documentation allow it may consider:

- (4) unit-to-serve.

15.3.1.11 WHALEWATCHING

High priority will be given to:

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

It will also, as time and documentation allow:

- (3) consider whalewatching in Alaska;
- (4) discuss and organise a workshop on the strategic planning of large-scale whalewatching research;
- (5) consider reports from intersessional Working Groups: (i) identifying data sources from platforms of opportunity of potential value to the Committee; (ii) further development of a questionnaire and improved methodologies to assess the extent and potential impact of swim-with-whale operations; (iii) improvement of data collection from whalewatching operations including further development of the DRS;

and (iv) strategic planning of large-scale whalewatching research;

- (6) review whalewatching guidelines and regulations; and
- (7) review risks to cetaceans from whalewatching vessel collisions.

15.3.1.12 SMALL CETACEANS

Highest priority will be given to:

- (1) population structure, systematics and status of killer whales.

The following issues will also be addressed:

- (2) joint session with Environmental Concerns group on infectious and non-infectious diseases workshop review;
- (3) review of catches; and
- (4) progress on previous recommendations.

15.3.1.13 SCIENTIFIC PERMITS

Priority items will be to:

- (1) review the report of the intersessional JARPA review workshop;
- (2) review of results from existing permits;
- (3) review new or continuing permits; and
- (4) continue to discuss process for reviewing permits.

15.3.1.14 DNA

Priority items will be:

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

15.3.2 Commission discussions and action arising

Ireland noted that the proposed RMP work plan made no mention of further work on Norway's proposed revisions to the *CLA* and requested confirmation that no work would be undertaken. The Scientific Committee Chair indicated that if Norway submits a paper to the Committee next year, then it would be discussed under RMP General Issues. Ireland expressed concern that Norway could request work to be done by the Scientific Committee without prior permission from the Commission. Norway reported that at IWC/56 in Sorrento in 2004 it had given notice to the Scientific Committee and to the Commission of its plans to propose revisions to the *CLA* and that it would follow the protocol agreed for such changes. It noted that no objections were raised by either the Scientific Committee or Commission at that time. It reminded the Commission that according to the protocol, it is the country proposing changes that bears the costs involved in simulation studies. Norway noted that it had reported on progress with its work last year and this year. It had received a number of useful comments and suggestions from the Scientific Committee. It intended to follow-up on these to the extent possible and present the results next year.

With respect to the AWMP, and noting its comments under item 7.4.2, Denmark requested the Scientific Committee to give priority to the Greenlandic Research Programme on minke and fin whales and to review stocks of humpback whales in West Greenland waters and bowhead whale stocks in the Davis Straits, East Canadian

Arctic. The Chair of the Scientific Committee indicated that these requests would be handled in the usual way.

The Russian Federation drew attention to its statement to the Scientific Committee regarding catch data, i.e.:

'For the last few years, the Russian delegation has made a statement about the necessity for independent experts with primary information on whaling (vessel logbooks, scientific reports, etc.) to present these materials at the national level so that they may undergo an expert review. This had not been done. The Russian delegation asks not to use the political term 'Soviet data' or 'false Soviet data' any further. We consider that if there is any opinion on historical whaling in Antarctica or the North Pacific which has not been reviewed at the governmental level it is correct to use the term 'alternate opinion on catch data on historical whaling in Antarctica or the North Pacific'. On the grounds of the foregoing, the Russian delegation is also against IWC funding of the USSR catch data finalisation work. This work can and must be funded on a voluntary basis.'

The Russian Federation noted that although it has made such a statement on a number of occasions, it has been ignored both by the Scientific Committee and by the Commission and has not been reflected in the Chair's Reports. It requested that its view be noted properly this year. Japan, Australia and the USA expressed sympathy with the Russian Federation and requested that its views be taken into account and reflected in the report. Australia hoped that the Russian Federation could nevertheless continue to recognise the value of catch history data and that the Scientific Committee should continue to explore the validation of data.

15.4 Adoption of the Report

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

16. CONSERVATION COMMITTEE

The Conservation Committee met on 9 June 2006 chaired by Bo Fernholm (Sweden). Delegates from 25 Contracting Governments participated. A summary of the discussions is provided below. The full report is given in Annex G.

16.1 Report of the Conservation Committee

16.1.1 Conservation Agenda

16.1.1.1 INVESTIGATION OF INEDIBLE 'STINKY' GRAY WHALES

The USA, Mexico and the Russian Federation reported on progress with their investigations into the cause of 'stinky' gray whales.

The USA noted that since 1998, Russian aboriginal hunters have been reporting a number of hunted whales that exhibited a strong medicinal odour and that tissues from these whales have been deemed inedible by hunters. No known cause has been found. As agreed last year a collaborative study has begun, and in 2006 samples were received from two stinky whales taken in the 2005 hunt. The USA noted that analyses are underway in the Russian Federation and the USA and that data will be available later in 2006 for review by scientists in Japan, Norway and other interested countries. A report will be available at the next IWC meeting.

The Russia Federation reported that two publications have been made concerning preliminary work on 'stinky' gray whales, one in 2004 and one in 2005. It noted that, in addition to chemical analysis, toxicological studies would also be carried out, and that a full report would be made to IWC next year.

Mexico reported on a related gray whale study (breeding and calving grounds) started in March 2006 to obtain breath samples for chemical analyses from free swimming whales. Samples will also be obtained from free swimming gray whales in the autumn of 2006, offshore the State of Washington (feeding grounds). Results of these studies will be made available to the Scientific Committee next year.

Mexico referred to comments of the Russian Federation at the Conservation Committee last year²² indicating that there is information that the winter habitat areas of gray whales in Mexico are chemically polluted. Mexico questioned this since:

- (a) the only industry in the area is a salt works;
- (b) that studies on pollution in the 1990s indicated that the lagoons are not a threat to whales in terms of pollutants; and
- (c) gray whales either do not feed or only feed opportunistically in Mexican waters.

Nevertheless, Mexico indicated that it would do whatever is needed to solve the 'stinky' gray whale problem.

16.1.1.2 SHIP STRIKES

A small working group of interested parties was established at IWC/57 to examine ship strikes. The group was led by Belgium and consisted of Brazil, Australia, Argentina, New Zealand, Luxembourg, UK, South Africa, USA, Italy and France.

Belgium reported on the progress of the Ship Strikes Working Group (SSWG). It identified four technical mitigation measures (detection and avoidance manoeuvres, repulsion, protection and training) and indicated that a combination of these is necessary to mitigate ship strikes. Belgium drew attention to the report's five recommendations:

- (1) all National Progress Reports on cetacean research submitted by IWC members should include ship strikes data in a format allowing their full utilization;
- (2) set up a centralized international database on ship strikes;
- (3) as appropriate, adopt national and regional legislation, rules and action plans to reduce the impact of ship strikes, with priority for high-risk areas;
- (4) identify and circulate information on training material for crew and maritime and marine officials; and
- (5) continue the work of the Ship Strikes Working Group, widen its membership and circulate the progress report widely.

Belgium indicated the need for co-ordination with the International Maritime Organization (IMO) and suggested the possibility of a collaborative agreement between the IWC and the IMO. It also reviewed the report's list of priority actions after IWC/58, i.e. follow-up actions by the Ship Strikes Working Group and actions which might be considered by the Scientific Committee.

The USA provided a summary of the actions it is taking, including domestic regulatory measures, to reduce the threat of ship strikes to North Atlantic right whales (see Annex G).

The Scientific Committee Chair summarised the Committee's discussions on ship strikes, including its review of the report of a recent workshop on large whale ship strikes in the Mediterranean Sea held jointly by

²² *Ann. Rep. Int. Whal. Comm.* 2005: 102.

CMS-ACCOBAMS and the Pelagos Sanctuary. He noted that the Committee had endorsed the workshop's recommendations relating to estimating the number of ship strikes and the need for joint work between the IWC Scientific and Conservation Committees and the Secretariats of IWC and ACCOBAMS, and that it had made a number of other recommendations for further work on ship strikes. The Committee had also agreed that development of a single international database of collisions between whales and vessels for the Southern Hemisphere would be extremely valuable, and that particular attention should be given to standardisation of information and data quality control. It therefore welcomed the Ship Strikes Working Group's recommendation to have a single database.

The Secretary drew the Committee's attention to a CMS Resolution on Adverse Human Impacts on Cetaceans, noting that CMS would like to co-operate with IWC on this issue. The Conservation Committee expressed its support for the Resolution and to working with the CMS.

The Conservation Committee agreed with the follow-up recommendations made by the Ship Strikes Working Group, as well as with Belgium's recommendation for co-ordination with the IMO. It was also agreed that the SSWG report, together with relevant extracts from the Scientific Committee report, should be forwarded by Belgium to IMO (in the absence of a formal co-operative agreement between IMO and IWC Secretariats). The Secretariat was also asked to send the SSWG report to CMS.

16.1.2 Whale sanctuaries

16.1.2.1 PROPOSED SOUTH PACIFIC WHALE SANCTUARY

Australia and New Zealand had submitted a paper that reviewed the status and trends of whale populations within the South Pacific and described in detail some of the threats to whales and their habitat in this area. The paper noted *inter alia*, that a South Pacific Whale Sanctuary would: (i) protect whale populations in the region which remain seriously depleted, and facilitate their recovery; (ii) protect critical great whale breeding grounds and migratory routes; (iii) allow stocks to reach their carrying capacity and fluctuate according to natural determinants; (iv) provide a management tool that reinforces the efforts of other mechanisms to prevent species from becoming threatened with extinction; and (v) provide economic benefits through non-consumptive use of whales. The paper concluded that the poor population status of most great whales in the region, when considered in light of the absence of detailed biological and habitat-use information and the absence of reliable information on threats to these whales, dictates a conservative approach to management. It recommended that the Conservation Committee encourage further work on these issues both in the region and through the IWC.

A number of countries expressed their strong support for the recommendations for further work contained in the paper, believing that the paper made a strong case for a sanctuary. Denmark noted that Australia and New Zealand were not proposing the establishment of a sanctuary at this meeting, and expressed its view that the paper did not fulfil the criteria for a sanctuary. Australia indicated that it would conduct further work on these issues, that a sanctuary proposal would be made to the IWC in due course, and that the IWC clearly has competence regarding sanctuaries.

The Conservation Committee agreed with the paper's recommendation for further work on issues relevant to threats to whales and their habitat in the South Pacific.

16.1.2.2 PROPOSAL TO ESTABLISH A SOUTH ATLANTIC WHALE SANCTUARY

See section 9.2.1.

16.1.2.3 INFORMATION ON OTHER SANCTUARIES

France commented on the establishment of a cetacean sanctuary in the French West Indies and described the sanctuary's goal (see also item 9.4.1). New Zealand indicated that Vanuatu recently declared a whale sanctuary in its Exclusive Economic Zone, and that over 11 million square kilometres of the South Pacific are protected by sanctuaries in countries' Exclusive Economic Zones.

16.1.3 National reports on cetacean conservation

The Committee reviewed voluntary national reports on cetacean conservation from Argentina, Australia, Brazil, Chile, France, Mexico, New Zealand and the UK. As last year, these reports were welcomed and the Conservation Committee encouraged more countries to submit them next year. The USA indicated that it intended to do so.

16.1.4 Other

Australia repeated its view that the Chair of the IWC, not the Conservation Committee, should address the Conservation Committee's Terms of Reference.

Several countries indicated that they thought it best that the Conservation Committee continue to focus on a small number of priority areas, e.g. 'stinky' gray whales and ship strikes. There was some support for the Committee to address in future the conservation issues that are currently addressed by the Commission in Plenary, although it was noted that the Committee should not duplicate work of other parts of the Commission but rather seek to add value in preparing for discussion of issues in Plenary. Luxembourg proposed that the Committee examine impacts of whalewatching on small cetaceans as recommended by the Scientific Committee. The Conservation Committee noted Luxembourg's proposal and invited it to present a written proposal for next year.

Norway indicated that it did not agree with the establishment of the Conservation Committee. It had not therefore participated in the discussions, reserving any comments for the Plenary. Korea stated that in its view the discussion was one sided, did not mention sustainable use and was concerned that many IWC member countries are not participating in the Committee. The Chair expressed the hope that, with time, more countries will join in the Committee's work.

Austria stated that a survey conducted in the framework of the State of the Cetacean Environment Report (SOCER) indicated that 44% of all cetacean papers published in peer-reviewed literature in 2005 were primarily on environment and conservation issues, indicating the relevance of the Conservation Committee.

16.2 Commission discussions and action arising

Sweden, South Africa, the UK, Brazil, Switzerland, Mexico, the USA, Australia, Germany, Argentina, Luxembourg, New Zealand, Czech Republic, Chile and France spoke in support of the work of the Conservation Committee believing that the value of the Committee was now becoming evident. The lead taken by Belgium in the work on ship strikes was commended as was the

collaboration between the USA, the Russian Federation and Mexico in the work on 'stinky' gray whales. With respect to ship strikes, Belgium stressed the need for increased co-operation between IWC and other relevant organisations, the importance of a standardised database of ship strikes and encouraged other countries to take part in the work.

Japan recalled that when the proposal to establish a Conservation Committee was introduced at IWC/55 in Berlin in 2003, it had made its best efforts to achieve consensus in line with its general position that the establishment of any subsidiary body of the Commission should be done in this manner. Japan also recalled that in Berlin it had offered a compromise proposal, i.e. the inclusion of the concept of sustainable use, including consumptive use, in the Committee's Terms of Reference. It noted that this proposal was rejected, leading to increased polarisation of views on the creation of the Committee. Japan indicated that at IWC/58 it could have proposed that the Conservation Committee be discontinued. However, it explained that it had not done so as it did not wish to create further polarisation. Instead, Japan wished to encourage the supporters of the Conservation Committee to include the concept of sustainable use in the group's Terms of Reference and looked forward to such a proposal at next year's meeting. Japan stressed that the concepts of conservation and sustainable use are not mutually exclusive.

Australia, New Zealand, Chile and Belgium commended Japan for not proposing to discontinue the Conservation Committee. Australia recognised Japan's position regarding the Committee's Terms of Reference and suggested that this discussion could be continued at next year's meeting. New Zealand believed that the absence of polarisation of discussions is an important goal to achieve, and noted that the proceedings of the Conservation Committee to date have been non-controversial, non-confrontational and constructive.

Denmark noted that although it had voted against the establishment of the Conservation Committee in Berlin, it accepted that it is now a reality. However, it believed that the Committee did not have enough to do and hoped that in the future it would deal with sanctuaries, environmental and health concerns and whalewatching.

Dominica and St. Lucia associated themselves with the remarks of Japan and Denmark, noting that they too had not supported the establishment of the Conservation Committee. The Russian Federation had also voted against the creation of the Committee. It noted that its position remained unchanged and that it participates in the Committee on a voluntary basis.

The Commission noted the report of the Conservation Committee. Dominica indicated that it could not endorse the report because it believes that the Committee does not have a balanced approach in addressing the Commission's issues. It reserved its position regarding the validity of the Committee. Iceland, St. Lucia and Grenada associated themselves with these remarks. Japan reserved its position regarding endorsement of the report and indicated that it looked forward to receiving proposals next year in relation to the Terms of Reference of the Committee.

17. CATCHES BY NON-MEMBER NATIONS

There were no contributions or discussions under this item.

18. INFRACTIONS, 2005 SEASON

The Infractions Sub-committee met on 9 June 2006 with delegates from 29 Contracting Governments. The Sub-committee's Chair, Lorenzo Rojas-Bracho (Mexico), summarised the group's discussions. The full report is given in Annex H.

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 2005 and 2005/2006 seasons is available as Annex I.

18.1 Report of the Infractions Sub-committee

18.1.1 *Infractions reports from Contracting Governments* REPORTS FOR 2005

REPORTS were reported by Denmark, Republic of Korea and St. Vincent and The Grenadines.

Denmark reported that a dead fin whale was seen in Mantiitsoq in September with a harpoon embedded in its back, i.e. an unreported struck and lost whale. It noted that the incident is under investigation. Denmark also reported the use of an illegal bullet size in the minke whale hunt, but noted that it is unlikely that the police will discover when the bullets were fired or by whom. Responding to a question from the UK regarding the taking of 12 fin whales plus one struck and lost, Denmark clarified that the animals were taken in the 2005 season and were therefore not subject to the voluntary reduction in fin whale quota to 10 fin whales made by Denmark at IWC/57.

The Republic of Korea reported three infractions. All three involved the covert taking of a minke whale by fishing vessels using small harpoons. In all cases, the meat was confiscated. In two cases the violators were imprisoned for 6 months with two years probation. In one case the violators were fined. The licences of the fishing vessels were either revoked or suspended. See Table 2 of Annex H for further details.

St. Vincent and The Grenadines reported that a Bryde's whale had been taken for which it has no quota. The whaling licence was suspended.

FOLLOW-UP ON EARLIER REPORTS

Last year, the Sub-committee noted that some infractions may not be fully resolved during the meeting to which they are reported and agreed to include an item on future agendas to bring such matters forward to the following year. A proposal from Austria and the Secretariat for a revised form for reporting infractions to help identify and follow up unresolved cases was adopted by the Sub-committee. The form simplifies reporting and provides a means for transmitting information to the Commission. It was stressed that Governments may choose whether or not to make use of the new form.

The revised form will be made available on the IWC website (www.iwcoffice.org). A Circular Communication will be sent annually to all Contracting Governments requesting information on infractions and advising that they may use the form from the IWC website.

18.1.2 *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 2005. It also drew attention to a new executive order on the hunt of large whales that came into effect in 2005. A copy would be provided to the Secretariat in due course.

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

The following information was provided:

Denmark: Information on date, position, species, length, sex and the length and sex of any foetus if present is collected for between 60-97% 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 killing method and numbers struck and lost is collected for between 96-100% of the catch depending on the item and of the length and sex of any foetus if present for 75% of the catch. Biological samples are collected for about 54% 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.

St. Vincent and The Grenadines: Information on date, species, position and length is collected for 100% of the catch. Information on sex is collected for 50% of the catch.

Norway: the required information was submitted to the Secretariat as noted in the Scientific Committee report²³.

18.1.4 Submission of national laws and regulations

A summary of national legislation supplied to the Commission was prepared by the Secretariat (see Annex H). New information had been provided in the past year by Belgium, Mexico and Sweden.

Japan noted that changes have been made to its domestic legislation concerning the treatment of bycaught and stranded animals. It intended to forward a copy of this to the IWC.

Austria observed that all EU members are subject to EU legislation and encouraged all EU members who have not yet done so, to submit national legislation on whale issues.

18.1.5 Other matters

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

Following a report by the USA last year of a possible take of a bowhead calf²⁴, the Commission requested the Scientific Committee to provide a definition of a bowhead calf based on its length. The Chair of the Scientific Committee reported on the Scientific Committee's work in this regard. Calves are typically born in May at a length of about 4 to 5m and grow quickly in the first summer. There is a pause in growth of body length shortly after weaning. Therefore, lengths of calves in autumn can overlap with whales that are in their second or even third summers. Baleen length, however, does not appear to overlap. Thus, body length and especially baleen length should be used in combination to assess whether a landed whale is a calf. A landed whale should be considered a calf when its length is 7.5m or shorter and its baleen is less than 60cm.

Following a question from Grenada, the Chair of the Scientific Committee confirmed that very rarely 2nd and 3rd summer animals may still be nursing. He also noted that calves may stray from their mothers for long periods of time in the autumn. Grenada observed that the difficulty of defining a calf has come up in the past in respect to other whaling operations, that lactation is the criterion used in the Schedule and that it was not possible to estimate baleen length before the whale was killed. The Scientific Committee Chair agreed that the criteria could be used to define whether a landed whale is a calf but were not practical for assessing calves at sea. This may mean that very occasionally (<1% based on the last ten year's data) a calf may be taken inadvertently.

18.2 Commission discussions and action arising

The Republic of Korea expressed regret that infractions occurred last year despite government efforts to eliminate illegal whaling and trade in whale meat. It reported that it had handled the violations in accordance with its Fisheries Act and subordinate regulations, and that its Ministry of Maritime Affairs and Fisheries and its coastguard have strengthened enforcement activities, such as monitoring of suspect vessels. Strengthening of enforcement activities will continue.

The Commission took note of and adopted the Subcommittee's report.

19. TOWARDS NORMALISATION OF IWC

Three papers were addressed under this item:

- (1) a paper from Japan on 'normalising the IWC';
- (2) a paper submitted by the Netherlands regarding its view on the future of the IWC; and
- (3) the St. Kitts and Nevis Declaration.

The first two papers were dealt with together.

19.1 Papers from Japan and the Netherlands

19.1.1 Japan's paper on normalising the IWC

Japan recalled that at the RMS Working Group intersessional meeting in Cambridge earlier in the year, the Group agreed to postpone further discussions on completing an RMS. Japan noted that this decision was the outcome of 14 years of discussion and negotiations and took it as an admission that the IWC had failed to carry out its functions mandated by the Convention (i.e., to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry). For this reason, Japan reported that participants of the Working Group supporting the sustainable use of whale resources had tabled a paper on the 'normalisation' of the IWC, recognising with great concern that without normalisation the IWC, which they believed had become a stage for emotional and political conflicts, would lose its *raison d'être* as a resource management organisation. It believed that IWC is on the verge of collapse.

Japan suggested that the IWC is dysfunctional because of fundamental differences in the positions of its members. It noted that while some members try to establish a management system that would allow sustainable use of abundant whale stocks while protecting endangered and depleted stocks, others are opposed to the resumption of any commercial whaling irrespective of the status of whale stocks and irrespective of the fact that the Commission adopted a robust and risk-averse procedure (the RMP) for

²³ *J. Cetacean Res. Manage. (Suppl.)* 9 (2007).

²⁴ *Ann. Rep. Int. Whal. Comm.* 2005: 110.

calculating quotas for abundant stocks of baleen whales in 1994.

Japan believed that the use of cetaceans, like other fishing activities, contributes to sustainable coastal communities, sustainable livelihoods, food security, economic well-being and poverty reduction both through domestic use and international trade. It considered that whales should be treated as any other marine living resources available for harvesting subject to conservation and science-based management.

Japan suggested that a dysfunctional IWC is tragic for both whaling peoples/communities and whale resources because they require good conservation and management for their future existence. It therefore believed that the normalisation of the IWC so as to fulfil the provisions of the Convention is imperative and urgent.

Japan believed that responsible management of whaling requires respect for the Convention and its interpretation, i.e. protecting endangered and depleted species while allowing the sustainable utilisation of abundant species. It also believed that the moratorium was intended as a temporary measure and that sustainable whaling is possible. Japan suggested that under a 'normalised' IWC, all whaling activities should be appropriately managed using an RMP-like or other appropriate methodology for calculating sustainable harvesting quotas as well as international observers, monitoring and enforcement. No commercial whaling would be allowed for depleted and endangered stocks.

Japan indicated that normalisation of the IWC would be based on respect for cultural diversity and traditions of coastal peoples as well as coastal state rights, relevant national and international law, the need for science-based management, policy and rule-making and consideration of ecosystem approaches, all of which are accepted global standards. It also noted that normalisation would harmonise decision-making policy in the IWC with other international instruments such as regional fisheries bodies, the CBD with its emphasis on sustainable use and the UNESCO Universal Declaration on Cultural Diversity. It stressed that it would not mean a return to historic over-harvesting.

Given the above, Japan proposed that a conference be held during the intersessional period between the 58th and 59th Annual Meetings of the IWC. It would be held outside the auspices of IWC. Its purpose would be to exchange and discuss all ideas for normalising the IWC and, taking into account the causes of current dysfunction of and conflicts in the IWC, to develop and recommend a detailed plan of specific steps for implementing the Convention in a responsible manner. Japan noted that the conference would be open to all IWC members that respect the Convention and wish to act in accordance with its provisions.

Finally, Japan noted that the details of the conference would be developed at a later stage, but that it would welcome inputs from interested parties.

19.1.2 The Netherlands' view on the future of the IWC

The Netherlands believed that the IWC is at a crucial phase. From a scientific and technical perspective, it considered the IWC to have been a highly successful organisation. However, the Netherlands suggested that the discussion currently at the heart of the IWC is, in essence, a political one. Following upon the discussions during the RMS meeting in Cambridge, the Netherlands indicated that it is convinced that there are three items that dominate the

debate in IWC, i.e. scientific permit whaling, the RMS and compliance. It had been disappointed with the discussions on these issues to date because neither 'camp' within IWC had been willing to reach compromises.

The Netherlands hoped that progress could be made at IWC/58 towards breaking the deadlock. If not, it believed that a different approach would be needed and proposed that a high level meeting, probably at Ministerial level, be considered. The Netherlands suggested that such a conference should encompass the three core agenda items as mentioned above and could even contribute to the discussions on the 'normalisation' and 'modernisation' of the IWC. It saw a high level meeting as an inclusive process in which all Contracting Governments and stakeholders could participate.

Noting Japan's paper, the Netherlands sought clarification from Japan on: (1) whether its statement that commercial whaling would not be allowed for depleted and endangered stocks also applied to special permit whaling; and (2) whether the conference proposed could also be at a high level. Japan indicated that it would refrain from answering these questions.

19.1.3 Commission discussions

Most of the discussions focused on Japan's paper. Iceland, Benin, St. Kitts and Nevis, St. Vincent and The Grenadines, Marshall Islands, Côte d'Ivoire, Dominica and Antigua and Barbuda spoke in support of Japan's paper and proposals. Iceland thanked Japan for its initiative and agreed on the need to refocus IWC back to its purpose and accept conservation and management measures that would allow sustainable whaling. It was willing to participate in the type of conference described by Japan. Benin made similar comments. St. Kitts and Nevis noted that despite many years of discussion and compromises being made by pro-sustainable use countries, some countries continue to oppose the acceptance of a workable RMS that would allow IWC to undertake its mandate as a whaling management organisation. It further noted that some countries have indicated that they would never support the resumption of commercial whaling and that even if an RMS is agreed, there should be no link with the lifting of the moratorium. St. Kitts and Nevis considered this position to be a paradox and an illustration of why there is a need to 'normalise' the IWC. It recognised that conservation is essential to effective management, but stressed that the organisation should not be limited to this, adding that it has a responsibility towards the needs of coastal communities and the sustainable use of marine resources. St. Kitts and Nevis supported Japan's proposed meeting and urged that in negotiations, countries set aside their national position and focus on national interests. It noted that it is only possible to negotiate interests, not positions and that compromises would be necessary. St. Vincent and The Grenadines was concerned regarding the polarisation of the organisation which it believed was losing sight of its management function. The Marshall Islands recalled that it was the need for whale oil that led to the over-exploitation of whale stocks in the past, noting that some of the countries now against the resumption of commercial whaling bore some of the responsibility for the depletion of whale stocks. It agreed that there should be no return to the over-exploitation of the past, but believed that whaling could be managed if there is a political will to do so. Côte d'Ivoire agreed that steps should be taken to break

the current deadlock within the organisation. It believed that the right to sustainable use of marine resources should be defended. Dominica considered that the anti-whaling countries are redefining the term 'conservation'. It believed that should there be a resumption of commercial whaling, this would not lead to the over-exploitation of the past. Antigua and Barbuda believed that the Convention is as valid today as it was when agreed in 1946. It believed that unless the polarisation within the organisation ends, IWC will lose its legitimacy and *raison d'être*.

New Zealand indicated that it was unclear as to what Japan means by 'normalisation', although it gathered that Japan considers that IWC has strayed from what it sees as the organisation's central purpose. However, it noted that most of those countries supporting Japan's proposals joined IWC after the moratorium was agreed, and thus adhered to a Convention that included the moratorium. New Zealand considered that the differences among members of the Commission turn on how each sees the Convention in a wider international context. It did not agree that a focus on conservation is hostile to the original purpose of the Convention and noted that world opinion and international law had changed fundamentally over the last 60 years, with a number of Conventions being agreed with an inherent focus on protecting the environment (e.g. UNCLOS, CBS, CITES, UNFCCC). It believed that all nations have a common interest in conserving whales and that there is greater value in whalewatching than in whaling.

Australia noted that it believes that IWC does need modernisation and asked Japan to reconsider replacing 'normalisation' with 'modernisation'. Like New Zealand, it considered that much has changed since 1946 when the Convention was signed. It believed that the world now has a focus on the environment and recalled that even 34 years ago at the first meeting of environment Ministers in Stockholm (i.e. the Stockholm Conference) there was a call for an end to commercial whaling. Australia therefore thought that normalising IWC back to the position in 1946 was strange and contrary to an ecosystem-based approach to management. It did not accept that IWC is a failed organisation or is on the verge of collapse. Brazil made similar remarks, stressing that the change in the world's perspective on and developments in conservation and proper management of resources should be taken into account for the proper management of whales. In contemplating new options, Brazil also stressed the need to recognise the rights of other nations to be free from whaling. Luxembourg associated itself with the remarks of New Zealand, Australia and Brazil. Belgium and Monaco also preferred use of the term 'modernisation', with Monaco noting negative historical connotations of 'normalisation'. Belgium stressed the need to continue to use the currently-agreed RMP and tuning level in any future setting of quotas. It questioned whether Japan's reference to food security is a valid argument.

Sweden was surprised that some countries seemed to be denying that IWC is in a difficult position. Sweden considered the situation to be critical and believed that something needed to be done to improve this. It preferred the use of the term 'harmonisation' to 'normalisation' or 'modernisation' since this term better describes what Sweden would like to achieve. Sweden would like to harmonise the 1946 Convention with current thinking about conservation and the sustainable use of marine resources in today's society and well as with a number of

more recently agreed conventions. It believed this would reduce the current polarisation of views among Commission members. Sweden indicated its willingness to take part in discussions with others with the aim of resolving differences and reaching common agreements. It supported the idea of a Ministerial meeting to help finalise the RMS by focusing on the topics identified by the Netherlands, but also suggested that such a conference could also contribute to making IWC rules more in harmony with those of other relevant organisations. Sweden believed that discussions should be based on an ecosystem approach, including sustainable use and the precautionary principle as interpreted by the best scientific advice available.

The Republic of Korea believed that as a matter of principle, the organisation should try to retain its current regulations. It supported the idea of a conference but preferred that it be focused on harmonisation rather than normalisation or modernisation and believed that there is some common ground to be found among members.

Mongolia welcomed the papers from Japan and the Netherlands, noting that they were both focused on reforming IWC and improving its performance. It suggested that it is largely irrelevant whether the term 'normalisation' or 'modernisation' is used and appealed to Contracting Governments to refrain from condemnations and denunciations but rather to focus on a constructive debate. Antigua and Barbuda considered that replacement of 'normalisation' with 'modernisation' suggested a shifting of the goal-posts with respect to the purpose of the Convention. St. Kitts and Nevis believed that 'normalisation' does not exclude modernisation but that the latter should be seen within the framework of the objectives and purpose of the current Convention.

The USA also appreciated the efforts of Japan and the Netherlands in trying to find a way forward for the organisation. However, it could not commit at this point to a Ministerial meeting as proposed by the Netherlands and expressed concern that Japan was proposing to discuss a way forward outside the auspices of the IWC. It was unsure how the outcome of any such meeting would be fed-back to IWC.

Noting that international law and views evolve, Italy did not believe it necessary to be restricted to the original interpretation of the Convention and believed that the Convention should be kept up to date. It was willing to co-operate in any effort to have a harmonised interpretation of the Convention and its rules and therefore welcomed the proposal from the Netherlands as a constructive step forward. Spain associated itself with these remarks. France and Mexico also supported the proposal to consider a high level meeting. Iceland, Norway, St. Lucia and St. Kitts and Nevis believed that a high level meeting is premature. St. Kitts and Nevis noted that such a meeting would need a negotiated text to consider. Such a text would need to have been developed by technical experts and given that RMS discussions had so far failed to reach agreement, St. Kitts and Nevis believed that development of an agreed text would be impossible at present. Denmark agreed. However, it noted that if a high level conference would be held, it should not focus on the three items identified by the Netherlands, but rather on conservation and whaling. Germany reserved its position regarding the Netherlands' proposal, drawing attention to the discussions on this matter at the RMS intersessional meeting in Cambridge.

Given the discussions, the Netherlands believed that there is some willingness among members to go forward but that there is difficulty agreeing the concept of how this could be done. It did not see much difference between its own proposal and that of Japan.

19.2 The St. Kitts and Nevis Declaration

19.2.1 Introduction

The Chair invited the Declaration to be introduced, noting that he understood that the sponsors' intention was that it be taken as a draft Resolution. This was confirmed by St. Kitts and Nevis.

St. Kitts and Nevis introduced the Declaration on behalf of itself and the other 29 sponsors (i.e. Antigua and Barbuda, Benin, Cambodia, Cameroon, Cote d'Ivoire, Dominica, Gabon, Gambia, Grenada, Republic of Guinea, Iceland, Japan, Kiribati, Mali, Marshall Islands, Mauritania, Mongolia, Morocco, Nauru, Nicaragua, Norway, Republic of Palau, Russian Federation, St. Lucia, St. Vincent and The Grenadines, Solomon Islands, Suriname, Togo and Tuvalu). It reported that an earlier version of the Declaration had been revised on the basis of consultations with Contracting Governments in the margins of the meeting. St. Kitts and Nevis noted that the sponsors of the Declaration believed that IWC has failed to meet its objectives under the terms of the Convention. They believed that while IWC should protect endangered species of whales, it should also regulate the harvest of abundant species in a sustainable way.

St. Kitts and Nevis noted that the use of cetaceans in many parts of the world, including in the Caribbean, contribute to sustainable coastal communities, sustainable livelihoods, food security and poverty reduction. It believed that placing the use of whales outside the context of the globally accepted norm of science-based management and rule-making for emotional reasons sets a bad precedent that risks use of fisheries and other renewable resources. It further noted that the use of marine resources as an integral part of development options is critically important at a time when a number of countries need to diversify their agriculture. St. Kitts and Nevis reported that for the Caribbean, this is an issue of food security and believed that developed countries should not be allowed to impose their values on developing countries that depend on marine resources. Finally, St. Kitts and Nevis noted that the sponsor countries wished to declare their commitment to normalising the functions of IWC based on the Convention and other relevant international law, respect for cultural diversity and traditions of coastal peoples and the fundamental principles of the sustainable use of resources and the need for science-based policy and rulemaking that are accepted as the world standard for the management of marine resources. It hoped that the Commission as a body could support the Declaration.

19.2.2 Commission discussions and action arising

A number of the co-sponsors (i.e. Iceland, Antigua and Barbuda, St. Lucia, Gabon, Republic of Palau and Dominica) endorsed the remarks of St. Kitts and Nevis and urged the Commission to support the Declaration.

The UK, Australia, Germany, Netherlands, New Zealand, Czech Republic, Monaco, Hungary, Ireland, Sweden, India and the USA indicated that they could not support the Declaration as written. Several of them expressed regret given that they could not support

something sponsored by the host government. The UK recalled that at their private meeting on Thursday 15 June, Commissioners had been assured that the Declaration would be circulated in good time and would not be controversial. It therefore had been disappointed that the Declaration had not been distributed earlier. While the UK recognised that the original version had been revised to some extent, it still found that the Declaration subscribed to a view of the interpretation of the Convention that it did not hold. The UK recognised that discussions on the RMS had reached an impasse, but it did not believe that reverting to an interpretation of the Convention that focuses principally on sustainable consumptive use would help overcome the current deadlock. Australia believed that the intention of the Declaration was to divide the Commission. New Zealand made similar remarks, noting that it had problems with every paragraph. Germany noted that the Declaration ignores the necessity to protect whale stocks from commercial and scientific permit whaling and calls into question the moratorium, a measure that Germany considers as one of IWC's major achievements. The Netherlands appreciated the efforts of the sponsors in wishing to improve the functioning of the IWC. However, while it acknowledged that there were some good elements, it could not agree with the whole text. Ireland noted that while the Declaration praises the adoption of the RMP by the Commission, Japan's paper on normalising the functioning of IWC referred to the use of an RMP-like or other appropriate methodology for calculating quotas. Ireland was concerned at this contrast. Sweden indicated that it could agree broadly that IWC is not fulfilling all of its obligations and that it believed that the functions of IWC should be harmonised with other relevant treaties. However, like the Netherlands, while it could support parts of the Declaration, it could not support the whole text in its current state. The USA thanked St. Kitts and Nevis for its efforts to negotiate the text and for the revisions presented, but also could not support the document in its current form.

Noting the different views held, St. Kitts and Nevis requested that the Declaration be put to a vote. Before proceeding with the vote however, Brazil, on a point of order, questioned whether the Commission could vote on a Declaration. It noted that the Declaration did not have the format of a Resolution and was therefore seeking guidance from the Chair on whether it could be voted on in the form in which it was being presented. The Chair noted the somewhat different format, but recalled that when he had previously indicated that the document introduced by St. Kitts and Nevis should be taken as a draft Resolution, no Contracting Government had objected. He therefore ruled that it could be put to a vote. The Chair's ruling was not challenged and the Resolution was adopted when put to a vote (Resolution 2006-1, see Annex C). There were 33 votes in support, 32 against and one abstention.

After the vote was announced, a number of Governments voting 'no' formally disassociated themselves from the Declaration. Brazil challenged the validity of the vote, suggesting that if the sponsors wished to make a Declaration then they should have made it in their own names. In addition, it noted that it does not consider Iceland to be a member of IWC and therefore challenged its vote. New Zealand reminded the Commission that it objected to the reservation to the commercial whaling moratorium lodged by Iceland when it purported to adhere to the Convention in 2001 and 2002.

New Zealand again noted that it considers Iceland's reservation to be incompatible with the object and purpose of the Convention and that it does not accept that the Convention is in force between itself and Iceland. It did not accept that Iceland is properly a member of the Commission and considered that its votes cannot be taken into account when determining the position of the Commission. It therefore took the view that the Resolution did not attract the support of a simple majority of the Commission and that it had therefore not been adopted. Mexico associated itself with the remarks of Brazil and New Zealand. Australia respected the outcome of the vote of the Commission, but noted that the Resolution did not require the Commission to take action and was thus merely a declaration of the views of those sponsoring it. The Netherlands agreed. Israel noted that in principle, a Declaration is something that should be achieved by consensus. It questioned the validity of the vote. The UK indicated that it had difficulty accepting that a Declaration rather than a Resolution can be a statement of Commission policy. If it was the latter, then it could not be associated with it. Spain associated itself with the remarks of the UK. Monaco could not recall a vote having been taken on a Declaration over the past 12 years and hoped that these events would not set a precedent. Belgium associated itself with the comments of Brazil, Australia and Israel and noted that in its view, such types of Declaration should be made at the outset of a meeting. Germany, Italy, France and Argentina dissociated themselves from the Declaration. The USA explained that it had voted against the Declaration as it could not agree with many of the factors listed. It believed that the Declaration did not reflect the path that it felt the IWC should be following.

Iceland regretted that the issue of its membership of IWC had been brought back since it had been resolved at the Special Meeting in Cambridge in October 2002. It recalled that three countries had subsequently presented objections on a bilateral level which in Iceland's view was the proper procedure. It noted that Brazil was not among these. Iceland further noted that since October 2002, it had worked with some of these governments in working groups of the Commission, including some for which Iceland had been the convenor. It requested countries voting against the Declaration to show grace in defeat. Antigua and Barbuda endorsed these remarks. Togo was surprised that countries that seemingly had accepted the Commission's rules then questioned the outcome of the vote. The Gambia believed that if a matter is put to a vote, then the outcome must be accepted. Referring to Australia's comment that the Resolution was only an expression of the views of those countries sponsoring it, Japan suggested that this view should also be applied to those past Resolutions opposing scientific whaling. It noted that no Resolution is binding and that all members of the Commission should accept that due process had taken place. The Republic of Korea found it unfortunate to witness such a division after a vote. St. Kitts and Nevis expressed its hope that the decision would help to move the organisation forward.

20. ADMINISTRATIVE MATTERS

Agenda items 20 to 23 covering administrative and financial matters were considered first by the Finance and Administration (F&A) Committee that met on Monday 13 June 2007 under the chairmanship of Halvard Johansen

(Norway). Delegates from 34 Contracting Governments attended the meeting. The F&A Committee report is included as Annex J.

20.1 Annual Meeting arrangements and procedures

20.1.1 *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.

20.1.2 *Use of languages other than English*

20.1.2.1 REPORT OF THE F&A COMMITTEE

TRANSLATION OF DOCUMENTS

The Secretariat recalled that it presented a paper to the F&A Committee last year providing cost estimates and implications for the provision of document translation at Annual Meetings (see Annex J). In presenting the estimates to the F&A Committee in Ulsan, the Secretariat had 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 and it suggested that these will depend to a large extent on when the documents become available for translation. The Secretariat had also stressed that a move to translation of documents is not a trivial matter either in terms of costs or logistics. Views expressed in Ulsan by member governments 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. 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. However, there had been 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.

For IWC/58, the Secretariat had prepared a paper identifying priorities for document translation. These priorities were developed by seeking the views of francophone countries, given that last year there was general agreement that priorities should be established and that it might be sensible to start with a phased-approach, beginning with translation into French. The following documents had priority for translation based on responses received:

- (1) Report of the Scientific Committee and its Annexes;
- (2) documents prepared for the RMS Working Group;
- (3) Resolutions;
- (4) Proposed Schedule amendments;
- (5) Chair's Summary Report of the Annual Meeting; and
- (6) Chair's Report of the Annual Meeting.

Estimated translation costs were £31,660 to £58,800 depending on whether the translation is done at the meeting or remotely. The Secretariat suggested that if the Commission wished to take a phased-approach, it could consider translation of these documents in the first instance.

With respect to practical considerations, the Secretariat's paper noted that, providing appropriately experienced translators can be found and funding made available, translation into French of the priority documents identified should not present too great a logistical challenge, with the exception of the Scientific Committee Report and its Annexes. It reminded the F&A Committee that in the document prepared for IWC/57, it had indicated that translation of the full Report of the Scientific Committee and Annexes in time for the Commission meeting would effectively be impossible in the time available, given its length and when it becomes available. It noted that last year there was a suggestion to divorce the Scientific Committee meeting from the Commission meeting so as to give more time for translation of its report. While this could be considered, the Secretariat pointed out two disadvantages: (1) new data or analyses may be presented at the Commission meeting to challenge agreed recommendations or agreements reached by the Scientific Committee, without the Scientific Committee being able to examine them thoroughly; (2) increased cost to the Commission, Contracting Governments and observers. However if the Scientific Committee meeting continues to be associated with the Commission plenary, the Secretariat suggested that an abridged (shortened) French version of the Scientific Committee report could be developed, noting that for IWC/56 and IWC/57, scientists from the French delegation to the Scientific Committee had done so on a voluntary basis and planned to do the same this year. If an abridged version was found useful, the Secretariat also suggested that responsibility for arranging for such a document could be transferred to the Secretariat. In this way it would become a Commission activity rather than a voluntary arrangement, although Commission funds would need to be made available in order to do so.

As an alternative to translating meeting documents in their entirety, the Secretariat suggested that either summaries could be translated (in which case documents would have to include a summary), or that abridged (synthesis) versions could be prepared. It was noted that the Government of Monaco had provided a voluntary contribution to be used to develop summaries in French of 'essential documents from key committees'.

In conclusion, while the Secretariat indicated that it could explore the possibilities, options, implications and costs of document translation, moving forward on this issue requires a decision by the Commission as to what it wants to do in this respect. The Secretariat indicated that it believes that given the importance and challenging nature of this issue and its wide-ranging implications to the operation of the IWC, more time needed to be devoted to discussions to develop more concrete proposals. It proposed that this might best be done by establishing a Working Group or Task Force that should meet rather than working solely by email.

In the F&A Committee some members believed that the Commission should move forward now on this issue, particularly given the growing number of member countries for whom English is not their first language, and

noting that there are now some 17 francophone and 9 Spanish-speaking member countries. Recognising the potential cost involved in full translation of all documents, there was support for a phased and pragmatic approach. While there was support for developing an abridged/summary version of the Scientific Committee report, some cautioned against a translated summary being considered as an official summary, noting the difficulties encountered in the past with developing an English summary. Some support was expressed for including a modest provision in IWC's budget to contribute to the translation of a summary of the Scientific Committee Report, e.g. into French. There was support for establishing a Working Group or Task Force but different views on when this should be done. Some considered that a group should be established this year, while the view was also expressed that this should be delayed until IWC/59 to allow further experience to be gained with the translations being arranged voluntarily by France and Monaco.

There was some discussion on whether the intention was to expand the number of official languages of the Commission beyond only English, or whether the intention was to facilitate the effective participation of all Contracting Governments through the use of working languages. The latter was confirmed as was the position that official texts would be in English only. One member considered that document translation and simultaneous interpretation should be dealt with together.

Given the discussions, and as a way to move forward, the Secretariat suggested that for IWC/59 an abridged version in French of the Scientific Committee report and translations in French of summaries of key sub-group reports be prepared building on the experience gained at this year's meeting. Consideration could be given to translating other documents if there were funds available. The Secretariat noted that this would require the continued support through some voluntary contributions, although it suggested that some modest provision should also be made through IWC's budget. The Secretariat also suggested that a Task Force be established this year to develop specific proposals for consideration and possible decision-making at IWC/59. The F&A Committee agreed to this approach, and the Secretariat undertook to develop a more specific proposal and terms of reference for the Task Force for review by the Commission.

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 had therefore agreed that in the first instance, equipment facilities for the provision of simultaneous interpretation facilities be provided by the Commission 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. Arranging for and meeting the costs of interpreters would continue to be the responsibility of relevant Contracting Governments. At IWC/57, some Contracting Governments continued to support the decision taken at IWC/56 while others believed that the Secretariat should be responsible for arranging for interpreters and that the Commission should cover the associated costs.

It was noted that at this year's meeting, France had arranged for and covered the costs of simultaneous

interpreters for the Commission meeting and private meetings of Commissioners. France indicated that while it was pleased to provide these services, this was being done on a voluntary basis. It could not guarantee continued funding and believed that the costs of interpreters as well as equipment facilities should be provided for within IWC's budget as soon as possible. Spain reported that although it had found funds to cover the cost of Spanish interpreters, it had not been able to identify and contract anyone due to a lack of time and manpower. Several members suggested that the cost savings that might be made from moving to less frequent meetings could help offset interpretation costs.

In the absence of cost estimates for interpreters, the F&A Committee agreed that it would be difficult to take any decision regarding budgetary provision. It recognised that the voluntary contribution by France should not be relied on in the long term and agreed that the issue of simultaneous interpretation be included in the terms of reference of the Task Force proposed under discussions on document translation. The F&A Committee Chair asked the Secretariat to co-operate with France and Spain with respect to sourcing suitable interpreters for next year's meeting.

20.1.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Noting the increasing number of francophone members of the Commission and that it had arranged for French simultaneous interpreters at IWC/58 through a voluntary contribution, France also supported the translation of documents into French. It welcomed Monaco's initiative in this respect at this year's meeting. However, it believed that the provision of both document translation and simultaneous interpretation should be included within the Commission's budget, partly because future voluntary contributions could not be guaranteed but mainly because France considered that the use of other languages would make the organisation more efficient and result in higher quality discussions. France recognised the budgetary implications of providing for interpretation and translation in the Commission's budget and suggested that a move to biennial meetings would help defray costs. Monaco made similar remarks, proposing that the Commission include provision for these facilities into its budget as soon as possible. A number of countries thanked France and Monaco for their contributions this year. Spain believed that translation of documents into Spanish should also be included in the Commission's budget. It reported that while it had found money that could have been used to provide simultaneous interpretation for Spanish speakers, it had been unable to contract interpreters for practical reasons. However, it too agreed that there should not be continued reliance on voluntary contributions.

The Republic of Guinea, Mali, Côte d'Ivoire, Benin, Ireland, Switzerland, Belgium, Dominica, Luxembourg and St. Kitts and Nevis supported the views of France, Monaco and Spain.

Germany shared the wish of countries to be able to speak in their own language, but expressed concern regarding the effect on financial contributions if provision for interpretation and translation was made in the Commission's budget. It supported the F&A Committee's recommendation that a Task Force be established to explore this matter further prior to making a decision. The Republic of Korea agreed. Chile indicated that while it would like to be able to speak Spanish at meetings of the

Commission, it could not support a decision for Commission funding at present because the budgetary implications were not fully known. Like Germany, it supported the establishment of a Task Force. Mexico, Kiribati, Argentina, Netherlands and Brazil associated themselves with Chile. Denmark questioned why French and Spanish speakers should have an advantage over other non-English speakers and it indicated that the budgetary implications should be fully known before any decisions are taken. Austria and the Czech Republic associated themselves with the remarks of Germany, Chile and Denmark. Australia supported the proposal for a Task Force to work intersessionally.

SECRETARIAT PROPOSAL FOR INTERPRETATION AND TRANSLATION FACILITIES FOR IWC/59

As requested by the F&A Committee, the Secretariat developed a proposal (Document IWC/58/28) to improve facilities for French and Spanish speaking countries for consideration by the Commission (see Annex K). The Secretariat noted that the costs of the proposal would be met partly from the continuation of some voluntary contributions and partly from the Commission's funds. The approximate cost to the Commission would be in the region of £16,000. Noting that the pre-budgeted RMS intersessional meeting (£17,000) would not take place, the Secretariat indicated that the interpretation and translation work proposed could be undertaken with no need for an increase in financial contributions for 2006/2007. Other aspects of the proposal are summarised below.

INTERPRETATION

- Assuming that France and Spain would again be able to make voluntary contributions, proposed that they cover the salary costs of simultaneous interpreters for interpretation into French and Spanish for the private Commissioners' meeting and the Plenary sessions for 2007 while the Commission covers the travel and subsistence costs. The Secretariat would be responsible for hiring suitable interpreters.
- The host government (USA) to provide an interpretation booth for Japanese interpreters (Japan would cover salary and travel and subsistence costs for their interpreters).

TRANSLATION

- Proposed that the following documents be translated into French: (1) Summary of the Chair's Report for the 2006 meeting; (2) the Annotated Provisional Agenda for IWC/59; (3) Chair's summaries of Commission subgroup reports; and (4) Resolutions and Schedule amendments submitted at IWC/59. The cost would be borne by the Commission.
- Proposed that an unofficial summary of the Scientific Committee Report be translated into French and Spanish using French and Spanish scientists (see Annex K for proposals on how such a summary could be developed). The salary costs of the scientists would be covered by their governments while the subsistence costs would be covered by the Commission.

INTERSESSIONAL EMAIL GROUP

- Proposed to establish an intersessional email group to: (1) review the outline for the summary of the Scientific Committee report; (2) provide advice to the Secretariat, if needed, on choice of suitable translators/interpreters;

(3) develop a recommendation for the F&A Committee with regard to deadlines for translations under (5) to be available. It would also: (4) act as an informal 'quality control' group for the Chair's summaries of Working Groups/Committees during the 2007 meeting; and (5) based on their experience up to the beginning of the Plenary, develop, with the Secretariat, a proposal for full or further implementation for consideration at the 2007 meeting by the Plenary.

The Secretariat's proposal was welcomed and endorsed by the Commission as being a practical and fiscally prudent approach in the short-term to interpretation and translation. France and Spain noted that they hoped to be able to provide voluntary contributions again next year, but stressed that this could not be guaranteed. The USA confirmed that it would be able to provide an interpretation booth for Japanese interpreters at IWC/59. Spain indicated that it could accept the Secretariat's proposal as a trial, but hoped that in future there would be translation into Spanish as well as French. A number of countries expressed concern as to how a long-term, sustainable solution to the use of other languages could be achieved. This issue was subsequently addressed via a draft Resolution (see below).

RESOLUTION ON FRENCH AND SPANISH AS WORKING LANGUAGES OF THE COMMISSION

The Republic of Guinea introduced a draft Resolution on behalf of Benin, Cameroon, Côte d'Ivoire, Gabon, Mali, Mauritania, Morocco, Senegal and Togo. The draft Resolution recognised *inter alia*: the internationally accepted difference between 'official languages' and 'working languages'; the difficulties inherent to the implementation of new working languages within the Commission but wishing to proceed in this direction; and the special contributions made by France and Monaco regarding experimental implementation of French as a working language together with the efforts of others in this respect. The draft Resolution proposed that:

- (1) the Secretariat be instructed to provide translation and interpretation in French and Spanish at IWC/59 in accordance with its proposal (Document IWC/58/28 – see Annex K);
- (2) the Secretariat be requested to investigate the possibility of recognising French and Spanish as working languages of the Commission at next year's Annual Meeting; and
- (3) the Secretariat be requested to develop options, before IWC/59, for the implementation of French and Spanish at future meetings of the Commission, including a possible time frame and cost implications for a final decision to be taken at IWC/59.

The Commission adopted the Resolution (2006-3, Annex C) by consensus, noting the reservation of Denmark.

20.1.3 Frequency of meetings

20.1.3.1 REPORT OF THE F&A COMMITTEE

In Resolution 2004-7, adopted at IWC/56, the Commission had agreed to establish a Working Group that would investigate the implications of less frequent meetings of the IWC. As a starting point 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 Conventions and the extent of the intersessional activities of these Conventions.

At IWC/57 in Ulsan, although many delegations spoke in favour of a move to biennial meetings in principle, a number of potential practical difficulties were noted, including:

- (1) in relation to the setting and review of aboriginal subsistence quotas, and possibly, in the future, commercial whaling quotas;
- (2) that the current heavy programme of work of the Scientific Committee would be difficult to progress if the Committee no longer met annually;
- (3) further delays in reaching agreement on an RMS; and
- (4) the possibility that lengthening the period between Commission/Scientific Committee meetings might increase the number of intersessional meetings which could create difficulties for some, particularly developing, countries to participate fully.

The Commission had noted that since plans were already in place for IWC/58, and that a meeting is needed in 2007 to consider renewal of aboriginal subsistence catch limits, there was sufficient time for further reflection on the issue of meeting frequency. It was agreed that the Working Group established after IWC/56 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.

In the paper prepared for IWC/58 (i.e. IWC/58/F&A5), the Secretariat re-iterated that there is nothing in the Convention that requires the Commission to meet annually. The Schedule, Rules of Procedure and Financial Regulations for the Commission and the Rules of Procedure for the Scientific Committee currently require some annual activities, but these could be amended given the appropriate level of support. The Secretariat therefore suggested that the issue at hand is whether the Commission could adequately conduct its business without meeting annually. It noted that this will depend, at least to some extent on whether work on the RMP and its *Implementations* and the development of an RMS continues.

The Secretariat's paper considered:

- (1) possibilities for moving away from Annual Meetings for the Scientific Committee and the Commission and its other sub-groups;
- (2) cost implications for less frequent meetings;
- (3) timing of any move to less frequent meetings; and
- (4) amendments to the Schedule, Rules of Procedure and Financial Regulations.

The paper suggested that, given the current workload of the Scientific Committee, it would be difficult at least in the short-term for the Scientific Committee to conduct its business without meeting annually, unless the Commission revised its priorities. However, it considered that there are no particular implications should the Commission and its other sub-groups meet on a less frequent basis than annually, although the following practical considerations were noted:

- (1) the Commission's budget would have to be developed and agreed for a two-year period (if the Commission met biennially), but with financial contributions from

- Contracting Governments being invoiced on an annual basis;
- (2) the Commission would have to agree a two-year Scientific Committee work programme which could probably be detailed for the first year (i.e. as at present), with an outline for the second year;
 - (3) Commission decisions could only be made every two years unless by postal ballot or by calling a Special Meeting, although it could consider establishing a Standing Committee/Bureau to guide implementation of the Convention and provide guidance to the Secretariat between meetings;
 - (4) the current term of the Commission Chair and Vice-Chair, which is currently three years, would have to be changed; and
 - (5) consideration would need to be given to the review of any proposals for research under special permit.

The Secretariat suggested that the major challenge in moving away from annual meeting of the Commission would be in setting and reviewing catch limits for aboriginal subsistence whaling and, should it be resumed, commercial whaling. The Secretariat also suggested that given the current priorities set by the Commission, a move to less frequent meetings would not be possible until after 2009 because the RMP *Implementation* assessment for western North Pacific Bryde's whales is set to be completed in 2007 and that for North Atlantic fin whales in 2009.

In the F&A Committee, a number of delegations spoke in support of moving to biennial meetings as soon as possible, noting that this should not lead to an increase in intersessional meetings. Others, while not against the concept of moving away from Annual Meetings, identified similar concerns as those expressed last year, including that the mechanics of such a move should be well thought through, that a decision should not be taken in haste, that consideration would need to be given to the size and composition of any Standing Committee/Bureau that the Commission may establish to guide it between meetings and that there needed to be recognition that Special Sessions of the Commission may be needed on occasion. Different views were expressed on whether the Scientific Committee should continue to meet on an annual basis. Some delegations supported the continuation of Annual Meetings of the Commission. Noting that IWC is a resource-management organisation, one delegation believed that IWC should conduct its business on an annual basis; another did not believe that the cost savings were sufficient to make a move to a two-year cycle worthwhile. Another delegation suggested that the length of the Annual Meeting series could be reduced.

In summarising the outcome of discussions, the F&A Chair noted that there was some support to move to biennial meetings but also some concern. He suggested that if a move to a two-yearly cycle was taken this should not take effect until after 2008. He proposed that a special session of the F&A Committee be organised on this issue at IWC/59 in Alaska next year. The F&A Committee agreed.

20.1.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Recognising that a number of delegations were not in favour of a move to biennial meetings but noting the general sentiment that such a move would lead to cost savings, Spain re-iterated its proposal to the F&A

Committee, i.e. to retain Annual Meetings but reduce their length. Given that it is often the case that discussions in the Commission sub-groups are repeated in the Commission, Spain suggested that the length of the Annual Meeting series could be reduced by not holding sub-group meetings. This would be of advantage to those countries that are unable to attend both the sub-group and Commission meetings and would also contribute to cost savings.

Austria, Monaco, Switzerland, Ireland, France and the Republic of Guinea supported a move to biennial meetings as soon as possible, with the caveat that this should not lead to an increase in intersessional meetings. Austria considered that biennial meetings of the Scientific Committee would also be sufficient. France, supported by the Republic of Guinea, noted that savings from meeting only every two years could be used to help meet other expenses such as those for interpretation and document translation.

Given these discussions, the Commission agreed to the F&A Committee's proposal to hold a Special Session of the Committee at IWC/59 next year.

20.2 Legal advice in relation to the IWC

The way that IWC deals with legal issues was raised by the Netherlands at the 5th Special Meeting of the Commission in Cambridge, October 2002. A number of discussion papers have been developed since then, including a paper prepared by the Netherlands for the Commission at IWC/56 in 2004 that outlined options on how legal issues arising within IWC could be addressed. Different views have been expressed within the Commission regarding the various options identified, including whether the Commission need address this issue at all. No consensus view on how to take this matter forward has been forthcoming. The Netherlands, who had hoped to pursue this matter with interested parties after IWC/57, had been unable to do so, but suggested in the F&A Committee meeting in St. Kitts and Nevis that an email working group be established to report back to the Committee next year. In the absence of expressions of interest in joining such a group, it was suggested in the F&A Committee that the Netherlands may itself prepare a paper for consideration at IWC/59. This approach was endorsed by the Commission. The Netherlands indicated that it would welcome the involvement of other interested parties.

20.3 Amendments to the Rules of Procedure and Financial Regulations

20.3.1 Proposal to amend Rules of Debate C.1/Rules of Procedure F.2

To clarify the procedure for voting on an appeal to a ruling of the Chair, the Commission agreed to revise Rule of Debate C.1 as follows:

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 question voted upon shall be stated as: 'Shall the decision of the Chair be overturned?'* 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.

It also agreed to amend Rule of Procedure F.2 as follows:

F. Chair

2. The duties of the Chair shall be:

- (b) to decide all questions of order raised at meetings of the Commission, subject to the right of any Commissioner *to appeal against any ruling of the Chair.*

As the required 60-day notice of the substance of the proposed amendments was provided, the amendments took immediate effect.

20.3.2 Other

In the F&A Committee, Brazil had drawn the Committee's attention to the Scientific Committee Rules of Procedure E.4(c), i.e. *'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'*. Brazil considered that it would be useful for working papers to be archived routinely and proposed that the Scientific Committee be requested to review Rule of Procedure E.4(c) next year. The F&A Committee agreed to recommend this to the Commission. The Commission endorsed the proposal.

21. FORMULA FOR CALCULATING CONTRIBUTIONS

Recognising the potential implications for any revised contributions formula of work on the RMS, the work of the Contributions Task Force (CTF) had been put on hold until these implications could be assessed. The Task Force last met in March 2003. At last year's meeting, the view was expressed by some that work to revise the contributions formula should not be linked to completion of the RMS and should therefore be resumed. It was agreed to hold a Task Force meeting at IWC/58. This meeting had taken place on Saturday 10 June 2006 under the chairmanship of Anthony Liverpool (Antigua and Barbuda) who reported the proceedings to the F&A Committee.

In considering how work to revise the contributions formula should be taken forward, the CTF had supported the view that work should focus on further developing the previous valuable work of the Task Force rather than starting afresh; the guiding principles agreed in IWC/53 still being valid today. Noting that discussions on the Revised Management Scheme (RMS) had stalled since the intersessional meeting in Cambridge earlier in the year, the Task Force proposed that consideration of RMS costs should be put to one side, whilst acknowledging that some amendments might need to be made once agreement on an RMS had been reached.

The CTF recommended to the F&A Committee that, subject to the availability of Secretariat staff, two intersessional meetings should be held in Cambridge, one in October/November 2006 and the other in February/March 2007. The CTF proposed the following terms of reference for the intersessional meetings:

- (1) the Contributions Task Force shall hold at least one, but no more than two, intersessional meetings to

develop a new contributions formula that can command consensus support, with a view to its adoption at IWC/59;

- (2) ensure that such a formula adheres to the guiding principles (openness, stability, fairness, and user pays) endorsed by IWC/53;
- (3) ensure that any new scheme includes the four main elements recommended by the Task Force in May 2001 (an annual membership component, a wealth factor related to capacity of a country to pay, consumptive use, and delegation size at Annual Meetings);
- (4) the formula should be capable of adjustment so as to meet new performance criteria and capable of being modified to accommodate a treatment of all whaling equally or differentiated by type; and
- (5) resolve those remaining issues identified in Table 2 of IWC/57/F&A8 (see Appendix 4 of Annex J).

At the recommendation of the F&A Committee, the Commission adopted these proposals.

22. FINANCIAL STATEMENTS AND BUDGETS

The F&A Committee had received the report of the Budgetary Sub-committee that had worked intersessionally and had met during IWC/58 with Joji Morishita (Japan) as Chair. The Budgetary Sub-committee had reviewed the provisional financial statement for 2005/2006 and proposed budgets for 2006/2007 and 2007/2008 and reports from the Secretariat regarding:

- (1) a possible one-off amnesty to relieve the debt of developing countries;
- (2) the budget provision for Annual Meetings;
- (3) Secretariat office accommodation; and
- (4) Budgetary Sub-committee operations.

22.1 Review of the Provisional Financial Statement, 2005/2006

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

22.2 Consideration of a possible one-off amnesty to relieve the debt of developing countries

During the F&A Committee meeting last year, 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 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. Despite some concern regarding precedents that might be set and possible knock-on effects such a move might have to other organisations, the Commission agreed that the suggestion merited further consideration and that this be explored by the Secretariat who should develop proposals, including changes to Financial Regulations that might be needed, for possible decision-making at IWC/58 in St. Kitts and Nevis.

The Secretariat had prepared a paper as requested which was reviewed by the Budgetary Sub-committee and the F&A Committee. This paper included information on governments (current and former members) with arrears as

of IWC/54 in 2002 and their current status. It noted that since IWC/54, all Contracting Governments with past arrears, with the exception of Costa Rica, had entered into repayment schedules (see section 5.2.1 of Annex J) and that Belize, Peru and Senegal had now paid off their past arrears, while Kenya still has past arrears outstanding. However, the Secretariat had considered that it is not appropriate for it to make proposals for a one-off amnesty as requested as there are a number of questions pertaining to such a step that it believed first required consideration by the F&A Committee and/or the Commission, i.e.:

- (1) What criteria should be used to define a developing country? For example, should these be countries falling into capacity-to-pay groups 1 and 2 as under the Interim Measure for calculating financial contributions²⁵?
- (2) Is the intention of an amnesty to 'forgive' all or part of any outstanding debts (the latter being the case with IWC/54 decisions)?
- (3) Would any amnesty be applied to more recently accumulated debt as well as past arrears? Note that it may set a bad precedent to 'forgive' any outstanding arrears of contribution and interest for the current financial year.
- (4) Should a one-off amnesty apply only to current Contracting Governments of developing countries with remaining arrears or should it also apply to former Contracting Governments of developing countries with remaining arrears?

Finally, the Secretariat had suggested that if the Commission wished to pursue a one-off amnesty it would not be necessary to make any further amendments to the Financial Regulations. This could simply be achieved by a decision of the Commission, although the terms of any amnesty would need to be made clear.

In the Budgetary Sub-committee, concern was expressed that a distinction should be made between long-term arrears and recent arrears, since any amnesty to recent arrears might confer an unfair advantage to the beneficiaries without the incentive to meet their financial obligations. It therefore recommended that the F&A Committee take note of the following observations.

- (1) The re-calculation of arrears decided upon at Shimonoseki was the 'common-sense' starting point for any amnesty discussions.
- (2) That if an amnesty was only given to the re-calculated arrears currently outstanding, then there would be no effect on the budget.
- (3) That any amnesty applied to re-calculated arrears currently outstanding would probably lead to claims for the amnesty to be extended to the re-calculated arrears already recovered.
- (4) That if an amnesty was extended to all recalculated arrears that have been recovered, then a rebate of around £360,000 would be needed, which would have budgetary implications.

²⁵ Under the Interim Measure, capacity-to-pay groups 1 and 2 are defined as the following:

Group 1: GNI less than US\$10,000 million and GNI/capita less than US\$10,000;

Group 2: GNI greater than US\$10,000 million and GNI/capita less than US\$10,000.

In the F&A Committee, one country indicated that, contrary to the observation of the Budgetary Sub-committee, the starting point for any amnesty should be the outstanding contributions at the point at which the Commission made the decision to give an amnesty. It would therefore have some difficulty, as did others, with any retroactive application, particularly given the considerable budgetary implications. It also believed that the debts of those governments that had withdrawn from the Convention should be written off since there is no likelihood of recovering these. Another, while supporting further exploration of a possible amnesty, did not believe that it should apply to debt related to the financial contributions for the current year, but considered that it could apply to former members with debt if they wished to re-adhere to the Convention. There was a suggestion that the UN scale of contributions could be examined and be used to decide on candidates for any amnesty (i.e. those with very small contributions). However, a number of countries supported the view that adhering to the Convention comes with responsibilities and that it would not be appropriate if such responsibilities could be set aside every few years. It was also acknowledged that there are a number of issues under consideration by the Commission that either directly or indirectly will provide assistance to developing countries (i.e. revision of the contributions formula, possible increases to the Annual Meeting provision and a move towards facilitating the use of languages other than English). Several countries considered that giving further amnesty has a lower priority than, for example, making adjustments to the contributions formula with respect to capacity-to-pay.

Given the discussions, the F&A Committee recommended to the Commission that a one-off amnesty is not the right course of action at the present time and should not be pursued. However, it also recommended that the Secretariat be asked to: (1) make further contact with Costa Rica and Kenya regarding repayment of their arrears and (2) to explore alternatives for repayment. The Commission endorsed these recommendations.

22.3 Review of the budget provision for Annual Meetings

The Secretariat brought to the attention of both the Budgetary Sub-committee and the F&A Committee that the current level of budgetary provision for the Annual Meeting is not sufficient to cover the costs of a meeting in the UK (the basis on which the provision is supposed to be set) and that in recent years, host Governments have incurred additional expenses. It provided updated cost estimates for running an Annual Meeting in the UK and the implications of these for financial contributions (which were not insignificant). The Government of St. Kitts and Nevis also highlighted the inadequacy of the current provision to cover meeting costs, particularly in developing countries where the costs of many items is higher than in developed countries. Noting the shortfall it faced in hosting IWC/58, St. Kitts and Nevis recommended:

- (1) that the budgetary provision be increased;
- (2) that the provision be higher for host countries from developing countries; and
- (3) that its proposals take effect to include the hosting of IWC/58.

In the Budgetary Sub-committee a range of views were expressed on this issue, and the Sub-committee recommended that the F&A Committee take note of the following observations:

- (1) that there is recognition of the fact that the current level of budgetary provision for the Annual Meeting would not be sufficient to cover the costs of a generic venue in the UK;
- (2) that the F&A Committee should consider a range of options to fund the increase in Annual Meeting provision including: (a) an increase in financial contributions; (b) through host governments meeting any costs in excess of the IWC contribution; and (c) through cost reduction by holding the meeting every two years;
- (3) that further information on costs of meetings of other comparable intergovernmental organisations should be sought by the Secretariat to allow comparisons to be made; and
- (4) that the proposals from St. Kitts and Nevis are noted.

In the F&A Committee, while some governments indicated that there is no immediate problem, since the Commission is not short of offers from governments to host meetings, others believed that there is a case for increasing the meeting provision on an incremental basis. Some considered that any increase in costs could be offset by moving to biennial meetings. While there was some sympathy for the financial position of St. Kitts and Nevis, the Committee made no recommendations to the Commission in this respect.

In the Commission there was no further discussion on increasing the budgetary provision for Annual Meetings. However, St. Kitts and Nevis submitted a proposal to use funds from IWC's reserves to help cover its shortfall in meeting the cost of hosting IWC/58. The proposal was not adopted when put to a vote, there being 30 votes in favour, 30 against and four abstentions.

22.4 Secretariat offices

For several years, the Secretariat has, at the request of the Commission, been exploring alternatives to its current office accommodation (The Red House), including the possibility of relocation to another country. At IWC/56, the Commission: (1) acknowledged that rent of The Red House represented approximately 4% of the total budget and was therefore not an excessive cost; and (2) recognised the need to retain expertise within the Secretariat that would be lost if it were moved away from the Cambridge area. The Secretariat was therefore requested to explore alternatives in the Cambridge area for discussion at IWC/57. At IWC/57, noting that the current lease on The Red House expires in March 2009, the Commission expressed considerable interest in the Commission purchasing its own office and asked the Secretariat to develop a more comprehensive picture for review at IWC/58 (e.g., identification of all costs, timing of events, cash flows).

In the Budgetary Sub-committee a range of views were expressed and it recommended that the F&A Committee take note of the following observations:

- (1) that continuing to rent property is not to the long-term advantage of the IWC;
- (2) that consideration be given to the 'up-front' funding of a property purchase through a gradual increase in financial contributions between now and 2009;

- (3) that consideration be given to the 'up-front' funding of a property purchase through the reserves, though this will depend on other demands being placed on reserves between now and 2009; and
- (4) that the UK and other interested governments be approached to see if they are willing to provide accommodation for the IWC at a minimal rent, while recognising that relocation of the Secretariat outside the Cambridge area would put at risk the retention of staff expertise.

In the F&A Committee, some countries considered it premature to take a decision on whether to purchase a property before the option of negotiating a more favourable Headquarters Agreement with the UK Government had been explored, while others suggested that approaches to other governments willing to host the IWC Secretariat would also be worthwhile. The UK indicated that it would be happy to receive any representations from the IWC on this issue but was unsure as to how the UK Government would respond. Germany indicated that it was willing to offer Bonn as a location for the Secretariat, but noted that this offer would be dependent on broad support for what would be a fundamental change for the IWC. However, after Switzerland expressed a possible interest in also hosting the IWC Secretariat, Germany indicated that it would not follow-up on any offer as it did not see broad interest by Contracting Parties in moving the seat of the organisation to another country. Moreover it did not want to enter into competition with others. Switzerland noted that its interest was not meant to be aggressive and that synergy should be the motive for a move rather than competition between nations. As no agreement had emerged within the Committee as to how to proceed, the F&A Committee Chair: (1) concluded that a report of the discussion should be passed to the Commission for its consideration; and (2) that Switzerland may wish to come back to the Plenary with further details of any potential offer to host the Secretariat.

Similar views as those expressed in the F&A Committee were expressed in the Commission, although no further details of any potential offers to host the Secretariat were forthcoming. Noting that relocation of the Secretariat was not simply a matter of finance but also had implications on its staff, the Chair suggested that the Commission should proceed in a cautious manner on this issue to ensure that all important issues associated with a potential move are addressed properly. The Commission agreed that the Secretariat should work with the Advisory Committee to develop a questionnaire for circulation to all Contracting Governments in September asking interested governments to identify what they would be prepared to offer to host the Secretariat in their country (e.g. by way of office accommodation, other facilities, financial support, etc).

22.5 Consideration of estimated budgets, 2006/2007 and 2007/2008

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

- (1) adopted the proposed budget for the 2006/2007 financial year (Annex L) and the provision for research expenditure (Annex M);
- (2) agreed that for the 2007 Annual Meeting the registration fee for non-government observers be set at £625 and that the media fee be set at £45; and

(3) noted the forecast budget for 2007/2008 (Annex L).

22.6 Budgetary Sub-committee membership rota

Last year the Commission approved a number of procedures in relation to the operation of the Budgetary Sub-committee. However there was an issue outstanding in relation to how the appointment as Chair or Vice-Chair of a BSC member who was coming to the end of their term on the Sub-committee might block participation of other interested countries and how this might be handled. The Secretariat was asked to develop a proposal for review by the Budgetary Sub-Committee at IWC/58. This proposal was endorsed by the Sub-committee and the F&A Committee and approved by the Commission. It has now been incorporated into the operations of the Budgetary Sub-committee (see Annex N).

23. NGO PARTICIPATION IN IWC

23.1 NGO Code of Conduct

Last year 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. After a few minor modifications, the F&A Committee agreed to recommend the Code of Conduct for NGOs at IWC Meetings and Complaints Procedure to the Commission for adoption as given in Appendix 12 of the F&A Committee Report (Annex J). The Commission agreed to adopt this Code of Conduct.

23.2 NGO participation in Annual Meetings

Prior to IWC/56, the Secretariat had been approached by a representative of one of the large environmental NGOs regarding changes to rules of NGO accreditation in particular but also in their level of participation in Commission affairs. The Secretariat and Advisory Committee agreed that this issue should be brought to the attention of the F&A Committee via a paper outlining the issues raised and their potential implications. 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 NGO's 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 at IWC/56, the Commission agreed that the Secretariat should work with the Advisory Committee to explore how items 1-3 above might be implemented. The Commission agreed that the issue of speaking rights be set aside for the time

being. Due to other commitments, no further work was done between IWC/56 and IWC/57. However, at IWC/58 the Secretariat prepared a paper for the F&A Committee that:

- described the current criteria and conditions for IWC and those of other intergovernmental organisations;
- highlighted the drawbacks of the current criteria/conditions;
- proposed revised criteria/conditions for NGO accreditation and participation, including a fee structure;
- considered how any revised criteria/conditions might be introduced; and
- proposed draft revised Rules of Procedure that would give effect the revised criteria/conditions.

While a number of countries indicated that they considered it is time to change the criteria/conditions for NGO accreditation, the F&A Committee was unable to reach agreement on any revisions to current procedures. However, it agreed to Australia's suggestion that it work with a small group of countries (New Zealand, the USA, Austria, Monaco and the Netherlands) to develop a specific proposal for consideration by the Commission in Plenary. A proposal was subsequently submitted to the Plenary. However, in view of time considerations and the need for at least a 60-day notice period for changes to the Rules of Procedure, the Commission agreed that the paper be addressed by the F&A Committee next year.

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

The Commission adopted the report of the F&A Committee, and noted that Anthony Liverpool (Antigua and Barbuda) had been elected as its new Chair, Halvard Johansen (Norway) having completed his three-year term. The Commission thanked Mr Johansen for his work as F&A Committee Chair.

25. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

25.1 59th Annual Meeting, 2007

The USA reported that IWC/59 will be held at the Captain Cook Hotel in Anchorage.

The Secretary introduced a provisional schedule for the meeting. The Commission agreed with the timing proposed, i.e. that the Scientific Committee meet from Monday 7 to Friday 18 May (with pre-meetings in the period 5-6 May), the Commission sub-groups in the period from 22 to 24 May, and the Commission from Monday 28 to Thursday 31 May.

25.2 60th Annual Meeting, 2008

The Commission was pleased to accept the invitation from Chile for the 60th Annual Meeting in 2008. The Secretariat will work with Chile to determine the venue and timing for the meeting.

25.3 Other

The Government of Portugal re-affirmed its interest, expressed last year, in hosting the 61st Annual Meeting in Madeira in 2009. Japan also expressed its interest in hosting the 61st Annual Meeting in Yokohama.

The Commission noted these offers.

26. ELECTION OF THE CHAIR AND VICE-CHAIR

The Commission elected, by consensus, Bill Hogarth (USA) and Minoru Morimoto (Japan) as Commission Chair and Vice-Chair respectively.

27. ADVISORY COMMITTEE

The Commissioner from Cameroon was elected onto the Advisory Committee for two years to replace the Commissioner for Dominica. He joins the Chair (USA), the Vice-Chair (Japan), the Chair of the Finance and Administration Committee (Antigua and Barbuda) and the Commissioner for the UK.

28. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

The Chair noted that as last year, 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.

29. OTHER MATTERS

St. Kitts and Nevis reported that a Greenpeace vessel had anchored in front of the Marriott hotel that morning (Tuesday 20 June) and that two small boats had come ashore carrying protesters. About ten people had been arrested. St. Kitts and Nevis noted that its Cabinet had denied an earlier request by Greenpeace for access of its vessel to the harbour. It therefore considered that the resulting actions of Greenpeace showed disrespect to the Government and the people of St. Kitts and Nevis.

St. Kitts and Nevis expressed its gratitude to the Commission for its decision to hold IWC/58 in St. Kitts and Nevis. It thanked the Secretariat and the Local Organisation Committee for their work in preparing and running the month-long meeting. In particular St. Kitts and Nevis expressed its deep appreciation to Henrik Fischer for his role in chairing the meeting, noting that he would soon be retiring not only as IWC Chair but also from his position in the Danish Foreign Ministry. St. Kitts and Nevis considered that Henrik Fischer had served both the IWC (in which he had been the longest-serving Commissioner) and his country in an exemplary manner, bringing a high degree of constructive reasoning, impartiality and calm to the Commission's negotiations and deliberations. He had also demonstrated the will to bring polarised factions together, understanding that the survival of the organisation is dependent on the willingness of Contracting Governments to work together. St. Kitts and Nevis also thanked delegates, observers and the press for their participation and wished everyone a safe journey home. St. Lucia endorsed these remarks and noted the pride felt by

the Caribbean countries that IWC/58 was held in the region. It thanked the Commissioner of St. Kitts and Nevis and his team for their hard work.

Denmark believed that Henrik Fischer would be leaving both IWC and the Danish Foreign Ministry with grace and honour. Noting that Henrik Fischer had been involved in IWC for 21 years, Denmark suggested that most would not have had the staying power required. It further noted that Denmark's IWC policy is a multidimensional enterprise because of the different interests within the Kingdom and that this has resulted, in large part due to Henrik Fischer's efforts, in its policy being in the middle of the views within the organisation. On behalf of the Foreign Ministry, the Prime Minister's office, the Greenland Home Rule Government and the delegation, Denmark wished Henrik Fischer all the best in his retirement.

Togo thanked Henrik Fischer on behalf of the francophone African countries for his chairmanship, noting that he had managed the meeting with fairness, patience and delicacy during difficult discussions. It also thanked the St. Kitts and Nevis authorities for all the facilities provided during the meeting and congratulated the newly-elected Chair and Vice-Chair and members of the Advisory Committee. Togo noted that the francophone African countries welcomed with satisfaction the decision taken in regard to the use of other languages. The Marshall Islands, Mexico (on behalf of Spanish-speaking countries), India, Japan, Oman, Cameroon and Kiribati also thanked the host Government and Henrik Fischer, wishing him well in his retirement. The USA presented Henrik Fischer with a gift on behalf of the Commission.

Henrik Fischer thanked participants for their kind words. He observed that despite the differences of opinion among members, the Commission has a special atmosphere and in some ways is unique. He had taken pleasure in the discussions and also in the occasions when the Commission had succeeded in reaching consensus, noting that even given the problems IWC faces, he could not recall any meeting where the Commission did not agree to at least one thing by consensus. He therefore indicated that it was with some relief but also some sadness that he would be leaving IWC and retiring, but noted that he would continue to follow the Commission's affairs with interest. He thanked the Secretariat for their assistance over the years, noting that this had always been given in a fair and efficient manner. Finally he thanked St. Kitts and Nevis for hosting the meeting, for their warm welcome and hospitality.

The meeting was closed at 16.50 on Tuesday 20 June 2006.

30. AMENDMENTS TO THE SCHEDULE

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

Annex A

Delegates and Observers Attending the 58th Annual Meeting

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

Antigua & Barbuda

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

Argentina

Javier Figueroa (AC)
Miguel Iñiguez (AC)

Australia

Conall O'Connell (C)
Ian Campbell (AC)
Virginia Mudie (AC)
Gillian Slocum (AC)
Zena Armstrong (AC)
Pam Eiser
Nicola Beynon
Peta Lane (S)
Phillip Tracey (S)
Philip Burgess (S)
David Dutton (S)
Penelope Smith (S)
Tony Feeney (S)

Austria

Andrea Nouak (C)
Michael Stachowitsch (AC)

Belgium

Alexandre de Lichtervelde (C)
Koen Van Waerebeek (AC)
Cedric Janssens de Bisthoven (AC)

Belize

Beverly Wade (C)
Melquisedec Flores (AC)

Benin

Joseph Ouake (C)
Catherine Hounkpe

Brazil

Maria Teresa Mesquita Pessõa (C)
Régis Pinto de Lima (AC)
José Truda Palazzo Jr. (AC)

Cambodia

Nao Thuok (AC)

Cameroon

Baba Malloum Ousman (C)
Mougnal

Chile

Mariano Fernandez (C)
Cristian Macquiera Astaburuaga (AC)
Elsa Cabrera (AC)

China

Yamin Wang (AC)
Xiaoning Yang

Côte d'Ivoire

Djobo Anvra Jeanson (C)
M. Bamba Mory (AC)
Douati Alphonse

Czech Republic

Pavla Hýčova (C)
Gabriela Ticha (AC)

Denmark

Henrik Fischer (C)
Ole Samsing (AC)
Karsten Ankjær (AC)
Amalie Jessen (AC)
Maj Friis Munk (AC)
Leif Fontaine
Ole Heinrich
Fernando Ugarte
Lars Witting

Dominica

Lloyd Pascal (C)
Andrew Magloire (AC)
Kongit Haile-Gabriel (S)
Menelik Pascal (S)

Finland

Esko Jaakkola (C)
Penina Blankett (AC)

France

Stéphane Louhaur (C)
Martine Bigan (AC)
Madeleine de Grandmaison
Vincent Ridoux (S)

Gabon

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

Gambia

Suwareh Jabai (C)

Germany

Marlies Reimann (C)
Cristina Zametzer (AC)
Andreas von Gadow (AC)
Petra Deimer-Schütte

Grenada

Justin Rennie (AC)
Frank Hester
Claris Charles

Guinea, Republic of

Ibrahima Sory Toure (C)
Amadou Telivel Diallo (AC)

Hungary

Zoltan Czirak (AC)

Iceland

Stefán Ásmundsson (C)
Ásta Einaradóttir (AC)
Gunnar Pálsson (AC)
Gísli Víkingsson
Kristján Loftsson
Jón Gunnarsson

India

Ravindra Lal (C)

Ireland

Chris O'Grady (C)
Brendan Price

Israel

Esther Efrat-Smilg (C)

Italy

Riccardo Rigillo (C)
Caterina Fortuna (AC)
Michele Alessi (AC)
Maria Severina Liberati
Simona Di Giuseppe

Japan

Minoru Morimoto (C)
 Koichiro Seki (AC)
 Ryotaro Suzuki (AC)
 Akira Nakamae (AC)
 Yoshimi Suenaga (AC)
 Akihiro Mae (AC)
 Joji Morishita (AC)
 Tokuchiro Tamazawa
 Tadashi Taura
 Hiroko Wada
 Itsunori Onodera
 Yasushi Kaneko
 Motohiko Kondo
 Hideo Jinpu
 Daishiro Yamagiwa
 Kiyoshi Ejima
 Wataru Fujino
 Takumi Fukuda
 Yoshihiro Fujise
 Gabriel Gomez Diaz
 Dan Goodman
 Kazunori Harada
 Hiroaki Hasegawa
 Hiroshi Hatanaka
 Yoshinori Hattori
 Masato Hayashi
 Yoshihiro Hayashi
 Isamu Hidaka
 Jiro Hyugaji
 Yasuo Iino
 Hajime Ishikawa
 Makoto Ito
 Hidehiro Kato
 Norikazu Katori
 Chikao Kimura
 Mitsuhiro Kishimoto
 Konomu Kubo
 Katsutoshi Mihara
 Hiroshi Miyagawa
 Ryoichi Nakamura
 Noriyoshi Nagayama
 Keiichi Nakajima
 Hozumi Nakata
 Keiko Ogoh
 Kayo Ohmagari
 Hideko Ono
 Shinichi Ryono
 Kazutaka Sengen
 Mutsushi Seto
 Yoshihiro Takagi
 Shinji Uchida
 Ichiro Wada
 Toru Yamamoto
 Shinichi Yamashita
 Takashi Yoshida
 Saemi Baba (I)
 Hisao Ikeuchi (I)
 Rei Kawagishi (I)
 Midori Ohta (I)

Kiribati

Reteta Nikuata-Rimon (C)
 Kintoba Tearo (AC)

Republic of Korea

Jae Hak Son (C)
 Chiguk Ahn (AC)
 Zang Geun Kim (AC)
 Hyun Jin Park (AC)

Luxembourg

Pierre Gallego (C)

Mali

Oumar Ibrahima Toure (C)
 Hery Coulibaly (AC)

Republic of the Marshall Islands

John Silk (C)
 Viola Chong Gum (AC)

Mauritania

Mamoudou Aliou Dia (C)

Mexico

Lorenzo Rojas-Bracho (C)

Mongolia

Tserendash Damdin (C)
 Sukh-Ochir Bold (AC)

Monaco

Frederic Briand (C)

Morocco

Abdesallam Fahfouhi (C)
 Abdelouahed Benabbou (AC)
 Abdellatif Berraho

Nauru

Marcus Stephen (C)
 Ludwig Keke (AC)

Netherlands

Giuseppe Raaphorst (C)
 Martijn Lucassen (AC)
 Maaikje Moolhuijsen (AC)
 Peter Reijnders
 Nynke van der Zee (S)

New Zealand

Geoffrey Palmer (C)
 Chris Carter (AC)
 Jim McLay (AC)
 Gerard van Bohemen (AC)
 Michael Donoghue (AC)
 Christine Bogle
 Al Gillespie
 Indra Prasad
 Nick Maling
 Phillipa Brakes

Nicaragua

Miguel Marenco (C)

Norway

Karsten Klepssvik (C)
 Halvard Johansen (AC)
 Anniken Ramberg Krutnes (AC)
 Hild Ynnesdal
 Lars Walløe
 Egil Ole Øen
 Siri Knudsen
 Jan Birger Jørgensen (S)

Oman

Ibrahim Said Al-Busaidi (C)

Republic of Palau

Kuniwo Nakamura (C)
 Erie Takada (S)

Panama

Rogelio Santamaria (C)

Peru

Luis Sandiga (C)

Portugal

Jorge Palmeirim (C)
 Marina Sequeira (AC)

Russian Federation

Valentin Ilyashenko (C)
 Rudolf Borodin (AC)
 Igor Mikhno (S)
 Alexander Borodin (S)
 Vladimir Etylin (S)
 Alexey Ottoy (S)
 Nikolai Etyne (S)
 Edward Zdor (S)
 Gennady Inankeuyas (S)
 Olga Ipatova (I)
 John Tichotsky (I)

Saint Kitts and Nevis

Cedric Liburd (C)
 Hermia Morton-Anthony (AC)
 Daven Joseph (AC)
 Joseph Simmonds (AC)
 Raphael Archibald (AC)
 Ralph Wilkins (S)

Saint Lucia

Ignatius Jean (C)
 Vaughn Charles (AC)
 Jeannine Rambally
 Earl Bousquet (S)

Saint Vincent and The Grenadines

Edwin Snagg (C)
 Raymond Ryan (AC)
 Hermann Belmar (AC)
 Jennifer Cruickshank (S)

San Marino

Dario Galassi (C)

Senegal

Moustapha Thiam (AC)

Slovak Republic

Katarina Slabeyova (C)

Solomon Islands

Nolen Leni (C)

Sylvester Diake (AC)

South Africa

Herman Oosthuizen (C)

Luyanda Antony (AC)

Patrick Jacobs

Spain

Carmen Asencio (C)

Suriname

Jaswant Sahtoe (C)

Jairam Deuwperkaas (AC)

Sweden

Bo Fernholm (C)

Stellan Hamrin (AC)

Anna Roos (AC)

Thomas Lyrholm (AC)

Switzerland

Bruno Mainini (C)

Nathalie Bösch (AC)

Togo

Adow Seibou Sonhayé (C)

Tuvalu

Panapasi Nelesone (C)

Niko Apinelu (AC)

UK

Richard Cowan (C)

Trevor Perfect (AC)

Laurence Kell (AC)

Ben Bradshaw (AC)

Douglas Kerr (AC)

Ruth Thirkettle (AC)

James Gray

Alice Lacourt

Tristian Crago

Denise Hart

Jenny Lonsdale

Mark Simmonds

USA

William Hogarth (C)

Doug DeMaster (AC)

Cheri McCarty

Roger Eckert

Emily Lindow

John Field

Shannon Dionne

Frank Stone

Heather Rockwell

Harry Brower Jr

Keith Johnson

Bob Brownell

Stanley Speaks

David Balton (S)

Rollie Schmitt (S)

Jeff Klein (S)

Scott Smullen (S)

Lauren Batte (S)

Niles Cesar (S)

Arnie Hunter (S)

Nathan Pamplin (S)

Edward Itta (S)

George Ahmaogak (S)

Dave Whaley (S)

Todd Bertson (S)

Steve Wackowski (S)

Sarah Jensen (S)

Craig George (S)

Cheryl Rosa (S)

Keiko Kandachi (S)

Geno Pineiro (S)

Greg Silber (S)

Teri Rowles (S)

Karen Zak (S)

Barbara Kremer (S)

Bruce Bustamante (S)

Chris Horning (S)

Matt Clark (S)

Matt Stratton (S)

Denis LeBlanc (S)

John Dailey (S)

Bill Miller (S)

Debbie Miller (S)

Interpreters

Shéhérazade Maatallah

Mohammed Bennis

Abdellah Regragui

SCIENTIFIC COMMITTEE

Arne Bjørge

**NON-MEMBER GOVERNMENT
OBSERVERS****Canada**

Chantal Lamadeleine

Cuba

Dalia Salabarría

**INTERGOVERNMENTAL
ORGANISATION OBSERVERS****ACCOBAMS**

Caterina Fortuna

ASCOBANS

Peter Reijnders

CARICOM

Margaret Kallou

UNEP/CITES

Willem Wijnstekers

Marzena Jankowska

ECCO

Horace Walters

Nigel Lawrence

European Commission

Irene Plank

NAMMCO

Christina Lockyer

Charlotte Winsnes

**UNEP Caribbean Environment
Programme**

Alessandra Vanzella-Khoury

**NON-GOVERNMENTAL
ORGANISATION OBSERVERS****ACOPS**

Patrick Ramage

Alaska Cambridge Group

Mary Core

Linda Johnson (AC)

John Tichotsky (Alt)

All Japan Seamen's Union

Masahige Wada

Kenji Takahashi (I)

**American Friends Service
Committee**

Elijah Rock Sr.

Dorkus Rock (I)

Animal Care International

Niki Entrup

American Cetacean Society

Jonathan Stern

Animal Welfare Institute

Susan Millward

Emilio Brown (I)

**Association of Traditional Marine
Mammal Hunters of Chukotka**

Gennady Inaukeuyas

Eduard Zdor (Alt)

Vladimir Etylin (Alt)

John Tichotsky (I)

Australians for Animals

Michael Iliff

Barrow Arctic Science Consortium

Alexander Borodin

Mary Core (Alt)

Beneficiaries of the Sea Coalition

Michiko Ichizaki
Naoya Tanigawa (I)

Biodiversity Action Network East Asia (BANEA)

Shohei Yonemoto
Ayako Okubo (I)

Campaign Whale

Andy Ottoway
Samantha Dawes (I)

Canadian Marine Environment Protection Society

Ericka Ceballos
Piedad Espinosaas (I)

Center for Respect of Life and Environment

Kitty Block
Rebecca Regnery (Alt)

Cetacean Legal Defense Network

Alice Stroud

Conservacion de Mamiferos de Mexico

Alberto Szekely

Cousteau Society

Clark Lee Merriam

David Shepherd Conservation Foundation

Sue Fisher

Dolphin and Whale Action Network

Nanami Kurasawa

Dolphin Connection

Deborah Adams
Ann Moss (Alt)

Earth Island Institute

Mark Palmer
David Rinehart (Alt)
Dwight Neal (I)

Earthtrust

Milko Schwartzman
Carlos Albacete (I)

Earth Voice

Betsy Dribben
Naomi Rose (Alt)

Eastern Caribbean Coalition for Environmental Awareness (ECCEA)

Lesley Suttly
Stéphane Jérémie (I)

Ecodetectives

Danielle Grabiell
Martin Dudley (I)

Environmental Investigation Agency

Clare Perry
Claire Bass (I)

Eurogroup for Animal Welfare

Susan Sherwin
Tyrone Buckmire (I)

European Bureau for Conservation & Development

Despina Symonds

Exxon Mobil Corporation

Bruce Tackett
John Young (Alt)
Rodger Melton (Alt)

Finns for Whales

Kaijaliisa Syrjä

Florida Caribbean Conservation Coalition

J. Kelvin Alie

Gesellschaft zum Schutze der Meeressäuger e.V. GSM

Birgith Sloth

Global Guardian Trust

Toshikazu Miyamoto

Greenpeace International

Shane Rattenbury
John Frizell (Alt)

Group to Preserve Whale Dietary Culture

Komei Wani

High North Alliance

Rune Frovik

Humane Society International

Patricia Forkan
Naomi Rose (Alt)

Indigenous World Association

Jessica Lefevre

International Association for Religious Freedom

Merlin Koonooka
Sarah Jensen (Alt)

International Environmental Advisors

Buffy Baumann

International Fund for Animal Welfare

Joth Singh
Kate Natrass (I)

International League for the Protection of Cetaceans

Lesley Busby
Remi Parmentier (I)

International Marine Mammal Association Inc.

Vassili Papastavrou

International Marine Researchers

Stefanie Werner

International Primate Protection League

D. J. Schubert

International Transport Workers' Federation

Hideo Kon

International Wildlife Coalition

Dan Morast
Roxana Schteinbarg (I)

Inuit Circumpolar Conference

Eugene Brower

IWMC World Conservation Trust

Eugene Lapointe
Yvan Lafleur (Alt)
Janice Henke (Alt)
Helene Lapointe (I)

Japan Fisheries Association

Jay Hastings

Japan Small-Type Whaling Association

Yoshinori Shoji

Japan Whale Conservation Network

Naoko Funahashi

Japan Whaling Association

Toru Yamamoto
Koichi Yanagida (I)

Minority Rights Group

Taqlik Hepa

Natural Resources Defense Council

Joel Reynolds
Cara Horowitz (Alt)

OceanCare

Sigrid Lüber
Marsha Green (I)

Robin des Bois
Charlotte Nithart

RSPCA
Leah Garces

**Species Management Specialists
Inc.**
Hank Jenkins

Survival International
George Noongwook

TEN
Shigeko Misaki

Werkgroep Zeehond
Geert Drieman

Whaleman International
Jeff Pantukhoff

Whales Alive
Mick McIntyre

Windstar
Nancy Azzam

Women's Forum for Fish
Yuriko Shiraishi
Akiko Sato (I)

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

World Council of Whalers
Peter Douglas
Curtis Walker (I)

**World Society for the Protection of
Animals**
Peter Davies
Virag Kaufer (I)

WWF International
Sue Lieberman

Annex B

Agenda

1. INTRODUCTORY ITEMS
 - 1.1 Welcome address
 - 1.2 Opening statements
 - 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. INTERFERENCE WITH WHALE RESEARCH
 - 3.1 Introduction by Japan
 - 3.2 Commission discussions and action arising
4. SECRET BALLOTS
(*Chair's Report of the 57th Annual Meeting, Section 3*)
 - 4.1 Proposal to amend Rule of Procedure E.3 (d)
 - 4.2 Commission discussions and action arising
5. WHALE STOCKS
(*Chair's Report of the 57th Annual Meeting, Section 4*)
 - 5.1 Antarctic minke whales
 - 5.1.1 Report of the Scientific Committee
 - 5.1.2 Commission discussions and action arising
 - 5.2 In-depth assessment of western North Pacific common minke whales
 - 5.2.1 Report of the Scientific Committee
 - 5.2.2 Commission discussions and action arising
 - 5.3 In-depth assessment of Southern Hemisphere humpback whales
 - 5.3.1 Report of the Scientific Committee
 - 5.3.2 Commission discussions and action arising
 - 5.4 In-depth assessment of blue whales
 - 5.4.1 Report of the Scientific Committee
 - 5.4.2 Commission discussions and action arising
 - 5.5 Other small stocks – bowhead, right and gray whales
 - 5.5.1 Report of the Scientific Committee
 - 5.5.2 Commission discussions and action arising
 - 5.6 Other
6. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES
(*Chair's Report of the 57th Annual Meeting, Section 7*)
 - 6.1 Report from the Workshop on Whale Killing Methods and Associated Welfare Issues
 - 6.2 Commission discussions and action arising
7. ABORIGINAL SUBSISTENCE WHALING
(*Chair's Report of the 57th Annual Meeting, Section 5*)
 - 7.1 Aboriginal Subsistence Whaling Management Procedure
 - 7.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee
 - 7.1.2 Commission discussion and action arising
 - 7.2 Aboriginal Whaling Scheme
 - 7.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee
 - 7.2.2 Commission discussions and action arising
 - 7.3 Aboriginal subsistence whaling catch limits
 - 7.3.1 Report of the Aboriginal Subsistence Whaling Sub-committee
 - 7.3.2 Commission discussions and action arising
 - 7.4 Other
8. REVISED MANAGEMENT SCHEME (RMS)
(*Chair's Report of the 57th Annual Meeting, Section 6*)
 - 8.1 Revised Management Procedure (RMP)
 - 8.1.1 Report of the Scientific Committee
 - general issues
 - preparations for *Implementation* (Western North Pacific Bryde's whales, North Atlantic fin whales)
 - bycatch
 - 8.1.2 Commission discussions and action arising
 - 8.2 Revised Management Scheme
 - 8.2.1 Report of the RMS Working Group
 - 8.2.2 Commission discussions and action arising
 - 8.3 Other
9. SANCTUARIES
(*Chair's Report of the 57th Annual Meeting, Section 8*)
 - 9.1 Issues raised in the Scientific Committee
 - 9.1.1 Report of the Scientific Committee
 - 9.1.2 Commission discussions and action arising
 - 9.2 Proposal to amend the Schedule to establish a South Atlantic Whale Sanctuary
 - 9.2.1 Introduction of the proposal
 - 9.2.2 Report from the Conservation Committee
 - 9.2.3 Commission discussions and action arising
 - 9.3 Proposal to amend Schedule paragraph 7 (b) regarding the Southern Ocean Sanctuary
 - 9.3.1 Introduction of the proposal
 - 9.3.2 Commission discussion and action arising
 - 9.4 Other
10. SOCIO-ECONOMIC IMPLICATIONS AND SMALL TYPE WHALING
(*Chair's Report of the 57th Annual Meeting, Section 9*)
 - 10.1 Proposal to amend the Schedule
 - 10.2 Commission discussions and action arising
11. SCIENTIFIC PERMITS
(*Chair's Report of the 57th Annual Meeting, Section 10*)
 - 11.1 Report of the Scientific Committee
 - 11.1.1 Improving procedures for reviewing scientific permit proposals
 - 11.1.2 Review of results from existing permits
 - 11.1.3 Review of new or continuing proposals
 - 11.1.4 Other
 - 11.2 Commission discussions and action arising

12. ENVIRONMENTAL AND HEALTH ISSUES
(*Chair's Report of the 57th Annual Meeting, Section 11*)
- 12.1 Seismic surveys and cetaceans
- 12.1.1 Report of the Scientific Committee
- 12.1.2 Commission discussions and action arising
- 12.2 Ecosystem modelling
- 12.2.1 Report of the Scientific Committee
- 12.2.2 Commission discussions and action arising
- 12.3 Other habitat-related issues
- 12.3.1 Report of the Scientific Committee
- POLLUTION 2000+
 - Southern Ocean collaboration
 - State of the Cetacean Environment (SOCER)
 - Sea ice: Arctic and Antarctic
 - Diseases
 - Potential value to the Committee from information on handling and release of entangled cetaceans.
- 12.3.2 Commission discussions and action arising
- 12.4 Reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals
- 12.5 Health issues - Commission discussions and action arising
- 12.6 Other
13. WHALEWATCHING
(*Chair's Report of the 57th Annual Meeting, Section 12*)
- 13.1 Report of the Scientific Committee
- 13.2 Commission discussions and action arising
14. CO-OPERATION WITH OTHER ORGANISATIONS
(*Chair's Report of the 57th Annual Meeting, Section 13*)
- 14.1 Report of the Scientific Committee
- 14.2 Other reports
- 14.3 Commission discussions and action arising
15. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT
(*Chair's Report of the 57th Annual Meeting, Section 14*)
- 15.1 Small cetaceans
- 15.1.1 Report of the Scientific Committee
- 15.1.2 Commission discussions and action arising
- 15.2 Other activities
- 15.2.1 Report of the Scientific Committee
- 15.2.2 Commission discussions and action arising
- 15.3 Scientific Committee Future Work Plan
- 15.3.1 Report of the Scientific Committee
- 15.3.2 Commission discussions and action arising
- 15.4 Adoption of the Report
16. CONSERVATION COMMITTEE
(*Chair's Report of the 57th Annual Meeting, Section 15*)
- 16.1 Report of the Conservation Committee
- 16.2 Commission discussions and action arising
17. CATCHES BY NON-MEMBER NATIONS
(*Chair's Report of the 57th Annual Meeting, Section 16*)
- 17.1 Commission discussions and action arising
18. INFRACTIONS, 2005 SEASON
(*Chair's Report of the 57th Annual Meeting, Section 17*)
- 18.1 Report of the Infractions Sub-committee
- 18.2 Commission discussions and action arising
19. TOWARDS NORMALISATION OF THE IWC
- 19.1 Introduction
- 19.2 Commission discussions and action arising
20. ADMINISTRATIVE MATTERS
(*Chair's Report of the 57th Annual Meeting, Section 18*)
- 20.1 Annual Meeting arrangements and procedures
- 20.1.1 Report of the Finance and Administration Committee
- Need for a Technical Committee
 - Use of languages other than English
 - Frequency of meetings
- 20.1.2 Commission discussions and action arising
- 20.2 Legal advice in relation to the IWC
- 20.2.1 Report of the Finance and Administration Committee
- 20.2.2 Commission discussions and action arising
- 20.3 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
- 20.3.1 Report of the Finance and Administration Committee
- 20.3.2 Commission discussions and action arising
21. FORMULA FOR CALCULATING CONTRIBUTIONS
(*Chair's Report of the 57th Annual Meeting, Section 19*)
- 21.1 Report of the Finance and Administration Committee
- 21.2 Commission discussions and action arising
22. FINANCIAL STATEMENTS AND BUDGETS
(*Chair's Report of the 57th Annual Meeting, Section 20*)
- 22.1 Review of the provisional financial statement, 2005/2006
- 22.1.1 Report of the Finance and Administration Committee
- 22.1.2 Commission discussions and action arising
- 22.2 Consideration of a possible one-off amnesty to relieve the debt of developing countries
- 22.2.1 Report of the Finance and Administration Committee
- 22.2.2 Commission discussions and action arising
- 22.3 Review of the budget provision for Annual Meetings
- 22.3.1 Report of the Finance and Administration Committee
- 22.3.2 Commission discussions and action arising
- 22.4 Secretariat offices
- 22.4.1 Report of the Finance and Administration Committee
- 22.4.2 Commission discussions and action arising
- 22.5 Consideration of estimated budgets, 2006/2007 and 2007/2008
- 22.5.1 Report of the Finance and Administration Committee
- 22.5.2 Commission discussions and action arising
- 22.6 Other
- 22.6.1 Report of the Finance and Administration Committee
- 22.6.2 Commission discussions and action arising

- 23. NGO PARTICIPATION IN IWC
(*Chair's Report of the 57th Annual Meeting, Section 21*)
 - 23.1 Code of Conduct
 - 23.1.1 Report of the Finance and Administration Committee
 - 23.1.2 Commission discussions and action arising
 - 23.2 Participation in Annual Meetings
 - 23.2.1 Report of the Finance and Administration Committee
 - 23.2.2 Commission discussions and action arising
 - 24. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE
 - 25. DATE AND PLACE OF ANNUAL AND INTER-SESSIONAL MEETINGS
 - 25.1 59th Annual Meeting, 2007
 - 25.2 60th Annual Meeting, 2008
 - 25.3 Other
 - 26. ELECTION OF THE CHAIR AND VICE CHAIR
 - 27. ADVISORY COMMITTEE
 - 28. SUMMARY OF DECISIONS AND REQUIRED ACTIONS
 - 29. OTHER MATTERS
-

Annex C

Resolutions Adopted at the 58th Annual Meeting

Resolution 2006-1

ST. KITTS AND NEVIS DECLARATION

EMPHASISING that the use of cetaceans in many parts of the world including the Caribbean, contributes to sustainable coastal communities, sustainable livelihoods, food security and poverty reduction and that placing the use of whales outside the context of the globally accepted norm of science-based management and rule-making for emotional reasons would set a bad precedent that risks our use of fisheries and other renewable resources;

FURTHER EMPHASISING that the use of marine resources as an integral part of development options is critically important at this time for a number of countries experiencing the need to diversify their agriculture;

UNDERSTANDING that the purpose of the 1946 International Convention for the Regulation of Whaling (ICRW) is to 'provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry' (quoted from the Preamble to the Convention) and that the International Whaling Commission (IWC) is therefore about managing whaling to ensure whale stocks are not over-harvested rather than protecting all whales irrespective of their abundance;

NOTING that in 1982, the IWC adopted a moratorium on commercial whaling (paragraph 10(e) of the Schedule to the ICRW) without advice from the Commission's Scientific Committee that such measure was required for conservation purposes;

FURTHER NOTING that the moratorium which was clearly intended as a temporary measure is no longer necessary, that the Commission adopted a robust and risk-averse procedure (RMP) for calculating quotas for abundant stocks of baleen whales in 1994 and that the IWC's own Scientific Committee has agreed that many species and stocks of whales are abundant and sustainable whaling is possible;

CONCERNED that after 14 years of discussion and negotiation, the IWC has failed to complete and implement a management regime to regulate commercial whaling.

ACCEPTING that scientific research has shown that whales consume huge quantities of fish making the issue a matter of food security for coastal nations and requiring that the issue of management of whale stocks must be considered in a broader context of ecosystem management since ecosystem management has now become an international standard.

REJECTING as unacceptable that a number of international NGOs with self-interest campaigns should use threats in an attempt to direct government policy on matters of sovereign rights related to the use of resources for food security and national development;

NOTING that the position of some members that are opposed to the resumption of commercial whaling on a sustainable basis irrespective of the status of whale stocks is contrary to the object and purpose of the International Convention for the Regulation of Whaling;

UNDERSTANDING that the IWC can be saved from collapse only by implementing conservation and management measures which will allow controlled and sustainable whaling which would not mean a return to historic over-harvesting and that continuing failure to do so serves neither the interests of whale conservation nor management;

NOW THEREFORE:

COMMISSIONERS express their concern that the IWC has failed to meet its obligations under the terms of the ICRW; and

DECLARE our commitment to normalising the functions of the IWC based on the terms of the ICRW and other relevant international law, respect for cultural diversity and traditions of coastal peoples and the fundamental principles of sustainable use of resources, and the need for science-based policy and rulemaking that are accepted as the world standard for the management of marine resources.

Resolution 2006-2

RESOLUTION ON THE SAFETY OF VESSELS ENGAGED IN WHALING AND WHALE RESEARCH-RELATED ACTIVITIES

WHEREAS the safety of vessels and crew and the order of maritime navigation are, and have long been, the common interest of nations worldwide;

WHEREAS the Commission and Contracting Governments support the right to legitimate and peaceful forms of protest and demonstration;

MINDFUL of the fact that issues relating to confrontation between vessels at sea and in port have been discussed by this Commission as well as other international fora including the International Maritime Organization;

RECOGNISING the fact that domestic and international concerns have been expressed concerning confrontation at sea and port relating to whaling and whale research activities;

SERIOUSLY CONCERNED that dangerous confrontations risk human life, property, and the order of maritime navigation, and may lead to grave accidents;

RECALLING the International Regulations for preventing Collisions at Sea which set uniform principles and rules for avoiding collisions at sea;

RECALLING further the guidelines of the International Maritime Organization relating to consultation and cooperation in marine casualty investigations;

NOW THEREFORE THIS COMMISSION:

AGREES AND DECLARES that the Commission and its Contracting Governments do not condone any actions that are a risk to human life and property in relation to these activities of vessels at sea, and urges persons and entities to refrain from such acts;

ENCOURAGES Contracting Governments to take appropriate measures, consistent with IMO guidelines, in order to ensure that the substance and spirit of this Resolution are observed both domestically and internationally.

Resolution 2006-3

FRENCH AND SPANISH AS WORKING LANGUAGES OF THE COMMISSION

AWARE of the internationally accepted difference between 'official languages' and 'working languages' in the operations of international conventions;

FURTHER AWARE of the necessity for international organisations to protect the Sovereign Rights and the cultural values of their members;

WELCOMING the increasing number of French speaking countries becoming members of the Commission;

CONSCIOUS of the difficulties inherent to the implementation of new working languages within the Commission, but wishing to make concrete progress in this direction;

RECALLING the several discussions that took place since IWC/56 regarding the introduction of French as working language of the Commission, as reported mainly in reports submitted to the Commission by the Finance and Administration Committee;

NOTING with gratitude and appreciation the special contribution made by the Governments of France and Monaco towards an experimental implementation of the French language as a working language of the Commission;

FURTHER NOTING with gratitude and appreciation efforts and contributions made by other members of the Commission to assist with the implementation of French as a working language; and

RECOGNISING the excellent work performed by the Finance and Administration Committee and the Secretariat;

NOW THEREFORE THE COMMISSION:

INSTRUCTS the Secretariat to provide translation and interpretation in French and Spanish in accordance with IWC/58/28 at the 2007 IWC Annual Meeting;

REQUESTS the Secretariat to investigate the possibility of recognising French and Spanish as working languages of the Commission at the 2007 IWC Annual Meeting;

FURTHER REQUESTS the Secretariat before IWC/59 to develop options for the implementation of French and Spanish at future meetings of the Commission, including possible time frame and cost implications for a final decision to be taken at the 2007 IWC Annual Meeting.

Annex D

Report of the Workshop on Whale Killing Methods and Associated Welfare Issues

Sunday 11 – Tuesday 13 June 2006, St. Kitts and Nevis

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Dr Torsten Mörner, Head of Department of Wildlife, Fish and Environment of the Swedish National Veterinary Institute, was confirmed as Chair of the meeting. In welcoming participants (Appendix 1) and observers, Dr Mörner gave a brief overview of his background.

The Chair thanked the delegation of St. Kitts and Nevis for inviting the IWC to meet here and the Organising Committee for arranging the Workshop.

1.2 Appointment of rapporteurs

Pam Eiser (Australia) and Sidsel Grønvik (Norway) were appointed as rapporteurs.

1.3 Review of documents

The Chair reviewed the list of documents (Appendix 2), noting that 25 papers had been submitted for presentation. In addition, a copy of the Revised Action Plan on Whale Killing Methods, agreed by the 2003 Workshop, was provided for information. Also, Dr Mörner noted a paper provided by the Government of Japan as an Information Paper and not for presentation or discussion. Dr Mörner advised that his intention was to take documents under the relevant agenda item/s.

Japan, supported by Norway and Iceland, raised concerns regarding paper IWC/58/WKM&AWI 23, submitted by Australia, both with respect to the content of the paper and the way it was structured and asked the authors to withdraw it. Australia recognised Japan's sensitivities and offered to discuss bilaterally with Japan how the paper might be handled.

Denmark also raised issues concerning paper IWC/58/WKM&AWI 8, and asked New Zealand to withdraw it. New Zealand declined, but agreed to meet with Denmark to see if some sort of resolution could be attained.

As no consensus existed to delete consideration of either of these papers they were presented under the appropriate agenda item.

2. TERMS OF REFERENCE AND BACKGROUND TO THE WORKSHOP

The Chair reviewed the Terms of Reference for the Workshop, as adopted by the International Whaling Commission at IWC/57 in Ulsan, Republic of Korea. He stressed the importance of delegates keeping in mind the Terms of Reference during discussions and in framing recommendations at the conclusion of the Workshop. He expressed the hope that all participants could contribute to the general report of the meeting, and work in a positive

manner. As Chair, Dr Mörner noted that his responsibility is to manage the Workshop.

3. ADOPTION OF AGENDA

In reviewing the Agenda, the Chair asked if there were any items to be raised under item 7, Other Matters. The NAMMCO observer requested an opportunity to make a short oral presentation under this item.

The Chair outlined his plan for the handling of the meeting.

The Workshop adopted the Agenda (Appendix 3).

4. DESCRIPTION OF WHALE HUNTING/ EUTHANASIA PRACTICES, IMPROVEMENTS SEEN AND REMAINING PROBLEM AREAS

4.1 Aboriginal subsistence whaling

The USA advised that, in preparation for the Workshop, there had been a meeting the previous day of aboriginal subsistence whalers. This was the first time that such a meeting had occurred. Harry Brower, Chairman of the Alaska Eskimo Whaling Commission, was introduced to present a statement on behalf of aboriginal subsistence whaling countries (Appendix 4).

Mr Brower reported that on 10 June 2006, aboriginal subsistence whalers from the countries of Denmark on behalf of Greenland (Organisation of Fishermen and Hunters in Greenland), the Russian Federation (Association of Traditional Marine Mammal Hunters of Chukotka), and the USA (Alaska Eskimo Whaling Commission and Makah Whaling Commission) met for an historic first-time meeting to share information on whale killing methods and animal welfare issues. He thanked the organising committee of the current IWC workshop for recognising the need to involve the aboriginal subsistence hunters in the workshop and their recognition of the need to seek practical solutions in advancing the recommendations of the workshop.

The aboriginal subsistence whalers' meeting had unanimously agreed that in their communities, subsistence whaling is a critical activity; providing food for nutrition and serving to reinforce and maintain cultural identity. Four major points affecting each aboriginal hunt had been agreed:

- (1) subsistence hunting is for food to meet cultural and nutritional needs;
- (2) the safety of his crew is a whaling captain's most important responsibility;
- (3) with safety assured, achieving a humane death for the whale is the highest priority; and
- (4) efforts to modernise whaling equipment and practices can be made only within the context of each

communities' economic resources and the need to preserve the continuity of its hunting traditions.

The aboriginal subsistence whalers found they had benefited from this opportunity to talk and learn about each other's hunting methods and found many similarities. Differences in environmental conditions and cultural traditions of the hunts were noted. But, it is clear that within each culture, achieving safe, humane, and efficient harvest methods is the most important goal of subsistence hunts provided that it is economically viable and consistent with traditions.

St. Vincent and The Grenadines applauded the efforts made by the organisers of the meeting of aboriginal subsistence hunters and expressed the hope that discussions will continue interessionally and that the necessary support will be provided to assist this. Disappointment was expressed on behalf of the aboriginal whalers of St. Vincent and The Grenadines at not being able to attend this meeting. St. Vincent and The Grenadines endorsed the comments made by Mr Brower and noted that the statement reflected the situation which exists in its own aboriginal subsistence hunt.

The following papers from Denmark (Greenland) were introduced.

IWC/58/WKM&AWI 3 A note regarding information encouraged in the IWC Resolution 1999-1 for the Greenland catch of 2005;

IWC/58/WKM&AWI 4 Report on improvements in ASW in Greenland;

IWC/58/WKM&AWI 5 Status for Greenland Action Plan on Whale Hunting Methods;

IWC/58/WKM&AWI 6 Summary of activities related to the Action Plan on Whaling Killing Methods; and

IWC/58/WKM&AWI 17 Whale killing methods and associated welfare issues in Greenland.

Denmark mentioned that whaling has considerable cultural and socio-economic importance in Greenland. An Action Plan on Whale hunting methods started in 1989, and was implemented in 1991. The plan included the introduction of the Norwegian penthrite grenade, as well as renovation of harpoon cannons and training on handling and use of whaling equipment, including the penthrite grenade. Training was directed to hunters, personnel in shipyards and distributors of the grenade. Documents 3-6 and 17 contain information about the Action Plan, as well as descriptions of the Greenlandic hunt, including requirements for hunters, times to death and struck and lost rates.

Fontaine (Denmark), a full time hunter and fisherman from the hunter's organisation of Greenland, explained that, in order to obtain a licence for whaling with harpoon, the captain of the boat has to document that the special course in handling the harpoon and grenade has been taken, and that the harpoon cannon mounted in the boat has been checked. The captain is responsible for organising the hunt, and for all the equipment and the security of the crew. Whaling is affected by conditions such as the behaviour of the whale and the weather. Harpoons are fired when the targets are less than forty meters away. Gunners usually aim at the thorax. Well placed hits result in quick death and sinking of the whale. Hits at a distance of 10 meters into the base of the skull make the whale die immediately and sink. Back up weapons are used when the whale does not die quickly. These are 7.62mm (30.06), .375 or .458 rifles,

with 7.62mm as the minimum requirement. For fin whales, the back up weapon is a second harpoon with grenade. Greenlandic whalers believe that killing methods can improve with the help of seminars where whalers and other experts can exchange experiences and views.

Denmark acknowledged the important work to improve hunting methods carried out by the North Atlantic Marine Mammal Commission (NAMMCO). Denmark also expressed its sincere thanks to the organising committee of the IWC Workshop on Whale Killing Methods for involving the aboriginal subsistence whalers in the workshop.

COMMENTS AND DISCUSSION

Øen (Norway) provided additional comment on Greenland's efforts to improve hunting methods over many years. This has included the upgrading of harpoon guns, the convening of several training workshops for hunters and the participation, despite limited resources, in NAMMCO workshops on hunting efficiency and hunter safety. These efforts have been very much appreciated.

IWC/58/WKM&AWI 15

A review of the technique employed by the Makah Tribe to harvest gray whales

The USA introduced Keith Johnson, president of the Makah Whaling Commission, to present this paper.

Johnson noted that a Makah whale hunt invokes ancient rituals and ceremonies that are deeply spiritual to the tribe. The physical, mental, and spiritual preparations to carry out a successful whale hunt have been passed down from family to family since time immemorial. He outlined the history concerning the Makah hunt, noting that under the 1855 Treaty of Neah Bay the Makah Tribe had reserved their pre-existing right to whale in traditional areas. Following the recovery of the gray whale stock in the 1990s, the Tribe sought to resume hunting following their voluntary cessation in the 1920s due to depletion by unregulated commercial whaling. In May 1999, the Tribe harvested their first whale in 70 years but since 2000 they have been unable to hunt because of domestic legal requirements.

The traditional hunting methods and equipment of the Makah Tribe were described. On seeking to resume their traditional whale hunt, they sought to develop it in a manner that incorporated and retained its traditional aspects at the same time employing a safe and humane harvest method. A veterinarian with a background in ballistics was contracted and the performance of several high calibre firearms was investigated. It was found the .50 calibre and .577 calibre rifles to be the most potent combination. For the 1999 hunt the .577 calibre was selected as it was a substantially lighter rifle and had a 3-round capacity. Johnson also emphasised the importance of safety during whaling operations and outlined measures taken to ensure the crew's safety. This includes the designation of a safety officer who ensures that, prior to giving authorisation to fire, the vessel is in close proximity to the whale and that the field of view is clear of all persons and vessels.

Harvest techniques are more than sufficient to quickly and humanely dispatch gray whales and provide a good balance between retaining and protecting their traditions in the hunt at the same time as ensuring a safe and humane harvest.

COMMENTS AND DISCUSSION

In response to a question from Sweden as to whether any consideration was being given to the use of an exploding harpoon, Johnson advised that in the tradition of passing information down, there was a time when some black powder was brought to the whalers and rejected by them. The .50 calibre or .577 calibre rifles now used has sufficient impact power to dispatch the whale.

*IWC/58/WKM&AWI 16**Summary of activities related to the Action Plan on Whale Killing Methods*

The Russian Federation summarised that 115 gray whales and 2 bowhead whales were harvested in 2005. Hunting methods used to harvest these whales were not significantly different from hunting methods used in previous years.

The Russian Federation then presented Gennadiy Inankeuyas, Chairman of the Association of Traditional Marine Mammal Hunters of Chukotka and a traditional aboriginal hunter. Inankeuyas presented a PowerPoint presentation entitled *Whale killing methods and related issues in Chukotka, Russia*. In his presentation, Inankeuyas noted that in Chukotka there is a single general hunting method used. There is a difference based on the size of the whale and a difference between gray whale and bowhead whale hunting. For providing hunter safety and reducing the time of the hunt, three or four boats are used. Since weather conditions can worsen very quickly in Chukotka, reducing the time of the hunt is critical to the goal of providing hunter safety.

In the gray whale hunt, so that the gray whale does not sink, it is first harpooned and floats attached, enough times so that the whale is held buoyant on the surface. If whales have a length up to ten metres (32 feet), then the priority weapon is the rifle. The rifle is powerful enough (calibre 7.62mm) to kill the whale with the bullets fired. Hunters aim at the area near the neck and head. If the length of the whale is greater than ten metres, then the priority weapon is the darting gun. The darting gun is aimed in the area of the neck and the area of the heart.

In the bowhead whale hunt, as in the gray whale hunt, so as not to lose the bowhead whale it is first harpooned, a harpoon with a toggle harpoon head and a float attached to the whale with a line is used. One float is often sufficient in order not to lose the whale during the hunt. After the harpoon and line is attached, a darting gun is used. As a rule, it is necessary to use two or three darting gun projectiles, since the sea is rarely calm, which interferes with aiming the darting gun. The darting gun is aimed at the heart and lungs.

Time to death is estimated by the whaling captain. Since the animal is dangerous and large, hunters fire several rounds in order to ensure the death of a whale, and will even fire upon a presumably dead whale. This is done to ensure hunter safety, and, on occasion, will be carried out to train young hunters.

The Russian Federation expressed the hope that, following this presentation, countries would now better understand what hunting means in Arctic conditions. These are very harsh and difficult conditions, but the people are working to improve the efficiency of the hunt. He thanked those countries and individuals which had provided technical assistance, scientific advice and funding to assist in the implementation of humane killing methods.

COMMENTS AND DISCUSSION

In response to a question from Belgium as to what part of the animal is targeted by the darting gun, the Russian Federation said that most often in the gray whale hunt, this is pointed towards the heart. Hunters also attempt to hit the area of the neck when the animal tries to move quickly. In order to land the whale on shore, tractors or similar equipment is used when available; otherwise people are used, often by rolling the whale onshore. The UK enquired as to what calibre of rifle is used and whether it is possible for a more powerful weapon to be employed. The Russian Federation explained that for the most part the 7.62 calibre rifle is used. There has been some attempt to use a larger calibre weapon, but for economic reasons these have been difficult to acquire and so the 7.62 calibre rifle is the weapon of choice. In addition to economic factors, larger calibre rifles are geared to the hunting of terrestrial animals and the lack of jacketing does not act as effectively as the 7.62 calibre rifle. Sweden recalled that at the working group meeting in 2005 there had been some discussion about the Greenland hunt and that a similar calibre of rifle is used there. Sweden asked Norway to confirm its understanding that the minimum calibre used in its hunt is 9.3mm. Øen (Norway) confirmed this as the minimum but added that the most commonly used calibres are .375 and .458.

*IWC/58/HKM&AWI 22**Report on weapons, techniques and observations in the Alaskan bowhead whale subsistence hunt*

The paper was presented by Eugene Brower, Chairman of the Alaska Eskimo Whaling Commission Weapons Improvement Program Committee (WIP Committee), on behalf of the USA.

The Alaskan Eskimo bowhead whale subsistence hunt takes place in 10 villages of northern Alaska, spread across more than 1,000 miles. The spring hunt by eight villages is conducted from the shore-fast ice as the bowheads migrate north and east through the spring leads, using small skin boats. The fall hunt by three villages takes place from small skiffs with outboard motors in ice-choked waters and under conditions that often include high winds and rough seas. In both hunts, the whale may be many times the size of the boat. The primary weapon is a hand-thrown darting gun, armed with an explosive projectile and a harpoon (toggled iron) that attaches a line and float to the whale to assist in recovery. The secondary weapon is a smooth bore, eight gauge shoulder gun. The shoulder gun cannot be fired until after a line and float have been attached to the whale.

Subsistence hunters make every effort to dispatch the whale as quickly as possible to provide a humane death for the whale, to reduce the chance of losing the whale, and to reduce the amount of time hunters in small boats must spend in the treacherous waters of the Arctic Ocean. Fatal accidents are not uncommon in Arctic subsistence hunts. Between one and six people die annually in the Alaskan and Chukotkan hunts, combined.

Within this context, the Alaska Eskimo Whaling Commission, through its WIP Committee, has undertaken an extensive program to upgrade the safety and humaneness of its traditional weapons used in the bowhead whale subsistence hunt. The AEWK is in the process of introducing a specially designed penthrite projectile for use in the hand-held darting gun, and a modified darting gun barrel made to fit the new projectile. This equipment has been designed and tested with the assistance of Dr Egil Øen

of Norway. The AEWK expressed appreciation for his work. Field trials of the penthrite projectile ended in 2004. Also working with Dr Øen, the AEWK has prepared a training manual for introducing the penthrite projectile and modified barrel to the hunters. The manual is being used as the basis for training and certification of whaling captains and harpooners before they are given the new equipment. Training and certification are under way in Barrow and have been completed in three other villages.

During field trials in Barrow, hunter observations indicate that, when placed near the blow hole or within the thorax, the penthrite projectiles appear to give a more rapid time to death than the traditional black powder projectile.

Two of the other villages receiving the new projectile report similar experiences. Training and certification sessions will continue in the other six villages as soon as possible, as funding for travel becomes available.

Difficulty in obtaining a critical component for future production of the penthrite projectile is discussed more fully under item 6.1.

The AEWK also provided a PowerPoint presentation showing conditions of the Alaskan bowhead hunt, including photos of the skin boats, the hand-held weapons, and the extensive sea ice.

COMMENTS AND DISCUSSION

Sweden commented that when the IWC considers aboriginal subsistence whaling quotas, it talks about cultural and nutritional aspects. These considerations are not however in the Terms of Reference for the workshop. The Russian Federation disagreed with this statement, pointing out that in their view the humaneness of the hunt is very clearly tied to cultural and nutritional needs.

4.2 Commercial whaling

IWC/58/WKM&AWI 25

Norwegian minke whaling. Research to improve hunting and killing methods for minke whales in Norway

This paper, presented by Øen (Norway), describes research to improve hunting and killing methods for minke whales in Norway during 1981-2006. Hunting of whales in Norway goes way back in history. The first written sources of hunting of whales in Norway are from the 9th century AD. Today's hunt is conducted with small (50 feet) or medium sized (60-120 feet) fishing boats that are rigged for whaling in the season with 50 or 60mm harpoon guns and harpoons equipped with a penthrite grenade with 30g penthrite and rifles with full metal jacket, round nosed ammunition of calibres 9.3, .375 and .458 as back-up weapons. The harpoon is connected to a line of synthetic materials connected to a winch. The detonation is triggered when the grenade has penetrated 70cm into the whale. The whales are searched for at relatively slow speed (4-6 knots/h) and it is not unusual that the whales come to the boat, or the boat idles up to where the whale is expected to blow or starts following the whale at a moderate speed to get close enough to fire the harpoon. No instruments are used. The hunter aims the harpoon at the thorax from the side whenever possible. As a whale is hit fatally it rises to the surface to blow, normally stops swimming and rolls on to its back or pulls out some of the harpoon line before stopping. If it does not lose consciousness or die rapidly, it maintains its normal position in the water and dives actively and resurfaces. Therefore, the whale should be hauled to the boat as fast as possible to check whether it is

dead, and the gunner will be ready to fire the back-up rifle at close range at the brain when the whale's head is out of water. The whale is hauled on to the boat across the deck to be flensed. Each gunner is required to pass an annual and obligatory shooting test, both with rifle and harpoon gun prior to the hunt and hunting gears are controlled and approved for hunting by governmental institutions. Formalised, obligatory workshops and training courses for hunters were carried out on a regular basis from 1984 to 2005.

From 1981 to 2004 scientists at the Norwegian School of Veterinary Science have conducted three major research projects to improve and assess the hunting and killing methods for minke whales in Norway. These projects have (1) aimed to develop alternative methods to improve the animal welfare and the hunter's safety associated with the hunting and (2) to verify the efficacy of the methods by autopsy and neuropathological studies of animals killed. The research programs had their most extensive research periods in 1981-86, 1992-95 and 1997-2004. The research has resulted in development of new weapons technology, improved hunting techniques and routines and obligatory education and training of hunters and inspectors. Four types of whale grenades with the explosive penthrite have been developed; two harpoon grenades for 50mm and 60mm harpoons, one for 90 mm harpoons used for fin and sei whales and one grenade for the traditional darting gun used by hunters of bowhead whales in Alaska. Data on the performance of different killing methods have been collected for scientific purposes for 5,552 minke whales. The statistics show a considerable increase in the instant death rate (IDR), and a decrease in the time to death (TTD) and losses of wounded animals. The percentage of IDR in 1981-83 was 17%. The average TTD was 11 min and 17% were re-shot with harpoons. In 2000 to 2002 the corresponding figures were 80% and 2 min 17 sec using the criteria adopted by IWC which may include periods when the animal may have been unconscious or already dead. Only 0.5% needed a second shot with the harpoon grenade. Two doctoral theses on developments in whaling and killing efficiency in whaling have been defended at the Norwegian School of Veterinary Science. From 1992 to 2003, twenty-eight extensive reports and publications in scientific journals have been presented to five IWC workshops, in addition to annual reports.

The weapons and ammunitions used in the Norwegian hunt for minke whales today are, when applied as recommended, highly effective in causing instantaneous or very rapid deaths. The harpoon grenade used today must be regarded as having a wide lethal area compared to conventional weapons used in other forms of big game hunts. And the results from the Norwegian studies support the already established recommendation that for welfare reasons the whales should be shot from the side at the thorax or neck, and that all animals should be hauled in fast for control. As a precaution the hunters should still be recommended to re-shoot any animal that moves or otherwise shows any possible signs of life as a matter of routine, even though some of these animals are unconscious or dead. This recommendation is based on good and responsible hunting practice for all large animal hunting - to fire too many rounds rather than too few.

To further possible improvements of the TTD in Norwegian minke whale hunt, factors like more training, improved marksmanship, and maintenance of weapons and

hunting gears are identified as probably the most important elements.

COMMENTS AND DISCUSSION

The UK expressed its appreciation for the valuable and interesting information provided in IWC/58/WKM&AWI 25 showing improvements in TTD during recent decades, noting that these results were obtained based on close monitoring of what goes on in the hunt. The UK hoped that the Norwegian Government will continue supporting this research and will urge continued close monitoring to perceive further refinements that could be made. The Netherlands supported the UK comment.

Mexico asked on what criteria it was judged to use rifle shots as a secondary killing method. Øen (Norway) answered that it was much more rapid to use a rifle. A winch is used to haul the whales in rapidly and the whale usually gets its head out of the water so the rifle can be fired within a matter of seconds. To use a second harpoon it would take 5-10 minutes to re-load the cannon and collect the forerunner and that is too long in an ordinary hunt.

The UK noted the importance of close monitoring of the hunt and further research and asked if it was likely that Norway will continue to make future progress on killing methods. Øen (Norway) answered that there is no intention to continue research projects in the near future.

IWC/58/WKM&AWI 12

A review of a Norwegian whale hunt

Lonsdale (UK) presented this paper which is an analysis of film of a minke whale hunt that took place in northern Norway on 18 May 2005. The authors acknowledge that this is an analysis of only one hunt and is not representative of all Norwegian whale hunts. It provides a detailed record of hunting in adverse conditions and demonstrates the changes that can occur which may affect the impact and position of the harpoon strike and the subsequent time to death. The filmed sequence of events includes:

- the pursuit;
- the harpooning;
- the use of the rifle;
- the movement of the whale post-harpooning;
- the last sighting of the whale's signs of vitality;
- hauling the whale aboard the vessel; and
- the entry point of the harpoon into the whale.

It also shows the sea and weather conditions, the movements of the whaling vessel and some of the activities of the crew. The estimated wind speed was up to 20 knots in a south westerly direction. The sea had moderate waves of an estimated height of about 1-2 metres and visibility was good, with no rain during the hunt.

The whale took 14 minutes and 30 seconds to die, having been struck by the harpoon in the abdomen. Seven rifle shots were fired at the whale from a distance of several metres, the first shot being fired 11 minutes 2 seconds after the firing of the harpoon.

The analysis identifies several factors beyond the control of the crew that presented key challenges to achieving immediate loss of consciousness and death. These included the sea conditions and the movement of the vessel, the striking of the whale in the abdomen, the problems encountered with drawing the whale quickly to the side of the vessel, the repeated firing of the rifle at the whale from a distance and with the head not above the water or close to the vessel.

The analysis provides valuable information which can be collected by independent observers beyond the capabilities of the Norwegian Blue Box and suggests it would be advantageous to define acceptable weather conditions for whale hunts.

COMMENTS AND DISCUSSION

Øen (Norway) commented that the TTD of 14 minutes observed in this case was within what has been reported from the Norwegian whale hunt in IWC/58/WKM&AWI 25. He also commented that this hunt had taken place during weather conditions that were not favourable and that the hunters had not followed the recommendations given. In an interview the skipper had confirmed the information given in the just presented paper. The skipper had also explained that the forerunner had turned around the tail of the animal and it therefore was not towed in as fast as it should. He also said that a second whale was shot soon after the filmed one had been flensed and that this second animal was killed immediately. The logbook, the skipper and information registered in the 'blue box' all confirmed this.

The UK returned to the issue of weather conditions and asked whether, when conditions are judged unfavourable, there is any requirement to restrict whaling. Norway advised that recommendations are given that whaling should not proceed but such advisements cannot be enforced.

IWC/58/WKM&AWI 13

Immediate immobilisation of a minke whale using a

grenade harpoon requires striking a restricted target area

This paper was presented by the UK. Previously published schematic data has shown the harpoon detonation sites from two groups of whales. In this analysis, the data for the two papers were amalgamated and the longitudinal distance of the detonation from the tip of the lower jaw, relative to the total length of the whale was calculated from the schematic diagrams, the total body length being measured from the tip of the lower jaw to the point where the flukes divide. The detonation sites were recorded as either having or not having resulted in immediate immobility based on the IWC criteria. Using a simple model of longitudinal distance of detonation site alone it was possible to correctly classify 77.8% of the whales as being immediately immobile and this resulted in a binary logistic regression model that included just two explanatory variables: the longitudinal distance along the whale and whether the detonation was above or below a mid-line differentiating a ventral from a dorsal explosion. The extreme anterior of the target area begins at the anterior of the brain, approximately 22% of the total body length from the tip of the lower jaw. The target area extends from this point to approximately 30% the length of the whale from the tip of the lower jaw dorsally, and ventrally to 49% the length of the whale from the tip of the lower jaw. These distances are given as the furthest detonation sites which caused immediate immobility.

The data indicate that there is a relatively well defined cut-off point between a detonation which is effective and one which is not. Based on this, the minimum and maximum target area which will result in an immediate immobilisation/stun are shown in Figure 1 in the paper. The data drawn together in this commentary indicate that in order to cause immediate immobilisation and, perhaps, an

immediate stun in minke whales it is necessary to hit a significantly restricted target area.

COMMENTS AND DISCUSSION

Walløe (Norway) had two arguments against the paper. First, details of the regression analysis are not provided. Second, assuming that the regression is okay, the results are only giving information about correlation between hit region and pathological findings in the brain tissue, not between hit region and IDR. Many whales in general die instantaneously from hits which rupture the heart or large blood vessels and which give instantaneous fall in blood pressure and thus a cardiovascular death. Figure 3 in paper IWC/58/WKM&AWI 25 gives IDR in the Norwegian hunt for hits in different body regions. It is clearly shown that IDR is higher for hits in the dorsal part of the body than for hits in the corresponding abdominal part, contrary to the conclusions given in IWC/58/WKM&AWI 13. Norway also criticised as bad scientific habit the use of secondary data when primary data are available in the reference.

In reply, Butterworth (UK) said that he accepted in many ways a number of the points made. He acknowledged that hits to the thorax regularly return higher levels of insensibility and instantaneous death. On the second point regarding the use of data, Butterworth (UK) said that Knudsen had been invited but declined to contribute to the paper. Knudsen (Norway) explained that whilst she had been contacted about contributing, the first she saw was a completed paper with her name attached. Butterworth added that Knudsen was told that the paper sent was a draft and she would be free to edit and comment.

Referring to comparisons in the paper between its hunt and the Norwegian hunt, Japan said that it has repeatedly explained the reasons for a lower rate of immediate stun (conditions in Antarctic waters; differences in operations of the hunt) but these explanations have been ignored. Japan also took issue with the statement that it has been reluctant to switch to the Norwegian grenade because of the increase in cost. Whilst the Norwegian grenade has been tried, almost similar results are now being achieved using the improved Japanese penthrite grenade.

IWC/58/WKM&AWI 11

A review of recent research on Norwegian whale killing

The UK (Butterworth) presented this paper which is a review of recent research on Norwegian whale killing. The authors noted that they considered the Norwegian studies that were reviewed in their paper to be a valuable contribution to the call for science in category 1 of the IWC research. However, they still found it appropriate to raise a number of questions about the studies.

- (1) Noting that the study was carried out about the time of the introduction of the Whalegrenade 99, were all, none, or a portion of the animals harpooned using this grenade or the earlier version?
- (2) How IWC criteria could be applied to diving whales if this was to be related to the traumatic brain injury (TBI) data provided.

In discussion, Butterworth noted that Walløe, in 2005, had explained that 'the old grenade, or early versions of the new grenade were used during the four hunting seasons from which Knudsen obtained samples'. He commented that it would thus appear the studies represent results predominately from the old grenade and that any IDR calculable from within the paper is not representative of the

Norwegian hunt at that time because it is calculated from a restricted sample and that a correct IDR for this period would be 61.3%, with about 50% surviving grenade detonation according to IWC criteria but recorded dead within the next five minutes (IWC/58/WKM&AWI 25).

Comment is made in IWC/58/WKM&AWI 11 that Knudsen and co-authors had also noted that 'other mechanisms may also explain the intracerebral haemorrhages in the whales, including that the blast causes rapid acceleration of the torso that cause displacement of the brain resulting in deep intracranial haemorrhages and tearing of the many bridging veins in the meninges'. However Butterworth commented that measurements or a calculation of whether the energy available could achieve this acceleration are not provided and that clarification on this point would be very welcome.

The paper also noted the welfare implications of the difficulties of assessing an animal if it dives immediately after harpooning.

Paper IWC/58/WKM&AWI 11 concluded that the procedures reported in the papers produced by Knudsen and co-authors are a very positive step forward in achieving the application of science to understand the potential for animal suffering during whaling and that concern for animal welfare will remain a focus for debate within the IWC working groups, and agreed with others that continued improvements should be sought.

COMMENTS AND DISCUSSION

Knudsen (Norway) responded to several comments in IWC/58/WKM&AWI 11 which was a review of her doctoral thesis. IWC/58/WKM&AWI 18 (A novel method for *in situ* fixation of whale brains), IWC/58/WKM&AWI 19 (Blast-induced neurotrauma in whales) and IWC/58/WKM&AWI 20 (A review of the criteria used to assess insensibility and death in hunted whales compared to other species) provide background to her response.

Knudsen commented further that two of the UK reviewers had competence in pathology, one being a marine mammal pathologist and the other a certified neuropathologist. Both concluded that the methods used and the interpretations of the pathological findings in the PhD study and associated scientific papers were scientifically sound (see appendices C and D in IWC/58/WKM&AWI 11). Knudsen was surprised to see that the views of the two UK pathologists were not reflected in the UK report. She also commented on the authors' obvious misunderstanding of the aim of the PhD study. The major aims of the study were to investigate and describe gross and histological pathological changes (including on the central nervous system) after detonation of the harpoon grenade (hereafter referred to as Category 1), and the ability to penetrate the skull and the pathological effect of the rifle (Category 2) in the Norwegian hunt for minke whales. The aim of the studies was not to obtain TTD percentages on the different boats or evaluate the skill of individual gunners. The goal of the field sampling was to obtain a significant number of animals within each category (1 and 2) in order to evaluate the effects of different target areas for the harpoon grenade as well as different target areas for rifle shots.

Knudsen also noted the following.

- The sampling took place during four field seasons (1997-2000). The boats used in the study were chosen exclusively for logistical reasons. All hunted whales

were chronologically sampled during the time periods when the scientists were present on the different whaling vessels. During the 1997 and 2000 hunting seasons the scientists were present and sampling occurred only in parts of the hunting season, while in 1998 and 1999 sampling occurred over the whole hunting period. The sampling of Category 2 animals (rifle shot animals) started one year earlier (in 1997) as this sub-project was initiated before the PhD program was finally and formally established.

- Regular or standard time to death (TTD) records were collected from all whales on these boats during the whole hunting season by the governmental inspectors, and all data were analysed according to the same procedures that were used on all other whaling boats in these years. The data obtained in the PhD project was not used to obtain or adjust the TTD reported to the IWC in the annual reports, as the more comprehensive analyses performed in the PhD project were far from being finalised at the time when these data were reported.
- In the thesis it is clearly stated which samples were excluded from the analyses. TTD percentage analyses were not performed either in the thesis nor in separate papers, because the material was not suitable for such analyses, as the Category 1 and Category 2 animals were sampled during different time periods. Consequently, Knudsen concluded that the analyses and conclusions on TTD presented in the UK report must be regarded as misinformation.
- Chapter 2.1 in the UK report is referred to as a summary of the PhD thesis. However, none of the calculations in table 2 can be found in the PhD thesis or associated papers and the data presented in table 6 were not published or referred to anywhere in the thesis nor in associated papers.
- Chapter 5.0 is one example on how the authors have taken sentences and paragraphs from the thesis out of context and misused them. The basis of the *in situ* fixation technique is that the brain stays in the whale's head for at least two days prior to excision, so that the brains can be excised when hunting activities and other practical circumstances allow for it. Most brains in the PhD study were not excised until 72 hours after the death of the animals by which time the weather conditions may have changed considerably.

Finally, Knudsen responded to what she felt was a serious allegation in the UK report: "*The risk would be that hunters, supported by Dr Knudsen's pathological findings, would assume that animals which dive can be considered as likely to be dead or unconscious.*" This statement shows that the authors of IWC/58/WKM&AWI 11 have ignored the recommendations given in the PhD thesis. The way this paper has been written is contra-productive and does not promote a sound and constructive scientific debate on these issues.

Walløe (Norway) further commented that based upon the response given by Dr Knudsen it was obvious that the statistical comments of IWC/58/WKM&AWI 11 were invalid. Comments in that paper by Mr Steve Wotton on pp 17-24 deserved some additional comments. This part of the paper was in Walløe's opinion irrelevant to Knudsen's thesis as it described laws and regulations and not practice (in some cases these can be very different). Walløe agreed

with the Chair's advice that one should not compare TTD in abattoirs with TTD during hunting, but if such a comparison is made, it shows that IDR of minke whales in the Norwegian hunt is similar to instantaneous stunning of pigs and bulls in UK abattoirs. TTD in the Norwegian whaling has been observed and recorded for all whales killed during a twenty year period, including 1,667 during 2000-2002. In abattoirs the TTD is only sampled by veterinary surgeons for short periods. Walløe assumed that the IDR in abattoirs was substantially lower when the veterinary surgeon inspector was absent.

In conclusion Walløe noted that none of the accusations made in the paper were valid and that he would like the UK to acknowledge that. Norway further referred to a paper presented to the working group last year (IWC/57/WKM&AWI 10) and suggested that none of the accusations made in that paper were valid. Norway asked the UK to acknowledge this point.

Butterworth thanked Knudsen for her reasoned response, noting that he had only just seen a written version of this. He concurred with her first point that two of the four UK reviewers had concluded that the methods used and the interpretations of the pathological findings in the PhD study and associated scientific papers were scientifically sound. He noted also that the report of the neuropathologist was freely available as an Annex to the paper.

With respect to Knudsen's point concerning the sampling period and the sampling of animals, Butterworth stated that the matter he was most interested in was whether or not Knudsen's studies should be taken to reflect the Norwegian industry and offered his conclusion that they could not. He added that if this is the case, then the next question might be whether this undermines the study but in his opinion it did not. Nevertheless, in his view the data (69 animals) cannot be used as representative of the industry.

With respect to the example provided in Knudsen's response of how sentences and paragraphs from the thesis have been taken out of context and misused, Butterworth noted that he was grateful for the explanation provided on the *in situ* fixation technique and that most excisions of the brain occurred 72 hours later. He added that it was important to appreciate that researchers are obliged to work from a limited data-set, since only limited data are provided to the Commission.

On the final point raised by Knudsen, Butterworth emphasised that in the presentation the situation of the animal diving was identified as a *potential* animal welfare concern. He noted that the diving animal was difficult to observe and categorise and that this remained a potential animal welfare concern.

In response to Butterworth on this last point, Knudsen said that she could not find in any of her published data any basis for this assumption. Her recommendation is that whales should be hauled as fast as possible into the boat and killed as quickly as possible. It is the whalers' decision as to how many times to shoot, and in the whalers' interest to kill fast. Her advice is to shoot as many times as possible and to shoot if there is any doubt.

Walløe responded to the point as to whether the data presented in Knudsen's work are representative of the Norwegian hunt. He reiterated that they were never intended to be representative of the Norwegian industry as the sampling was designed to meet the aim of the study as described by Knudsen in her comments. With respect to the effect on the brain from hits in different parts of the

whale's body, the results are representative of the Norwegian grenade and of the Norwegian whaling.

Further, Walløe said he would still like to hear a response to his question as to whether the UK would now withdraw the accusations contained in IWC/57/WKM&AWI 10, presented in 2005.

On this point the UK noted that the 2005 paper had covered many points. This discourse had helped to clarify many points but some remained.

The Russian Federation made a point of order regarding the lengthy discussions on the UK paper. Issues raised concerning the data should have been discussed before the paper was brought to the IWC and the Russian Federation now requested that the UK and Norway be requested to continue any discussions on a bilateral basis. Both countries agreed.

The Russian Federation then made a further statement that such issues as raised by this paper should have been discussed in the Scientific Committee. The matter touches on questions of falsification by one country and by another. The Russian Federation expressed surprise that the paper had been presented; and at the patience shown by the Scandinavian people considering that the discussion carried a political character. If countries had doubt about each other's data this should be taken up on a bilateral basis. Prior to providing such a report on behalf of a government, a government should have these reports reviewed on a national level. The Russian Federation requested that the workshop keep to its agenda and not discuss scientific issues here.

4.3 Whaling under special permit

IWC/58/WKM&AWI 8

Killing whales under special permit: the special case of the fin whale

Denmark recalled that during the review of documents in item 1.3, Denmark on behalf of Greenland requested New Zealand to withdraw document IWC/58/WKM&AWI 8. No agreement on this could be reached. The reason Denmark made this request is that the paper compares information on Greenlandic time to death (TTD) in fin whale hunting in relation to a discussion on special permit issues which is a completely different hunting activity undertaken in different conditions and using different equipment. Furthermore the character of collecting data in Greenland is anecdotal, not based on science.

New Zealand's response, Denmark noted, is that no comparison has been made. This is true and wrong at the same time, but the New Zealand point of departure is the Greenland hunt, and New Zealand is very selective in its comparison. Maximum time to death in the Greenland hunt is quoted and not the average time and the paper goes on immediately to state that, because of the difficulty of the hunt, protracted times to death may become a common feature of special permit hunts. So a comparison has in fact been made but a very selective one.

Denmark said that the use of Greenland's information in this paper is inappropriate. The information has been used without advance warning and without consent. The document has been submitted to the IWC without consulting the involved party/parties.

Denmark suggested that the only conclusion which can be drawn from the New Zealand document is that TTD might be long, but this is not known so it is assumed. Denmark observed that this IWC workshop is normally

seen as a scientific and technical forum but IWC/58/WKM&AWI 8 is not scientifically based. Another conclusion is that when information is provided to the IWC, whether voluntary or not, it can be misused against you or another party.

Denmark again called on the paper to be withdrawn.

New Zealand explained that the purpose of this paper is to try and inform the Workshop and respond to points 7 and 4 of the Revised Action Plan. It is clear that the paper is entirely the work of New Zealand scientists. All of the data used was in the public domain. New Zealand regretted any difficulties caused to the Danish delegation.

Turning to the paper itself, New Zealand stated that one of the aims of this paper was to consider the possible consequences of using harpoons designed for minke whaling on fin and other larger species of whales.

New Zealand said that using the reported Instantaneous Death Rates for minke whales killed in previous JARPA hunts, an estimate could be made of the number of minke whales (between 510 and 529) that could be expected not to die instantaneously in the new expanded JARPA II hunt. A number of species of whales are killed in the scientific whaling programmes of Japan. In addition to minke whales, larger species such as sperm and sei are currently taken and JARPA II extends the species to be hunted to humpback and fin whales. New Zealand illustrated the relationship between the frequency of use of secondary killing methods and the maximum length of each species for which data on TTD have been recently provided by Japan.

Turning specifically to the fin whale, New Zealand noted that the Southern Hemisphere fin whale is significantly larger than that in the Northern Hemisphere. New Zealand noted that there is currently no data available on the killing of fin whales in JARPA II. It noted however that Japanese scientists had acknowledged in the Scientific Committee last year that crews and researchers in JARPA II have no experience in catching and flensing humpback or fin whales. New Zealand also noted a number of other important species specific characteristics in addition to size, such as blubber thickness and composition, skull anatomy etc. that may influence the efficiency of a particular weapon. In addition, 90mm harpoons were used on larger species during commercial whaling several decades ago, but no information has been provided by Japan as to whether new larger harpoons are being employed to take fin whales in JARPA II, or whether the same-sized harpoons are used as those used to kill minke whales.

Whilst acknowledging that conditions in Greenland are very different to that in JARPA II, New Zealand believed that experience in Greenland with fin whales does provide some insight. In many cases there is a lengthy TTD; there are high struck and lost rates; and penthrite is always used as the secondary killing method.

New Zealand then suggested a number of possible causes for a protracted TTD. These could include insufficient harpoon penetration, poor harpoon placement and whales that escape and are later recaptured. Animal welfare issues should be a consideration in any proposal to kill whales under special permit. Noting again that there is no information available for the JARPA II hunt of fin whales, New Zealand invited Japan to provide such information. New Zealand observed that unless powerful primary and secondary methods are used, the TDD for some fin whales may be protracted. The available data

suggest that when using similar equipment, the larger the whale the more protracted the TTD is likely to be.

COMMENTS AND DISCUSSION

Responding to the paper and presentation, Japan said that whilst it has not conducted as detailed a study as New Zealand, Japan acknowledged that fin whales are larger and more difficult to kill than minke whales. Concerning the general premise of the paper, Japan said that devices for killing minke whales could also be used to kill larger species. Japan said the paper contained a number of mistakes and incorrect information. Japan recalled that it has been pointed out many times and validated that a combination of large calibre rifle with full metal jacketed bullets is the most effective secondary killing method for minke whales. It is for this reason that rifles are used, not economic consideration. Further, the reason the Norwegian grenade is not used is not economic but because Japan has been successful in developing the Japanese grenade with an improved fuse which has a similar performance to the Norwegian grenade.

Japan also stated as incorrect the claim that not targeting the shot at the head is inhumane, responding that it has been accepted that to target at the thorax is more effective than at the head area. Japan regretted that this point is still not understood by some. As the body size of the whale increases, the head size increases but the brain size does not increase at the same ratio. At the same time, the thorax does increase at the same rate as body size and therefore it is best to target the thorax. Japan also reported that according to analysis, IDR is 80% when the grenade hits the chest as opposed to 29% when it hits the head area.

With respect to the conclusion that the penthrite grenade is an underpowered weapon and that 400g of black powder is more powerful than 50g of penthrite, Japan responded that this is also incorrect. Black powder is classified as a low powered explosive and in testing using 30g of penthrite compared with 450g of black powder, the penthrite was more powerful. Japan first received examples of the penthrite grenade in 1980 and recognised its excellent potential for producing rapid and humane death in large whales and therefore exerted efforts to develop this weaponry.

New Zealand welcomed constructive debate and responded to a number of the points made by Japan. On the issue of whether economic considerations have influenced Japan's decisions to continue to use rifles as the secondary killing method and not to use the Norwegian grenade, New Zealand said that its comment was based on extracts from papers submitted to previous WKM working groups and submissions made by Japan.

New Zealand reiterated a number of the questions it put to Japan and asked if Japan can provide TTD and IDR data for fin whales taken this austral summer; is it using 75mm or 90mm cannon for hunting fin whales; and what is the procedure at sea for changing the grenade from that used for minke whales to that for fin whales?

In response, Japan confirmed that it is using the 75mm cannon. This decision to use the 75mm cannon is based on progress and improvements that have been made in the technology over the years, and Japan also noted that the penetration power of the weapon is not affected by the factors suggested by New Zealand in its presentation. Japan also pointed out that the difference in procedures for hunting fin as opposed to minke whales is with respect to

secondary killing methods where a secondary harpoon is used in the case of fin whales.

Japan then made a more general statement concerning the provision of data and the use made of that data, noting that it has been providing data to the IWC on a voluntary basis. Japan noted that when data is provided it is almost always misunderstood and this leads to greater polarisation. Positive data and good progress is usually ignored. In the past, Japan has presented its programmes and reported on progress and has taken into account constructive comments. Japan welcomes constructive scientific and technical discussions but it appears to it that the data provided is only used to criticise whaling. Japan therefore stated that until the IWC is normalised, it will submit its data to other appropriate fora or publish it in academic journals. Japan believes that this decision will help the IWC to be normalised.

New Zealand recorded its disappointment at Japan's announcement that it intends to present its data to an alternative forum, rather than the IWC, which is the established international body for whales and whaling.

Øen (Norway) acknowledged what was expressed in the report of the importance of sufficient impact from the harpoon/projectiles to penetrate sufficiently into the animal before detonation and also the importance of the size of the charge, but found the conclusions made by New Zealand in IWC/58/WKM&AWI 8 were not always quite correct. He had experienced from his work with whaling that both small projectiles like the darting gun grenade used by Eskimo subsistence whalers in Alaska and the 50mm harpoon used by the Inuits in Greenland had sufficient penetration power to penetrate deep enough into a large whale when directed correctly to the animal. Øen also referred to his report to the IWC in 1987 (TC/39/HK4) where penthrite grenades were used for fin and sei whales in Iceland. When adjusting the trigger cord to set off the detonation 110-130cm inside the animal one fin whale was instantly killed by 22g of penthrite and by increasing the charge to 100g of penthrite fuse, 10 out of 14 fin whales (71%) and 13 of 15 sei whales (87%) were recorded instantly dead.

IWC/58/WKM&AWI 23

An independent review of the efficacy of killing methods of Antarctic minke whales

Australia provided some introductory comments on IWC/58/WKM&AWI 23. Australia said that in this paper the authors have taken advantage of a recent, publicly available data source. The authors were not involved in the planning or any other aspect of attaining that information. Australia recognised that the events around the attaining of this data are of significant sensitivity to Japan. Technical merits of the data will be discussed in this workshop, leaving other issues surrounding the collection of the data for discussion in the Commission. The issues raised in the paper relate to normal hunting practice and are relevant to minke whale hunting in the Southern Ocean.

The presentation was then passed to Leaper (UK) as one of the authors of the paper.

Leaper (UK) reported that video footage of the hunting of minke whales by the Japanese whaling fleet in the Southern Ocean taken by Greenpeace from independent observation platforms in 2005/06 was analysed to estimate quantitative data relevant to animal welfare. Catches of 16 individual minke whales were analysed. Of these, 12 events

allowed an estimation of minimum time to death or insensibility, and in two of these, death could potentially have been instantaneous. For the remaining 10 observed kills where times could be estimated, the mean of the estimates of minimum time to death or insensibility was 10 minutes with a maximum of 33 minutes. These values are likely to be negatively biased due to difficulties of determining whether a whale that was not vigorously moving was indeed dead. Comparison of data from a number of sources indicated no significant differences between the proportion of hits in the forward 47% of the body as observed from the 2005/06 video and previously reported data from Japanese and Norwegian commercial whaling for minke whales. Thus we concluded that the observed locations of harpoon impacts were representative of unimpeded hunting practise.

In two of the 16 events, asphyxiation appeared the most likely cause of death. These whales were harpooned aft of their midpoint and winched tight to the bow of the catcher with the head therefore forced underwater. Rifle shots were either not attempted or did not appear effective as a secondary killing method, since a clear shot of the head was not possible. The large proportion of harpoon impacts towards the tail from this and previous Japanese scientific and commercial whaling indicate that winching such whales tight to the bow on the harpoon line will likely result in a substantial proportion dying by asphyxiation. Thus asphyxiation appears to be the *de facto* secondary killing method in these situations.

A simple model was developed to estimate the relative shock to the brain caused by the penthrite grenade at different impact locations on the whale in relation to the likely position of the body relative to the sea surface. These calculations indicate that a harpoon which detonates deeper below the sea surface is likely to cause greater injury. This is consistent with reported differences between the effect of harpoons that hit ventral or dorsal regions. For whales shot during a high speed chase, the harpoons that hit closest to the brain are also likely to detonate close to the sea surface. These factors may contribute to the low IDR reported and observed for this hunt.

COMMENTS AND DISCUSSION

Belgium noted that there appears to be a view that secondary killing with a rifle is ineffective if the head of the whale is underwater. In cases where whales are harpooned in the abdomen or tailstock and winched very tight to the bow, as seen in Figure 5 of the paper, inevitably the head will be underwater. Thus it appears that new consideration of secondary killing methods is required to reduce times to death, considering that leaving whales in this position, to die of asphyxiation, raises further welfare concerns. Belgium asked for comment from Japan whether these considerations are being made.

Before commenting on the content of the paper, Japan sought to make several points. The paper is based upon filming of JARPA II in the austral summer of 2005-2006. The representative of Japan speaking identified himself as the deputy director of the research activity and said he had personally observed the disturbance activities of Greenpeace. Japan said that Greenpeace had disturbed and sabotaged the research activity by its actions and alleged that Greenpeace had even tried to collide with one of their vessels. In such circumstances, Japan regretted that other, third parties have now used this data and brought it to the IWC.

Japan viewed Greenpeace's activities as having raised serious problems with respect to animal welfare. Japan said that the way these activities had disturbed the hunt, including the splashing with water of gunners and the placing of rubber boats in a straight line between the whale and the harpoon cannon, had prolonged the time to death for these whales. It noted that TTD was 4 minutes 18 seconds in such disturbed situations compared with 2 minutes 2 seconds for undisturbed situations. In the case of one whale where the harpoon came loose, the gunners could not use secondary killing methods because of the presence of Greenpeace members around the harpoon and so the whale was drowned. There were also two cases where, due to disturbance of sea conditions caused by Greenpeace's large sized boats, the whales involved lost their sense of orientation and were unable to swim. In addition to animal welfare considerations, Japan said that these activities raised questions as to the scientific validity of the paper as the data collected shows no representativeness of the overall hunt at all. In Japan's view therefore data taken from this film footage does not represent independent observations.

Commenting further on the selection of data for analysis, Japan noted that of 26 events recorded only 16 were taken for analysis and one other whale, which had died instantaneously, was excluded. Japan suggested that this selective choice of data introduced an inherent bias into the analysis.

Japan noted that the authors had extrapolated from the cases chosen to conclude that for the majority the cause of death was asphyxiation but said that the real cause of asphyxiation was the disturbance to the hunt, not the hunting methods. Japan noted that its gunners are trained to immediately use secondary killing methods when death has not been instantaneous, and this is the rifle, not drowning. Despite these disturbances the gunners made their utmost efforts to accurately target the whales and, Japan said, their efforts should be praised.

Iceland associated itself with the views of Japan. Iceland pointed out that under the circumstances in which the data was collected, it could not be considered as representative and therefore could not constitute a basis for discussion at this workshop. Iceland suggested that the only thing achieved had been to extend the suffering of the animals.

Walløe (Norway) recounted some similar experience in Norway with disturbance to its hunt in 1999, where both the deployment of the harpoon and the use of secondary methods was affected. This resulted in extending the TTD by five minutes. Norway referred to earlier discussion of IWC/58/WKM&AWI 13 and said that data used here could not be used in this paper as this was not TTD or IDR information. Norway also re-stated the point previously made concerning reference to a secondary publication rather than the original publication. Other issues concerning statements made in the paper and validity of analyses were made by Norway and it was agreed that such discussions would continue outside of the workshop.

Sweden sought information from Norway on any experience it might have in using the rifle as a back-up in situations where the animal's head is underwater. Øen (Norway) responded that this is always a difficult situation but the recommendation is that if the animal comes to the boat and the head is not out of the water to fire at the heart. This is not a usual situation for the hunter however, who is trained to shoot at the brain. Norway stressed that it is

however only an assumption that this is the best method but it has not been proven.

The Chair closed discussion of this paper at this point.

4.4 Euthanasia of stranded or entrapped cetaceans

IWC/58/WKM&AWI 10

Euthanasia of stranded cetaceans in New Zealand

New Zealand noted that this presentation was prepared in response to a request from the Secretariat. New Zealand has reported to the Commission on the euthanasia of stranded cetaceans on previous occasions. No new techniques have been developed recently, but New Zealand is very willing to share its experiences with other members and hoped that the information will inform the workshop, and in particular inform point 4 of the Revised Action Plan.

Due largely to its location and topography, New Zealand experiences many whale strandings, and maintains a database that goes back to 1840. Strandings are a very high-profile event in New Zealand, and often result in a significant public response, involving up to several hundred people. The Department of Conservation is the government agency charged with the management of whale stranding events, and has developed a Standard Operating Procedure (SOP), to ensure consistency in its response to stranding events. The section of the SOP dealing with euthanasia is attached to the paper, and an electronic copy of the full SOP is available on request.

Also attached to the paper is a report of the euthanasia of 41 pilot whales stranded on Farewell Spit (a site of frequent strandings) on 31 December 2005. Key points of the report, which inform the general approach of the Department of Conservation to euthanasia, are as follows.

- The decision to euthanase stranded whales is not taken lightly; the prospects for the whales, the weather and tidal conditions at the stranding site and public safety are all important considerations.
- Only staff experienced in the use of firearms and trained in the location of target points for placement of a shot that will effect instantaneous death are authorised to conduct euthanasia of stranded whales.
- Only firearms, of adequate power, are used in the euthanasia of stranded whales.
- Crowd management, public safety and the health and safety of the staff engaged in euthanasia are also key issues to be considered in the euthanasia of stranded whales under the Department of Conservation's SOP.

New Zealand reiterated that in its situation and experience, with the exception of sperm whales, the only way to euthanase stranded whales is by shooting. With respect to sperm whales, it noted that it has reported previously on the development of the special Sperm Whale Euthanasia Device (SWED) and that it has not been necessary to deploy the SWED since the last meeting.

COMMENTS AND DISCUSSION

Øen (Norway) thanked New Zealand for an interesting paper. He noted that Norwegian hunters also attempt to rescue stranded whales and attempts have been made to set up guidelines. A successful refloat is happy news but sometimes difficult decisions have to be made to euthanase and this can result in criticism. The problem however is that some whales cannot be euthanased in the way recognised. He suggested therefore that perhaps reconsideration should be given to the use of the lance which can be an effective killing method if used properly.

Øen noted the hundreds of years experience with this method in the Faroe Islands where the method only takes seconds as the spinal column and the cervical artery, which takes blood to the brain, are both being severed. Øen suggested that these techniques could be taught to New Zealand for stranded pilot whales. Denmark, on behalf of the Faroe Islands, offered to provide technical advice to New Zealand.

Argentina requested a copy of the New Zealand protocol which it thought would be useful in the southern right whale stranding network.

IWC/58/WKM&AWI 14

Consideration of factors affecting time to death for whales following entanglement in fishing gear

The UK presented this paper which addresses the global issue of cetacean mortality in fishing gear. The death of cetaceans by asphyxiation following entanglement in fishing gear raises serious animal welfare issues. Although the physiological processes related to asphyxiation are relatively well understood from examination of carcasses, there are few data on the time duration over which these processes occur. When attempting to predict a whale's response to entanglement and the likely TTD for a sub-surface entangled animal, there are clearly a large number of unknowns. However, a useful reference point would appear to be the theoretical aerobic dive limit (TADL) as this gives an approximate indication of the time likely to elapse before the animal experiences extensive anaerobic respiration.

The minke whale is the large whale species most frequently reported as bycatch. The study reviewed minke whale diving behaviour and estimated the likely TADL in relation to body size. Minke whales typically exhibit a pattern of a long dive followed by several surfacings at shorter intervals. Typical times for extended dives in minke whales appear to be around 2-5 minutes. Although many diving species appear to regularly exceed their TADL, the *Balaenopterid* whales show much shorter dives than either TADL or predictions of dive times based on body mass. However, there have been reports of *Balaenopterids* that found themselves in life threatening situations showing dive times slightly in excess of TADL and one report of an entangled minke whale surviving submerged for 17 minutes as it was being freed from a fish weir. For minke whales with body lengths in the range 3m and 8m we estimated TADL to be between 8 and 16 minutes. These values are also similar to predicted maximum dive times based on size based regressions across a range of diving species. Although minke whales would be unlikely to die of asphyxiation in a shorter time than TADL, given the typically short dive durations of this species it seems possible that death could occur within minutes of reaching TADL. On the other hand, it is also possible that death may only occur at some multiple of TADL.

The UK hoped that these figures may at least provide a guide for consideration of gear modification designs, disentanglement programmes or as a last resort, euthanasia of fatally entangled whales.

COMMENTS AND DISCUSSION

The issue of whether there is a case to consider as to how nets might be made more visible to avoid entanglement was deferred for possible consideration in a later agenda item.

5. CRITERIA FOR DETERMINING THE ONSET OF IRREVERSIBLE INSENSIBILITY AND DEATH

The Chair introduced this agenda item, noting the terms of objectives set out in the agenda.

5.1 Review of current criteria and practicality of application

5.1.1 *Aboriginal subsistence whaling*

Denmark drew attention to the discussion of this matter in IWC/58/WKM&AWI 3 previously presented, and indicated that it had nothing further to add under this item.

The USA reported that the Makah Tribe's harvest methods retain all of the ceremonial aspects of the spiritual, physical, and mental preparations required for a traditional Makah whale hunt. The substitution of a high calibre rifle over the traditional killing lance is necessary to ensure a safe and humane harvest and eliminates a prolonged pursuit. The whale harvested in 1999 using this method expired eight minutes following the initial harpooning. Cessation of movement was used as the indicator that the whale was dead. TTD was recorded by both hunters and by a government observer. By using the cold harpoon for the initial strike and following it immediately with close-range, accurate shots directed at the central nervous system from a high calibre rifle, the Tribe was able to quickly dispatch the whale and limit damage to subsistence products.

The Russian Federation said that the Statement on Behalf of Aboriginal Subsistence Whaling Countries presented at the beginning of the Workshop contained a good summary concerning this point. In discussions on TTD in the Caucus of Aboriginal Subsistence Whaling Countries (ASW caucus), it was agreed that from a practical standpoint, the 1990 IWC indicators of death were accepted. It was however noted that each aboriginal subsistence hunter may assess them differently. Several differences between hunts, including differences in environmental conditions, species hunted, and equipment used were noted. The conclusion was that there are no 'textbook' solutions that can apply to all aboriginal subsistence whale hunts. The Russian Federation had nothing further to add to this statement.

The USA (Alaska Eskimo Whaling Commission – AEW) advised that information concerning indicators is presented in more detail in IWC/58/WKM&AWI 22. The AEW noted that during its meeting, the ASW caucus agreed that time to death in an aboriginal hunt can only be discussed in terms of estimates and that the practices that lead to these estimates differ from hunt to hunt. It was also noted that these practices differ from captain to captain within a hunting community and even from whale to whale.

The AEW reminded the workshop of the treacherous conditions of the bowhead subsistence hunt and emphasised that human safety is every whaling captain's highest priority given the conditions of the hunt and the fact that the hunters are in small boats very close to the large whales, which have been known to dive or turn suddenly. If crews are unable to pull away fast enough, they might be hit with a flipper, in some cases causing injury.

After striking a whale, crews wait for the whale to stop moving and look for indicators that it has died, including relaxation of its flippers and jaw, if the jaw is visible. After observing these indicators of death, the overriding concern for human safety dictates that the whale not be declared dead and ready for towing until it has remained motionless for an indefinite period of time, which varies from hunt to

hunt and whale to whale and is affected by environmental conditions. Before attaching a tow line to the whale, hunters touch it with paddles and if the eye is within reach, they touch a paddle to the eye. Once the captain decides it is safe to approach and touch the whale for the purpose of attaching a tow line, he says a prayer for the whale. The time from the first strike to this point is called the 'Time to Prayer'. Hunters know that the whale died sometime during this period, but can never be sure exactly when.

Many captains have observed whales that appear dead and remain motionless for an extended period, some even turning belly up, which later right themselves and resume swimming. If a crew has attached a tow line to such a whale, its boat could be pulled under and the crew drowned. Brower reported a personal situation from a recent hunt in which a whale taken by his crew was given an hour and a half before being declared dead and ready for towing. During butchering, it was found that the explosive projectile had damaged the skull and brain, likely resulting in a very rapid death, although this was not apparent to the hunters under the conditions of the hunt. The AEW also noted that bowhead muscle tissue might continue twitching for several hours after the whale has been landed and butchered, sometimes scaring younger hunters. Bowheads might be unique in terms of how long they show movement after death, possibly due to a low metabolic rate.

Techniques for reducing TTD have always been part of the bowhead hunt. Firing a second shot from the shoulder gun is automatic to help ensure a quick kill. Crews tend to hunt close to one another so that they are available to assist each other. Traditions reinforce cooperative hunting by requiring that crews who assist in taking a whale be rewarded with a share of the whale. Also, experienced captains identify and learn to target the areas most likely to result in a quick kill. These target areas are discussed during training sessions and annual weapons improvement workshops.

The most important recent development in this hunt is the introduction of the penthrite projectile. The penthrite projectile is considered more reliable than the black powder projectile and in early use appears to provide a more rapid TTD, especially for shots placed within the thorax region.

5.1.2 *Commercial whaling*

Øen (Norway) gave a description of criteria used in the Norwegian minke whale hunt. The current criteria of death of whales were established in the four day IWC Workshop on Whale Killing Methods in 1980 where scientists from countries including Japan, Norway, USA, Canada and UK participated. The agreed practical criteria identified were: the slackening of the jaw; the slackening of flippers; hanging motionless at the end of the forerunner. If these three criteria are met, or two if the whale is lying on its back (in which case slackening of the jaw could not be detected), the animal is regarded as dead. These criteria are still used in the Norwegian hunt.

In 1992 when Øen started to sample brains from dead whales he found that these criteria were not quite feasible for scientific purposes as several whales were obviously dead before such criteria were fulfilled. The brains of three whales where one did not move and where two showed movement in tail or flippers, were excised and examined by a neuropathologist. The results showed that all three whales had died instantaneously.

In the IWC Workshop on Whale Killing Methods in Dublin in 1995 a small working group of experts set up by the workshop agreed with Norway that improved criteria were needed to better establish the exact moment of death for hunted whales. This initiated a research program in Norway with the aim to establish criteria based on post mortem examinations of brains and other organs damaged by the detonation of the penthrate grenade, which could be used for scientific purposes and this was a part of Knudsen's doctoral thesis.

Øen (Norway) stated however, that these criteria could not be used by hunters. They need more practical criteria to decide when a whale can be declared dead. Hunters will always be looking for movements in the animal and if an animal is not motionless most hunters regard the animal as being alive. Involuntary movements caused by reflexes can be understood by scientists but do not exist for the hunters and as safety for the hunters is paramount they will shoot another round or wait until the animal has ceased to move before they approach the animal.

Øen (Norway) therefore found it necessary to distinguish between criteria used by scientists and criteria used by hunters. It is more similarities in criteria than differences between the different hunts. Norway's conclusion is that the criteria established by the IWC in 1980 are appropriate for practical use and recommend to Norwegian hunters that they look for these signs to decide when the whales are dead. If they doubt whether the animal is dead, they are encouraged to fire another round as many often do routinely whether the animal moves or not.

Øen (Norway) added that one consequence of using these practical criteria is that some fraction of the animals that are reported as still alive, are brain dead, so the IDR from the Norwegian hunt is therefore an underestimation.

The Chair asked whether there should be two definitions: one scientific and one for practical use. Japan and Norway both responded that the 1980 criteria are the effective ones and that for practical reasons these should be used.

5.1.3 Whaling under special permit

Japan referred to studies done in 1979 in which 50 minke whales, taken in the Southern Ocean, were subject to ECG, and noted that the heart continues to beat after the brain is dead. This would indicate brain death as the more accurate indicator otherwise the TTD will be an overestimate. However, taking an ECG in whaling operations is very difficult and not practical. There has been past criticism of TTD statistics achieved, but Japan pointed out that it considers JARPA and JARPN data for TTD as an estimate. Japan considered the existing criteria as the most satisfactory and urged that they be maintained. If new criteria are to be introduced, these should be easy for gunners to apply and safe in operating conditions.

5.1.4 Euthanasia of stranded or entrapped cetaceans

IWC/58/WKM&AWI 10, previously discussed, also relates to this item. There was no additional reports under this item.

5.2 Recommendations for revision of existing criteria or addition of alternative criteria as appropriate

IWC/58/WKM&AWI 24

Thermography of respiratory activity in cetaceans

This presentation was made by the UK (Butterworth). The paper presented describes thermography of the thermal

energy carried in water droplets in the cetacean exhaled 'blow' as a tool which may add objective data on respiratory activity in cetacean. Butterworth explained that when the seawater in which whales live is very cold, there is potential for a significant contrast between core body temperature and seawater temperature. At the core body temperature of a whale, thermal energy in the infrared part of the spectrum is emitted. Using a thermographic camera, images of the thermal energy emitted by the warm body of a whale can, in principle, be captured. However, this is usually not possible for two reasons: whales and dolphins are, for the most part, immersed in sea water and whales in good condition are well insulated by a thick layer of blubber which may account for 40% of the animal's weight. Butterworth described how in this work, the use of thermal energy emitted by the thermal emission from the respiratory blow of cetacean at the Sea World facility in San Diego, USA has been explored. Additionally, thermal recordings of the ocular temperature of three species of captive whale were examined.

Butterworth suggested the study of the difference in the measured temperature of the surface of the eye and the skin of the area surrounding the eye indicated that a consistent differential between these temperatures can be shown. It is proposed that, as with other animals, after blood circulation has stopped, the surface of the cetacean eye will cool very rapidly, particularly if in contact with seawater.

Time to death (TTD) is an established measure in the IWC deliberations on the efficiency of killing and welfare considerations for these animals. Butterworth reported that these initial studies confirm that thermal imaging of the small amounts of heat energy which escape the whale in the spout, and via the surface of the eye is possible. He proposed that thermal imaging may be able to differentiate between an animal which is vital and one which is dead. The change from the 'vital' to the 'dead' state marks the time of death, and could be used to calculate the time it took the animal to die, the TTD.

Butterworth concluded that thermography may have the potential to:

- permit remote measurement of respiratory frequency in cetaceans, particularly in very cold seas; and
- add information to the decision as to whether a hunted animal is vital, or if it is dead. This information may be of value in discussions on humane killing within the IWC.

Lastly, a number of limitations were acknowledged: the work was carried out under ideal conditions on captive small, toothed whales; although the transfer of heat to the blow is likely to be universal amongst all species, the technique would need to be tested in baleen whales before it could be concluded that the tests are universally applicable; and, to confirm the hypothesis that thermography could provide information on value in determining consciousness and death, would require further study on animals during whaling activity.

COMMENT AND DISCUSSION

Japan commented on similar work done to assess the body temperature of a sea lion using a similar technique. Whilst the eyeball of a sea lion can reflect internal body temperature, the restraint in using such a method is that the target area is very limited. Noting the suggestion of Butterworth that it might be possible to ascertain from the temperature of the eye whether the animal is dead or not,

Japan asked whether the temperature of the eyeball decreases rapidly when the animal dies and does any change in temperature indicate whether the animal is unconscious or not. Butterworth agreed that the temperature of the eyeball decreases rapidly at death, but just how rapidly it falls was unclear. On the second question, Butterworth said that without carrying out studies, it was not possible to answer whether a decrease in temperature could be an indicator of unconsciousness. Japan suggested, if this research does continue, to look further at ways of measuring unconsciousness of the animal using such techniques.

Norway suggested that the proposal was not very practical and added that it would not be permitted to keep alive or potentially alive animals for scientific purposes during the hunt. Butterworth agreed that animals should be dispatched swiftly and not kept alive during any hunt. He made the point though that some of the debate during the workshop had been about scientific data and ideas for obtaining useful data should not be dismissed out of hand. He emphasised that remote sensing is being proposed and there is no suggestion of attaching devices to animals, nor that this study be done in the Norwegian commercial hunt. This proposal only involves pointing the remote sensing camera at animals in some real situations and testing if any useful information can be found.

IWC/58/WKM&AWI 9

Investigating criteria for insensibility and death in stranded cetaceans in New Zealand

New Zealand introduced this paper which provides a suggested next stage in developing better indicators of insensibility and death in cetaceans. A draft protocol for collecting data has been developed, using indicators which were considered to have the best potential value at workshops held in NZ and UK in 2005, that may be of value in determining death and insensibility in stranded cetaceans, taking into consideration the practical constraints of the stranding situation. As well as addressing the aims of Action Point 5 of the Revised Action Plan on Whale Killing Methods, it is also intended that this research may provide some useful insights into the management of stranded cetaceans. The paper provides the details of the draft protocol (instructions on how to collect the data) and also a draft data collection form. It is intended that the protocol will be a work in progress and will first be tested in New Zealand over the coming year and will then be further developed. A key theme is that the collection of these data should in no way compromise the care of the stranded cetaceans nor compromise human safety. For this reason collection of these data will only be undertaken in New Zealand by individuals authorised by the Department of Conservation. New Zealand welcomed comments on the draft protocol and possible collaborative efforts to collect these data in other locations.

COMMENTS AND DISCUSSION

Finland asked a number of questions concerning the draft protocol. In responding to Finland's question as to how the animals would be selected, New Zealand first reminded of the two caveats mentioned in the presentation: that collection of data should not compromise the care of the stranded cetaceans nor compromise human safety, which are important in this respect. New Zealand explained that it is attempting to get animals in various states of morbidity. With respect to ongoing review, the protocol is only in a

draft form at present, but the intention is to finalise it. The reason why information on weather conditions is included for collection in the draft protocol is for analysis purposes to assess whether any external factors may be affecting the information received.

6. SUMMARY OF RECENT ADVANCES AND OUTSTANDING ISSUES, AND DEVELOPMENT OF RECOMMENDATIONS

6.1 Advances and outstanding issues

The Chair proposed that the whaling groups be invited to provide input as to what each saw as significant improvements in the last 5-10 years and also what they identified as remaining problem areas. Other delegations would also then be invited to add their comments and perspectives.

6.1.1 Aboriginal subsistence whaling

The USA asked Eugene Brower to speak on behalf of the AEW. Brower noted that the AEW has reported to this Workshop and to the IWC Working Group on Whale Killing Methods each year since 1987 on the development of the penthrate projectile for use in the hand-held darting gun, and the redesign of the darting gun barrel to fit the new projectile.

Advances: Since the last WKM Workshop, field trials of the penthrate projectile in the Alaskan bowhead hunt have been completed. The AEW Weapons Improvement Program Committee has instituted a training and certification programme for use of the new projectiles. Training and certification of Barrow hunters is ongoing, and has occurred in three other villages.

Outstanding issues: The AEW noted, however, that at this time, its opportunities for continued success with this new equipment is dependent on forces not fully within their control, for two reasons. First, the Norwegian manufacturer of the penthrate projectiles reports that a critical component of the time delay fuse has become unavailable. An easily substituted part is available in France. However, export of the part from France has not been allowed. Second, the cost of purchasing and transporting the modernised equipment is prohibitive. A single penthrate projectile currently costs just under \$1,000, far beyond the means of the subsistence whaling captains. Government funding is not adequate to cover the cost of equipment as well as transport to all villages. The cost of travel for training and certification in the villages also is unfunded.

In concluding, Brower expressed the AEW's commitment to its weapons improvement program and pride in reporting their progress. The ability however to achieve further progress in this program is beyond its control.

Øen (Norway) elaborated on the situation with respect to the failure to obtain from France permission to export to Norway the required component. This refusal had been on the grounds that whaling is an illegal activity. After discussions within the IWC in 2005, the French Government had said it would re-consider the request, but the seller has now been told that it will not get permission. Norway observed that by such actions, France appeared to be acting contrary to the call by the IWC for members to provide practical assistance. Japan subsequently suggested that this matter might be taken up as a recommendation from the Workshop.

Returning to this issue later in the discussion, the UK expressed concern that the discussion appeared to be touching on matters of national sovereignty, and noted that France was not present. It therefore urged that caution be taken. Denmark suggested some reflection on the implications of the French decision. If the required part is not secured then either the TTD will escalate or the penthrite harpoon cannot be used. Nevertheless, there is still a need for whales. The concern therefore should not just be for national sovereignty, but also for the welfare of the whales themselves. Japan noted that a precedent already exists in the IWC for recommending things to national governments.

Although not present at the time of this discussion, France returned to this issue of the exportation of components needed to make harpoons for whaling from France to Norway at a later stage in the meeting. At this time, the representative of France reported that his government was provided with inadequate information to make an appropriate decision. France stated that its support of aboriginal subsistence whaling is a longstanding position, but France considers this issue is not a decision about animal welfare. France said that this is a sovereign trade issue, outside the competence of the workshop and the IWC, which can be dealt with on a bilateral level.

The Chair then invited Greenland, on behalf of Denmark, to outline their advances and outstanding issues.

Advances: Greenland recalled that the Action Plan on Whale Hunting Methods was implemented in 1991 and has been followed up by adjustments as needed until today. Furthermore, Greenland actively participates in the whale killing issues workshops arranged by NAMMCO, besides its own initiatives in Greenland. It affirmed that the issue of whale killing has always been a focus area and will continue to be so in the future. Points noted were as follows.

- Greenland sought advice from Norway in the late 1980s and early 1990s regarding the renovation of Norwegian Kongsberg harpoon cannons that were in Greenland. These cannons were very old and neglected. The contact with Norway and Kongsberg resulted in a total overhaul of all harpoon cannons, and standardised harpoons.
- Advice had been sought from Norway at the same time regarding the use of penthrite grenades.
- The Action Plan on Whale Hunting Methods has secured well functioning and fully effective harpoon cannons, and the introduction of Norwegian penthrite grenades.
- Hunters, administrators, distributors, personnel in shipyards and wildlife officers have been directly or indirectly involved in all parts of the Action Plan.
- A plan for continuous training on handling and use of penthrite grenades and harpoon cannons has been set.
- Methodical collection of information regarding TTD, struck and lost rates, biological data and catch statistics has been initiated.
- Every year, relevant information on whale killing issues has been submitted openly to the IWC and NAMMCO.
- Every year, Greenland has contributed to the planning of and directly participated in all workshops and meetings related to whale hunting methods both in IWC and NAMMCO.

Greenland concluded that the introduction of the Action Plan has resulted in a reduction of TTD and a more effective hunt.

Outstanding issues: The outstanding issues in Greenland, as identified and mentioned in many earlier meetings in the workshops and working group meetings, are:

- TTD in the collective hunt on minke whales;
- standardising the hunters routines and practices in the collective hunt;
- TTD in the fin whale hunt;
- struck and lost issue; and
- more detailed instruction to the hunters on the target areas in order to reach a quicker kill/shorter TTD and a reduced struck and lost rate.

In reply to a question from the UK as to whether there is any opportunity to use a higher calibre rifle in East Greenland, Denmark explained that the regulations used in East Greenland are the same as those used in West Greenland and these specify that the minimum size is 7.62mm. It noted that the experience of the hunters is that the use of higher calibre rifles can lead to the sinking of the whale and thus result in an increased struck and lost rate.

The Russian Federation introduced two speakers. The representative of the Chukotkan Native Peoples stated that their aim is to improve methods and make the hunt more effective. Every year for the last several years, seminars on training and other issues have been held. In these, experienced hunters come into the villages to give on-site training programmes. He noted that good hunting methods and efficiency are dictated by the quality of the equipment. They try therefore to keep the equipment maintained and upgraded. In this respect also the government of Chukotka has assisted with boats, equipment and firearms, but it is not possible for it to do everything so difficulties for the hunters continue. Aboriginal hunting needs to ensure hunter safety and that the hunt is conducted in an orderly, organised manner.

The representative of the Chukotkan Government reported that his government places much attention on the maintenance of traditional hunting. To this end, and in spite of its difficult economic situation, the provincial government has established a project and budget to support marine mammal hunting in the region and provide the necessary equipment. The first priority is hunter safety. This is a multi-year project, as it is not possible to buy at once all the boats, rifles, radios, GPS etc required for everyone involved in marine mammal hunting. There is involvement in international programmes including those of both IWC and Arctic Council. The representative thanked the USA, Japan, Norway and Netherlands that have provided them with technical and financial assistance.

The Russian Federation then reminded Workshop participants of the resolution adopted at the meeting in Grenada concerning increasing the humaneness of aboriginal hunts. Consistent with the resolution, grant assistance had been provided for improvements in aboriginal hunts, but not necessarily by those proponents of the resolution. The Russian Federation hoped therefore that those countries that have in this Workshop expressed interest in more humane killing methods being implemented, especially the use of larger calibre rifles, will also provide technical support to facilitate this.

6.1.2 Commercial whaling

Øen (Norway) presented the recent improvements in Norwegian minke whale hunting and killing methods. Details are given in IWC/58/WKM&AWI 25, presented

earlier. The improvements were summarised in the following points.

Technology

- A new penthrite grenade with 30g penthrite (Whale grenade 99) has been used by all vessels from the 2000 whaling season. The grenade is safer for the users and more effective to kill minke whales.
- Development of improved weapons technology and maintenance for harpoon cannons.
- Optical sights are installed on most harpoon guns.
- Improved harpoons with better ballistic properties to improve marksmanship and reduce losses.
- Improved harpoon lines with better ballistic properties to improve marksmanship and reduce losses.
- Established minimum calibres and prescribed ammunition for back-up rifles.
- Improved hunting techniques and practice.
- New and more exhaustive control of grenade production and approvals.

Education of hunters

- Formalised and obligatory workshops for hunters and gunners.
- Obligatory shooting tests for rifle and harpoon cannon.
- Certification of gunners and riflemen.

Research

- Two doctoral theses defended for the veterinary doctoral degree on whale killing issues.
- Development of new and improved techniques for post mortem examinations of brains of whales to help to establish the real TTD of whales killed with the Norwegian penthrite grenade.

6.1.3 Whaling under special permit

In terms of advances, Japan emphasised the importance of the introduction of the improved Japanese penthrite grenade in 2002-2003. This improvement has resulted in a reduction of TTD to within two minutes and an increase in the IDR to over 50%. With respect to safety, the Institute of Cetacean Research (ICR) and others have conducted training programmes for the crews. Emphasis has been both on procedures for safe operation in the handling of the equipment and in the safety of the equipment itself. There has been no record of fatal accidents in the Japanese research (JARPA and JARPN). ICR and others have also conducted a lecture on the killing methods just before every research cruise.

Iceland reported that it is halfway through its research programme, which involves 200 whales. The Norwegian penthrite grenade is used. The UK observed the difficulty in ascertaining or evaluating advances when so little data for this hunt is available. In response, Iceland pointed out that any submission of data on TTD will be done on a voluntary basis, but that at present it has not taken a sufficient number of whales for meaningful statistical research or evaluation. In the spirit of good cooperation and transparency Iceland will provide its data when available so that it can be shared with others and discussed on a scientific basis with the aim to improve whale killing methods. However, due to concerns at the way data provided in the past has been used or interpreted in the Working Group on Whale Killing Methods and Associated

Animal Welfare, Iceland has not yet determined to which international fora it will transmit its data.

6.1.4 Stranded and entrapped cetaceans

No further comment.

6.2 Recommendations for improvements

IWC/58/WKM&AWI 7

Comprehensive and standardised data on whale killing: welfare consideration

A short presentation of this paper was made by New Zealand, which began by thanking all the whaling countries for their participation and input into the Workshop. New Zealand noted the importance of complete data in assessing animal welfare implications. The Russian Federation was commended for supplying the most comprehensive data set, but New Zealand noted that most of the data sets supplied to the 2005 working group were not complete. The paper also notes that summary statistics (such as mean and median) mask the outliers in the data set, which are important in welfare terms. New Zealand urged all members to collect comprehensive welfare data for each whale killed and to submit to the IWC complete data sets, using the IWC standardised format.

The UK supported the New Zealand proposal, adding that this meeting has revealed the need for comprehensive, consistent and accurate data and it is very hard to make meaningful analysis without such data. The New Zealand paper provides a disappointing list of areas where data has failed to be provided. It has been suggested by some countries that they are reluctant to provide data because it will be used against them. However, withholding data puts this organisation in a poor light. It must surely be best international practise to have accurate and consistent data on all whaling operations; it is no excuse to argue that the sample is too small or will be used against you. The fact that some whaling countries are so reluctant to release data does not bode well if there is ever a return to commercial whaling, particularly in view of the sorry history of IUU whaling.

The UK continued that not only is there a reluctance to share information, there has also been a threat to provide this data to another, un-named, organisation. The IWC is the internationally recognised body responsible for whales and whaling. The UK said it could not see what purpose it would serve to give data to another organisation that will not have the same authority or expertise to analyse this data. There is a certain irony in countries bemoaning the polarisation of the IWC and then contributing to this by threatening to send data elsewhere. Lack of transparency cannot be the way forward for any international organisation, it is only with sufficient data in a recognised format that whale killing methods can be improved.

Norway noted that it has submitted data on TTD and IDR on a voluntary basis since 1982. And since 1992 about 25 extensive reports and papers published in scientific journals have been submitted to IWC. Regarding the questionnaire, Norway answered that it has no status in the IWC. It does not find the questionnaire useful and sees no reasons to use it as a direct comparison of so different hunts on different species under so different conditions. It also stated that the data submitted from Norway on a voluntary basis are collected for scientific purposes and will be available also through publications and scientific periodicals.

It is Norway's position that individual IWC member states should be trusted to address animal welfare issues in terms of their own national legislation. To the extent that institutionalised inter-governmental co-operation on these matters should be called for, this may be handled through other mechanisms than the IWC and by more appropriate agencies. A crucial element is the rights and responsibilities of the respective national authorities in addressing animal welfare issues humanely and in accordance with generally accepted norms and standards. Unless this element is properly understood and accepted in a spirit of mutual confidence, questions could arise that could conceivably be experienced to be embarrassing. Thus, for example, some member states of the IWC have approved hunting practices which are in accordance with Norwegian animal welfare legislation. However, in the profession of veterinary medicine where animal welfare is an integrated discipline, it is not customary to seek to overrule the killing methods used by other nations as long as it occurs within their domain and under their jurisdiction. It is also common practice that once a given killing method has been introduced and approved on the basis of careful professional scrutiny, there is no need for a continuous monitoring of the kind proposed in IWC/58/WKM&AWI 7. Periodic checks should suffice. The duties of an international observer with regard to the monitoring of the killing of whales would be to check that only lawfully approved killing equipment and methods are used. Which methods are to be used at any given time would be decided by the competent national authorities. Post mortems and other detailed examinations of the animals requiring specialised expertise would in this context be of no relevance for the tasks of an observer.

Iceland stated that its position is very similar to that of Norway, and associated itself with Norway's comments.

Workshop recommendations

The Chair reminded participants of the terms of reference and task for this item. He identified some key considerations and issues, particularly those of a practical nature, identified during the workshop. Proposals of recommendations were received from a number of countries (UK, Norway, Finland, Switzerland, Sweden and New Zealand). Following consideration and debate, the following recommendations were adopted by the Workshop.

- (1) To encourage continued efforts in training and dissemination of good practice around the world, for example in promotion of, and further investigation of, the use of heart shots from a back up rifle where the head of the animal is under the water.
- (2) Recommend the best possible type and calibre weapon is used in aboriginal subsistence whaling and continue weapon technology improvement for use in aboriginal subsistence whaling with particular focus on calibre of weaponry. Encourage the development of the aboriginal subsistence whaling caucus to further the exchange of information and best practice.
- (3) Recommend continued efforts to improve accuracy of placement of primary and back-up shots, to continue improvements towards achieving instantaneous death.
- (4) Recommend continuing efforts to improve back up/secondary killing methods. Recommend that governments continue to support their scientists and

vets in studying welfare aspects and monitoring, evaluating and improving welfare techniques, and to publish the data.

- (5) Member countries of the IWC to exchange information on methods for dealing with entrapped, entangled and stranded cetaceans, drawing on the domestic protocols of member countries and to review the methods used to euthanase cetaceans at sea when entangled in fishing gear or marine debris.
- (6) When using explosive devices, for welfare reasons whales should whenever possible be shot from the side at the thorax or neck and all animals should if possible be hauled in as fast as possible to control if the animal needs to be re-shot.
- (7) When using the rifle as back-up, the recommended target areas are the brain, upper neck and in emergency situations possibly the heart.
- (8) As a precaution, the hunters should be recommended to re-shoot as a routine any animals that move or in other ways show any signs of life.
- (9) Recognise the importance of hunter training for the improvement of hunters' safety, animal welfare and minimising struck and lost rate.
- (10) Recognise the importance of maintaining weapons and hunting gear.
- (11) Encourage in two years time, when progress can be assessed, consideration of the holding of a further scientific and technical Workshop.

6.3 Other recommendations

Walløe recalled that the Terms of Reference for the workshop had included consideration of relevant comparative data from the killing of other large animals. He recalled discussions during previous workshops asking countries to submit for comparison purposes data from the killing of other large animals. He regretted that such data had not been provided to this workshop and again reiterated this request.

7. OTHER MATTERS

The North Atlantic Marine Mammal Commission (NAMMCO) observer made a statement regarding its work that might be of relevance to the workshop.

The observer noted that NAMMCO is comprised of the Faroe Islands, Greenland, Norway and Iceland and is a competent regional management body for marine mammals in the North Atlantic in accordance with the generally accepted principles of the 1982 United Nations Law of the Sea. NAMMCO therefore stated it is not correct as has been stated in this workshop, that IWC is the only competent management body for large whales in the world.

The NAMMCO observer then outlined the organisation's aim and purpose; to ensure efficient conservation and sustainable utilisation and development of these resources, and the method of operation, based on the best available scientific results and taking into account the knowledge and experience of the people dependent on these animals.

A NAMMCO Committee on Hunting Methods was established in 1994 to provide advice on hunting methods. Advice should be given based upon best scientific findings, technological developments and traditional or user knowledge. Due considerations must be given to an emphasis on hunter safety and the efficiency of utilisation.

The NAMMCO observer gave details on a number of workshops organised under the auspices of the Committee on Hunting Methods which have generated open discussions and recommendations on issues such as hunting techniques and equipment that are applicable on a local level (under different seasons and conditions), struck and lost, hunters training and safety, and minimising animal suffering. The NAMMCO workshops are open to all and the latest was attended by eleven countries.

Attention was also drawn to the recent development of guidelines by NAMMCO to test the efficiency of rifle ammunition used for hunting and euthanasia of small whales. More information on this and other NAMMCO

projects are given on the NAMMCO website www.nammco.no.

8. REVIEW OF THE REVISED ACTION PLAN

The Workshop did not have time to review the 2003 Revised Action Plan on Whale Killing Methods.

9. ADOPTION OF THE REPORT

The report of the Workshop on Whale Killing Methods and Associated Welfare Issues was adopted on 15 June 2006.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda

Tricia Lovell

Argentina

Miguel Iñiguez

Javier Figueroa

Australia

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Virginia Mudie

Gillian Slocum

Zena Armstrong

Pam Eiser (Rapporteur)

Phil Tracey

Austria

Andrea Nouak

Michael Stachowitsch

Belgium

Koen Van Waerebeek

Chile

Elsa Cabrera

Czech Republic

Pavla Hýčová

Denmark

Henrik Fischer

Ole Samsing

Maj Friis Munk

Fernando Ugarte

Leif Fontaine

Ole Heinrich

Amalie Jessen

Dominica

Lloyd Pascal

Andrew Magloire

Finland

Esko Jaakkola

Penina Blankett

France

Stéphane Louhaur

Martine Bigan

Germany

Marlies Reimann

Karl-Hermann Kock

Grenada

Frank Hester

Justin Rennie

Iceland

Ásta Einaradóttir

Gísli Víkingsson

Kristján Loftsson

Jón Gunnarsson

Italy

Riccardo Rigillo

Caterina Fortuna

Japan

Minoru Morimoto

Joji Morishita

Jiro Hyugaji

Ryoichi Nakamura

Hidehiro Kato

Hajime Ishikawa

Yoshihiro Hayashi

Midori Ota (I)

Saemi Baba (I)

Republic of Korea

Chiguk Ahn

Zang Geun Kim

Hyun Jin Park

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Monaco

Frederic Briand

Netherlands

Stefan Verbunt

Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer

Michael Donoghue

Al Gillespie

Indra Prasad

Philipa Brakes

Craig Johnson

Norway

Halvard Johansen

Sidsel Grønvik (Rapporteur)

Anniken Ramberg Krutnes

Hild Ynnesdal

Egil Ole Øen

Jan Birger Jørgensen

Siri Knidsen

Lars Walløe

Portugal

Marina Sequeira

Russian Federation

Valentin Ilyashenko

Rudolf Borodin

Igor Mikhno

Gennady Inankeuyas

Nikolai Etytye

Vladimir Etylin

Alexey Ottoy

Edward Zdor

John Tichotsky (I)

Olga Ipatova (I)

Saint Kitts and Nevis

Joseph Simmonds

Saint Lucia

Jeannine Rambally

**Saint Vincent and
The Grenadines**Raymond Ryan
Sophia Punnett
Lucine Edwards**South Africa**Herman Oosthuizen
Luyanda Antony**Spain**Carmen Asencio
Santiago Lens
Renaud De Stephanis**Sweden**Bo Fernholm
Stellan Hamrin
Torsten Mörner (Chair)**Switzerland**

Bruno Mainini

UKTrevor Perfect
James Gray
Jenny Lonsdale
Mark Simmonds
Edward Varley
Andy Butterworth
James Kirkwood
Russell Leaper
Vassili Papastavrou
Ruth Thirkettle**USA**William Hogarth
Doug DeMaster
Cheri McCarty
Roger Eckert
Emily Lindow
John Field
Heather Rockwell
Bob Brownell
Greg Silber
Craig George
Harry Brower
Keith Johnson
Nate Pamplin
Eugene Brower

Appendix 2
LIST OF DOCUMENTS

	Agenda item
IWC/58/WKM&AWI	
1 Revised Draft Agenda	
2 List of documents	
3 A note regarding information encouraged in the IWC Resolution 1999-1 for the Greenland catch of 2005 (submitted by the Greenland Home Rule Government)	4.1, 5.1.1
4 Report on improvements in ASW in Greenland (submitted by the Greenland Home Rule Government)	4.1
5 Status for Greenland Action Plan on Whale Hunting Methods (submitted by the Greenland Home Rule Government)	4.1
6 Summary of activities related to the Action Plan on Whale Killing Methods (submitted by the Greenland Home Rule Government)	4.1, 5.1.1
7 Comprehensive and standardised data on whale killing: welfare considerations (submitted by the Government of New Zealand)	4
8 Killing whales under Special Permit: the special case of the fin whale (submitted by the Government of New Zealand)	4.3
9 Investigating criteria for insensibility and death in stranded cetaceans in New Zealand (submitted by the Government of New Zealand)	5.2.4
10 Euthanasia of stranded cetaceans in New Zealand (submitted by the Government of New Zealand)	4.4
11 A review of recent research on Norwegian whaling (submitted by the Government of the UK)	4.2
12 A review of a Norwegian whale hunt (submitted by the Government of the UK)	4.2
13 Immediate immobilisation of a minke whale using a grenade harpoon requires striking a restricted target area (submitted by the Government of the UK)	4.2
14 Consideration of factors affecting time to death for whales following entanglement in fishing gear (submitted by the Government of the UK)	4.4
15 A review on the technique employed by the Makah Tribe to harvest gray whales (submitted by the USA)	4.1, 5.1.1
16 Summary of activities related to the Action Plan on Whale Killing Methods (submitted by the Government of the Russian Federation)	4.1, 5.1.1
17 Whale killing methods and associated welfare issues in Greenland (submitted by the hunter's organisation and the Ministry of Fisheries, Hunting and Agriculture, Greenland Home Rule Government)	4.1
18 A novel method for <i>in situ</i> fixation of whale brains (submitted by the Norwegian Government)	5.2
19 Blast-induced neurotrauma in whales (submitted by the Norwegian Government)	5.2
20 A review of the criteria used to assess insensibility and death in hunted whales compared to other species (submitted by the Norwegian Government)	5.2
21 Assessment of insensibility and death in hunted whales (submitted by the Norwegian Government)	4.2
22 Report on weapons, techniques and observations in the Alaskan bowhead whale subsistence hunt (submitted by the USA)	4.1, 5.1.1

23	An independent review of the efficacy of killing methods of Antarctic minke whales (submitted by Australia)	4.3
24	Thermography of respiratory activity in cetacea (submitted by the UK)	5.2
25	Norwegian minke whaling. Research to improve hunting and killing methods for minke whales in Norway (submitted by the Norwegian Government)	4.2, 5.1.2
Other		
IWC2003	Revised Action plan on whale killing methods from 2003 Whale Killing Methods and Associated Welfare Issues 2003	8

Appendix 3

AGENDA

- | | |
|---|--|
| 1. Introductory items | 5.2 Recommendations for revision of existing criteria or addition of alternative criteria as appropriate |
| 1.1 Appointment of Chair | 5.2.1 Aboriginal subsistence whaling |
| 1.2 Appointment of rapporteur(s) | 5.2.2 Commercial whaling |
| 1.3 Review of documents | 5.2.3 Whaling under special permit |
| 2. Terms of reference and background to the Workshop | 5.2.4 Euthanasia of stranded or entrapped cetaceans |
| 3. Adoption of the agenda | 6. Summary of recent advances and outstanding issues, and development of recommendations |
| 4. Description of whale hunting/euthanasia practices, improvements seen and remaining problem areas | 6.1 Advances and outstanding issues |
| 4.1 Aboriginal subsistence whaling | 6.1.1 Aboriginal subsistence whaling |
| 4.2 Commercial whaling | 6.1.2 Commercial whaling |
| 4.3 Whaling under special permit | 6.1.3 Whaling under special permit |
| 4.4 Euthanasia of stranded or entrapped cetaceans | 6.1.4 Stranded and entrapped cetaceans |
| 5. Criteria for determining the onset of irreversible insensibility and death | 6.2 Recommendations for improvements |
| 5.1 Review of current criteria and practicality of application in: | 6.2.1 Aboriginal subsistence whaling |
| 5.1.1 Aboriginal subsistence whaling | 6.2.2 Commercial whaling |
| 5.1.2 Commercial whaling | 6.2.3 Whaling under special permit |
| 5.1.3 Whaling under special permit | 6.2.4 Stranded and entrapped cetaceans |
| 5.1.4 Euthanasia of stranded or entrapped cetaceans | 6.3 Other recommendations |
| | 7. Other matters |
| | 8. Review of the Revised Action Plan |
| | 9. Adoption of the Report |
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Appendix 4

STATEMENT OF ABORIGINAL SUBSISTENCE WHALING COUNTRIES FOR IWC/58/WKM&AWI WORKSHOP

My name is Harry Brower and I am Chairman of the Alaska Eskimo Whaling Commission. I was asked to present a statement on behalf of several aboriginal subsistence whaling countries.

On 10 June 2006, aboriginal subsistence whalers from the countries of Denmark on behalf of Greenland, the Russian Federation and the USA met for a historic first-time meeting to share information on whale killing methods and animal welfare issues. The meeting participants consisted of the Organisation of Fishermen and Hunters in Greenland, the Association of Traditional Marine Mammal Hunters of Chukotka, the Alaska Eskimo Whaling Commission and the Makah Whaling

Commission. On behalf of these groups, we would like to thank the organising committee of the IWC Workshop on Whale Killing Methods for recognising the need to involve the aboriginal subsistence hunters in the workshop and their recognition of the need to seek practical solutions in advancing the recommendations of the workshop.

We unanimously agreed that in our communities, subsistence whaling is a critical activity; providing food for nutrition and serving to reinforce and maintain our cultural identity. As subsistence hunters, our traditions and our concern for other living creatures dictate a rapid and humane death for the whales we hunt. The most highly respected hunters are those who can take a whale quickly,

humanely and efficiently. This also serves a practical purpose since the more quickly a whale can be taken, the less chance it will be lost. Finally, we recognise and agree that in all hunting situations human safety must be given first priority.

We agree to four major points affecting each aboriginal hunt.

- (1) Subsistence hunting is for food to meet cultural and nutritional needs. It guarantees the sustainable survival of the Native people. The human health of our peoples depend on the consumption of traditional marine mammal products.
- (2) The safety of his crew is a whaling captain's most important responsibility. For example, in the past five years, annually from 1 to 6 hunters collectively have died in the Chukotka Native and Alaska Eskimo hunts.
- (3) With safety assured, achieving a humane death for the whale is the highest priority.
- (4) Efforts to modernise our whaling equipment and practices can be made only within the context of each communities' economic resources and the need to preserve the continuity of our hunting traditions.

As aboriginal subsistence whalers, we welcome the opportunity to consider incorporating more technologically advanced equipment into our traditional hunts. As we consider these opportunities, we also find that they present us with challenges. We each come from small communities with limited economic resources. Therefore, acquiring more expensive, modern equipment can prove difficult if not impossible. It is also important to be aware that innovations in our hunting techniques must be consistent with our traditional equipment and practices, or we risk losing the very culture we are working to conserve.

Training in whale hunting methods is a critical aspect in continuing the traditional subsistence whale hunt. All aboriginal groups spend significant resources and time on training. Training guarantees efficiency, safety, and transfer of traditional knowledge from the older generation to the younger generation.

In discussions on time to death, we agreed that from a practical standpoint, we accept the 1990 IWC indicators of death which include: open jaw; slack flippers; and cessation of movement which also are consistent with our traditional indicators. However, each aboriginal subsistence hunter may assess them differently. We noted several differences among our hunts, including differences in environmental conditions, differences in the species we hunt, and differences in the equipment we use. There are no 'textbook' solutions that can apply to all aboriginal subsistence whale hunts.

We also noted similarities in that all aboriginal subsistence whalers show respect for the animal. As whaling captains, each of us gives greatest priority to the safety of our crew members. Once a whale is struck, we look for indicators that the whale has died, but we recognise that these are just indicators and are not guarantees. So each captain, to protect his crew, gives the whale an additional amount of time based on his experience and judgement. Therefore, when asked to report the time to death, the best we can offer is an estimate.

In summary, we benefited from this opportunity to talk and learn about each other's hunting methods and found many similarities. We noted differences in environmental conditions and cultural traditions of our hunts. But, it is clear that within each of our cultures, achieving safe, humane and efficient harvest methods is the most important goal of our subsistence hunts provided that it is economically viable and consistent with our traditions.

Annex E

Report of the Sub-Committee on Aboriginal Subsistence Whaling

Sunday 11 June 2006, St. Kitts and Nevis

1. INTRODUCTORY ITEMS

The list of participants is given as Appendix 1.

1.1 Appointment of Chair

Conall O'Connell (Australia) was appointed as Chair.

1.2 Appointment of Rapporteur

Laurence Kell (United Kingdom) was appointed as Rapporteur, with assistance from Donovan (Chair of the SWG).

1.3 Review of documents

The documents for discussion included:

- IWC/58/AS1 Revised draft agenda;
- IWC/58/AS2 List of documents;
- IWC/58/AS3 Greenland;
- IWC/58/AS4 Subsistence Gray and Bowhead Whaling by Native People of Chukotka in 2004; and
- IWC/58/Rep 1 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 MANAGEMENT PROCEDURE

3.1 Progress with the Greenlandic Research Programme

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 *Gray whale 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.

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 number of animals 'available' to the hunters. It has been generally accepted for both species that the animals found off West Greenland do not comprise the total population; the evidence is particularly strong for the common minke whale. However, there is no information on the extent of the total population.

The Chair of the SWG reported on progress made with respect to genetic analyses (item 8.1.2 of IWC/58/Rep1). For common minke whales work is progressing on a genetic method that may allow for an estimate of the lower bound of the population size to be estimated, while for fin whales, considerable work has been undertaken to compare fin whales from West Greenland with other areas of the North Atlantic.

The most gratifying area of progress, however, relates to abundance estimates for both species (item 8.1.2 of IWC/58/Rep1). Last year, the Scientific Committee had been unable to accept the results from a photographic aerial survey and *inter alia* had strongly recommended that a traditional aerial survey be undertaken as soon as possible. It was with great pleasure, therefore, that the SWG received the results of two surveys undertaken in 2005, a dedicated aerial survey and a shipboard survey that used dedicated cetacean observers on a capelin stock survey.

With respect to the latter, poor weather conditions, particularly in southwest Greenland, resulted in poor and restricted coverage in that region that meant that the estimates could not be used. However, the SWG encouraged further use of such 'piggy back' surveys since the survey had revealed the potential of this approach if conditions were such that realised coverage could be increased.

The aerial survey was extremely successful. Although some further analyses are to be carried out, the Scientific Committee was able to accept the estimates presented by the Greenlandic scientists, recognising that they were probably underestimates for a variety of reasons. The estimates were for common minke whales about 3,500 (95%CI 1,500-7,700) and for fin whales about 1,700 (95%CI 840-3,500). The Scientific Committee thanked Greenland and the Greenlandic scientists for the tremendous effort put in to following the recommendations of last year.

With respect to the development of *SLAs*, the SWG had received a paper that developed an approach that might be used as a candidate *SLA* for the common minke whale off West Greenland. Unlike traditional *SLAs*, it requires only sex specific catch data. The Committee **appreciates** the substantial effort made to begin to develop an *SLA* for the common minke whale but had some concerns about the approach which also applied to an assessment approach discussed under Item 5.3.1 below. The Scientific Committee has formed an intersessional working group that will meet to fully consider the use of sex ration data in conjunction with the development of an *SLA*.

3.1.2 Discussion and recommendations

The UK stated that previously it had been critical of the results from Greenlandic research program but recognised the efforts made in 2005-2006 and congratulated Greenland on their efforts and hoped that they would continue.

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

3.2 Planning for the *Implementation Review* for bowhead whales

3.2.1 *Report of the Scientific Committee*

The Chair of the SWG reported on progress towards completing an *Implementation Review* in 2007. Considerable work had been undertaken during the year, notably at an intersessional workshop (SC/58/Rep2) as well as at the Annual Meeting. The primary focus had been on reviewing the available evidence, particularly genetic data, on stock structure. Stock structure hypotheses serve two different but related purposes, one concerning biology and the other the development of trials. The Workshop carried out a thorough review of the available information and considered both of these issues, agreeing a number of one- and two-stock scenarios to be examined in the review. Additional genetic evidence was examined at the Annual Meeting but it was agreed that no further hypotheses were needed. Details can be found under Item 9.1 of IWC/58/Rep1 and item 8.2.2 of this report. Further genetic analyses will be considered at the next intersessional workshop to be held in mid-January 2006.

When more than a single stock hypothesis has to be investigated, it is extremely important to have good knowledge of the timing and positions of the historical catches. In the case of the bowhead whales, by far the greatest catches took place in the 19th century. In the light of its discussions, the SWG restricted the need for the data to three of the blocks (A, G, I) included in a 1983 paper by Bockstoce and Botkin⁸. The Scientific Committee **strongly urges that every effort be made to obtain these data and that they are made** available under Procedure A of the DAA. It re-emphasised the protection for data owners inherent in the DAA – the data can only be used in the context of the *Implementation Review*, the data owners retain publication rights and on completion of the review the data must be returned to the owner and any copies destroyed. Work to refine the data set for the aboriginal subsistence catches to as fine a level as possible (village and if possible position) is proceeding well.

The Chair of the SWG welcomed the provision of a preliminary abundance estimate for Chukotka, the first of its kind. Most of the animals counted would not have been included in the census at Barrow. The Scientific Committee thanked the scientists involved and further such work is encouraged. The series of abundance estimates from the Barrow censuses represent some of the best estimates for any cetacean populations and they will play a valuable role in the *Implementation Review*.

Tremendous progress was made in terms of developing the modelling framework for the 2007 review. In particular, a new computer program ('AWMP-lite') has been developed that will greatly speed up the process and allow a wide variety of scenarios to be tested. Details are given under item 8.2.5.1 of IWC/58/Rep 1.

3.2.2 *Discussion and recommendations*

The USA commended the Scientific Committee for its efforts and stated that the Bockstoce and Botkin data on bowheads requested by the Scientific Committee to help evaluate stock structure hypotheses will be sought as a priority by the USA. It was further noted that the

Government of the USA currently does not have these data, which are privately held, and the fact that they have not yet been made available to the Scientific Committee is not as a result of them being withheld by the Government of the USA. Every effort will be made to obtain the data and make them available for the forthcoming Workshop on Bowhead Stock Structure.

The USA also thanked the subsistence hunters and local communities for their willingness to cooperate with the IWC and in particular for their ongoing efforts in the areas of conservation management, biological research, and the improvement of hunting techniques without which the work of the IWC would not be possible. The USA also thanked the Scientific Committee for its ongoing and excellent work and noted that the Scientific Committee had completed its annual review of information relevant to the management of bowhead whales and has reaffirmed its advice that the current level of the aboriginal subsistence hunt on these whales is sustainable and that the *Bowhead SLA* is the most appropriate management tool for this hunt. The USA emphasised that as of 2001 the population estimate for Bering-Chukchi-Beaufort Seas stock of bowhead whales was 10,500, with an estimated annual increase of 3.4 percent and pointed out that in that year a record number of calves were counted. The SWG agreed with the USA and expressed appreciation for the AEW's outstanding management capabilities with regard to this hunt and for its 29 years of cooperation with the US Government and the IWC.

Harry Brower, the chair of the AEW, then stated that he was pleased to report that under the AEW's management of the Alaskan bowhead whale subsistence hunt, the Bering-Chukchi-Beaufort Seas stock of bowhead whales remains healthy and is continuing to increase. He noted that during the 2005 subsistence hunt in Alaska, 68 whales were struck and 55 were landed, for an efficiency rate of 81 percent. This is higher than the 10 year average of 79 percent, which is well above the AEW's 1978 commitment to the IWC to achieve an annual average efficiency rate of 75 percent. Harry Brower also noted that throughout the many years of bowhead research the hunters of the AEW have cooperated with research scientists and all hunters in Gambell and Savoonga on St. Lawrence Island have assisted in the collection of whale bone samples from past hunts and crews have given scientists meat, muktuk, organ and other parts of the whales caught for food, despite the sacrifice this entailed. They recognise that this is important for supporting scientific research and for the best possible management of subsistence resources. The AEW also agreed to allow a tagging project to be conducted despite hunters concerns about the impact of the tag on the whales.

The Chair of the AEW then observed that last winter in Alaska, despite the climate warming trend, was unusually cold and there was a lot of heavy multi-year ice. This in combination with unfavourable winds has kept the spring lead system closed in many areas. This resulted in few whales being harvested. The AEW stated that in the upcoming workshop on Whale Killing Methods they would provide more information on their hunt. The AEW thanked NOAA for giving the AEW the opportunity to manage the bowhead subsistence hunt and thanked the USA and the North Slope Borough for the very significant contributions of financial support for research on bowhead whale biology.

⁸Bockstoce, J.R. and Botkin, D.B. 1983. The historical status and reduction of the western Arctic bowhead whale (*Balaena mysticetus*) population by the pelagic whaling industry, 1848-1914. *Rep. int. Whal. Comm. (special issue)* 5: 107-141.

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

4. ABORIGINAL WHALING SCHEME (AWS)

4.1 Report of the Scientific Committee

The Chair of the SWG 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 Comm.* 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 (*Ann. Rep. Int. Whaling Comm.* 2005: 12). The Chair of the SWG again re-iterated 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*.

4.2 Discussion and recommendations

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

5. ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

5.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

5.1.1 Report of the Scientific Committee

The Chair of the SWG first reported on the catch information for the 2005 subsistence harvest. In Alaska, a total of 68 bowhead whales was struck resulting in 55 animals landed (25 males, 28 females, 2 not determined). He also noted an addendum to the 2004 harvest report in which one female landed on 31 December 2004 at Gambell had been inadvertently left out. Two bowhead whales (one male and one female) were landed in 2005 in Chukotka.

The Scientific Committee **agreed** that the same management advice as that given in 2005 is appropriate. The *Bowhead SLA* remains the most appropriate tool for providing management advice for this harvest (*J. Cetacean Res. Manage.* 5 (Suppl.): 21), at least in the short term, and the results from the *Bowhead SLA* indicate that no change is needed for the current block quota for 2003-07.

5.1.2 Discussion and recommendations

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

5.2 North Pacific eastern stock of gray whales

5.2.1 Report of the Scientific Committee

The Chair of the SWG first reported on interesting telemetry work carried out in Mexico (see item 9.3.1 of IWC/58/Rep1). In 2005, 115 eastern North Pacific gray whales (45 males and 70 females) were landed by native people of the Chukotka Autonomous Region. An additional nine whales were struck and lost compared to only one the previous year. Two of the gray whales harvested in 2005

had a strong chemical smell and were inedible. The Makah Indian Tribe was unable to conduct whaling on this stock in 2005 because of domestic legal requirements.

The Scientific Committee **reaffirmed** its advice from last year that the *Gray whale SLA* remains the most appropriate tool for providing management advice for this harvest; no change is needed to the current block quota for 2003-2007. An *Implementation Review* is scheduled for 2009.

5.2.2 Discussion and recommendations

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

5.3 Minke whale stocks off Greenland

5.3.1 Report of the Scientific Committee

The Chair of the SWG noted that last year, catches of common minke whales off West Greenland totalled 173 (34 males; 134 females; 5 unidentified sex; 3 struck and lost).

Last year, the Scientific Committee had agreed that sex ratio data should be attempted to be used in assessments but noted some of the potential limitations of such an approach. This year, two papers were received on this subject. The more complex paper had concluded that the current catch of 175 whales was probably sustainable. Details can be found in item 9.4.2.1 of IWC/58/Rep1. Although the SWG welcomed these papers, no agreement could be reached on their suitability for providing management advice at this meeting. These discussions and disagreements highlighted the importance of a consolidated co-operative effort to determine whether, and if so how, sex ratio data can be used to conduct a suitable assessment of common minke whales and/or be incorporated into an *SLA*. The Scientific Committee **agreed** to establish an intersessional working group (that also would meet for a number of days) to examine this issue and report back to the next annual meeting.

Last year, when faced with the new information provided from photographic surveys (while the abundance estimates from those were not considered acceptable, when taken at face value, their implications were extremely severe, particularly for minke whales), the Scientific Committee had urged that considerable caution be exercised in setting catch limits for this fishery because it had no scientific basis for providing advice on safe catch limits. It had noted that if an aboriginal whaling scheme (AWS) was in place, this fishery would be at or near the place where the grace period would begin.

This year, the Scientific Committee stressed that it was in a **considerably stronger position** than it was last year. In particular, it had accepted a new abundance estimate from the aerial survey. In addition, progress had been made on incorporating the sex ratio data into an assessment and in examining whether the genetic data can be used to obtain a lower bound for the abundance of the total population. Further progress will be made on these issues during the intersessional period, although it could not guarantee that this work would necessarily result in an acceptable assessment in 2007.

The new abundance estimate is not significantly different to the 1993 estimate accepted by the Committee although the power to detect trends is low. Its acceptance of course, also means that the question of a grace period under the proposed AWS no longer applies. However, the

problem of stock structure remains. Although it is agreed that the survey estimate does not apply to the whole population available (*inter alia* given the consistent strong female bias in the catches), it is not presently possible to determine by how much. Thus, despite the great improvement in the situation compared to last year, the Scientific Committee was still **concerned** that it is not in a position to give authoritative advice on safe catch limits this year. It noted that the current block catch limit ceases next year. There was considerable discussion as to whether the Committee should provide *ad hoc* interim advice on this stock. A number of possible approaches were suggested. These included:

- (a) no *ad hoc* interim advice should be provided this year other than that above, particularly given the intersessional work proposed and the fact that a major review would occur next year given the completion of the present block quota;
- (b) a crude *ad hoc* approach could be used to provide a range of possible replacement yields (RYs) under a number of hypothetical scenarios – it was noted that under assumptions that (a) $MSYR_{(mat)}$ is 3%¹, (b) that the true population has a sex ratio of 1:1 and (c) that the population is underestimated by factors of between 2 and 7², the estimated RY ranges from about 80-270 if the lower 5% bound of the 2005 aerial survey estimate is used.

The Scientific Committee agreed that **the Commission should exercise caution** when setting catch limits for this stock.

5.3.2 Discussion and recommendations

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

5.4 West Greenland stock of fin whales

5.4.1 Report of the Scientific Committee

The Chair of the SWG noted that last year, catches of fin whales off West Greenland totalled 13 (1 male; 11 females; 1 struck and lost).

This year, it had received an updated assessment from that presented last year. That paper had concluded that a catch of up to 19 whales per year had an 88% chance of fulfilling the AWMP objectives. The SWG had welcomed this paper, although some concerns were expressed about aspects of the method that might cause it to be over-optimistic. However, it was agreed that, provided certain factors were addressed, the method was acceptable. Some members, however, expressed the view that the available information was too uninformative for the method to produce reliable results in the near future. Others believed that it was appropriate to provide interim management advice this year.

Last year, in the light of the photo-survey results and the fact that the previous estimated dated from the late 1980s, the Scientific Committee had urged that considerable

caution be exercised in setting catch limits for this fishery and as an interim measure advised that a take of 4-10 animals (approximately 1% of the lower 5th percentile and of the mean of the estimates 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. This advice would be re-evaluated in 2006 in the light of the intersessional work recommended.

This year, while the Committee was still not in the position of providing satisfactory long-term management advice, it stressed that it was in a **considerably stronger position** than it was last year. In particular, it had accepted a new abundance estimate from the aerial survey, which it recognises is an underestimate. In addition, considerable progress has been made on developing an assessment method although some have some concerns as to whether the data available are sufficiently informative to use it for providing management advice.

The present abundance estimate was not significantly different from that accepted for 1987/88, although the power to detect trends was low. If a similar *ad hoc* interim approach was adopted to that used last year, then using the lower 5% bound and the central estimate from the aerial survey provides a range of RYs of 9-17 for a value of $MSYR_{(mat)}$ of 2% and a range from 17-34 for an $MSYR_{(mat)}$ of 4%. An alternative approach suggested a value of around 23 animals for $MSYR$ 2.5% when using the lower bound of the abundance estimate. Although not accepted by the SWG as an agreed assessment at this meeting, some members believed that the results in SC/58/AWMP5 suggest that an annual catch of 19 whales is safe.

The Scientific Committee also made some research recommendations applicable to both the fin whales and common minke whales as detailed in IWC/54/Rep1, item 9.4.6. In particular it **reiterated** the need for genetic samples from each of the captured whales as a matter of priority and welcomed the progress that has been made in this regard.

5.4.2 Discussion and recommendations

Iceland stated that they would like to congratulate Greenland on the successful conduct of the two sighting surveys in 2005. These surveys have completely changed the picture from last year and put the Scientific Committee, in their own words, in a much stronger position to provide management advice. Although the Scientific Committee could not agree on whether the estimates from the shipboard survey could be used as a basis for assessment at present, the Scientific Committee agreed new abundance estimates for both minke and fin whales from the aerial survey. For both species the abundance estimates are recognised as being negatively biased because the surveys only cover a part of the population area and they are not corrected for animals missed by observers. The consequences of this new information are (a) there is no need for considerations of a grace period as clearly stated in the Scientific Committee report; (b) the present quotas can be maintained until the comprehensive review of these stocks in 2007 when the present block quota expires.

Australia congratulated Denmark on their efforts over the past year and welcomed the fact that the Scientific Committee was able to agree an abundance estimate.

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

¹ The Committee has elsewhere suggested that the likely value for common minke whales lies towards the upper end of the range 1-4% (*J. Cetacean Res. Manage. (Suppl.)* 6: 10 [2004]).

² Although not accepted as appropriate to use to provide management advice at this meeting, the value of 7 is broadly compatible with the results of the methods that attempted to use sex ratio information to obtain a lower bound for the total population abundance (see Item 4.2.1).

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

5.5.1 Report of the Scientific Committee

The Chair of the SWG reported that a single female humpback was caught in April 2006. It was not lactating and was not accompanied by a calf.

In recent years, the Scientific Committee has agreed that the animals found off St. Vincent and The Grenadines are part of the large West Indies breeding population. The Commission has adopted a total block catch limit of 20 for the period 2003-07. The Scientific Committee **agreed** that this catch limit will not harm the stock. It also **repeated** its recommendations of previous years that wherever possible, photographs and genetic material are collected from the catch. It welcomed the progress reported in this regard and

thanked those involved in St. Vincent and The Grenadines for their co-operation in this matter.

5.5.2 Discussion and recommendations

The Sub-committee endorsed the report of the Scientific Committee and its recommendations.

6. OTHER MATTERS

Denmark, on behalf of Greenland, notified the Sub-committee that during the plenary it would ask the Scientific Committee to provide advice on other whale stocks.

7. ADOPTION OF THE REPORT

The report was adopted on 15 June 2006.

Appendix 1

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Nicky Grandy
Greg Donovan

Appendix 2**AGENDA**

1. Introductory items
 - 1.1 Appointment of Chair
 - 1.2 Appointment of rapporteur
 - 1.3 Review of documents
2. Adoption of the Agenda
3. Aboriginal Subsistence Whaling Management Procedure
 - 3.1 Progress with the Greenlandic Research Programme
 - 3.1.1 Report of the Scientific Committee
 - 3.1.2 Discussion and recommendations
 - 3.2 Planning for the *Implementation Review* for bowhead whales
 - 3.2.1 Report of the Scientific Committee
 - 3.2.2 Discussion and recommendations
4. Aboriginal Whaling Scheme (AWS)
 - 4.1 Report of the Scientific Committee
 - 4.2 Discussion and recommendations
5. Aboriginal subsistence whaling catch limits
 - 5.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales
 - 5.1.1 Report of the Scientific Committee
 - 5.1.2 Discussion and recommendations
 - 5.2 North Pacific Eastern stock of gray whales
 - 5.2.1 Report of the Scientific Committee
 - 5.2.2 Discussion and recommendations
 - 5.3 Minke whale stocks off Greenland
 - 5.3.1 Report of the Scientific Committee
 - 5.3.2 Discussion and recommendations
 - 5.4 West Greenland stock of fin whales
 - 5.4.1 Report of the Scientific Committee
 - 5.4.2 Discussion and recommendations
 - 5.5 North Atlantic humpback whales off St. Vincent and The Grenadines
 - 5.5.1 Report of the Scientific Committee
 - 5.5.2 Discussion and recommendations
6. Other matters
7. Adoption of the Report

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. Comm.* 48: 31).

Annex F

Report of the Revised Management Scheme Working Group

10 June 2006, St. Kitts and Nevis

A list of participants is given as Appendix 1.

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Doug DeMaster was appointed as Chair of the Revised Management Scheme (RMS) Working Group. He welcomed delegates and observers to the meeting.

1.2 Introductory remarks and objectives of the meeting

The Chair recalled that through Resolution 2005-4 adopted last year, the Commission had agreed that to try to advance the RMS process, the RMS Working Group should meet twice before the Commission at IWC/58, i.e. one intersessional meeting (that took place in Cambridge from 28 February to 2 March 2006), and another in conjunction with IWC/58. The Commission had also agreed to consider, if appropriate, ministerial, diplomatic or other high-level possibilities to resolve RMS issues among the Contracting Governments to the Convention.

With respect to the intersessional Working Group meeting in Cambridge, the Chair recalled that there had been a valuable exchange of views and ideas on a number of the difficult issues surrounding completion of an RMS. He noted however, that while some further work was agreed in relation to compliance and the code of conduct for whaling under special permit, the Working Group had agreed that an impasse had been reached in discussions and that further collective work should be postponed for the time being (except on the two specific activities) but with individual governments or groups of governments free to work together if they so choose. With respect to a high level meeting, the Chair reported that there had clearly been no consensus for such an approach at the present time.

Given the outcome of the discussions in Cambridge, the Chair indicated that the objectives of this meeting were to:

- review the intersessional work agreed on compliance and the code of conduct and to assess whether further progress can be made in these areas and if so how;
- consider any other intersessional activities that may have occurred;
- consider whether there is anything further that can be done to make progress or whether discussions remain at an impasse; and
- develop recommendations, as appropriate, to the Commission.

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.

2. ADOPTION OF THE AGENDA

The Agenda given in Appendix 3 was adopted.

3. REVIEW OF INTERSESSIONAL WORK

3.1 Development of a Code of Conduct for whaling under special permit

At the intersessional meeting in Cambridge the Working Group reviewed a paper prepared by Arne Bjørge (Chair of the Scientific Committee), Debbie Palka (Vice Chair of the Scientific Committee), Doug DeMaster (immediate past Scientific Committee Chair) and Greg Donovan (Head of Science at the Secretariat) on 'Further thoughts for a Code of Conduct for Whaling under Special Permit' (Document IWC/F06/RMSWG 6). The paper had been requested by the RMS Working Group and was a development of a paper that three of the authors had been requested to develop after the Sorrento meeting. The authors of the paper stressed that the paper did not represent a proposal but was intended to stimulate discussion as to what form a Code of Conduct might take should one believe it was desirable.

Discussions at the Cambridge meeting are summarised under items 4.4 and 5.5 of IWC/58/RMS 3. Much of the discussion at that meeting had focused on:

- (a) whether special permit whaling should be phased out via an amendment to the Convention;
- (b) whether special permit whaling should be discussed at all in the context of the RMS; or
- (c) whether a Code of Conduct approach was appropriate.

With respect to a Code of Conduct, discussion centred on whether this should be voluntary or mandatory and if the latter, how this could be achieved. The authors of IWC/F06/RMSWG 6 had recognised that the legal aspects were beyond their expertise but noted that their premise was that the code must be binding in some way or else its value would be lost. Of those Governments who believed that a Code of some sort was worthy of consideration, several requested that the authors propose further details, some noted the document made a valuable contribution to RMS discussions on an appropriate level of scrutiny and one commented that the rigour of the outlined process might mean that no whaling under special permit would ever be conducted. Several delegations suggested clarifications and additions to the process either at the Cambridge meeting (IWC/58/RMS 3) or in written comments put forward later (e.g. see IWC/58/RMS 4).

At the Cambridge meeting, the Working Group requested that the authors develop the document further to include more detail, although those Governments that supported the option of phasing out special permit whaling noted that they did not believe the Code of Conduct approach was useful. This further document was submitted

to the Working Group meeting at IWC/58 as Document IWC/58/RMS 5 (see Appendix 4).

3.1.1 Introduction of document IWC/58/RMS 5

The Head of Science introduced the paper on behalf of the authors. In introducing the document he stressed several points:

- (1) the document had been produced at the request of the RMS Working Group in Cambridge;
- (2) it was *not* a proposal for a particular Code of Conduct, but was provided to illustrate how such a code might look – a number of areas require further work, particularly concerning the responsibilities of Contracting Governments, the relationship between the proposed Review Group and the full Scientific Committee, and definitions of appropriate target levels – with respect to legal aspects they had removed suggestions as to how a code may be made binding, following comments in Cambridge and those by Belgium in IWC/58/RMS 4 that this was a Commission matter; and
- (3) the document tried to take into account comments made at the previous Working Group meeting and in written proposals but this had not always been possible where they were in conflict.

Finally, he noted that there were some strong similarities in some aspects of the document with a document presented to this year's Scientific Committee meeting that had suggested a way forward for the Scientific Committee to review special permit proposals. While this was inevitable for some aspects, especially related to the scientific review process, the authors did not consider them to be the same: the proposal being discussed by the Scientific Committee was not being discussed in the context of the RMS negotiations. In an RMS context, concepts of binding agreements, consideration of costs and expected responses of Governments to reviews are appropriate. This was not the case for the discussion in the Scientific Committee where the proposal was for a way forward in the near-term that could only focus on trying to ensure that the scientific review process was improved under the present circumstances where there are no obligations on the proponents of proposals other than to submit them for review.

In presenting the revised document, he noted areas in which the original document had been revised in the light of comments made at Cambridge, in writing and in verbal comments received. These included:

- (1) comments on the procedure that might be followed if the full Scientific Committee does not agree an abundance estimate;
- (2) an increase in the time-frame to ensure the fullest possible review;
- (3) more fully specified objectives to be included in the proponents proposal, particularly with respect to the contribution the proposal may make to the work of the Scientific Committee (these additions are those agreed by the Scientific Committee in its discussion this year);
- (4) specification of further detail that the proponents of a proposal must supply if they are proposing to use novel methods;
- (5) a comment that further work needs to be undertaken to agree what conservation-related statistics need to be supplied by the proponents of a proposal, be used by

the review group and be a condition for a Contracting Government not to issue a proposal (in response to IWC/58/RMS 4);

- (6) further specification of the size and composition of the review group and how it might be chosen, with a note that this requires further consideration in the light of the suggestion in IWC/58/RMS 4 that at least one scientist from each country should be included in the group – while the authors agreed that this was certainly an option they presented their reasons as to why they felt this may be problematic - although they did increase the number of specialist to up to 20 to allow for more complex proposals and added the flexibility of the word 'normally';
- (7) further elaboration of the role of the proponent scientists in the review process, including clarification that they would be present at the discretion of the Chair and that their views would be included as an appendix to the review group's report, not interspersed within the report;
- (8) an addition to the work of the review group by adding that it should comment briefly on the importance of the objectives of the proposal from a scientific and management perspective; and
- (9) an elaboration of the focus of the review group with respect to sample size considerations to take into account comments in IWC/58/RMS 4 related to minimising the level of lethal sampling and to obtaining results of adequate precision.

3.1.2 Working Group discussions

It was the view of the authors as elaborated above, that the process outlined in IWC/58/RMS 5, while having obvious and inevitable similarities in some scientific aspects with the suggestions they presented to the Scientific Committee, was completely different in context (i.e. part of negotiations as one element in an RMS discussion) to the suggestion being considered by the Scientific Committee (an approach to improve the Scientific Committee's immediate difficulties in reviewing permit proposals). They also noted that the document did not constitute a proposal but was rather an illustration of one possible approach, presented at the request of the RMS Working Group in Cambridge.

However, many members of the Working Group disagreed with considering IWC/58/RMS 5 in isolation, stating that they believed the approach in that document and that presented to the Scientific Committee were so integrally linked that it was not possible to discuss them separately. They therefore requested the draft report of the Scientific Committee on this matter be made available and this was duly provided (IWC/58/Rep1, item 16 and Annex P). The Scientific Committee had agreed to the *pro forma* suggested in Annex P for proponents of permit proposals to follow when submitting proposals for review by the Committee. It also agreed that the process suggested in the remainder of Annex P provided a useful starting point for discussions next year. However, there was no agreement in the Scientific Committee to use the suggested process at this time.

There was a short discussion about objectives of special permit research. Argentina expressed concern that there was an inconsistency in IWC/58/RMS 5 that suggested that no proposal should be submitted without an agreed abundance estimate and yet one possible primary objective can be the completion of Comprehensive or in-depth

assessments. One of the authors explained that such assessments require considerably more information than simply an abundance estimate. He noted that under the section on objectives of special permit catches already adopted by the Commission, reference is made to facilitating the conduct of the Comprehensive Assessment (*Rep. int. Whal. Commn* 37: 25 and *ibid* 38: 27-8). The UK stated that it believed the question remained unanswered. The meeting was reminded that there will be further discussion in the Scientific Committee next year.

Some countries repeated their view from Cambridge that a Code of Conduct was an essential part of the RMS process and must be binding. A number of countries stated that they believed that there was no point in considering the issue of a Code of Conduct until after the Scientific Committee had completed its discussions. Several of these also reiterated their view that a Code of Conduct was not acceptable to them and that the only acceptable approach was to amend the Convention and phase-out special permit catches altogether. They saw no value in IWC/58/RMS 5 or any elaboration of that document.

There was no agreement on any further work to be carried out on this issue at this time.

3.2 Compliance

A Compliance Working Group was established by the Commission at IWC/57 to (1) explore ways to strengthen compliance by analysing the range of possible legal, technical and administrative measures available to the Commission which are consistent with 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. As no progress had been made prior to the intersessional meeting, the Working Group agreed in Cambridge to the UK's proposal that it work with the Netherlands, Germany, USA, Sweden, Australia, New Zealand and Republic of Korea to develop a document that identifies the specific responses/measures to non-compliance that have so far been mentioned by some Contracting Governments as being desirable and indicates how each of these may or may not be compatible with the provisions of the existing Convention and with the draft Schedule text for the Compliance Review Committee.

A paper from the UK on this matter was submitted to the Working Group as Document IWC/58/RMS 6 (see

Appendix 5). The UK reported that it had circulated this to the working group on compliance, but in the absence of any comments it was submitting the document to the RMS Working Group as a UK paper. It noted that its paper identifies the specific responses/measures to non-compliance that have so far been mentioned by some Contracting Governments as being desirable and indicates how each of these may or may not be compatible with the provisions of the existing Convention and with the draft Schedule text for the Compliance Review Committee. It is intended to highlight options available should Contracting Governments wish to be bound by such. The UK noted that it does not represent a definitive UK view on the way forward.

The UK stressed that in its view, a framework for dealing with non-compliance of any RMS agreed must be an integral component of any RMS package adopted by the Commission. This will ensure that compliance is dealt with specifically in the Schedule to the Convention, and as such binds members to comply with the RMS. The UK considered that if this is not the case, any RMS adopted can be exploited and it will not be possible to prevent IUU whaling effectively.

The UK believed that work on compliance issues could not really be taken further without better knowledge of the structure of any future RMS. Therefore, given the general impasse with RMS discussions, it suggested that there would be little to be gained by spending time discussing Document IWC/58/RMS 6. The Working Group agreed and there was no further discussion of the matter.

4. FUTURE WORK

Given the outcome of discussions under item 3, the Working Group agreed that discussions on the RMS remained at an impasse and that no future work could be recommended to the Commission although this would not prevent individual governments or groups of governments working together if they so choose. The Working Group also confirmed its earlier position regarding a high level meeting, i.e. that there is no consensus for such an approach at the present time.

5. ADOPTION OF THE REPORT

The report was adopted on 15 June 2006.



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Appendix 2

LIST OF DOCUMENTS

IWC/58/RMS

- 1 Draft Agenda
- 2 List of documents
- 3 Chair's Report of the RMS Working Group Meeting, Cambridge, 28 February to 2 March 2006
- 4 Belgium's comments on Document IWC/F06/RMSWG 6: 'Further thoughts for a code of conduct for whaling under scientific permit'
- 5 'Yet further thoughts on a Code of Conduct for Whaling under scientific permit' by A. Bjørge (Chair of the Scientific Committee), D. DeMaster (immediate past Scientific Committee Chair), G. Donovan (Head of Science, IWC Secretariat) and D. Palka (Vice Chair of the Scientific Committee)
- 6 Paper on options for compliance mechanisms, including enforcement, under the RMS. Submitted by the UK

IWC/58/Rep 1 [Extract from the] Report of the Scientific Committee. Item 16.1: Improving the Committee's procedure for reviewing scientific permits

Appendix 3

AGENDA

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Appointment of Chair 1.2 Introductory remarks and objectives of the meeting 1.3 Reporting 1.4 Review of documents 2. Adoption of the Agenda | <ol style="list-style-type: none"> 3. Review of intersessional work <ol style="list-style-type: none"> 3.1 Development of a Code of Conduct for whaling under special permit 3.2 Compliance 3.3 Other 4. Future work 5. Adoption of the Report |
|--|---|

Appendix 4

DOCUMENT IWC/58/RMS 5: YET FURTHER THOUGHTS ON A CODE OF CONDUCT FOR WHALING UNDER SPECIAL PERMIT

Arne Bjørge, Doug DeMaster, Greg Donovan and Debi Palka

1. INTRODUCTION

The Chair's proposal for an RMS (IWC/56/26) had suggested that a code of conduct be developed for whaling under scientific permit as part of an RMS package. We were asked to produce an initial draft of what elements might comprise such a code of conduct and we presented our first thoughts towards the development of such a code in IWC/M05/RMSWG 10 (later appended as IWC/57/RMS3 Annex IIIH). A subsequent version was presented to the meeting of the RMS Working Group in Cambridge in February (IWC/58/RMSWG6). At that meeting it was suggested that it might be valuable to update and develop that document and this is the result. We hope that this revision may prove of some value for your discussions. As before, we have attempted to minimise consideration of non-scientific aspects to the extent possible given that this

is being discussed in an RMS context. Specifically, we do not comment on the issue as to whether lethal research is philosophically desirable or not and nor, by developing such a code, is it our intention to suggest that scientific permit catches should be the norm. However, the very essence of being asked to participate in the development of such a code implies that the possibility that special permits may be issued under certain circumstances exists.

In developing the code, we recognise that the Scientific Committee has developed the management procedure approach (RMP and AWMP) that is regarded as a milestone in modern wildlife management. This approach explicitly incorporates scientific uncertainty in order to ensure that there is no inadvertent depletion of any population. The example of a code given below therefore follows a similar philosophical approach. Any evaluation

of the take of whales under scientific permits must account for all potential human induced mortality including direct catches, bycatches, ship strikes etc. to ensure no unwanted depletion of the stocks.

We stress yet again that the approach below is suggested as one possible example. The use of language such as 'shall' is merely to provide an example of what the text of such a code might look like rather than to suggest that this is the answer. There are a number of areas (particularly with respect to detailing the responsibilities of Contracting Governments, the relationship between the proposed Review Group and the full Scientific Committee, definition of terms such as 'acceptably low' and 'acceptable levels', levels of confidentiality at various stages in the process) that require clarification and elaboration if the RMS Working Group believes the approach is worth following up. We have attempted to clarify some of these aspects in this draft, recognising that these suggestions will almost certainly not please everyone.

Finally, we would like to stress that whilst there is a strong resemblance in some aspects here to a proposal we submitted to the Scientific Committee as a possible way to improve its present method of reviewing special permits, the situation here is different. This document has been submitted in the context of an overall RMS package with a variety of elements.

2. DEVELOPMENT OF PERMIT PROPOSALS

2.1 Objectives

The first stage of any permit proposal (or indeed any research proposal) should be the development of precise, and to the extent possible, quantified objectives and sub-objectives expressed as testable hypotheses. This is clearly the responsibility of the Contracting Government and their scientists. The reason the proposers consider the proposal to be important must be captured as part of the objectives. As a minimum, the Contracting Government should include a statement as to how the proposed research is intended to provide information that will be used to:

- (1) improve the conservation and management of whale stocks;
- (2) improve the conservation and management of other living marine resources or the ecosystem of which the whale stocks are an integral part and/or;
- (3) test hypotheses not directly related to the management of living marine resources.

Section 2.2.2 further develops the manner in which this might be carried out.

2.2 Submission to the Scientific Committee

2.2.1 Abundance estimates

No proposal for a permit should be submitted to the Committee unless an abundance estimate is available for the species/regions involved. Without an acceptable estimate it will not be possible to be able to satisfactorily assess the possible conservation implications of any catches. The quality of that estimate may depend on the scale of the permit proposal (e.g. a one-off take of one animal versus a multi-year proposed take of hundreds of animals).

Normally (and certainly for large, multi-year takes) estimates should have been obtained following the guidelines developed for abundance estimates for use in the

RMP or AWMP, although in certain circumstances alternative methods (e.g. mark-recapture estimates) may be acceptable. If the estimate has not already been accepted by the Scientific Committee, the data upon which the abundance estimates are based should be made available under the Scientific Committee's Data Availability Agreement Procedure A (with its associated protection for data holders and its timeframe). New estimates should be reviewed and either agreed or revised by the IWC Scientific Committee at an Annual Meeting. [It has been suggested by some that a mechanism needs to be developed to ensure that unacceptable delays in reaching agreement on an estimate in the Scientific Committee can not be used to prevent the review of a special permit; it is our belief that the Scientific Committee will review submitted abundance estimates with impartiality as it has for RMP and AWMP *Implementations* – where there is disagreement and this is only a small minority, traditionally the Scientific Committee report reflects the broad agreement and notes a minority statement.]

2.2.2 Preliminary proposal (submission at least 9 months before an Annual Meeting)

Once an abundance estimate(s) is (are) available, the Contracting Government should send an initial proposal to the Chair of the Scientific Committee. This must be submitted to the Chair of the Scientific Committee at least 270 days (i.e. about 9 months) before an Annual Meeting. This must contain details on:

- (1) *Objectives of the study*: – rationale and to the extent possible, quantified objectives and sub-objectives expressed in terms of testable hypotheses [the following section has been considerably expanded for clarity].

The objectives should:

- (a) be quantified to the extent possible;
- (b) be arranged into two or three categories, if appropriate: 'Primary', 'Secondary' and 'Ancillary';
- (c) include a statement for each primary proposal as to whether it requires lethal sampling, non-lethal methods or a combination of both;
- (d) include a brief statement of the value of at least each primary objective in the context of the three following broad categories objectives:
 - (i) improve the conservation and management of whale stocks;
 - (ii) improve the conservation and management of other living marine resources or the ecosystem of which the whale stocks are an integral part; and/or
 - (iii) test hypotheses not directly related to the management of living marine resources; and
- (e) include, in particular for (i) and (ii) above, at least for each primary objective, the contribution it makes to *inter alia*:
 - (i) past recommendations of the Scientific Committee;
 - (ii) completion of the Comprehensive Assessment or in-depth assessments in progress or expected to occur in the future;
 - (iii) the carrying out of *Implementations* or *Implementation Reviews* of the RMP or AWMP;

- (iv) improved understanding of other priority issues as identified in the Scientific Committee Rules of Procedure (*Ann. Rep. Int. Whaling Comm.* 2005: 180); and
- (v) recommendations of other intergovernmental organisations.

(2) *Background information:*

- (a) Summary of what is known about the abundance and population structure of the species/area under consideration; and
- (b) list of all relevant available data (c.f. that required during the RMP/AWMP *Implementation process*).

These data shall be made available under Procedure A of the Data Availability Agreement.

(3) *Methods¹ to address objectives:*

- (a) Field methods, including:
 - species, number and sampling protocol for both lethal and non-lethal aspects of the proposal;
 - an assessment of why non-lethal methods (including analysis of existing data as well as collection of new data), or methods associated with any ongoing whaling operations have been considered to be insufficient;
- (b) laboratory methods;
- (c) analytical methods, including estimates of statistical power where appropriate; and
- (d) time frame for project must be specified at the outset and intermediate targets ('milestones') set.

(4) *Assessment of potential effects of catches on the stocks involved:*

Where appropriate (i.e. for multiple-year [>2 or feasibility studies] proposals involving many [e.g. $>ca.$ 50 animals or more than 1% of the lower confidence interval of the abundance estimate, whichever is fewer]), the potential effects of the catch shall be evaluated using a simulation approach similar to that used in the RMP/AWMP, including consideration of uncertainty:

- for the proposed time-frame of the proposal;
- for a situation where the proposal is continued (a) for twice the envisaged time at the same level of removals; (b) three times the envisaged time at the same level of removals; and (c) 100 years at the same level of removals.

The computer code (and full description) used in any simulations will be lodged with the IWC Secretariat. [The proposal will provide information on the risk of e.g. the targeted population(s) declining to below an agreed level² (e.g. 0.54K) or slowing the time taken for the recovery of population(s) to an agreed level (e.g. 0.54K) by more than x years.]

2.3 The review process

Once a proposal is received, the Chair, in consultation with the Convenors, will draw up a Review Group of appropriate specialists who may or may not be part of the

Scientific Committee (the number shall be normally no more than 20³, depending on the complexity of the proposal) to take part in the review process, primarily via a Workshop (see below). In addition, at least one of the Chair, Vice-Chair and Head of Science shall participate and Chair the Review Group. The Secretariat's computing department will assist the Review Group if necessary. The choice of experts shall be made by the Chair, Vice-Chair and Head of Science in conjunction with the convenors for that year, with special emphasis on the field and analytical methods provided in the proposal and estimation of the effect of catches on the stocks(s). The selection process shall occur in the following manner [this is newly specified].

- (1) The Chair shall circulate the proposal to the Vice-Chair, Head of Science and Convenors, normally within **1 week** of receipt.
- (2) The Convenors shall examine the proposal and in particular the field and analytical methods and, normally within **3 weeks**, suggest names for consideration for the specialist group – if these experts are not members of the Committee they shall include a rationale for their choice – the suggestions will be available to all Convenors.
- (3) The Chair, Vice-Chair and Head of Science will develop a proposed final list (with reserves) for consideration by the Convenors within **2 weeks** and begin the process of establishing the time and venue of the Workshop taking into account the availability of the proposed experts.
- (4) The Convenors will send final comments within **1 week**.
- (5) The Chair, Vice-Chair and Head of Science will agree a final list (with reserves); the proposal (with a note concerning any restrictions) will be sent to the selected experts and reserves - the process thus far will have taken about 8 weeks since the proposal has been received.

2.3.1 Review workshop (at least 180 days before an Annual Meeting)

The initial proposal shall be circulated to the Review Group. Data used to justify the proposal should be made available to the Review Group under the Committee's Data Availability Agreement Procedure A. The Contracting Government may request that the proposal remains confidential at this stage.

The relevant Contracting Government shall host a Review Workshop at least 180 days (i.e. about six months) before the start of the Annual Meeting; the dates and venue shall be chosen in consultation with the Chair of the Scientific Committee, who has the final say. Adequate time must be allowed to enable the Review Group of scientists to read the proposal and dates must be chosen to allow all of the nominated scientists to participate (or, if necessary,

¹Where novel or non-standard methods are proposed, sufficient information must be given to allow these to be properly evaluated.

² 0.54K was presented as one possible example and it relates to use in the objectives behind the RMP and AWMP. Belgium has commented that it believes it would be better not to suggest any value here.

³ It has been suggested that it is not appropriate to limit the participation to this group and that there should be at least one scientist nominated by each Contracting Government. This is certainly an option, although in our opinion this would lessen the effectiveness of the initial scientific review (experience has shown that Workshops function best when the number of participants is relatively small) and may encourage a more political stance in the group, as has sometimes been the case in the full Scientific Committee, which commented on the difficulties in separating out the scientific from the more political aspects when reviewing proposals last year.

Travel and subsistence costs shall be met by the requesting Government via the IWC Secretariat.

Up to 10 scientists involved in the development of the original proposal may participate in the Workshop in an advisory role. The level and timing of their participation will be at the discretion of the Chair, although the final report will clearly attribute the opinions and recommendations of the Review Group from the opinions and comments of the proponents of the proposal (see below).

The primary objective of the Workshop will be to review the proposal *in the light of the stated objectives*. In particular, the Workshop should focus on:

- (1) brief comments on its view of the importance of those objectives from a scientific and management perspective;
- (2) whether the proposed field, laboratory and analytical methods are likely to achieve the stated quantified objectives within the proposed time-frame, including, where appropriate:
 - (a) additional power analyses;
 - (b) comments on whether the sample size is appropriate, taking into account the need to minimise the level of lethal sampling required to obtain answers of sufficient precision;
 - (c) comments on the proposed time-frame;
- (3) the provision of advice and suggestions on components of the programme that might be achieved using non-lethal methods, including, where possible, power analyses, approximate logistics and costs, and time-frames; and
- (4) the provision of advice on the likely effects on the stock or stocks involved under various scenarios of the length of the programme – this may involve a different analysis to that provided in the original proposal.

Given (1)-(4) above, the Workshop may choose to develop a revised proposal or alternative proposals to meet the stated objectives of the original proposal. This may or may not include lethal methods and may include changes to the sample size and methods of the original proposal or its time frame. It will also include a specified time-table with 'milestones'. It may also include comments on the feasibility of *any* approach to achieve the stated objectives.

The Workshop report is the responsibility of the Review Group. The Review Group should attempt to reach consensus on the individual issues referred to above, but where this is not possible the rationale behind the disagreement should be clearly stated. The scientists involved in the development of the original proposal may include an appendix of their views if they feel it to be necessary.

Following Annual Scientific Committee meeting

The Contracting Government shall submit a revised (if necessary) proposal of the original scientific permit proposal, explaining how the recommendations from the Workshop have been taken into account and specifying milestones, at least 120 days before the Annual meeting. The Review Group will have 30 days to comment on the revised proposal; if they feel it is necessary to hold a meeting to do this it will be at the expense of the proposing Government. The report of the review workshop, the revised proposal, and the Review Group's response shall be

submitted to Scientific Committee members no later than 90 days before the annual meeting.

The report of the review workshop (and its comments on any revised proposal) can be discussed and commented upon, but not amended by the full Scientific Committee.

The review workshop report, any revised proposal and the comments from the Scientific Committee will then be submitted to the Commission and become publicly available at the opening of the Commission meeting in the usual manner.

Responsibility of Contracting Governments

We would suggest that Contracting Governments should at least:

- (1) refrain from issuing a permit for lethal aspects of any proposal until the above process has been completed;
- (2) refrain from issuing a permit if the Review Group or a majority of the Review Group agrees that it does not have a 'reasonable' likelihood of achieving the stated objectives within the time frame proposed;
- (3) refrain from issuing a permit if the Scientific Committee agrees that there is a fundamental flaw in the analysis of the Review Group that requires further attention by that Group; and
- (4) only issue a permit if the Review Group agrees that there is an acceptably low risk of e.g. the targeted population(s) declining to below an agreed level [e.g. 0.54K⁴] or slowing the time taken for the recovery of population(s) to an agreed level [e.g. 0.54K] by more than *x* years.

Periodic independent review and data availability

Once a programme has been undertaken, periodic review of the actual progress against expected progress is important at regular intervals. The period between reviews will depend on the nature of the research and milestones set. Therefore, when reviewing the final research proposal, the Review Group should develop a specified time-table for subsequent reviews by it or a similar Review Group nominated by the Chair and Convenors in the manner described above for the original proposal. The data obtained under scientific permits shall be made available for such periodic reviews under the IWC's Data Availability Agreement Procedure A. One function of such reviews will be to comment on whether the research remains likely to meet its objectives and, if appropriate, to suggest changes (including suspension) to methods, sample sizes etc.

Consideration of subsequent permit proposals

Contracting Governments should agree to implement extensions to or follow-up research programmes (that are based on the results of existing permits) only after the results of the initial research programme have been subject to review by the Review Group and the Scientific Committee.

⁴ 0.54K was presented as one possible example and it relates to its use in the objectives behind the RMP and AWMP. Belgium has commented that it believes it would be better not to suggest any value here.

Appendix 5

OPTIONS FOR COMPLIANCE MECHANISMS, INCLUDING ENFORCEMENT, UNDER THE RMS (DOCUMENT IWC/58/RMS 6)

Submitted by the UK

The following table has been produced to identify the specific responses/measures to non-compliance that have so far been mentioned by some Contracting Governments as being desirable and indicates how each of these may or may not be compatible with the provisions of the existing Convention and with the draft Schedule text for the Compliance Review Committee. It is intended to highlight options available should Contracting Governments wish to be bound by such. It does not represent a definitive UK view on the way forward.

A compliance framework for dealing with non-compliance of any RMS agreed must be an integral component of any RMS package adopted by the Commission. This will ensure that compliance is dealt with specifically in the Schedule to the Convention, and as such binds members to comply with the RMS. If this is not the case then any RMS adopted can be exploited and will not be able to prevent IUU whaling effectively.

Item	Proposal/s	Outstanding issue/s	Compatibility with convention	Example of international best practice ⁵
Establishment of CRC	The Commission shall establish a Compliance Review Committee to review and report on the compliance of all whaling operations with the provisions of the Schedule and penalties for infractions thereof (RMS SDG4)	-	Compatible with the Convention	-
Composition of CRC	The RMS Expert Drafting Group agreed that the CRC should be open to all Contracting Governments	[Other proposals on the composition of the Committee would include, in addition to governments, representatives from the whaling industry and NGOs]	Compatible with the Convention (The proposal to include industry and NGO representatives with States would be new for an IWC Committee but is not prohibited under the IWC)	AIDCP: The International Review Panel (IRP) responsible for the review of compliance at the AIDCP includes representatives of the Parties ("governmental members"), three elected representatives of non-governmental environmental organisations with recognised experience, and three elected representatives from the tuna industry ("non-governmental members"). All non-governmental members can participate in the discussion of the IRP without being granted the right to vote CITES: compliance issues are discussed in meetings with broad access to NGO representatives (Standing Committee, COP). CITES grants NGOs the right to intervene on the floor and to submit relevant documents to Parties
Procedure	CRC should have the power to meet as regularly as necessary and to convene inter-sectional meetings if requested by Parties or of its own motion	Decision-making procedures of the CRC	Compatible with the Convention	AIDCP: the IRP meets three times a year and may convene additional meetings at the request of at least two of the Parties, provided that a majority of the Parties support the request
Tasks of the CRC (As defined by RMS SDG4)	i. Develop and maintain a list of matters that will constitute "serious infractions"	Alternative proposal that the definition of serious infractions is spelt out by the IWC for inscription in the text of the Schedule	Compatible with the Convention	In other fisheries organisations, designation of "serious infractions" is commonly decided by Contracting Governments. This allows a certain degree of stability for the list adopted. See Straddling and Migratory Fish Stocks Agreement, WCPFC, NAFO and NEAFC

⁵ The following agreements were reviewed: Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR); Agreement on International Dolphin Conservation Program (AIDCP); Inter-American Tropical Tuna Convention (IATTC); International Convention for the Conservation of Atlantic Tuna (ICCAT); Indian Ocean Tuna Convention (IOTC); Northwest Atlantic Fisheries Organization (NAFO); Northeast Atlantic Fisheries Convention (NEAFC); Fisheries Forum Agency (FFA); UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks (Straddling and Migratory Fish Stocks Agreement); Multilateral High-Level Conference: Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (MHLCC Convention); Convention for the Conservation of Southern Bluefin Tuna (CCSBT); UN Food and Agricultural Organization Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement); Western and Central Pacific Fisheries Convention (WCPFC).

Item	Proposal/s	Outstanding issue/s	Compatibility with convention	Example of international best practice ⁵
Tasks of the CRC (cont.)	<p>ii. Review: (a) infraction reports from Contracting Governments; and (b) the annual report of the functioning of the International Observer Scheme, including any alleged infractions, for the most recent completed whaling season</p> <p>iii. Review other reports submitted by Contracting Governments on matters relevant to the Committee, including alleged infractions</p> <p>iv. Compare the information in (i) and (iii) above and identify any disagreement in the details of an alleged infraction</p> <p>v. Report its view as to whether an alleged infraction is a violation(s) of the provisions of the Schedule</p> <p>vi. Review action(s) taken by a Contracting Government in response to violation(s) of the provisions of the Schedule identified above</p> <p>vii. Review the actions taken, including progress made, by Contracting Governments in response to previous violations considered by the Commission</p> <p>viii. Review the operation of the DNA register and tissue archives established pursuant to Paragraph X, and make appropriate recommendations</p>	<p>In order to ensure proper enforcement of the obligation to report to the Commission on matters of compliance, the Commission should adopt a method ensuring uniform reporting on infractions, including full information on measures taken to investigate, prosecute and punish infractions</p> <p>There should be a corresponding duty on Contracting Governments to co-operate fully with the CRC in its examination of reports of infractions and in particular provide full information on infractions and punitive and preventive measures taken</p> <p>-</p> <p>Complementary proposal requesting that a definition of what constitutes an infraction be adopted by the IWC and enshrined in the text of the Schedule</p> <p>Contracting Governments should have responsibility for follow-up on infractions and findings of violation, and should be under an obligation fully to co-operate with the Committee in this review,</p> <p>Responsibility of Contracting Governments for follow-up on infractions and findings of violation should be made clearer through the establishment of requirements for uniform reporting on infractions.</p> <p>-</p>	<p>Compatible with the Convention</p> <p>Compatible with the Convention</p> <p>Compatible with the Convention</p> <p>Compatible with the Convention</p> <p>Compatible with the Convention</p> <p>Compatible with the Convention</p> <p>Compatible with the Convention</p>	<p>IATTC, CITES, CCAMLR, WCPFC</p> <p>IATTC, CITES, CCAMLR, WCPFC</p> <p>IATTC, CITES, CCAMLR, WCPFC</p> <p>IATTC Compliance Committee reviews compliance and makes recommendations Other agreements define the threshold of what constitutes an infraction by adopting a uniform definition of infractions (ICCAT, CCAMLR, AIDCP)</p> <p>In other agreements, recommendations pertaining to sanctions and action to be taken as a response to infractions are made (CCAMLR, Straddling Fish Stocks Agreement, WCPFC, NEAFC)</p> <p>AIDCP parties are to inform the International Review Panel of their enforcement action and of their results Information is already provided between other relevant conventions and institutions, such as CITES Similarly, NAFO shares information on IUU with the FAO and regional fisheries bodies See also CCAMLR, ICCAT, NEAFC</p> <p>-</p>

Item	Proposal/s	Outstanding issue/s	Compatibility with the Convention	Example of international best practice
Tasks of the CRC (cont.)	<p>ix. Review the results of market surveys conducted pursuant to paragraph Y, paying particular attention to cases where products from individual whales are found that are not included on the DNA register established pursuant to paragraph X</p> <p>x. Review the operation of the catch documentation system established pursuant to paragraph Z and make appropriate recommendations</p>	-	Compatible with the Convention	-
	<p>xi. Recommend to the Commission actions to be taken to improve compliance with the provisions of the Schedule</p> <p>xii. Submit a report to the Commission on its deliberations and recommendations</p> <p>c) The Compliance Review Committee shall report on infringements and the seriousness of these infringements to the Commission and advise the Commission what actions, if any, should be taken</p>	<p>Any RMS adopted by the IWC must include a global catch verification scheme, coordinated by the IWC Secretariat, in order that only legally caught whale products can enter the market. It is essential that all whaling activities (including scientific whaling) should continue under an RMS) be subject to this scheme. The IWC should ensure that a real-time centralised VMS system is in place and that standardised tamper-proofing of VMS units on board all vessels is compulsory</p> <p>-</p>	Compatible with the Convention	AIDCP
		-	Compatible with the Convention	CCAMLR, WCPFC
		-	Compatible with the Convention	CITES
		<p>Obligation on Commission to take into consideration report of the CRC when proceeding with its decision-making procedures</p> <p>Findings and recommendations from CRC to be distributed to individual Governments and made available to the public</p>	Compatible with the Convention	<p>Institutions comparable to the CRC in other international fisheries organisations are given greater authority</p> <p>AIDCP: recommendations from the International Review Panel (IRP) have to be taken into consideration by each Party when deciding on appropriate sanctions for violations⁶. Under extraordinary and unforeseen circumstances, the IRP is even given the authority to recommend necessary measures on the implementation of the Dolphin Mortality Limits to Contracting Parties who may only act "as recommended by the IRP"⁷. The findings of the IRP are published yearly and made available to the public⁸</p>

⁶ See Article XVI Paragraph (2) of the AIDCP.

⁷ See Annex IV Paragraph IV (2) of the AIDCP.

⁸ See Annex VII Paragraph 12(f) of the AIDCP.

Item	Proposal/s	Outstanding issue/s	Compatibility with convention	Example of international best practice
Proposals for co-ordination of national/international measures to secure compliance	<p>The SDG Text on the CRC contains no provisions in this respect, however proposals have been tabled by a number of Contracting Governments (see next column)</p> <p>-</p> <p>-</p> <p>-</p>	<p>Withdrawal of parties right to vote where a party is fails to act to regularise an established violation of the Convention</p> <p>Withdrawal of the right to participate in the work of Committees and sub-Committees</p> <p>Blacklisting IUU vessels (list of IUU vessels can be published and distributed to other fisheries organisations, Parties can be required to deny port access to vessels involved in IUU fishing, etc.)</p> <p>Withdrawal of fishing licenses or registrations</p>	<p>Already in place at the IWC for failure to pay financial contributions on time: See Rules of Procedure E.2</p> <p>Compatible with the Convention.</p> <p>The IWC has the power to make recommendations (Article VI of ICRW), which are not regarded as binding decisions. However, short of amending the treaty, the Contracting Governments could, following the example of other organisations like CITES, IATTC and AIDCP, commit themselves to treating such findings as authoritative</p> <p>The IWC has the power to make recommendations (Article VI ICRW), which are not regarded as binding decisions. However, short of amending the treaty, the Contracting Governments could, following the example of other organisations like CITES, IATTC and AIDCP, commit themselves to treating such findings as authoritative</p> <p>The IWC has the power to make recommendations (Article VI ICRW), which are not regarded as binding decisions. However, short of amending the treaty, the Contracting Governments could, following the example of other organisations like CITES, IATTC and AIDCP, commit themselves to treating such findings as authoritative</p>	<p>Under discussion in CITES</p> <p>Under discussion in CITES</p> <p>CCAMLR, AIDCP, ICCAT, NEAFC, NAFO.</p> <p>Several organisations recognize that a vessel can be presumed to undermine the effectiveness of the agreement/conservation measures (NEAFC, NAFO, ICCAT, AIDCP, CCAMLR)</p> <p>ICCAT, FFA, AIDCP, CCAMLR, WCPFC</p> <p>ICCAT: Commission may reduce quotas, revoke licenses, or impose trade restrictions against Members for non-compliance (ICCAT Recommendation 96-14 Regarding Compliance in the Bluefin Tuna and North Atlantic Swordfish Fisheries - Entered into force: August 4, 1997; ICCAT Resolution 03-15 Concerning Trade Measures - Transmitted to Contracting Parties on December 19, 2004)</p> <p>IATTC: The IATTC can also adopt trade measures for non compliance⁹ and all IATTC resolutions are considered binding by Parties</p> <p>MHCL: See Article 25 §12 of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (entered into force on 19 June 2004), available at http://www.ocean-affairs.com/ [hereinafter MHLC Convention].</p> <p>CITES: trade restrictions can be adopted as a last resort to entice compliance</p> <p>CCAMLR: Resolution 19/XXI urges Parties and non-Parties to prohibit landing and transshipments of fish and fish products from boats flagged by States found to be non-compliant. 2004 Conservation Measure 10-06 also prohibited chartering of vessels involved in IUU fishing and importing their catches</p>

⁹ IATTC Resolution Concerning the Adoption of Trade Measures for Non-Compliance, Res. C-05-04, June 2005. Available at <http://www.iattc.org>.

Item	Proposal/s	Outstanding issue/s	Compatibility with convention	Example of international best practice
Measures to secure compliance (cont.)	-	Reduction or cessation of catch quota - [Proposal of quotas to be set for a maximum of three years and will automatically revert to zero at the end of that period - the Commission will take account of advice and/or recommendations from the Compliance Committee in deciding whether to set new catch quotas and, if so, at what levels. Decisions will require three-quarters majority]	The Commission has the power to set quotas and the Convention does not prevent the Commission from taking into account a Contracting Government's record of compliance in doing so	AIDCP - Automatic loss or reduction of Dolphin Mortality Limits (DMLs) for fishing in excess of DMLs CITES: in cases where trade volumes are considered unsustainable for a species, the Standing Committee can decide to adopt maximum export quotas See also NAFO and ICCAT
	-	Publication of parties in a non-compliance list and public notification of non-compliance	Compatible with the Convention	CITES
	-	Organisation of missions to assess compliance	Compatible with the Convention	CITES
	-	Financial penalties	The IWC has the power to make recommendations (Article VI ICRW), which are not regarded as binding decisions. However, short of amending the treaty, the Contracting Governments could, following the example of other organisations like CITES, IATTC and AIDCP, commit themselves to treating such findings as authoritative. The IWC already applies financial penalties for delay in payment of yearly contributions (see IWC Financial Regulation F, 'Arrears of Contributions').	ICCAT

Annex G

Report of the Conservation Committee

Friday 9 June 2006, St. Kitts and Nevis

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

Bo Fernholm (Sweden) was confirmed as Chair.

1.2 Appointment of rapporteurs

Roger Eckert (USA) was appointed rapporteur.

1.3 Review of documents

The following documents were relevant to the discussions of the Committee:

IWC/58/CC

1 rev. Revised draft Agenda

2 List of documents

3 Ship Strikes Working Group: First progress report to the Conservation Committee

4 Convention on Migratory Species: Resolution 8.22 on Adverse Human Induced Impacts on Cetaceans

5 South Pacific Whale Sanctuary: threats to whales in the region

6 Australia: Voluntary National Cetacean Conservation Report

7 Chile: Voluntary National Cetacean Conservation Report, 2006

8 United States' actions to reduce the threat of ship collisions with North Atlantic right whales

9 United Kingdom. Voluntary National Cetacean Conservation Report, 2006

10 France: Voluntary Cetacean Conservation report

11 Argentina: Voluntary National Cetacean Conservation Report

12 Brazil: Voluntary National Cetacean Conservation Report 2006

13 Mexico: Voluntary National Cetacean Conservation Report

14 New Zealand: Voluntary National Cetacean Conservation Report

IWC/57/4 The South Atlantic: A Sanctuary for Whales

IWC/57/7 Outline Proposal for the IWC Conservation Agenda.

2. ADOPTION OF THE AGENDA

With the following changes, the agenda, as circulated, was adopted (see Appendix 2):

- (i) to receive a report from France on the establishment of a sanctuary in the French West Indies under Item 5.3; and
- (ii) to discuss future work of the Conservation Committee under Item 7.

3. FURTHER CONSIDERATION OF TERMS OF REFERENCE

In introducing this item, the Chair asked whether the Conservation Committee should concentrate its work on the few items already on the agenda. The UK requested a return to the Committee's Terms of Reference at the end of the meeting in order to discuss other possible work of the Committee. In this regard, the UK suggested work on environmental threats caused by pollution. The Chair indicated that the Committee could take this up under Other Matters (Item 7).

4. CONSERVATION AGENDA

At IWC/57, the Conservation Committee identified two priority areas for future work – 'stinky' gray whales and ship strikes.

4.1 Investigation of inedible 'stinky' gray whales

A group of scientists from the Russian Federation, Mexico and the USA investigated the 'stinky' gray whale problem.

4.1.1 Report on progress

The Chair invited a report on the progress of the investigation into the cause of 'stinky' gray whales. The USA reported that since 1998, Russian aboriginal hunters have been reporting a number of hunted whales that exhibited a strong medicinal odour. Tissues from these whales have been deemed inedible by hunters. Although from 1999-2000 this population of whales underwent a large die-off (>500 whales) and a decrease in calf production which returned to normal in 2001, the stinky whale condition has continued through 2005 and no known cause has been found. As agreed last year a collaborative study has begun, and in 2006 samples were received from two stinky whales from 2005 and analyses are underway in the Russian Federation and the USA. Data will be available in the autumn of 2006 for review by scientists in Japan, Norway and other interested countries. A report will be available at the next IWC meeting.

In addition, there is a related gray whale study that was started in Mexico (breeding and calving grounds) in March 2006 to obtain breath samples for chemical analyses from free swimming whales. Samples will also be obtained from free swimming gray whales in the autumn, offshore the State of Washington (feeding grounds). Results of these studies will be made available to the Scientific Committee next year.

4.1.2 Committee discussions and recommendations

In response to a question from Belgium, the Russia Federation indicated that there are two publications concerning preliminary work on 'stinky' gray whales, one in 2004 and one in 2005. The Russian Federation further indicated that, in addition to chemistry studies, toxicological studies would also be carried out, and that a full report on the 'stinky' whale problem will be made at the 2007 IWC annual meeting.

Mexico said that during last year's Committee Meeting (*Ann. Rep. Int. Whaling Comm.* 2005: 102), the Russian Federation indicated that there is information that the winter habitat areas of gray whales in Mexico are chemically polluted. Mexico pointed out that it would welcome any information on this report, as well as any studies regarding pollution in these areas. Mexico also indicated that it would be difficult to argue in favour of such pollution and any relation to the health of aboriginal people; there is no agriculture near the breeding lagoons of the area and there is no urban or coastal development in the lagoon areas. The only industry is a saltwork company. Studies on pollution in the 1990s indicate that the lagoons are not a threat to whales in terms of pollutants. In addition, gray whales either do not feed or only feed opportunistically in Mexican waters. This would complicate any interpretation of these whales acquiring any pollutant loads in these winter breeding grounds. Mexico also indicated that it will do whatever is needed to solve the 'stinky' gray whale problem.

4.2 Ship strikes

A small working group of interested parties was established at IWC/57 to examine the second priority area identified by the Conservation Committee – ship strikes. The group was led by Belgium and consisted of Brazil, Australia, Argentina, New Zealand, Luxembourg, UK, South Africa, USA, Italy and France.

4.2.1 Report from the Ship Strikes Working Group

Belgium reported on the progress of the Ship Strikes Working Group, referring to the group's First Progress Report to the Conservation Committee (IWC/58/CC3). Belgium stated that vessel collisions with whales are significant world wide. Belgium also indicated that neither the Conservation Committee nor the Ship Strikes Working Group should duplicate the work of the Scientific Committee on ship strikes. Belgium identified four technical mitigation measures:

- (i) detection and avoidance manoeuvres;
- (ii) repulsion;
- (iii) protection; and
- (iv) training.

Belgium indicated that a combination of the four factors is necessary to mitigate ship strikes. Belgium then pointed out the report's five recommendations.

Recommendation 1: All national progress reports on cetacean research submitted by IWC members should include ship strikes data in a format allowing their full utilisation.

Recommendation 2: Set up a centralised international database on ship strikes.

Recommendation 3: As appropriate, adopt national and regional legislation, rules and action plans to reduce the impact of ship strikes, with priority for high-risk areas.

Recommendation 4: Identify and circulate information on training material for crew and maritime and marine officials.

Recommendation 5: Continue the work of the Ship Strikes Working Group, widen its membership and circulate the progress report widely.

Belgium also indicated the need for coordination with the International Maritime Organization (IMO) and suggested

the possibility of a collaborative agreement between the IWC and the IMO.

Belgium then reviewed the report's list of priority actions after IWC/58, i.e., follow-up actions by the Ship Strikes Working Group and actions which might be considered by the Scientific Committee. In conclusion, Belgium indicated that vessel strikes of right whales are significant, the Ship Strikes Working Group has begun its work, and that input of the Scientific Committee is crucial.

4.2.2 Committee discussions and recommendations

Several countries, including Brazil, Mexico, Germany, Australia, Chile, New Zealand, the UK, Spain, the USA, Argentina, and the Netherlands, thanked Belgium for taking the lead on the Ship Strikes Working Group, and thanked the group's members for having produced an excellent product. They also indicated that the group has raised awareness of the problem. Australia and others repeated Belgium's call for closer coordination with the IMO. The UK recalled some difficulty with the IMO in the past and highlighted the need for any approach to be handled sensitively. Several countries indicated that the work of the Ship Strikes Working Group was evidence of the value of the Conservation Committee. The Conservation Committee agreed with the follow-up recommendations made by the Ship Strikes Working Group, as well as with Belgium's recommendation for coordination with the IMO.

In presenting IWC/58/CC8, the USA noted previous IWC resolutions (e.g., 2000-8) urging countries to develop ways to reduce the threat of ship strikes to North Atlantic right whales. The USA provided a summary of the United States' actions, including domestic regulatory measures, that have been undertaken or are underway in this regard. The USA's ship strike reduction strategy has five elements:

- (1) modifications to vessel operations such as routing and speed restrictions;
- (2) continuation of established and ongoing research, conservation, education and awareness activities;
- (3) expansion and implementation of mariner education and outreach programmes;
- (4) a review of vessel operations by government agencies and consultation regarding endangered species protection under domestic law; and
- (5) a bilateral right whale conservation agreement between the United States and Canada.

As an example of a vessel operation measure, in April 2006, the USA submitted a proposal to the IMO to narrow and shift the orientation of the Traffic Separation Scheme servicing Boston, Massachusetts. If endorsed, it is expected to provide significant risk reduction for all baleen whale species occurring in the area. The various measures, if successful, may be applicable to reducing ship strike incidents in other geographic locations and on behalf of other taxa.

Belgium asked the USA about right whale fatalities since 2004 and vessel speed restrictions. The USA indicated that the speed advisories are recommendations at this point and that there have been ship strikes and whale fatalities since 2004.

The Chair of the Scientific Committee reviewed an extract of the draft report of the Scientific Committee (IWC/58/Rep1) on ship strikes. Item 7.3.1 of that report

describes a workshop on large whale ship strikes in the Mediterranean Sea held jointly by the CMS-ACCOBAMS¹ and the Pelagos Sanctuary. The Scientific Committee endorsed the recommendations from the workshop related to estimating the number of ship strikes. In addition, the Scientific Committee endorsed the workshop's recommendations for joint work between the IWC Scientific and Conservation Committees, and the Secretariats of the IWC and ACCOBAMS. The Scientific Committee made a number of other recommendations for further work on ship strikes. It also agreed that development of a single international database of collisions between whales and vessels along the lines developed in SC/58/BC6 for the Southern Hemisphere would be extremely valuable, and that particular attention should be given to standardisation of information and data quality control. In this regard, the Scientific Committee welcomes the Ship Strikes Working Group's recommendation to have a single database.

New Zealand noted that there are several organisations, e.g., ACCOBAMS, IMO, IWC, that are currently looking at ship strikes, and that there is a need for better coordination between these organisations. Austria noted from the Scientific Committee report extract that most ship strikes in Hawaii involve whale watching. Austria stated that there should be efforts to mitigate ship strikes within the whale watching industry. With regard to an international database, Belgium described a preliminary work plan, and indicated that the Ship Strikes Working Group will contact the IMO and develop a working relationship.

The Secretary then described a resolution adopted by the parties to the Convention on Migratory Species (CMS) on Adverse Human Impacts on Cetaceans. The Conservation Committee expressed their support for the resolution and to working with the CMS. The Secretary indicated that the CMS would like to cooperate with the IWC on this matter and that there is an existing Memorandum of Understanding between the IWC and the CMS. The Secretariats of the IWC and CMS will meet in early autumn to find better ways to cooperate. Austria expressly appreciated the cooperation with CMS, the parent convention for ACCOBAMS and ASCOBANS, and hoped that the co-operation will be continued as well as fostered.

The Conservation Committee endorsed the five recommendations of the Ship Strikes Working Group, above. Australia indicated that it would like a reference to collaboration with the IMO. New Zealand recommended that the Secretariat forward the Ship Strikes Working Group's Report to the IMO, along with the excerpt of the Scientific Committee report, and that the IMO should be invited into a dialogue with the IWC on ship strikes.

The Secretary indicated that there is no Memorandum of Understanding between the IWC and the IMO, and so, an IMO member country would have to submit these documents. Belgium proposed to do this and noted that the deadline for submission of documents to the IMO in time for its next meeting is 7 July 2006. The USA indicated that the IMO generally only responds to specific proposals and that the receipt of these documents may not get much IMO response. The Chair responded that the Ship Strikes

Working Group report has specific recommendations that might provoke discussion within the IMO. The Conservation Committee agreed that Belgium would submit these documents to the IMO on behalf of the Conservation Committee. The Conservation Committee also agreed that the Secretariat should be invited to look into a possible Memorandum of Understanding with the IMO.

Finally, the Conservation Committee welcomed the resolution from the CMS and endorsed the Scientific Committee's report on ship strikes. The Conservation Committee invited the Secretariat to provide a copy of the Ship Strikes Working Group's report to the CMS Secretariat.

4.3 Other issues

No other issues were discussed.

5. WHALE SANCTUARIES

Following the Chair's introduction of this agenda item, Denmark questioned why sanctuaries are addressed in the Conservation Committee as well as in the Plenary session. Denmark felt that the discussion should occur in one place or the other but not both. The Chair responded that the Conservation Committee is still working on its agenda, and on how to coordinate its activities with the Scientific Committee and the Plenary.

5.1 Proposed South Pacific Whale Sanctuary

5.1.1 Introduction by Australia/New Zealand

Australia introduced the paper it co-authored with New Zealand on threats to whales and their habitat in the South Pacific (IWC/58/CC5). Australia noted, among other things, that a South Pacific Whale Sanctuary would:

- (i) protect whale populations in the region which remain seriously depleted, and facilitate their recovery;
- (ii) protect critical great whale breeding grounds and migratory routes;
- (iii) allow stocks to reach their carrying capacity and fluctuate according to natural determinants;
- (iv) provide a management tool that reinforces the efforts of other mechanisms to prevent species from becoming threatened with extinction; and
- (v) provide economic benefits through non-consumptive use of whales.

Australia reviewed the status and trends of whale populations within the area. Australia also described in detail some of the threats to whales and their habitat in the South Pacific, and cited a need for a precautionary approach.

New Zealand said that while a great amount of work had gone into the paper, there is still only limited knowledge of threats to great whale populations in the South Pacific region. In addition, New Zealand indicated that the marine environment and the state of health of cetaceans in this area need to be carefully monitored.

The paper concludes that the poor population status of most great whales in the region, when considered in light of the absence of detailed biological and habitat use information and the absence of reliable information on threats to these whales, dictates a conservative approach to

¹ The Convention on Migratory Species (CMS) and the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS).

management. It recommends that the Conservation Committee encourage further work on these issues both in the region and through the IWC.

5.1.2 Committee discussions and recommendation

A number of countries expressed their strong support for the recommendations for further work contained in IWC/58/CC5. The UK and others thanked Australia and New Zealand for their efforts and stated that the paper makes a strong case for a sanctuary.

Denmark indicated that Australia and New Zealand were not proposing the establishment of a sanctuary at this meeting, and expressed its view that this document did not fulfil the criteria for a sanctuary. Australia indicated that it would conduct further work on these issues, that a sanctuary proposal would be made to the IWC in due course, and that the IWC clearly has competence regarding sanctuaries.

The Conservation Committee agreed with the paper's recommendation for further work on issues relevant to threats to whales and their habitat in the South Pacific.

5.2 Proposal to establish a South Atlantic Whale Sanctuary

5.2.1 Introduction by Brazil/Argentina

Brazil introduced the proposal presented by Argentina, Brazil and South Africa at IWC/57 for a South Atlantic Whale Sanctuary (IWC/57/4), and indicated that a sanctuary has a clearly stated goal: that of promoting and consolidating a non-lethal management regime for cetacean resources in the area the sanctuary encompasses. Brazil stressed the sanctuary as a management tool and noted that the lack of scientific data 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 and socio-economic reality 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. Brazil also noted that the parties to the Convention on Biological Diversity embrace non-lethal uses of resources, and that ensuring protection of coastal nations' rights to non-lethal uses is important.

Argentina indicated that the sanctuary is a proposal for non-lethal uses of whales. Argentina also said that the proposed sanctuary will support research on depleted stocks and their habitats, and will promote regional conservation measures and educational activities.

5.2.2 Committee discussions 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.

South Africa stated that it is a range state for a South Atlantic Whale Sanctuary and a co-sponsor of the proposal. South Africa thanked Brazil and Argentina for their work on this proposal and stated its support for the non-consumptive use of cetaceans.

Denmark stated that the Scientific Committee had discussed this proposal last year, and that 'consensus was not reached on the scientific merits of the proposed sanctuary'. (*Ann. Rep. Int. Whaling Comm.* 2005: 33). Denmark asked whether the Scientific Committee had reached any new conclusions this year regarding the proposal. Australia indicated that it had previously co-sponsored the proposal and noted that the Scientific

Committee did not consider the South Atlantic sanctuary proposal this year. The Chair of the Scientific Committee confirmed that the Scientific Committee did not receive any new sanctuary proposals this year, and that last year's Scientific Committee response remains the same. Mexico and several other countries were supportive of the sanctuary proposal.

The Conservation Committee endorsed the South Atlantic Whale Sanctuary proposal, with the exception of Denmark. Denmark indicated that it was not supportive and that in its view the proposal does not satisfy the necessary criteria.

5.3 Other

France commented on the establishment of a cetacean sanctuary in the French West Indies and described the sanctuary's goal. New Zealand indicated that Vanuatu recently declared a whale sanctuary in its Exclusive Economic Zone, and that over 11 million square kilometres of the South Pacific are protected by sanctuaries in countries' Exclusive Economic Zones.

6. NATIONAL REPORTS ON CETACEAN CONSERVATION

6.1 Introduction of national reports

The Chair noted that several countries had submitted voluntary national cetacean conservation reports: Australia (IWC/58/CC6); Chile (IWC/58/CC7); UK (IWC/58/CC9) and (IWC/58/CC9 Add); France (IWC/58/CC10); Argentina (IWC/58/CC11); Brazil (IWC/58/CC12); Mexico (IWC/58/CC13); and New Zealand (IWC/58/CC14) and invited these countries to introduce their reports in turn. Several reports addressed the following topics: legal developments, information on whale watching operations, current government conservation programmes, current threats to cetacean conservation and management measures taken/proposed, reporting systems for cetacean injuries/mortality/strandings, and international cooperation activities. Australia highlighted that it had finalised whalewatching guidelines. Chile noted that whale populations in Chilean waters are important in the development of non-lethal activities. The UK identified, among other things, the importance of whalewatching to the rural economy, and encouraged others to submit reports. Argentina described the development of whale watching best practice guidelines. Brazil stated that one of the most important issues addressed in its report is the topic of seismic surveys. New Zealand indicated that these progress reports demonstrate the value of the Conservation Committee because all of these countries are facing similar conservation issues, e.g., habitat, whalewatching, and international cooperation.

6.2 Committee discussions and recommendations

Several countries noted the usefulness of these reports and indicated that they fostered information exchange on common issues of cetacean management. The USA thanked the countries for submitting national reports and stated that it would submit one next year. The Conservation Committee welcomed the voluntary national reports and encouraged more countries to submit such reports next year.

7. OTHER MATTERS

The Chair indicated that the Conservation Committee agreed to discuss its Terms of Reference under this agenda item. Australia referred to discussions last year (*Ann. Rep. int. Whaling Comm.* 2005: 49) and repeated its view that the Chair of the IWC, not the Conservation Committee, should address the Conservation Committee's Terms of Reference. Australia also stated its belief that the Conservation Committee should work on priority areas first and that more work needs to be done on the two priority areas already identified by the Committee. Australia indicated that work on these priority areas would build confidence in the Conservation Committee. The USA agreed with Australia. The UK agreed that it is sensible at this stage to limit activities to the two ongoing projects.

Luxembourg referred to the outline proposal for a conservation agenda from last year (IWC/57/CC7), and proposed that the Committee examine impacts of whale watching on small cetaceans as recommended by the Scientific Committee. The Conservation Committee noted Luxembourg's proposal for further work, and invited it to present a written proposal for next year.

Sweden indicated that there are several agenda items for the Plenary session that could be addressed by the Conservation Committee, e.g., whalewatching, environmental health and pollution. It noted that perhaps the Conservation Committee should take on these agenda items in the future, but preferred that the Committee focus on the two ongoing priority areas for now. Denmark supported

Sweden and indicated that it is sensible that the Conservation Committee address the conservation issues that are currently addressed in the Plenary session. The UK noted that the Committee is not trying to duplicate work of other parts of the Commission, and that the Conservation Committee is seeking to add value in preparing for discussion of issues in Plenary, and can be seen as a complement to the Technical Committee.

Norway indicated that it did not agree with the establishment of the Conservation Committee and for this reason it did not participate in the discussion and would give its view on the questions discussed in the Commission. Korea stated that in its view the discussion was one sided, did not mention sustainable use and consequently was concerned that many IWC member countries are not participating in the Committee. The Chair expressed the hope that, with time, more countries will join in the Committee's work.

Austria stated that a survey conducted in the framework of the State of the Cetacean Environment Report (SOCER) indicated that 44% of all cetacean papers published in peer-reviewed literature in 2005 were primarily on environment and conservation issues, indicating the relevance of the Conservation Committee.

8. ADOPTION OF THE REPORT

The report was adopted 'by post' at 2.00pm on 23 June 2006.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Conall O'Connell
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Gillian Slocum
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Andrea Nouak
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Koen Van Waerebeek

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Régis Pinto de Lima
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Karl-Hermann Kock

Italy

Caterina Fortuna

Republic of Korea

Zang Geun Kim
Chiguk Ahn
Hyun-jin Park

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Netherlands

Stefan Verbunt
Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer
Michael Donoghue
Al Gillespie
Indra Prasad
Phillipa Brakes

Norway

Anniken Ramberg Krutnes
Hild Ynnesdal

Portugal

Marina Sequeira
Maria José Pitta Gros

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Olga Ipatova (I)

South Africa

Herman Oosthuizen
Luyanda Anthony

Spain

Carmen Asencio
Santiago Lens
Renaud De Stephanis

Sweden

Bo Fernholm (Chair)

Switzerland

Bruno Mainini

UK

Richard Cowan
Trevor Perfect
Laurence Kell
Ruth Thirkettle
James Gray
Alice Lacourt
Jenny Lonsdale
Mark Simmonds

USA

William Hogarth
Doug DeMaster
Cheri McCarty
Roger Eckert (Rapporteur)
Emily Lindow
John Field
Bob Brownell
Rollie Schmitten
Nathan Pamplin
Greg Silber
Teri Rowles

Scientific Committee

Arne Bjørge

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(s) 1.3 Review of documents 2. Adoption of the Agenda 3. Further consideration of Terms of Reference 4. Conservation agenda <ol style="list-style-type: none"> 4.1 Investigation of inedible 'stinky' gray whales <ol style="list-style-type: none"> 4.1.1 Report on progress 4.1.2 Committee discussions and recommendations | <ol style="list-style-type: none"> 4.2 Ship strikes <ol style="list-style-type: none"> 4.2.1 Report from the Ship Strikes Working Group 4.2.2 Committee discussions and recommendations 4.3 Other issues 5. Whale sanctuaries 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 |
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Annex H

Report of the Infractions Sub-Committee

9 June 2006, St. Kitts and Nevis

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

Lorenzo Rojas-Bracho (Mexico) 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/58/Inf

1. Revised draft Agenda
2. Secretariat: Annotated draft Agenda
3. Secretariat: National Legislation details supplied to the IWC
4. Draft Secretariat summary of Infraction Reports received by the Commission in 2005
5. Quota monitoring on minke and fin whale hunting in Greenland, 2005
6. Proposal by Austria and the Secretariat for a revised form for reporting infractions

2. ADOPTION OF THE AGENDA

The Chair noted that in the past some delegations, including Norway, Japan and Iceland, 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. Similar views were expressed this year. 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, 2005

3.1 Reports for 2005

The Secretariat introduced IWC/58/Inf 3, the draft summary of infraction reports received by the Commission in 2005, which is given as Appendix 3 to this report.

The UK recalled that last year Denmark had voluntarily announced it would reduce its annual fin whale quota for West Greenland from 19 whales, as listed in the Schedule,

to 10. The UK expressed great concern that despite this assurance, Denmark had reported a catch of 12 fin whales plus one that was struck and lost, and questioned why the catches in excess of 10 whales had not been reported as infractions.

Denmark replied that, as can be seen in the Chair's report of IWC/57 (*Ann. Rep. Int. Whaling Comm.* 2005: 16), the Greenland Home Rule Government had said it was willing to make a voluntary reduction in its fin whale quota to 10 individuals per year for the years 2006 and 2007. Hence the catch in 2005 was not subject to this reduction.

In response to a second question from the UK, Denmark confirmed that a report (on the NAMMCO website) about a northern bottlenose whale concerned a stranded whale which had had to be killed.

3.2 Follow-up on earlier reports

Last year, the Sub-committee noted that some infractions may not be fully resolved during the meeting to which they were reported and agreed to include an item on future agendas to bring such matters forward to the following year. The Secretariat introduced table 3 of IWC/58/Inf 3, the draft summary of additional information on infraction reports received by the Commission in previous years, which is given as Appendix 4 to this report.

Austria presented the proposal from Austria and the Secretariat in IWC/58/Inf 5 for a revised form for reporting infractions to help identify and follow up unresolved cases, as given in Appendix 5. It was noted that the form simplifies reporting and provides a means for transmitting information to the Commission but Governments may choose whether or not to make use of it.

The existing form for reporting infractions from the most recent season has been modified so that each infraction is numbered to enable collation of additional information from previous seasons and a new column added to indicate whether the investigation is complete. A new table has been included for reporting further information on infractions from previous seasons. The revised style format has been used in Appendices 3 and 4. It is suggested that, in future, the revised form be made available on the web and that a circular be sent annually to all Contracting Governments requesting information on infractions and advising that they may use the form from the web.

Australia noted that the regulations of some countries allow animals bycaught in fishing operations to be killed in cases that could not be considered as euthanasia. It considered these incidents to be infractions against the Convention and questioned how such infractions could be reported using the revised forms. The Secretariat noted that in such cases, the nations concerned have not considered the incidents to be infractions and hence they have not been reported to the Sub-committee. Japan confirmed that its domestic legislation allowed the killing of bycaught animals and these were not infractions. It further stated that the

distinction between mercy killing of stranded animals and animals trapped in nets is not clear and moreover that ship strikes might also be considered infractions under such a definition. It noted that previous discussions on this issue had not resulted in agreement that bycatches are an infraction.

Denmark supported the proposal of the Secretariat on the use of the revised form and noted that it did not wish the concept of an infraction to be widened.

New Zealand concurred with Japan in that domestic law should be respected, but observed that the domestic law of nations must also conform to international law. It considered that such issues demonstrated the deficiency of enforcement measures of the IWC convention.

Norway expressed concern that the proposed scheme was bureaucratic and that it was unnecessary to have such a form. The UK commented that the form encouraged provision of information on infractions in more detail than has sometimes been provided in the past and in that spirit it accepted the proposal.

After discussion the revised form was adopted by the Sub-committee.

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.

Denmark introduced their document IWC/58/INF 5, giving details of quota monitoring of minke and fin whale hunting in Greenland in 2005. It drew attention to a new executive order on the hunt of large whales which came into effect in 2005 and which is summarised in appendix 1 of IWC/58/INF 5. Denmark stated its intention to provide the Secretariat with a full copy of the new regulations in the near future.

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 60-97% 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 killing method and numbers struck and lost is collected for between 96-100% of the catch depending on the item and of the length and sex of any foetus if present for 75% of the catch. Biological samples are collected for about 54% 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.

St. Vincent and The Grenadines: Information on date, species, position and length is collected for 100% of the catch. Information on sex is collected for 50% of the catch.

Norway: the required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/58/Rep 1).

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 Belgium, Mexico and Sweden.

Japan noted that, as shown in Table 1, the date of its most recent national legislation was 1983. However, changes have been made more recently to domestic legislation concerning the treatment of bycaught and stranded animals and it intended to forward a copy of this to the IWC.

In response to a question from Argentina, the Secretariat clarified that the dates in the table referred to the date of the legislation and not the date of submission to the IWC.

Austria observed that all EU members were subject to EU legislation and encouraged all EU members who have not yet done so, to submit national legislation on whale issues.

7. OTHER MATTERS

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

The Commission has adopted a number of Resolutions inviting Contracting Governments to report on the availability, sources and trade in whale products:

- 1994-7 on international trade in whale meat and products;
- 1995-7 on improving mechanisms to prevent illegal trade in whale meat;
- 1996-3 on improving mechanisms to restrict trade and prevent illegal trade in whale meat;
- 1997-2 on improved monitoring of whale product stockpiles; and
- 1998-8 *inter alia* reaffirmed the need for Contracting Governments to observe fully the above Resolutions addressing trade questions, in particular with regard to the problem of illegal trade in whale products, and urged all governments to provide the information specified in previous resolutions.

No reports were received by the Secretariat on these resolutions and no comments were made during the meeting.

7.2 Definition of a bowhead calf

Following a report by the USA last year of a possible take of a bowhead calf (see *Ann. Rep. Int. Whaling Comm.* 2005: 110), the Commission requested the Scientific Committee to provide a definition of a bowhead calf based on its length. The Chair of the Scientific Committee reported on the Scientific Committee's work in this regard. Calves are typically born in May at a length of about 4 to 5m and grow quickly in the first summer. There is a pause in growth of body length shortly after weaning. Therefore, lengths of calves in autumn can overlap with whales that

are in their second or even third summers. Baleen length, however, does not appear to overlap. Thus, body length and especially baleen length should be used in combination to assess whether a landed whale is a calf. A landed whale should be considered a calf when its length is 7.5m or shorter and its baleen is less than 60cm.

Following a question from Grenada, the Chair of the Scientific Committee confirmed that very rarely 2nd and 3rd summer animals may still be nursing. He also noted that calves may stray from mothers for long periods of time in the autumn. Grenada observed that the difficulty of defining a calf has come up in the past in respect to other whaling operations, that lactation is the criterion used in the Schedule and that it was not possible to estimate baleen

length before the whale was killed. The Scientific Committee Chair agreed that the criteria could be used to define whether a landed whale is a calf but were not practical for assessing calves at sea. This may mean that very occasionally (<1% based on the last ten year's data) a calf may be taken inadvertently.

7.3 Other

No other matters were raised.

8. ADOPTION OF REPORT

The report was adopted 'by post' on 14 June 2006.

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	2003	Mauritania	None
Australia	2000	Mexico	2006
Austria	1998	Monaco	None
Belgium	2002	Mongolia	None
Belize	None	Morocco	None
Benin	None	Nauru	None
Brazil	1987	Netherlands, The	2002
Cameroon	None	New Zealand	1992
Chile	1983	Nicaragua	None
China, People's Republic of	1983	Norway	2000
Costa Rica	None	Oman	1981
Cote D'Ivoire	None	Palau, Republic of	None
Czech Republic	None	Panama	None
Denmark (including Greenland)	1998	Peru	1984
Dominica	None	Portugal	2004
Ecuador	None	Russian Federation	1998
Finland	1983	San Marino	None
France	1994	Saint Kitts and Nevis	None
Gabon	None	Saint Lucia	1984
Gambia	None	Saint Vincent and The Grenadines	2003
Germany	1982	Senegal	None
Grenada	None	Slovak Republic	None
Guinea	None	Solomon Islands	None
Hungary	None	South Africa	1998
Iceland	1985	Spain	1987
India	1981	Suriname	None
Ireland	2000	Sweden	2004
Italy	None	Switzerland	1986
Japan	1983	Togo	None
Kiribati	None	Tuvalu	None
Kenya	None	UK	1996
Korea, Republic of	1996	USA	2004
Luxembourg	None		

¹Up to the beginning of May 2006. Dates in the table refer to the date of the material not the date of submission. Countries which have recently joined the IWC are not included in the above table as they have not yet had an opportunity to submit legislation. These members are: Cambodia, Guatemala, Israel and the Republic of the Marshall Islands. ²Member states of the European Union are subject also to relevant regulations established by the European Commission. The date of the most recent EU legislation supplied to the International Whaling Commission is 2004.

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Marlies Reimann

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Frank Hester

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Ásta Einarisdóttir

Japan

Joji Morishita (AC)

Jiro Hyugaji

Ryoichi Nakamura

Republic of Korea

Chiguk Ahn

Zang Geun Kim

Hyun-Jin Park

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho (Chair)

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Geoffrey Palmer

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Valentin Ilyashenko

Rudolf Borodin

Olga Ipatova (I)

Saint Kitts and Nevis

Joseph Simmonds

Saint Lucia

Jeannine Rambally

St. Vincent and The Grenadines

Sophia Punnett

Lucine Edwards

South Africa

Herman Oosthuizen

Luyanda Anthony

Spain

Carmen Asencio

Renaud De Stephanis

Sweden

Bo Fernholm

Switzerland

Bruno Mainini

UK

Richard Cowan

Trevor Perfect

Ruth Thirkettle

James Gray

Alice Lacourt

Jenny Lonsdale

Mark Simmonds

USA

William Hogarth

Doug DeMaster

Cheri McCarty

Roger Eckert

Emily Lindow

Harry Brower Jr.

Bob Brownell

Rollie Schmitten

Craig George

Secretariat

Cherry Allison (Rapporteur)

Appendix 2

AGENDA

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Appointment of Chair 1.2 Appointment of Rapporteur 1.3 Review of documents 2. Adoption of the Agenda 3. Infractions reports from Contracting Governments, 2005 <ol style="list-style-type: none"> 3.1 Reports for 2005 3.2 Follow-up on earlier reports 4. Surveillance of whaling operations | <ol style="list-style-type: none"> 5. Checklist of information required or requested under section VI of the Schedule 6. Submission of national laws and regulations 7. Other matters <ol style="list-style-type: none"> 7.1 Reports from Contracting Governments on availability, sources and trade in whale products 7.2 Definition of a bowhead calf 7.3 Other 8. Adoption of the Report |
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Appendix 3

SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION IN 2005

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/58/Rep 1). Catch and

associated data for commercial and scientific permit catches were submitted to the IWC Secretariat (IWC/58/Rep 1). Norway reported no infractions from her commercial whaling operations. Aboriginal subsistence catches and infractions are summarised in Table 1.

Table 2 gives details of the infractions reported in the 2005 season. Appendix 4 gives details of follow up action on infractions from previous seasons.

Table 1
Summary of aboriginal subsistence catches and infractions reported for the 2005 season.

Country	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/comments
Denmark							
West Greenland	Fin	1	11	12	1	13	1 ¹
	Minke	34	134	173 ²	3	176	1 ³
East Greenland	Minke	3	1	4	0	4	None
St. Vincent and The Grenadines							
	Humpback	1	0	1	0	1	None
	Bryde's			1		1	1 ⁴
USA							
	Bowhead	25	28	55 ⁵	13	68	None
Russian Federation							
	Gray	45	70	115	9	124	None
	Bowhead	1	1	2	0	2	None
Republic of Korea							
	Minke			3			3 ⁶

¹Unreported struck and lost whale; see Table 2 infraction 2005.1. ²Includes 5 animals of unknown sex. ³Use of illegal size bullets; see Table 2 infractions 2005.2. ⁴See Table 2 infraction 2005.3. ⁵Includes 2 animals of unknown sex (including 1 whale which was abandoned during towing because of hazardous conditions). ⁶See Table 2 infractions 2005.4, 2005.5 and 2005.6.

Table 2

List of infractions from the 2005 season.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Investigation complete?
2005.1	Greenland/ Denmark	Fin	Unk.	Unk.	Summer 05	Unreported struck and lost whale	A dead fin whale was seen in Maniitsoq in September with a harpoon embedded on its flank.	The incident was reported to the police and is under investigation.	No
2005.2	Greenland/ Denmark	Minke	Unk.	Unk.	Unk. (before May 05)	Use of illegal bullet size	Minimum calibre allowed for use on minke whales is 30.06 (7.62 mm). .22 (5.6 mm) calibre bullets were found in minke whale meat bought in the open market in Nuuk in May.	The incident was reported to the police on 8th July 2005. It is unlikely that the police will discover when the bullets were fired or by whom.	-
2005.3	St. Vincent and The Grenadines	Bryde's	Unk.	38'6"	Jun. 2005	No quota	A whale of a species not allowed under the regulations was taken.	Suspension of license.	Yes
2005.4	Korea	Minke	Unk.	3m	17 Mar. 2005	No quota	Whale caught by a fishing vessel with a permit for coastal gillnet fisheries and transportation. The take was done covertly at about 20n.m. off Ulgideungdae lighthouse, Ulsan with a small harpoon.	The meat was confiscated. 3 violators were given 6 months imprisonment and 2 years probation. The license of the fishing vessel was revoked.	Yes
2005.5	Korea	Minke	Unk.	Unk.	1 Apr. 2005	No quota	Whale caught by 4 fishing vessels with permits for 3 gillnet fisheries and 1 pot fishery. The take was done covertly at about 30 n.m. off Bangoejin port, Ulsan with a small harpoon.	The meat was confiscated. 10 violators (including a trade broker) were given 6 months imprisonment and 2 years probation. The vessel licenses for the 3 gillnet fisheries were revoked and the license for the coastal pot fishery suspended for 20 days of fishing operation.	Yes
2005.6	Korea	Minke	Unk.	4m	2 Jun. 2005	No quota	Whale caught by a fishing vessel with a permit for coastal gillnet fisheries. The take was done covertly at about 10 n.m. off Guryongpo port, Ulsan with a small harpoon.	The meat was confiscated. 2 violators were fined 2 million won (about US\$2,000). The license of the fishing vessel was revoked.	Yes

Appendix 4

LIST OF UNRESOLVED INFRACTIONS FROM THE 2004 SEASON AND FOLLOW-UP ACTIONS

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Investigation complete?
2003	Greenland/ Denmark	Minke	Fem.	Unk.	15/09/03	Use of harpoon without penthrite grenade	A catch report from Qeqertarsuaq was received without information about the harpoon grenade. The case was reported to the police and documentation for purchase and use of the grenade was requested.	It was established that the harpoon did have a penthrite grenade, but was not reported correctly due to a human mistake.	Yes: closed 25/07/05
2004.1	Greenland/ Denmark	Humpback	Male	11 m	6/09/04	Illegal rifle strike	A humpback whale which could hardly swim was seen with old bullet wounds. Hunters from the nearest villages killed the whale after authorisation from the Dept. of Fisheries and Hunting. Meat, blubber and qiporaq were distributed to institutions in nearby villages and Upernavik.	The incident was reported to the police. The Upernavik police closed the investigation on the 11 th of November 2005. Due to lack of evidence, no suspects were found and nobody prosecuted.	Yes: closed 11/11/05
2004.2	Korea	4 minke	Unk.	Unk.	Oct.- Nov. 2004	No quota	4 whales were caught near Pohang city. 2 vessels were involved in the incident and 2 transporters were also arrested.	30kg of meat was confiscated. A 10-month prison sentence and 2 years probation was imposed. The fishing permits of the 2 vessels were suspended.	Yes
2004.5	Korea	Minke	Unk.	4.5m	29/07/04	No quota	A minke whale was caught on 29 July 2004 by three vessels using iron harpoons 12 miles off Ulsan.	A fine of 7 million won was imposed. The fishing permits of the 3 vessels were suspended.	Yes

Appendix 5

REVISED FORM FOR REPORTING INFRACTIONS

**International Whaling Commission**

The Red House, 135 Station Road, Impington, Cambridge CB4 9NP, UK

Tel: +44 (0)1223 233971; Fax: +44 (0)1223 232876

E-mail: Secretariat@iwcoffice.org; Web site: <http://www.iwcoffice.org>

Report on infractions of the International Convention for the Regulation of Whaling, 1946 and summary information on catches

Please complete this form as fully as possible, preferably electronically and return to
Secretariat@iwcoffice.org.

Aboriginal subsistence / commercial whaling

Please complete Tables 1 to 5 as appropriate

Other Infractions

If the infractions being reported are not associated with aboriginal subsistence or commercial whaling, please complete Tables 4 and 5 as appropriate

Contracting Government	
-------------------------------	--

Table 1.

Whaling activity (e.g. aboriginal subsistence / commercial)	
Season	
Number of Active crews/vessels	

Table 2. Summary of information on inspection and observation:

Percentage of catch under direct national inspection	
Percentage of catch under inspection under an international programme	

Table 3. Summary of information on catches and, if any, infractions:

Species	Total animals landed			Additional animals struck but lost	Catch/strike overrun (give number)	Other infractions (give number)
	Male	Female	Total			

Table 4. Details of any infractions committed in this year. Please list whales by species. The action/penalty should be shown individually for each whale.

No.	Species	Sex	Length	Date	Infraction (specify)	Explanation ²	Penalty/Action ³	Investigation complete? ⁴
1								
2								
3								
4								
5								
6								
7								
8								

¹ e.g. Prohibited species; quota overrun; lactating whale and calf; killing method; outside legal size limits.

² Please include location in addition to date and source of initial information.

³ Please include both monetary and non-monetary penalties.

⁴ If investigation is not complete, please indicate anticipated completion date.

Table 5. Details of any unresolved infractions committed in previous years and followup actions. The year and No. should match the year in which the infraction was first reported.

No.	Species	Sex	Length	Date	Infraction (specify)	Explanation ²	Penalty/Action ³	Investigation complete? ⁴

¹ e.g. Prohibited species; quota overrun; lactating whale and calf; killing method; outside legal size limits.

² Please include location in addition to date and source of initial information.

³ Please include both monetary and nonmonetary penalties.

⁴ If investigation is not complete, please indicate anticipated completion date.



Annex I

Catches by IWC Member Nations in the 2005 and 2005/06 Seasons

Prepared by the Secretariat

	Fin	Humpback	Minke	Sperm	Bowhead	Gray	Sei	Bryde's	Operation
North Atlantic									
Denmark									
(West Greenland)	13 ¹	-	176 ²	-	-	-	-	-	Aboriginal subsistence
(East Greenland)	-	-	4	-	-	-	-	-	Aboriginal subsistence
Iceland	-	-	39 ³	-	-	-	-	-	Special Permit
Norway	-	-	639 ⁴	-	-	-	-	-	Whaling under Objection
St. Vincent and The Grenadines	-	1	-	-	-	-	-	1 ⁵	Aboriginal subsistence
North Pacific									
Japan	-	-	222 ⁶	5	-	-	100	50	Special Permit
Korea	-	-	3 ⁷	-	-	-	-	-	
Russian Federation	-	-	-	-	2	124 ⁸	-	-	Aboriginal subsistence
USA	-	-	-	-	68 ⁹	-	-	-	Aboriginal subsistence
Antarctic									
Japan	10	-	856 ²	-	-	-	-	-	Special Permit

¹Including 1 struck and lost. ²Including 3 struck and lost. ³Including 5 struck and lost. ⁴Including 6 struck and lost. ⁵St. Vincent and The Grenadines reported the illegal catch of 1 Bryde's whale (see IWC/58/Rep 4 for details). ⁶Including 2 struck and lost. ⁷The Republic of Korea reported the illegal catch of 3 minke whales (see IWC/58/Rep 4 for details). ⁸Including 9 struck and lost. ⁹Including 13 struck and lost.

Annex J

Report of the Finance and Administration Committee

Monday 13 June 2006, St. Kitts and Nevis

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 (see 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 if and when the RMS is completed and catch limits set. The Committee agreed.

3.1.2 Use of languages other than English

TRANSLATION OF DOCUMENTS

INTRODUCTION BY THE SECRETARIAT

The Secretariat recalled that it presented a paper to the F&A Committee last year providing cost estimates and implications for the provision of document translation at Annual Meetings (i.e. IWC/57/F&A 3). Cost estimates had been 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 Chair's Report of the Annual Meeting. Estimated costs (excluding any proof-reading costs, which can be substantial) 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. The costs were based on rates that were discounted from the standard rates of the translation companies

approached due to the size of the project. Higher rates might apply if less translation is done. In presenting the estimates to the F&A Committee in Ulsan, 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. These will depend to a large extent on when the documents become available for translation. The Secretariat stressed that a move to translation of documents is not a trivial matter either in terms of costs or logistics.

The Secretariat noted that views expressed in Ulsan 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. 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. However, there had been 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.

With respect to the paper prepared for IWC/58, the Secretariat noted that it dealt with:

- (1) identifying priorities for document translation; and
- (2) other possibilities and considerations.

Given that during discussions last year there was general agreement that priorities for document translation needed to be developed and that it might be sensible to start with a phased-approach, starting with translation into French on a trial basis, the Secretariat reported that it had recently contacted the francophone countries with a request that they identify their own priorities. Responses received (although limited in number) indicated a high priority for translating certain documents, while for others, priority varies among Contracting Governments. The documents that appear to have clear priority for translation for those francophone countries responding so far are given in Table 1.

The Secretariat suggested that if the Commission wished to take a phased-approach, it could consider translation of these documents in the first instance.

With respect to practical consideration, the Secretariat noted that if the Commission is prepared to make the necessary funding available and if appropriately experienced translators can be found (i.e. those familiar

Table 1

Documents given high priority for translation into French and approximate cost of translating (not including any proof-reading costs) based on documents prepared for IWC/57.

Documents with high priority for translation	When available for translation	Approx. cost (£)	
		Translation done <i>in situ</i>	Translation done remotely
Report of the Scientific Committee and its Annexes	Just prior to the Annual Commission meeting	41,700	20,600
Documents prepared for the RMS Working Group	Usually some will be available in advance, while others may not be available until just prior to the Working Group meeting	8,100*	4,000*
Report of the RMS Working Group	Just prior to the Annual Commission meeting	2,000	1,000
Resolutions	Normally only during the Annual Commission meeting itself	400	200
Proposed Schedule amendments	Normally only during the Annual Commission meeting itself	1,500	760
Chair's Summary Report of the Annual Meeting	After the Annual Commission meeting	<i>In situ</i> translation not applicable – assume £600	600
Chair's Report of the Annual Meeting	After the Annual Commission meeting	<i>In situ</i> translation not applicable – assume £4,500	4,500
TOTAL		58,800	31,660

*As the number and size of documents prepared for the RMS Working Group meeting at IWC/57 was higher than usual, an average of IWC/55 and IWC/57 has been used.

Table 2

Time needed to translate the Scientific Committee Report and its Annexes.

Document	Approx. no. of words	Approx. no. of days to translate based on 3,125 words/day	Approx. no. of days to translate based on 2,000 words/day
SC Report (incl. Annexes A-C)	57,000	18	28
Annexes	203,500	65	102
TOTAL	260,500	83	130

with the subject nature of IWC), translation into French of the above high priority documents (recognising that this list may change once the views of other francophone countries are received) should not present too great a logistical challenge with the exception of the Report of the Scientific Committee and its Annexes. It recalled that in the document prepared for Ulsan last year, it had indicated that translation of the full Report of the Scientific Committee and Annexes in time for the Commission meeting would effectively be impossible in the time available, given its length. The approximate number of days that would be needed to translate the Scientific Committee report and its Annexes is shown in Table 2 using an average translation rate of 3,125 words per day (as applied in IWC/57/F&A 3) and an average translation rate of 2,000 words per day that recent consultations have indicated would be more realistic given the nature and length of the document.

Obviously it would be possible to employ a team of translators, but it would have to be a large team and even so translation of the full Scientific Committee report would present severe logistical problems. The Secretariat also stressed that the highly technical nature of the Scientific Committee report should not be overlooked, nor should the potential difficulties of translating into another language text that has been carefully crafted in English so as to reach agreement among the Committee members.

Given the importance of the Scientific Committee report to the work of the Commission, there was a suggestion made in last year's F&A Committee meeting to divorce the Scientific Committee meeting from the Commission meeting so as to give more time for translation of its report. While this could be considered, the Secretariat pointed out the following disadvantages.

- Separation of the Scientific Committee meeting from the Commission meeting may have some unfortunate consequences. For example, new data or analyses may be presented at the Commission meeting to challenge agreed recommendations or agreements reached by the Scientific Committee, without the Scientific Committee being able to examine them thoroughly.
- Increased cost to the Commission, Contracting Governments and observers. There will be some additional cost because some individuals will have to travel twice. Separating the meetings will also involve two lots of set-up costs (e.g. photocopying equipment, delegates computing, meeting rooms, etc.).

However, the Secretariat suggested that if the Scientific Committee meeting continues to be associated with the Commission plenary, consideration could be given to developing an abridged (shortened) French version of the Scientific Committee report. For IWC/56 and IWC/57, scientists from the French delegation to the Scientific Committee have developed such an abridged translation, and the Secretariat understands that this will be done again this year. If francophone countries find such an abridged version useful, consideration could be given to transferring to the Secretariat the responsibility for arranging development of this document. In this way it would become a Commission activity rather than a voluntary arrangement, although Commission funds would need to be made available in order to do so.

As an alternative to translating meeting documents in their entirety, the Secretariat suggested that consideration

could be given to either translating a summary (in which case documents would have to include a summary), or developing an abridged (synthesis) version. It noted that for this year's meeting, the Government of Monaco has kindly provided a voluntary contribution that is intended to be used to develop summaries in French of 'essential documents from key committees'. Feedback on the usefulness of such summaries would be helpful in assessing whether such practices should continue.

Last year, the question was raised as to whether there might be scope for using translation software. The Secretariat reported that it had spoken with a number of translators and understands that such software is not yet sufficiently well developed. The Secretariat has also been advised that it may be preferable and more flexible to work with freelance translators rather than agencies.

In conclusion, while the Secretariat indicated that it could explore the possibilities, options, implications and costs of document translation, moving forward on this issue really requires a decision by the Commission as to what it really wants to do in this respect. The Secretariat indicated that it believes that given the importance and challenging nature of this issue and its wide-ranging implications to the operation of the IWC, more time needs to be devoted to discussions to develop more concrete proposals. This might best be done by establishing a Working Group or Task Force - it is not something that can be tackled adequately by the Secretariat working in isolation. If it is decided to establish a Working Group or Task Force, the Secretariat suggested that for it to make progress it will be necessary for the group to meet rather than trying to work solely by email. This could be done either intersessionally (for which a budget will need to be developed - although there would be no budgetary implications if the meeting was held at the Secretariat offices in Cambridge) or in conjunction with an Annual Meeting. It would also be important to include individuals with experience in managing document translation for meetings in any group.

F&A COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

Monaco suggested that document translation is now a central issue due to the growing number of member countries and countries for whom English is not their first language, noting that there are now some 17 francophone and 9 Spanish-speaking member countries. It did not believe that IWC should delay moving forward on this matter. However, recognising the potential costs involved in moving to full translation of all documents, it suggested that some 'in-between' pragmatic solution be found, at least in the short-term (e.g. developing an abridged version of the Scientific Committee report and summaries of 'key' sub-group reports). It also warned against over-estimating possible costs involved, suggesting that the use of freelance translators would probably be more cost-efficient than using translation agencies and that individuals in delegations may be in a position to help with quality control. It also considered that the utility of translation software should not be overlooked. Monaco considered that the establishment of a Working Group or Task Force would be a good idea provided that it works expeditiously and that it would be useful if such a group could explore the experience of other non-UN organisations that face the same issues and that do not have large funds available. It considered that a modest provision should be made in IWC's budget. Switzerland suggested that the approach used by Ramsar be explored.

France supported the remarks of Monaco. Recognising that cost of translation is a major issue, particularly with respect to translation of the Scientific Committee report, it suggested that two alternatives be examined: (1) translation of the main part of the Scientific Committee report only (i.e. not including the Annexes); and (2) translating a summary of the Scientific Committee report (to be arranged by the Secretariat). Australia cautioned against such a translated summary being considered as an official summary. The Head of Science agreed, noting the difficulties that had been encountered in the past with developing an English summary.

Antigua and Barbuda also believed that IWC should move forward on this issue and that a phased approach was probably needed rather than proceeding immediately to translation of all documents. Dominica, St. Kitts and Nevis, Iceland and St. Lucia also believed that a move to some level of document translation should not be delayed. Dominica suggested that funds currently allocated to lower priority issues be re-directed to help cover translation costs. A number of countries supported Switzerland's suggestion to explore the approach used by Ramsar.

Spain considered that document translation and simultaneous interpretation should be dealt with together (see next section).

Germany considered that the Secretariat's document (IWC/58/F&A 6) helped provide an understanding of the difficulties involved in moving to some level of document translation. It was impressed with the input and initiatives of France and Monaco, but believed that there should be further discussion at next year's meeting before a decision is made to establish a Working Group or Task Force or to take further steps with document translation. It suggested that discussions next year would be assisted by written input from francophone countries, including their reactions to the translations being arranged by France and Monaco. The UK made similar remarks. It agreed that a Working Group/Task Force is needed, but did not believe it should be established at this year's meeting.

The USA believed that we should learn from experience gathered this year from the initiatives of France and Monaco, but that a modest provision should be made in the budget to contribute to the development of a French summary of the Scientific Committee report. It also suggested that a task force should meet at IWC/59 to consider a way forward.

There was some discussion on whether the intention was to expand the number of official languages of the Commission beyond only English, or whether the intention was to facilitate the effective participation of all Contracting Governments through the use of working languages. The latter was confirmed as was the position that official texts would be in English only. Italy asked what would be the criteria for selecting working languages.

Given the discussions, and as a way to move forward, the Secretariat suggested that for IWC/59 an abridged version in French of the Scientific Committee report and translations in French of summaries of key sub-group reports be prepared building on the experience gained at this year's meeting. Consideration could be given to translating other documents if there were funds available. The Secretariat noted that this would require the continued support through some voluntary contributions, although it suggested that some modest provision should also be made through IWC's budget. The Secretariat also suggested that

a Task Force be established this year to develop specific proposals for consideration and possible decision-making at IWC/59. The F&A Committee agreed to this approach, and the Secretariat undertook to develop a more specific proposal and terms of reference for the Task Force for review by the Commission.

SIMULTANEOUS INTERPRETATION

The Chair recalled that 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 facilities 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. He noted that at IWC/57, some Contracting Governments continued to support the decision taken at IWC/56 but that others believed that the Secretariat should be responsible for arranging for interpreters and that the Commission should cover the costs. As there was no resolution of the different views expressed, he suggested that the F&A Committee may wish to address this matter at this meeting.

France reported that for IWC/58 it had arranged, at its own cost, for simultaneous interpreters to cover the Commission meeting and private meetings of Commissioners. It noted that it was pleased to provide these services, but noted that it is being done on a voluntary basis and that continued funding cannot be guaranteed. Consequently France believed that the costs of interpreters as well as equipment facilities, be brought within IWC's budgetary provision as soon as possible. It suggested that cost savings that might be made from moving to less frequent meetings could help offset interpretation costs. Monaco made similar remarks. It also believed that having consecutive interpretation is no longer appropriate.

Spain reported that although it had found funds to cover the cost of Spanish interpreters, it had not been able to identify and contract anyone due to a lack of time and manpower.

In response to a question from Grenada, the Secretariat noted that it had only developed cost estimates for the provision of simultaneous equipment as requested by the Commission, and did not have estimates available for the cost of interpreters. The UK suggested that it would be difficult to take any decision regarding budgetary provision without knowledge of cost implications, although it acknowledged that the voluntary contributions by France and Monaco should not be relied upon in the long term. It suggested that the issue of simultaneous interpretation be included in the Terms of Reference of the Task Force proposed under discussions on document translation. The F&A Committee agreed to the UK suggestion of a way to take this matter forward. In addition, the Chair asked the Secretariat to co-operate with France and Spain with respect to sourcing suitable interpreters for next year's meeting.

3.1.3 Frequency of meetings

INTRODUCTION BY THE SECRETARIAT

The Secretariat recalled that through Resolution 2004-7 adopted at IWC/56, the Commission agreed to establish a Working Group that would investigate the implications of

less frequent meetings of the IWC. As a starting point 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 Conventions¹ and the extent of the intersessional activities of these Conventions.

During the F&A Committee meeting in Ulsan, although many delegations spoke in favour of a move to biennial meetings in principle, a number of potential practical difficulties were noted, including:

- in relation to the setting and review of aboriginal subsistence quotas, and possibly, in the future, commercial whaling quotas;
- that the current heavy programme of work of the Scientific Committee would be difficult to progress if the Committee no longer met annually;
- further delays in reaching agreement on an RMS; and
- the possibility that lengthening the period between Commission/Scientific Committee meetings might increase the number of intersessional meetings which could create difficulties for some, particularly developing, countries to participate fully.

In Ulsan, the Commission noted that since plans were already in place for IWC/58, and that a meeting is needed in 2007 to consider renewal of aboriginal subsistence catch limits, there was sufficient time for further reflection on the issue of meeting frequency. It was agreed that the Secretariat's paper (IWC/57/F&A 9) and comments/suggestions in Ulsan should be used as a basis for further discussions. The Commission agreed that the Working Group established after IWC/56 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.

In the paper prepared for IWC/58 (i.e. IWC/58/F&A 5), the Secretariat re-iterated that there is nothing in the Convention that requires the Commission to meet annually. The Schedule, Rules of Procedure and Financial Regulations for the Commission and the Rules of Procedure for the Scientific Committee currently require some annual activities, but these could be amended given the appropriate level of support. The Secretariat therefore suggested that the issue at hand is whether the Commission could adequately conduct its business without meeting annually. It noted that this will depend, at least to some extent on whether work on the RMP and its *Implementations* and the development of an RMS continues.

¹ 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 conservation and management of marine resources.

The Secretariat's paper considered:

- (1) possibilities for moving away from Annual Meetings for the Scientific Committee and the Commission and its other sub-groups;
- (2) cost implications for less frequent meetings;
- (3) timing of any move to less frequent meetings; and
- (4) amendments to the Schedule, Rules of Procedure and Financial Regulations.

THE SCIENTIFIC COMMITTEE

The Secretariat noted that 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. Furthermore, the iterative nature of many of its activities require continuity and regular review of the work of the sub-groups by the full Committee to allow progress to be made. This is particularly true for work and timescales that the Commission has given the Scientific Committee, particularly in relation to comprehensive assessment of stocks, RMP *Implementation* and *Implementation Reviews* and the development of a *Strike Limit Algorithm (SLA)* for Greenlandic stocks and the conduct of *Implementation Reviews* for bowhead and gray whales. In the current circumstances it would therefore appear to be difficult, at least in the short-term unless the Commission revised its priorities, for the Scientific Committee to conduct its business without meeting annually. Pre-meetings in association with the Committee's Annual Meeting would continue to be held when possible to keep the number of intersessional meetings to a minimum.

THE COMMISSION AND ITS OTHER SUB-GROUPS

The Secretariat suggested that while it may be difficult, at least initially to move away from annual meetings of the Scientific Committee, it may be possible for the Commission and its other sub-groups to meet less frequently, for example every two years. Certainly given the Terms of Reference of the Commission's other sub-groups (e.g. Conservation Committee, Infractions Sub-committee, Aboriginal Sub-committee, Working Group on Whale Killing Methods and Associated Welfare Issues) there are no particular implications should the Commission decide that they meet on a less frequent basis than annually². However, the Secretariat noted that moving to biennial Commission meetings has a number of practical implications, including the following.

- (1) The Commission's budget would have to be developed and agreed for a two-year period, but with financial contributions from Contracting Governments being invoiced on an annual basis. Developing a two-year budget should not be a problem.
- (2) The Commission would have to agree a two-year Scientific Committee work programme which could probably be detailed for the first year (i.e. as at present), with an outline for the second year (as at least some of the work needed for the second year will depend on the outcome of work during the first year). A two-year budget cycle would mean that money allocated to research would also have to be done on a two-year basis. It may therefore be practical to set-up

- some sort of contingency fund for research to allow for unforeseen activities that would be necessary, for example, to meet priorities and timelines set by the Commission. There would obviously have to be an agreed mechanism for seeking permission to use money from any contingency fund (but see (3) below).
- (3) Commission decisions could only be made every two years unless by postal ballot or by calling a Special Meeting (for which there is precedence). The intergovernmental organisations reviewed in Document IWC/57/F&A 9 that have meetings of their decision-making bodies every 2-3 years have a Standing Committee or Bureau, with restricted membership, to guide implementation of their Conventions and to provide guidance to the Secretariat during the intersessional period. In the context of IWC, this could also include the granting of permission to spend monies from any contingency fund (see (2) above). The Commission may need to consider whether it needs a Standing Committee/Bureau, and if so, whether (a) the Advisory Committee under the current Rules of Procedure (M.9) could fulfil such a function, or (b) whether another body would need to be established. The current remit of the Advisory Committee is to assist and advise the Secretariat on administrative matters upon request by the Secretariat or in agreement with the Commission. It is not a decision-making body and does not have the competence to 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.
- (4) The current term of the Commission Chair and Vice-Chair, which is currently three years, would have to be changed. Possibilities include: (1) having a term of 4 or more years; (2) having the term equivalent to the period between meetings (i.e. 2 years). The former may be considered preferable as the Chair would be available to conduct two Commission meetings, thus allowing him/her to not only gain experience in the role but also to provide some continuity. However, a 4 (or more)-year term implies an 8 (or more)-year commitment if, as is usually the case, the Vice-Chair becomes Chair. A two-year term has the disadvantage that the Chair would only manage a single meeting, thus providing less time to gain experience and less continuity even if the Vice-Chair becomes Chair.
- (5) With respect to the review of proposals for research under special permit, if the Scientific Committee was to continue to meet annually, it would have an opportunity to review and comment on any proposals. However, if a proposal was reviewed by the Scientific Committee in a year that the Commission did not meet, the Commission would not have an opportunity to discuss collectively the proposal or to engage in dialogue with the Chair of the Scientific Committee.

The Secretariat suggested that most of the implications for biennial Commission meetings listed above should be relatively easy to address if it is decided that biennial meetings should occur. Perhaps the major difficulty would be in setting and reviewing catch limits for aboriginal subsistence whaling and, should it be resumed, commercial whaling. It is assumed that reviewing catch limits by correspondence is not appropriate.

² Note that if an RMS was adopted that included a Compliance Review Committee, consideration would need to be given to the frequency with which such a Committee should meet.

The *SLAs* that have been/are being developed as part of the management procedure for aboriginal subsistence whaling are intended to set strike limits for 5-year blocks. Except in exceptional circumstances, therefore, there should be no need to review them annually. Similarly, if commercial whaling resumes under an RMS, the RMP is intended to set catch limits for blocks of 5 years and again, except in exceptional circumstances, there should be no need to review them annually. The amount of work involved in *Implementations* (which have a strict two-year timetable once it has been agreed the *pre-Implementation assessment* has been completed) and *Implementation Reviews* for the AWMP and RMP means that it is not practical to schedule them all for the same year.

Thus, if the Commission moves to biennial meetings, care will need to be taken to ensure a practical timetable for the review of catch limits. Given the current priorities set by the Commission, this would not be possible until after 2009 because the RMP *Implementation Assessment* for western North Pacific Bryde's whales is set to be completed in 2007 and that for North Atlantic fin whales probably in 2009. The Secretariat provided a hypothetical set of examples as to how a two-year cycle might work (IWC/58/F&A 5 add).

COST IMPLICATIONS OF LESS FREQUENT MEETINGS

The Secretariat reported that the current budgetary provision for Annual Meetings, covering the Scientific Committee, Commission sub-groups and Plenary, is currently around £330,000³. It noted that keeping meetings of the Scientific Committee on an annual basis but moving to biennial meetings of the Commission and its sub-groups would not yield particularly large savings in terms of the Commission's budget (e.g. somewhere in the order of £165,000 over two years assuming, for simplicity, that the 2-week Scientific Committee costs about half of the full 4-week meeting series) and would also lead to a reduction in income from NGOs (currently around £50,000/year). However savings to individual Contracting Governments and observers would not be insignificant given the cost of travel, hotel accommodation, subsistence, time spent preparing for meetings and time spent at meetings.

TIMING OF ANY MOVE TO LESS FREQUENT MEETINGS

The Secretariat noted that the Commission has already agreed that Annual Meetings should continue as they are at least up to the 2007 Annual Meeting when the aboriginal subsistence quotas will require renewal. As indicated above, if the Commission's priorities for the work of the Scientific Committee remain unchanged, the Secretariat suggested it would probably not be possible to move to biennial Commission and sub-group meetings until after 2009. If changes in the Commission's priorities occur, then

it might be possible to consider moving to biennial meetings earlier, although in taking any such decision, it should be borne in mind that Chile and Portugal have offered to host the 2008 and 2009 Annual Meetings, respectively.

AMENDMENTS TO THE SCHEDULE, RULES OF PROCEDURE AND FINANCIAL REGULATIONS

The Secretariat amendments to the Schedule, Rules of Procedure and Financial Regulations to take account of any move to biennial meetings of the Commission and its sub-groups would need to be adopted by the Commission at its last Annual Meeting prior to the change. The only amendment to the Schedule required is in relation to the review of some aboriginal subsistence quotas. A number of the necessary amendments to the Commission's Rules of Procedure and Financial Regulations are relatively minor and of an editorial nature, although consideration would need to be given to:

- (1) the duration of the terms of the Chair and Vice-Chair;
- (2) how the Commission's budget is developed and managed; and
- (3) whether a Standing Committee/Bureau is needed to guide Implementation of the Convention and provide guidance to the Secretariat between meetings.

F&A Committee discussions and recommendations

Norway, Monaco, Austria, Iceland, France, Sweden, the Netherlands and Germany spoke in support of moving to biennial meetings as soon as possible, noting that this move should not lead to an increase in intersessional meetings. Norway suggested that the move to biennial meetings could start after 2007 and proposed that the Secretariat prepare proposals for amendments to the Schedule, Rules of Procedure etc. for review next year. Austria considered that the Scientific Committee as well as the Commission need only meet every two years. Iceland proposed that the Scientific Committee should continue to meet annually, at least for the time being, but with Commission meetings being held biennially. France believed that further thought was needed regarding the frequency of Scientific Committee meetings. Germany proposed that work should continue on consideration of the consequences of moving to biennial meetings, and that the Working Group established after IWC/56 should develop a precise proposal on how to move forward for consideration by the F&A Committee next year. It found the Secretariat's documents useful but believed that there is a need for further input from Contracting Governments.

Brazil, Australia, Chile, Spain, Czech Republic, UK, Russian Federation, Argentina, Belgium, South Africa, USA and Luxembourg were not against the concept of moving away from Annual Meetings but expressed a number of concerns. Brazil noted that reducing the frequency of meetings may hinder the Commission's efforts to break the current deadlock. It also believed that reducing meeting frequency would inevitably lead to an increase in intersessional meetings which would discriminate against developing countries who would find them difficult to attend. Others shared this concern. Brazil recalled that offers to host Annual Meetings in 2008 (Chile) and 2009 (Portugal) had been received. It noted that the lead-time needed for organising meetings can be longer for developing rather than developed countries, and referring to Chile's offer for 2008, suggested that a move to

³ The budget provision for Annual Meetings is supposed to represent the cost of a meeting should it be organised by the Secretariat at a 'generic' venue in the UK. When a meeting is held outside the UK at the invitation of a Contracting Government, it is understood that any costs additional to those budgeted will be met by the host Government. It has been known for some time that the current level of budgetary provision for the Annual Meeting would not be sufficient to cover the costs of an Annual Meeting in the UK and that in recent years, host Governments have incurred additional expenses. This matter has recently been highlighted by the Government of St. Kitts and Nevis who has sought voluntary contributions from Contracting Governments to help cover the costs of IWC/58. Given these circumstances, the Secretariat has suggested that the level of budgetary provision for the Annual Meeting be reviewed. This matter will be discussed by the F&A Committee under agenda item 5.3.

biennial meetings should not start until after 2008. Chile confirmed that it had already started on preparations. Understanding the concern that a move to biennial meetings may increase intersessional meetings, Spain suggested that consideration should be given to shortening the length of the Annual Meeting series. South Africa agreed.

Australia believed that a decision should not be taken in haste and that the mechanics of such a move should be well thought through in advance. It also believed that consideration would need to be given to the size and composition of any more influential Advisory Committee, Standing Committee or Bureau that the Commission may establish to guide Implementation of the Convention and to provide guidance to the Secretariat during the intersessional period. The UK believed that if the Commission moved to biennial meetings but the Scientific Committee continued to meet annually, the Commission would have difficulty in dealing with two-years worth of information. It also felt that if an RMS was ever agreed and commercial catch limits set, the Commission would need to review quotas on an annual basis. Belgium noted the large work-load of the Scientific Committee and could not envisage moving to meetings every two years. Mexico agreed.

The Russian Federation recalled the situation around the renewal of the bowhead aboriginal subsistence quota at IWC/54 in 2002 and indicated that if the Commission moved to a two-year cycle, there would need to be the recognition that Special Sessions of the Commission may be needed on occasion (as one had been in October 2002).

While supporting a move to less frequent meetings in principle, the USA indicated that it must be clearly understood that many careful decisions would need to be taken. It cautioned against acting prematurely and suggested that a discussion session should be organised on this matter at IWC/59 in Alaska. Grenada supported this suggestion, noting that particular attention needed to be given to the implications on setting aboriginal subsistence quotas.

Japan found the proposal to move away from annual meetings difficult to accept from a conceptual point of view. While organisations like CITES, CMS and others that take decisions regarding placing species on lists which allow them to meet every 2-3 years, it noted that IWC is a resource-management organisation where its business should be conducted on an annual basis. Portugal considered that it is preferable to keep to annual meetings. St. Vincent and The Grenadines did not believe that cost savings were sufficient to make a move to a two-yearly cycle worthwhile. St. Lucia also supported continuation of annual meetings.

Given the views expressed, Norway continued to believe that it is time to take a decision, but suggested that rather than moving to biennial meetings after 2007, this be done after 2008.

In summarising the discussions and seeking a way forward, the Chair noted that there was some support to move to biennial meetings but also some concern. He suggested that if a move to a two-yearly cycle was taken this should not take effect until after 2008. He proposed that a special session of the F&A Committee be organised on this subject at IWC/59 in Alaska next year. The F&A Committee agreed.

3.2 Legal advice in relation to the IWC

The Chair recalled that 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. The Netherlands also introduced a paper at IWC/56 that set out options for addressing future legal issues. Due to time constraints, detailed discussion of this paper was deferred to IWC/57. Different views were expressed at IWC/57 and 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 at IWC/58.

The Netherlands reported that unfortunately it had not had an opportunity to pursue this issue since the Annual Meeting last year. It suggested that an email working group could be established with the objective of reporting to the F&A Committee at IWC/59. The Chair called for expressions of interest in joining such a group, but in the absence of this suggested that the Netherlands may itself prepare a paper for consideration next year. The F&A Committee agreed with this approach.

3.3 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate

3.3.1 Proposal to amend Rules of Debate C.1/Rules of Procedure F.2

The Secretariat noted that at recent Annual Meetings, there have been a number of occasions on which a ruling of the Chair has been appealed and that a number of delegations have found that following the practice described in C.1 is confusing⁴. Some also believe that Rule of Debate C.1 is in conflict with Rule of Procedure F.2 (b)⁵.

The Secretariat suggested that it would be beneficial if the confusion associated with voting on an appeal to a Chair's ruling could be overcome. Initially, the Secretariat had thought that this could be done by asking the meeting to vote on a Chair's ruling rather than on the appeal to a Chair's ruling. In this case the Chair's ruling would stand unless a majority of the Commissioners present and voting decided otherwise. However, recognising that this would bring the Rules of Debate in conflict with Article III.2 of the Convention which states that 'Decisions of the Commission shall be taken by a simple majority of those members voting.....', the Secretariat proposed to clarify

⁴ 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.

⁵ F. Chair

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;.....

the procedure for voting on the appeal by revising Rule of Debate C.1 as follows:

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 question voted upon shall be stated as: 'Shall the decision of the Chair be overturned?'* 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.

The Secretariat also proposed that Rule of Procedure F.2 be amended as follows:

F. Chair

2. The duties of the Chair shall be:

(b) to decide all questions of order raised at meetings of the Commission, subject to the right of any Commissioner to *appeal against any ruling of the Chair*.

The F&A Committee agreed to these proposals and **recommends** that they be forwarded to the Commission for adoption. As the required 60-day notice of the substance of the proposed amendment was provided, the amendment would take effect immediately should the Commission decide to adopt it.

3.3.2 Other

Brazil drew the Committee's attention to the Scientific Committee Rules of Procedure E.4.(c), i.e. *'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'*. Brazil considered that it would be useful for working papers to be archived routinely and proposed that the Scientific Committee be requested to review Rule of Procedure E.4(c) next year. The F&A Committee **agreed** to recommend this to the Commission.

4. FORMULA FOR CALCULATING CONTRIBUTIONS

4.1 Report of the Contributions Task Force

Recognising the potential implications for any revised contributions formula of work on the RMS, the work of the Contributions Task Force (CTF) had been put on hold until these implications could be assessed. The Task Force last met in March 2003. At last year's meeting, the view was expressed by some that work to revise the contributions formula should not be linked to completion of the RMS and should therefore be resumed. It was agreed to hold a Task Force meeting at IWC/58.

The Chair of the CTF reported the proceedings of the meeting of the CTF held on Saturday 10 June 2006 to the F&A Committee.

At the beginning of the CTF meeting, the Secretary had briefly summarised the work undertaken since IWC/51 to revise the financial contributions formula, together with a brief explanation of how the Interim Measure (adopted at IWC/54) is used to calculate contributions and its effect on the level of payments by various countries, and set out the current status of discussions.

The Chair then invited delegates to consider how the work should be taken forward. Support was expressed for the view that work should focus on further developing the

previous valuable work of the Task Force rather than starting afresh; the guiding principles agreed in IWC/53 still being valid today. It was noted that as discussions on the Revised Management Scheme (RMS) had stalled since the intersessional meeting in Cambridge earlier in the year; the task force could either try to include some mechanism for dealing with costs arising from an eventual RMS, or set those aspects to one side for consideration once agreement on the RMS had been reached. Support was expressed for the second of these routes. An observation was made that the Task Force's work might be frustrated if it attempted to cover the RMS at this stage, and therefore it was proposed that consideration of the RMS be put to one side, whilst acknowledging that some amendments might need to be made once agreement had been reached on the RMS. This was accepted by the meeting.

The CTF Chair reported that the discussion then turned to whether one or more intersessional meetings would be necessary. The Chair indicated that one of the critical issues for discussion during future intersessional meetings is identification of an appropriate 'capacity to pay' index. The CTF agreed to recommend to the F&A Committee that, subject to the availability of Secretariat staff, two intersessional meetings should be held in Cambridge, England; October/November 2006 and February/March 2007. The importance of provision of adequate IT technical support for the meetings was stressed, given the probable need to run simulation models of contribution formulae. It was agreed that the Terms of Reference for the CTF's future work should be wide enough to enable all the outstanding issues identified in table 1 to IWC/57/F&A 8 to be addressed (see Appendix 4), and the Secretary expressed the hope that all participants would be prepared to discuss all of these.

The CTF proposed the following Terms of Reference for the intersessional meetings:

- (1) The Contributions Task Force shall hold at least one, but no more than two, intersessional meetings to develop a new contributions formula that can command consensus support, with a view to its adoption at IWC/59;
- (2) ensure that such a formula adheres to the guiding principles (openness, stability, fairness, and user pays) endorsed by IWC/53;
- (3) ensure that any new scheme includes the four main elements recommended by the Task Force in May 2001: an annual membership component, a wealth factor related to capacity of a country to pay, consumptive use, and delegation size at Annual Meetings;
- (4) the formula should be capable of adjustment so as to meet new performance criteria and capable of being modified to accommodate a treatment of all whaling equally or differentiated by type; and
- (5) resolve those remaining issues identified in table 1 to IWC/57/F&A 8.

4.2 F&A Committee discussions and recommendations

There was no discussion and the F&A Committee **recommends** that the CTF's proposal for resuming work on the contributions formula be forwarded to the Commission for adoption.

5. FINANCIAL STATEMENTS, BUDGETS AND OTHER MATTERS ADDRESSED BY THE BUDGETARY SUB-COMMITTEE

5.1. Review of the Provisional Financial Statement, 2005-2006

5.1.1 Report of the Budgetary Sub-committee

The report of the Budgetary Sub-committee (IWC/58/F&A10) was introduced by its Chair, Joji Morishita. The Provisional Financial Statement presented in IWC/58/5 was circulated to the Sub-committee in March 2006.

The Secretariat reported that there had not been time to develop a revised version of Table 1 of IWC/58/5, but noted that increases in income are anticipated from:

- Financial Contributions of new members, i.e. £17.5k (Israel £9.2k, Guatemala £3.9k, Marshall Islands £2.2k, Cambodia £2.2k);
- Voluntary Contributions, i.e. £9.8k (Ireland £7k + Netherlands £1k – Small Cetaceans) + (£1.8k from Norsk Hydro – Research Fund – Acoustic Workshop); and
- a release of £81k from provision for doubtful debts is anticipated (Senegal cleared £63k of old debt, Belize cleared £18k of old debt) but this may be reduced by provision made at the financial year-end for any current debts still outstanding.

The Secretariat noted that the above favourable changes may be offset by any F&A Committee recommendations to the Commission regarding a one-off amnesty to relieve the debt of developing countries or to backdate an increase in annual meeting provision to IWC/58 by taking money from IWC reserves.

The Sub-committee noted that the projected out-turn for 2005-2006 is a generally satisfactory situation as currently presented but recognises that significant changes may arise according to the recommendations made by the F&A Committee to the Commission at IWC/58. It therefore **recommends** to the F&A Committee that the Provisional Financial Statement for 2005-2006 (Appendix 5) is forwarded to the Commission with a recommendation that it be approved subject to audit. The F&A Committee agreed.

5.1.2 Secretary's report on the collection of financial contributions

The Secretariat referred to document IWC/58/F&A11. Total financial contributions and interest outstanding amounted to £514.6k, of which £138.4k referred to former members and £376.2k referred to current members. The document had been prepared on 12 June 2006 but in the meantime the financial contribution of Israel had been received. The Secretary's report on the collection of financial contributions was noted.

5.2 Consideration of a possible one-off amnesty to relieve the debit of developing countries

5.2.1 Introduction by the Secretariat

The Secretariat recalled that during the F&A Committee meeting last year, 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 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. Despite some concern regarding precedents that might be set and possible knock-on effects such a move might have to other organisations, the Commission agreed that the suggestion merited further consideration and that this be explored by the Secretariat who should develop proposals, including changes to Financial Regulations that might be needed, for possible decision-making at IWC/58 in St. Kitts and Nevis.

The Secretariat reminded the meeting that until the changes made at the 2002 Annual Meeting, financial contributions were assessed annually and compound interest was charged at 10% per annum unless and until a Contracting Government chose to withdraw from the Convention. This resulted in a number of developing countries falling into serious arrears, some in excess of £500,000. Some Contracting Governments withdrew from the Commission with debts. At the 2002 meeting, to prevent the build-up of excessive arrears in future, the Commission decided that: (1) the rate of compound interest charged on outstanding interest be reduced after the first year (when it would remain at 10%) to 2% above base rate for each subsequent year; and (2) if a Contracting Government's annual payments, including any interest, have not been paid for a period of three financial years, then no further annual contribution will be charged (although interest would continue to be applied annually). For governments in arrears for a period of three financial years, the Commission also agreed a standardised repayment plan in which a government with arrears can avoid penalty interest and regain full voting rights if it undertakes to make a payment of 2 years outstanding contributions and provides a formal undertaking to pay the balance of arrears and interest within a further 2 years. The Commission further agreed to apply these changes retroactively to attract back to full participation in the organisation, those Contracting Governments that had large arrears and no repayment plans in place. The retroactive application of the changes reduced substantially the debt of these governments. The changes were also applied retroactively to countries that had withdrawn from the Convention with debts, thus reducing the debt of most of these countries also.

The Secretariat gave a summary of governments (current and former members) with arrears as of IWC/54 in 2002 and their current status and noted that since IWC/54, all Contracting Governments with past arrears, with the exception of Costa Rica, had entered into repayment schedules as described above. It was noted that Belize, Peru and Senegal have now paid off their past arrears, while Kenya still has past arrears outstanding.

Having explored the matter, the Secretariat considered that it is not appropriate for it to make proposals for a one-off amnesty as requested as there are a number of questions pertaining to such a step that it believes first require consideration by the F&A Committee and/or the Commission, i.e.:

- (1) What criteria should be used to define a developing country? For example, should these be countries falling into capacity-to-pay groups 1 and 2 as under

the Interim Measure for calculating financial contributions⁶?

- (2) Is the intention of an amnesty to ‘forgive’ all or part of any outstanding debts (the latter being the case with IWC/54 decisions)?
- (3) Would any amnesty be applied to more recently accumulated debt as well as past arrears? Note that it may set a bad precedent to ‘forgive’ any outstanding arrears of contribution and interest for the current financial year.
- (4) Should a one-off amnesty apply only to current Contracting Governments of developing countries with remaining arrears or should it also apply to former Contracting Governments of developing countries with remaining arrears?

Finally, the Secretariat suggested that if the Commission wished to pursue a one-off amnesty it would not be necessary to make any further amendments to the Financial Regulations. This could simply be achieved by a decision of the Commission, although the terms of any amnesty would need to be made clear.

5.2.2 Report of the Budgetary Sub-committee

In view of the potential budgetary implications of a one-off amnesty, the Secretariat had previously presented Document IWC/58/F&A 4 to the Budgetary Sub-committee. It noted that giving amnesty only to those countries currently with outstanding arrears would not have financial implications for the Commission. Implications would only arise if any amnesty was back-dated to include countries that had recently cleared part or all of their arrears since this would require rebate of monies in some way. The Secretariat noted that around £360,000 of the re-calculated arrears (i.e. re-calculated after the decisions taken in Shimonoseki) had been recovered from Contracting Governments, with around £285,000 currently outstanding. Thus if an amnesty was extended to all re-calculated arrears that have been recovered, then a rebate of around £360,000 would be needed.

Concern was expressed that a distinction should be made between long-term arrears and recent arrears, since any amnesty to recent arrears might confer an unfair advantage to the beneficiaries without the incentive to meet their financial obligations. The Sub-committee recommended that the F&A Committee take note of the following observations:

- (1) the re-calculation of arrears decided upon at Shimonoseki was the ‘common-sense’ starting point for any amnesty discussions;
- (2) that if an amnesty was only given to the re-calculated arrears currently outstanding, then there would be no effect on the budget;
- (3) that any amnesty applied to re-calculated arrears currently outstanding would probably lead to claims for the amnesty to be extended to the re-calculated arrears already recovered; and
- (4) that if an amnesty was extended to all recalculated arrears that have been recovered, then a rebate of

around £360,000 would be needed, which would have budgetary implications.

5.2.3 F&A Committee discussions and recommendations

The UK noted the points made by the Budgetary Sub-committee but differed on two points. Firstly it believed that the starting point for any amnesty should be the outstanding contributions at the point at which the Commission made the decision to give an amnesty, and therefore it would have some difficulty with any retroactive application, particularly given the considerable budgetary implications. It also believed that the debts of those governments that had withdrawn from the Convention should be written off since there is no likelihood of recovering these. The UK was not wedded to giving an amnesty, but had felt it worth considering given the broader discussions on debt relief.

Brazil was in favour of exploring further a possible amnesty. It did not believe that an amnesty should apply to debt related to the financial contributions for the current year, but considered that it could apply to former members with debt if they wished to re-adhere to the Convention. Switzerland suggested that the UN scale of contributions could be examined and be used to decide on candidates for any amnesty (i.e. those with very small contributions).

The USA could not support a one-off amnesty. Referring to the decisions taken in Shimonoseki, it noted that 4 out of the 6 governments with substantial arrears had repaid their debts, while some have accumulated further arrears. It also drew attention to Financial Regulation F.5(a) which helps constrain the debt that can be incurred since no further annual contribution is charged if a Contracting Government has fallen into arrears of financial contributions for a period of 3 financial years. It expressed concern over the financial implications of the backdating of any amnesty, believing that there are other important budgetary items to consider. And it believed that the proposal to look again at the financial contributions formula may well serve to help developing countries further by reducing their contributions. The USA believed that adhering to the Convention comes with responsibilities and that it would not be appropriate if such responsibilities could be set aside every few years. Germany, Belgium and Grenada associated themselves with these remarks. Belgium considered that any further amnesty would be sending the wrong message both to IWC members and to the wider international scene.

Japan noted that there are a number of issues under consideration that either directly or indirectly will provide assistance to developing countries, i.e. revision of the contributions formula, increases to the Annual Meeting provision and a move towards facilitating the use of languages other than English. It believed that priorities needed to be set, and that for Japan, giving a further amnesty has a lower priority than making adjustments to the contributions formula and Annual Meeting provision. Monaco indicated that its position was close to that of Japan and felt that it was important to further the work to revise the contributions formula with respect to capacity-to-pay.

Given the discussions, the F&A Committee agreed to **recommend** to the Commission that a one-off amnesty is not the right course of action at the present time and should not be pursued. However, it also **recommends** that the Secretariat be asked to: (1) make further contact with Costa

⁶ Under the Interim Measure, capacity-to-pay groups 1 and 2 are defined as the following:

Group 1: GNI less US\$10,000 million and GNI/capita less than US\$10,000.

Group 2: GNI greater than US\$10,000 million and GNI/capita less than US\$10,000.

Rica and Kenya regarding repayment of their arrears and (2) to explore alternatives for repayment.

5.3 Review of the budget provision for Annual Meetings

In introducing this item, the Chair noted that there were two documents to be considered by the F&A Committee, i.e. Document IWC/58/F&A 7, prepared by the Secretariat, and a proposal from St. Kitts and Nevis given in Document IWC/58/F&A 8. He also noted that the Secretariat's document, and an earlier draft of the proposal from St. Kitts and Nevis had been considered by the Budgetary Subcommittee.

5.3.1 Introduction of the Secretariat's document

The Secretariat reminded the Committee that the longstanding practice of the Commission is that, irrespective of the actual or proposed location of the venue of an Annual Meeting, the budget provision is based on the costs of running an Annual Meeting at a 'generic' venue in the United Kingdom. When a meeting is held outside the UK at the invitation of a Contracting Government, it is understood that any costs additional to those budgeted will be met by the host Government unless the Commission has specifically agreed to some other arrangement, or the host Government's invitation includes covering all (or a very substantial portion) of the costs. It has been known for some time that the current level of budgetary provision for the Annual Meeting would not be sufficient to cover the costs of an Annual Meeting in the UK and that in recent years, host Governments have incurred additional expenses. This matter has recently been highlighted by the Government of St. Kitts and Nevis who sought voluntary contributions from Contracting Governments to help cover the costs of IWC/58. Given these circumstances, it would seem appropriate for the Commission, via the F&A Committee, to review the level of budgetary provision for the Annual Meeting. This was done in Document IWC/58/F&A 7.

The Secretariat's experience is that it requires around 35% of the current meeting provision to cover its own expenses (e.g. Secretariat staff, travel, subsistence and overtime; freight, removals and insurance; equipment and supplies from the UK; preparatory site visit). There is therefore an initial allocation of 65% of the budgetary provision to the host government. The budget provision for Annual Meetings from IWC/52 to IWC/58 and the provisional allocation for IWC/59, together with the actual allocation to the Secretariat and government and the actual cost of a meeting, where known, are shown in Appendix 6, Table 1. The Secretariat noted that the actual total costs are indicative of the level of 'extra' services/resources provided by the host, but consequently there is considerable variance.

To understand what the real costs might be of holding an Annual Meeting in the UK, the Secretariat contacted three meeting venues in the UK (in Birmingham, Aberdeen, and London). The costs are based on 2006 prices and are shown in Appendix 6, Table 2. These three venues were selected as the Secretariat believes they give an indication of the likely cost-range to be expected. The Secretariat noted that up to now, the provision of facilities for delegates' computing has been at the discretion of the host government and has not been included as part of the IWC budget. However, given the need for delegates to have access to computers and the internet to assist them in

their work at Annual Meetings, it believed it reasonable that provision for this facility be included in the budget. As illustrated in Appendix 6, Table 2, the estimated range of costs of holding an Annual Meeting in the UK in 2006 during the May to July period is from £530,000 to £771,000, i.e. 1.6 to 2.4 times higher than the budget provision for IWC/58. The Secretariat noted that these figures do not include the following items of expenditure: security outside of the meeting venue; costs associated with VIPs (e.g. some governments have a requirement to provide transport from/to the airport for delegates at Minister/Ambassador level); first aid/medical emergency services; official receptions.

The estimated effect on financial contributions of increasing the budget provision for IWC/59 in 2007 from the current proposal of £333,850 to £530,000 and £771,000 respectively is shown in Appendix 6, Table 3.

Given the obvious discrepancy between the current budget provision for Annual Meetings and the true cost of holding a meeting in the UK, the Secretariat suggested that the Commission, via the F&A Committee may wish to consider increasing the provision.

5.3.2 Introduction of the proposal of St. Kitts and Nevis

St. Kitts and Nevis indicated that costs associated with hosting annual meetings of the IWC have increased significantly in recent years primarily due to the cost of renting the conference venue and costs of providing an acceptable level of security. It noted that the Secretariat now estimates that it would cost between £550,000 and almost £800,000 to host a meeting in the UK with approximately 35% of this cost for Secretariat expenses. It also noted that the budget allocations from the IWC to host countries for the past 4 years were as follows:

Berlin 2003 - £205,800 – this is an increase over the initial allocation

Sorrento 2004 - £194,400

Ulsan 2005 - £197,850

St. Kitts and Nevis 2006 - £211,900 - initial allocation

And that approximate additional costs to the host Governments were: Shimonoseki meeting - £747,420; Ulsan meeting - £533,870. It noted that for IWC/59 in Alaska, the Government of the USA is allocating approx. £533,870 to £800,800.

St. Kitts and Nevis reported that the budget for hosting IWC/58, excluding Secretariat costs, totals £625,000 (see Table 3), noting that almost the full allocation from IWC is required for the rental of conference facilities. The Government of St. Kitts and Nevis is therefore required to fund a shortfall of £413,100, and that while it had received a contribution of £26,694, there is no budget to cover the remaining shortfall (£386,406). It explained that it is experiencing a period of significant economic difficulties, related to the recent closure of the island's sugar industry, and that anticipated donations to help finance IWC/58 had not been forthcoming.

St. Kitts and Nevis believed that it is clear that IWC budget allocations to Governments hosting Annual Meetings of the IWC are insufficient to cover basic meeting costs and that there is a substantial financial burden for the host country. It believed that this situation discriminates against developing country members of the IWC where the cost of many items is much more expensive than in developed countries. As an example, an extra copying machine can simply be rented in the UK, whereas

Table 3
Budget for hosting IWC/58 St. Kitts.

	US\$	£
Conference facilities (meeting rooms)	500,000	
Meeting equipment and services	112,000	
Ground Transportation and transfers for events	16,700	
Cultural events	50,000	
Translation equipment	7,000	
Community involvement/activities	26,000	
First Aid station at conference	30,000	
Security	250,000	
Conference personnel services	18,000	
Organizing committee (salaries)	36,000	
Communications	25,000	
Consultancy services (technical support)	60,000	
Project manager (salary – 6 months)	30,000	
Contingencies	10,000	
Total	1,170,700	625,000
IWC contribution	378,000	211,900
Contribution	50,000	26,694
Deficit (required amount)	742,700	386,406

for St. Kitts and Nevis, an extra copying machine has to be bought and shipped from somewhere like the United States of America with significant extra costs. Furthermore, Governments in developing countries do not have the in-house resources (staff, equipment and budget) to supplement the IWC contribution as is possible for developed countries. It was concerned that other developing countries may face a similar situation in hosting future meetings.

St. Kitts and Nevis therefore made the following proposal.

- (1) That the IWC budget allocation for Annual Meetings be increased to £550,000 (lower end of the meeting cost range provided by the IWC Secretariat).
- (2) When the IWC agrees to hold its meeting in a country within capacity to pay groups 1 or 2 the budget allocation shall be increased by 1.5 times.
- (3) These changes shall take effect to include the hosting of IWC/58 up to the budgeted amount of £625,000 (which does not include Secretariat costs). Costs in excess of IWC's allocation to the host government for IWC/58 (£387,406) to be taken from reserves.

It noted that while the financial contributions of a Group 4 country may increase quite significantly under the proposal, the gain through increased provision would be considerable if it wished to host an IWC Annual Meeting.

5.3.3 Report of the Budgetary Sub-committee

There was general acknowledgement that the current budgetary provision for IWC Annual Meetings is insufficient to cover the costs of holding a meeting in the UK, although one member did question the estimated figures presented in document IWC/58/F&A7, suggesting that they seemed high compared to provisions for Conferences of Parties of other international conventions. There was agreement that before deciding to increase the provision, it would be useful to gather information on how other comparable intergovernmental organisations budget for their Annual Meetings, including:

- are their provisions intended to cover the whole cost of a meeting or are hosting governments expected to cover any additional costs; and
- what is the monetary provision for meetings (with information on length of meetings and number of

participants) and what % of the operating budget does this represent?

It was noted that the size (number of participants) and length of meetings held by other organisations may differ from the IWC, thus making a comparison difficult. However the Secretariat agreed to try to collect statistics from other organisations prior to the F&A Committee meeting to see if any meaningful comparisons could be made.

With respect to how to fund the increased cost of Annual Meetings, a number of suggestions were made, including:

- (a) an increase in financial contributions;
- (b) through host governments meeting any costs in excess of the IWC contribution; and
- (c) through cost reduction by holding the meeting every two years.

With respect to the draft document from St. Kitts and Nevis and the proposal to backdate any increase in provision for Annual Meetings to IWC/58, concern was expressed by some regarding the implications on the outcome of the 2005/2006 budget if such funds were taken from reserves and the Secretariat was asked if such a move would be against IWC's financial procedures. The Secretariat indicated that it would not be and that the Commission could, if it so wished, decide to use the reserves in this way. With respect to the proposal to increase the provision if an Annual Meeting is held in a developing country (capacity-to-pay groups 1 and 2), some expressed the view that there should be no distinction made between developing and developed countries in this respect and that no country is forced to host a meeting.

In conclusion, the Budgetary Sub-committee Chair noted the range of views concerning this issue and welcomed any additional information that the Secretariat might be able to provide to the F&A Committee meeting. The Sub-committee agreed to **recommend** that the F&A Committee take note of the following observations:

- (1) that there is recognition of the fact that the current level of budgetary provision for the Annual Meeting would not be sufficient to cover the costs of a generic venue in the UK;
- (2) that the F&A Committee should consider a range of options to fund the increase in Annual Meeting provision including: (a) an increase in financial contributions; (b) through host governments meeting any costs in excess of the IWC contribution; and (c) through cost reduction by holding the meeting every two years;
- (3) that further information on costs of meetings of other comparable intergovernmental organisations should be sought by the Secretariat to allow comparisons to be made; and
- (4) that the proposals from St. Kitts and Nevis in document BSC/2006/09 are noted.

5.3.4 F&A Committee discussions and recommendations

Australia welcomed the fact that the Budgetary Sub-committee was seeking information on meeting costs of other intergovernmental organisations in order that comparisons with costs described for IWC Annual Meetings could be developed. It noted that increasing the provision to the levels indicated in either of the documents would result in significant increases in percentage terms to

financial contributions. With respect to the proposal from St. Kitts and Nevis, while it had sympathy with any government that takes on a commitment for which costs escalate, it suggested that the government of St. Kitts and Nevis were aware of this risk when they decided to offer to host the meeting and that its situation should be viewed in this light. Given that there are three governments interested in hosting meetings over the next three years under the existing level of budget provision and the understanding that the host government must cover any costs above and beyond the IWC allocation, Australia did not see an immediate need to increase the provision dramatically, although it considered that a reasonable increase could be maintained.

Monaco, the USA and Italy also saw no urgency to increase the Annual Meeting provision significantly. Monaco suggested that any increase could be offset by moving to biennial meetings. It also considered that given the apparent costs involved, holding a meeting in the UK should be a low priority. It noted that it is common practice in intergovernmental organisations for host countries to assume significant portions of meeting costs. It suggested that the obligations of the Commission and host government could be better defined and that it might be appropriate for the Secretariat to develop a Memorandum of Understanding for signature by the would-be host governments in this respect. The USA also believed that if a government volunteers to host a meeting, then at the same time it takes on the risks and obligations to pay for any additional costs. However, it did support ways to increase the provision such that the funds would be sufficient to host a meeting in the UK. The UK also recognised the need to make a stepped increase in meeting provision over time such that a meeting could be held in the UK if necessary.

France believed that the host government has responsibility for covering additional costs, and that it had budgeted for this when it offered to host IWC/58 in La Rochelle. It suggested that savings from moving to biennial meetings of the Commission could be used to alleviate the budgets of developing countries wishing to host IWC meetings. Switzerland asked whether there is a requirement in IWC for the depository government to host a meeting if there is no other offer (the answer is 'no'), and noted the high price of conference facilities in the UK.

Brazil had some sympathy with St. Kitts and Nevis, and hoped that the healthy rotation of holding meetings in developed and developing countries could be maintained. It therefore considered that there is a need to adapt the budgetary provision accordingly over time.

Japan noted that there is no funding crisis as far as the IWC budget is concerned, but noted that St. Kitts and Nevis finds itself with a significant problem and that ways to alleviate this problem should be considered. St. Vincent and The Grenadines and Grenada agreed.

Antigua and Barbuda recognised the need for responsible and prudent budgetary management. It noted that the situation for St. Kitts and Nevis had initially been satisfactory but that costs had escalated. While it took the point that there may not be an immediate crisis if governments are willing to host IWC meetings, there would be a crisis if for some reason a meeting had to be held in the UK. Antigua and Barbuda therefore believed that consideration should be given to both increasing the provision and to helping St. Kitts and Nevis.

Belgium questioned why the costs for security at IWC/58 are so high, particularly given that St. Kitts and Nevis is such a friendly country. St. Kitts and Nevis explained that while some security facilities already exist, there are certain additional obligations that go with an international meeting (e.g. handling of VIPs, communication equipment) that have to be sourced.

The USA reported that its estimated costs of security at IWC/59 in Alaska are also high because the facilities and infrastructure necessary to provide adequate security at an international meeting do not currently exist. Like some others, the USA thought that the Commission should consider a step-wise increase in meeting provision. It noted that it had already identified sufficient funds for IWC/59 and that therefore if the Commission decided to increase the meeting provision in the 2006/2007 budget, it would be prepared to talk with St. Kitts and Nevis and with the Secretariat about ways to use this increase to help St. Kitts and Nevis.

Australia believed that if a step-wise increase is to be considered, there should be a well thought-through proposal presented next year. It recognised the generous offer of the USA with respect to helping St. Kitts and Nevis, but noted that no increase in provision had yet been agreed. Australia noted that St. Kitts and Nevis had sought voluntary contributions and that the Commission should await the outcome of this before taking any steps to allocate further funds.

At the end of the discussions the Chair noted the range of comments made. He noted that some believed that there is no immediate problem, while others believed that there is a case to increase the meeting provision on an incremental basis. There was clearly no agreement on how to take this forward and recommended that these views be reported to the Commission. The F&A Committee agreed.

5.4 Secretariat offices

5.4.1 Report of the Budgetary Sub-committee

The Chair of the Budgetary Sub-committee reminded the meeting that last year, the Commission requested the Secretariat to develop, for review at IWC/58, a more comprehensive picture of the steps required in purchasing or leasing a property for its offices. He described the work done so far on this topic to provide context as follows.

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; (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 at that point still over five years until the current lease expired (it expires in March 2009), the Sub-committee recommended that the Secretariat explore alternatives within the Cambridge area.

At IWC/57 the Sub-committee took a generally favourable view to purchasing property but concluded that it needed more information to decide whether the options

that might become available would provide a viable alternative to renting property. The Sub-committee therefore recommended that the Secretariat 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 would be used as the basis of further discussion at IWC/58. The recommendation for the provision of more comprehensive information recognised the approach of the end of the current lease (i.e. March 2009) leaving only three more Annual Meetings (including IWC/58) at which this issue could be discussed and a decision made.

The Secretariat prepared the more comprehensive picture requested at IWC/57, extracts from which are shown below.

PROPERTY MARKET IN CAMBRIDGE 2006

The Secretariat sought advice from the Cambridge office of Bidwells (a national firm of property consultants) with respect to alternative properties in the Cambridge area (for purchase or lease). Advice was also sought regarding the current value of the Red House to see if purchasing the property might be a viable option.

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. The current 20 year lease was negotiated at a time when demand in the local property market was high and the terms agreed were advantageous to the owner. The consideration of freehold and leasehold options at this juncture is therefore prescient.

The market of 2006 offers more flexible leasing terms, e.g. for 10 years (instead of 20 years) with a break after 5 years with a rent review. Most non-residential property in the Cambridge area is either dedicated to office use, storage or industrial use. The Red House is 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 examples of office, warehouse, industrial and mixed-use property as a guide to what is currently available in the Cambridge area.

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. Six scenarios have been examined for the purposes of this paper.

Scenario A Lease mixed-use property (4,500 sq ft in the example) + approx. 1,500 sq ft of additional industrial storage (to give comparable area to Red House).

Scenario B Purchase mixed-use property (two units with a combined area of 5,786 sq ft - no additional area needed).

Scenario C Lease office space (example grossed-up to give the same area as (D)) + approx. 1,500 sq ft of additional industrial storage (to give comparable area to Red House).

Scenario D Purchase office space (two units with a combined area of 4,340 sq ft) + approx. 1,500 sq ft of additional industrial storage to give comparable area to Red House.

Scenario E

Renew existing lease of the Red House.

Scenario F

Purchase the Red House.

In order to give a like for like comparison with the Red House, the example properties either have their area grossed up to match that of the Red House or the lease or purchase of an additional smaller industrial unit is assumed for storage.

Scenarios A and B compare the leasing v purchasing of mixed-use property. Scenarios C and D compare the leasing v purchasing of quality office accommodation plus a small industrial unit. Scenarios E and F compare the leasing v purchasing of the Red House.

The assumption was 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, the mixed-use properties and quality office premises located in a village seven miles from Cambridge city centre are reasonable examples, although the Secretariat cannot be sure how suitable such a property would be until a full assessment is made.

PROJECTION OF CASHFLOWS ASSOCIATED WITH SCENARIOS A TO F

A basic investment appraisal technique known as Net Present Value (NPV) was used. Cash flows over a 15 year period have been created using various indicators, e.g. property price inflation, retail price inflation and so on.

Money has a time value. A dollar now will be worth a dollar and ten cents one year from now if the interest rate is 10%. Or put another way a dollar and ten cents in a year's time is worth one dollar now. The future cash flows referred to above are converted (discounted) into current money terms and the investment with the lowest NPV is taken on initial inspection to be the preferred option.

The discount rate used in this case is the cost of borrowing money from the bank (currently 5.9%).

The key difference between buying and renting property is that in the former case an asset is eventually owned and can be sold for cash. The cash flows projected for the scenarios where property is purchased show the assets being sold at the end of a 15 year period. In effect all scenarios show the IWC without a property at the end of 15 years (which would be the effect with leasing) but with the purchasing option at least another asset (cash) is retained within the organisation.

EVALUATION OF CASH FLOW PROJECTIONS

Appendix 7 shows the total pounds spent in each year of each scenario in the Summary Cash Flow table and these are discounted into 2009 pounds in the Summary Discounted Cash Flow table. The scenarios which maximise cash inflows or minimise cash outflows are the preferred choice.

The Summary Cash Flow table (expressed in pounds actually spent or received in the year stated) shows the following ranking:

Scenario	Total Cash Flow from all years (£)
Scenario D (TCF ScD) - purchase property	-714,816
Scenario F (TCF ScF) - purchase property	-424,568
Scenario B (TCF ScB) - purchase property	-311,187
Scenario A (TCF ScA) - lease property	1,339,177
Scenario E (TCF ScE) - lease property	2,028,611
Scenario C (TCF ScC) - lease property	2,085,477

Scenarios D, F and B where property is purchased in 2009 and assumed to be sold 15 years later produce net cash inflows (shown as negative numbers).

The Summary Discounted Cash Flow table (expressed in 2009 pounds) shows the following ranking:

Scenario	Total Discounted Cash Flow for all years (£)
Scenario B (DCF ScB) - purchase property	379,456
Scenario F (DCF ScF) - purchase property	413,265
Scenario D (DCF ScD) - purchase property	417,324
Scenario A (DCF ScA) - lease property	929,388
Scenario E (DCF ScE) - lease property	1,356,827
Scenario C (DCF ScC) - lease property	1,431,572

All scenarios produce net cash outflows when discounted. It should be noted however that the outflows are significantly smaller in the scenarios where property is purchased (Scenarios B, F and D).

The scenarios involving the purchase of property (B, D and F) minimise cash outflows and from this evaluation are the preferred choice.

CONCLUSION

If the purchase of property is accepted by the Commission as being the most economic choice the following points need to be considered.

- Financial Contributions could be increased prior to 2009 to allow the accumulation of sufficient funds to meet the large cash outflows required in that year. For example the cash flow for the purchase of the Red House is estimated to be £397,605 whilst the cash flow for lease renewal is estimated to be £114,224 – a difference of £283,381 to be accumulated by 2009.
- The purchase of property requires a long-term view to be taken. More immediate demands for increasing Financial Contributions to meet other requirements could deflect attention from the long-term benefits that owning property could bring.
- The experience of NASCO regarding property ownership has been positive and could provide a template for the IWC.

Sub-committee discussions

The Chair of the Sub-committee reported the following comments and questions from Sub-committee members.

The question was raised as to whether any of the options described above offered any scope to rent out part of the property and so generate extra income. The Secretariat noted that the properties included in the paper were aimed at meeting the Secretariat's current needs. The Chair noted that although NASCO received rental income from its property, this was only a by-product of the purchase.

The observation was made that other inter-governmental organisations occupy property provided by their host government at a minimal rent. The suggestion was made that the UK government should be approached to see if

they could provide accommodation for the IWC on this basis. Other governments might also be encouraged to provide property on this basis. The Chair noted that relocation of the Secretariat both within the UK and to other parts of the world had been considered in previous meetings. Keeping the Secretariat in Cambridge would help ensure the retention of the expertise of staff who would be unlikely to accompany a move. The Chair noted that approaching the UK government to provide the IWC with accommodation at a minimal rent could be recommended by the committee as an option with appropriate caveats about relocation from Cambridge.

The question was raised as to whether the additional funds needed to meet the property purchase could be met from reserves or would require an increase in financial contributions. The Secretariat noted that the additional funds could be met from reserves but this would depend on any other demands that might be made on reserves between now and 2009. The Secretariat further noted that in the case of the purchase of the Red House where an additional £283,000 is estimated to be needed to meet 'up-front costs' (deposit, surveyor's fees, legal fees, mortgage arrangement fees, etc.), this could be met by smaller increases in financial contributions between now and 2009.

The Chair noted that the purchase of property might create short-term increases in financial contributions but this could be dealt with through reserves. He further noted that the long-term benefit of purchasing property was clear while needing to minimise short-term increases in financial contributions.

The Chair noted the range of views concerning this issue and indicated that the Sub-committee **recommends** that the F&A Committee take note of the following observations:

- (a) that continuing to rent property is not to the long-term advantage of the IWC;
- (b) that consideration be given to the 'up-front' funding of a property purchase through a gradual increase in financial contributions between now and 2009;
- (c) that consideration be given to the 'up-front' funding of a property purchase through the reserves, though this will depend on other demands being placed on reserves between now and 2009; and
- (d) that the UK and other interested governments be approached to see if they are willing to provide accommodation for the IWC at a minimal rent, while recognising that relocation of the Secretariat outside the Cambridge area would put at risk the retention of staff expertise.

5.4.2 F&A Committee discussions and recommendations

Monaco believed that it was premature to take a decision on whether to purchase a property before the option of negotiating a proper Headquarters Agreement with a Contracting Government had been explored. It considered that currently the UK does not provide the support that could now be expected for an organisation that has become truly international. Alongside the increasing international nature of the membership, Monaco suggested that the geographic composition of the Secretariat, who are all British citizens (with two having dual Irish nationality), should be broadened. Austria also believed that an international organisation should have a more representative staff, noting that this may also assist problems with language. It also raised the question as to

how the proceeds of the sale of any property purchased by the IWC might be distributed amongst Contracting Governments in the event of the organisation ceasing to exist. Brazil noted that resolution of this issue should not involve the raising of financial contributions. Australia noted that although the budget is one factor in this issue, the level of support that can generally be expected from country acting as a host to an inter-governmental organisation was also significant.

The USA thought there might be benefit in referring to a paper from a previous meeting that referred to the costs/implications of moving the IWC to another country. Mexico agreed and stressed that the value of the Secretariat lies in its staff.

Several countries suggested that approaches to other governments willing to host the IWC Secretariat would be worthwhile. The UK indicated that it would be happy to receive any representations from the IWC on this issue but was unsure as to how the UK government would respond. Germany indicated that it was willing to offer Bonn as a location for the Secretariat, but noted that this offer would be dependent on broad support for what would be a fundamental change for the IWC. After Switzerland expressed a possible interest in also acting as host for the IWC Secretariat, Germany indicated that it would not follow-up on any offer as it did not see broad interest by Contracting Parties in moving the seat of the organisation to another country. Moreover it did not want to enter into competition with others. Switzerland noted that its interest was not meant to be aggressive and that synergy should be the motive for a move rather than competition between nations.

New Zealand suggested that if consideration of the relocation of the Secretariat was serious, it should be done systematically, e.g. by putting the Secretariat up for auction.

The Chair of the F&A Committee concluded that as no agreement had emerged within the Committee, a report of the discussion should be passed to the Commission for its consideration. He also noted that Switzerland may wish to come back to the Plenary with further details of any potential offer to host the Secretariat.

5.5 Consideration of estimated budgets, 2006-2007 and 2007-2008, including the budget for the Scientific Programme

5.5.1 Report of the Budgetary Sub-committee

REVIEW OF PROPOSED BUDGET 2006-2007 AND FORECAST BUDGET 2007-2008 (APPENDIX 8)

This aspect of the work done by the Budgetary Sub-committee was introduced by its Chair, Joji Morishita. He highlighted the main factors affecting the formulation of the 2006-2007 proposed budget which were as follows:

Income – is projected to fall overall by about 1.5% (from £1,681k in the 2005-2006 out-turn to £1,656k 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 (Appendix 9) - the total contributions required from Contracting Governments is unchanged for 2006-07, i.e. remains the same as contributions for 2005-2006. The forecast budget is unchanged for 2007-2008, i.e. remains the same as contributions for 2005-2006.

Expenditure – 2.4% 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. The forecast budget is intended to show the general trend if income is unchanged and expenditure rises at the current level of UK inflation.

Projected result for the year(s) (£)		
	2006-2007	2007-2008
Balance of income and expenditure (deficit)	-72,180	-110,400
Surplus/(deficit) after transfers between Funds	-80,730	-119,250
General Fund Reserves (£)		
	2006-2007	2007-2008
Projected balance on General Fund at year-end	1,062,020	942,750
Target level – approximately 6 months costs	886,600	883,150
% of target level	120	106

Reserves - concern was expressed at IWC/57 that the level of reserves should be brought more in line with the 'target level' of 50% of operating expenditure in any year. The proposed budget as currently drafted produces an operating deficit. It is recognised that the most prudent method to keep the General Fund at or above the 'target level' 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 or above the 'target level'. This means that expenditure can exceed income in a given year but still maintain the General Fund at or above the 'target level'. Unforeseen expenditure can obviously reduce the General Fund below the 'target level' in a given year, which would then require higher Financial Contributions in the following year to bring the General Fund back to the 'target level'. The forecast budget shows no increase in Financial Contributions beyond the level of 2005-2006 to show the cumulative effect on reserves of moving towards the 'target level'. A proposed deficit budget (before transfer from/to reserves) that still allows the General Fund to be maintained at or above target levels is sustainable. A deficit budget that allows the reserves to fall substantially below target levels is unsustainable. The latter would require larger increases in Financial Contributions in subsequent years to restore reserve levels. Reserves can be lowered if expenditure is lowered, but this must be judged in the context of the continued unimpaired running of the Commission. The projected levels of the reserves at 120% and 106% may be considered satisfactory.

NGO OBSERVER AND PRESS FEES

The Chair of the Sub-committee reminded the F&A Committee that it was required to make a specific recommendation on the level of NGO and media fees for 2006-2007. The proposed budget for NGO observers allows for an increase from £610 to £625 (+ 2.4% - rounded) at the Annual Meeting in 2007. The nominal Press fee increases from £40 to £45. The NGO fees were linked to the rate of UK inflation (2.4% used for budgeting purposes) and the media fee by a fixed amount of £5. It was noted that the F&A Committee will consider different ways of charging NGO observers. This could have

budgetary implications, but the expectation was that any changes would be budget neutral.

The Sub-committee agreed that the levels originally outlined by the Secretariat should be adopted. Accordingly the Sub-committee recommended to the F&A Committee that for 2006-2007 the NGO fee be set at £625 and the media fee at £45.

RESEARCH EXPENDITURE PROPOSED BY THE SCIENTIFIC COMMITTEE FOR 2006-2007 (APPENDIX 10)

The Budgetary Sub-committee Chair explained that the Scientific Committee had identified projects totalling £315,600, 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 £279,000. The Scientific Committee had developed a reduced budget of £279,000⁷ and 'strongly recommended that, at a minimum, the Commission accepts its reduced budget of £279,000 where all items are regarded as being of high priority'.

FORECAST FOR 2007-2008

The forecast budget for 2007-2008 is given alongside the 2006-2007 proposed budget. The forecast budget is intended to show the general trend if income is unchanged and expenditure rises 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 2007-2008 (Appendix 8) to the Commission.

SUMMARY OF RECOMMENDATIONS TO THE COMMISSION

The F&A Committee **recommends** that:

- the proposed budget for 2006-2007 (Appendix 9) be forward to the Commission for its adoption;
- the Commission takes note of the Forecast Budget for 2007-2008; and
- for 2006-2007, the NGO fee be set at £625 and the media fee at £45.

5.6 Budgetary Sub-committee membership rota

Last year the Commission approved a number of procedures in relation to the operation of the Budgetary Sub-committee. However there was an issue outstanding in relation to how the appointment as Chair or Vice-Chair of a BSC member who was coming to the end of their term on the Sub-committee might block participation of other interested countries and how this might be handled. The Secretariat was asked to develop a proposal for review by the BSC at IWC/58.

The Secretariat suggested that the simplest approach for dealing with this situation would be to consider the Chair and/or Vice-Chair as additional to the 'standard' membership categories and no longer representing his/her government. Thus if a country from 'capacity-to-pay' Group 'X' is appointed as BSC Chair or Vice-Chair at the end of their normal 3-year term of membership, another Group 'X' country would still be invited onto the BSC.

The Secretariat noted that this situation has in fact already arisen in the case of Austria (a Group 3 country).

Andrea Nouak, Commissioner for Austria, was representing Austria on the BSC. At IWC/57 last year, Austria was coming to the end of its 3-year term on the BSC, but Andrea Nouak was elected as Vice-Chair. Austria's place on the BSC was subsequently filled by the Republic of Korea, now a Group 3 country.

The Secretariat recognised that this approach would increase slightly the number of individuals that are members of the BSC but suggested that the Sub-committee would remain at a manageable size. It noted however that the 'balance' among the 'capacity-to-pay' groups would not be affected as the Chair/Vice-Chair would be present in this capacity rather than as a representative of his/her country.

The Sub-committee agreed with the Secretariat's proposal and therefore recommended to the F&A Committee that this be incorporated into the operations of the Budgetary Sub-committee as illustrated in Appendix 11. The F&A Committee agreed and forwards this recommendation to the Commission.

6. NGO PARTICIPATION IN IWC

6.1 NGO Code of Conduct

Last year 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. After a few minor modifications, the F&A Committee agreed to recommend the Code of Conduct for NGOs at IWC Meetings and Complaints Procedure to the Commission for adoption given in Appendix 12.

6.2 NGO participation in Annual Meetings

6.2.1 Introduction by the Secretariat

The Secretariat recalled that prior to IWC/56, the Secretariat had been approached by a representative of one of the large environmental NGOs regarding changes to rules of NGO accreditation in particular but also in their level of participation in Commission affairs. The Secretariat and Advisory Committee agreed that this issue should be brought to the attention of the F&A Committee via a paper outlining the issues raised and their potential implications. 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, as follows.

- (1) Removal of the requirement that non-governmental organisations maintain offices in more than three countries.
- (2) Allowing accredited NGO's 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 at IWC/56, the Commission agreed that the Secretariat should work with the Advisory Committee to explore how

⁷ In the Commission at the request of the Russian Federation it was agreed to remove references to Item 26 in the Scientific Committee's budget request (see *J. Cetacean Res. Manage. (Suppl.)* 9 (2007)). This reduced the request to £274,000.

items 1-3 above might be implemented. The Commission agreed that the issue of speaking rights be set aside for the time being. Due to other commitments, no further work was done between IWC/56 and IWC/57 but paper IWC/58/F&A 3 was made available to the F&A Committee at IWC/58.

The document:

- described the current criteria and conditions for IWC and those of other intergovernmental organisations;
- highlighted the drawbacks of the current criteria/conditions;
- proposed revised criteria/conditions for NGO accreditation and participation, including a fee structure;
- considered how any revised criteria/conditions might be introduced; and
- proposed draft revised Rules of Procedure that would effect the revised criteria/conditions.

DRAWBACKS OF THE CURRENT CRITERIA/CONDITIONS

With respect to drawbacks of the current criteria/conditions, the Secretariat noted that the requirement for NGOs to be 'international', having offices in at least four countries, nominally excludes organisations whose focus may be national but directly relevant to the work of the Commission. Strictly speaking, the requirement for offices in at least four countries also excludes, for example, industry associations who represent companies operating in many countries but who generally have association offices in only one or two countries. Given the potentially important impact on cetaceans of some industries (e.g. oil and gas exploration, shipping, chemicals), the Secretariat suggested that it would seem only helpful for such industry associations to be eligible for accreditation as this would provide a more effective route of communication than having to deal with individual companies. The Scientific Committee's work on the potential impact of oil and gas exploration on western North Pacific gray whales is a case in point. In addition, while the Secretariat checks that NGOs applying for accreditation provide addresses in at least four countries, it is not practical to check whether they are *bona fide*. Frequently some of the addresses provided have the appearance of a private rather than business/office address, suggesting that there is some abuse of the current system and that some organisations that are essentially national in nature receive accreditation.

The restriction to one observer per NGO in the meeting room at any one time has encouraged larger organisations to create/use what might be termed 'flag of convenience' organisations whose principal purpose would appear to be to gain access to IWC meetings - the link between some accredited NGOs and the work of IWC is certainly not immediately apparent. Personal communication with one of the large environmental NGOs suggests that there are some 30 'flag of convenience' organisations for conservation/welfare groups and around 15 for pro-whaling groups. The Secretariat believes that there is also some abuse in the nomination of interpreters so as to allow more than one person per organisation to gain access to meetings.

CONSIDERATION OF REVISED CONDITIONS

The Secretariat suggested that while the current conditions could be argued to 'work' without creating major problems, with NGO participation being limited to manageable levels (e.g. in terms of document provision and seating arrangements), they are abused and may also

discourage some organisations from becoming involved. Given the drawbacks as described above, and considering the approach used by other intergovernmental organisations, the Advisory Committee and Secretariat proposed that the following revised criteria/conditions be considered.

- (1) That NGOs seeking accreditation to IWC should have a demonstrated interest/competence/experience in the work of IWC. It does not seem unreasonable to require accredited NGOs to be involved in work related to cetacean conservation and management.
 - Consideration could be given to whether detailed information similar to that requested by FAO, ICCAT, NEAFC and NAFO is necessary.
- (2) That national as well as international organisations should be eligible for accreditation.
 - It may be useful to follow the approach used by CITES and require that a national NGO must be approved as being technically qualified by the State in which it is located. Such a requirement could help limit the total number of organisations becoming accredited. The CITES Secretariat has indicated (pers. comm.) that the requirement for national NGOs to be 'approved' has not really caused problems. Mostly it is the CITES Management Authority of each country that decides on whether to approve an NGO. Some countries have quite formal procedures for giving NGO approval, but this is not so in all. CITES has no standardised way for determining whether an NGO is technically qualified, and it appears that some Parties are more stringent than others.
- (3) That up to five observers from any single organisation be allowed in the meeting room at any one time, but include the proviso that seating limitations may require that no more than two observers per NGO may be present.
 - Personal communication with one of the large environmental NGOs suggested that in general, most organisations would not wish to send more than five individuals, but consideration could be given to allowing the nomination of alternates in addition to the five observers.
 - Consideration needs to be given as to whether the allowance of five observers should include any interpreters or whether interpreters would be in addition.
- (4) Each observer, and any interpreter, would receive copies of documents made available at the meeting but would be expected to provide their own copies of documents made available in advance via IWC's website. Any nominated alternates (if it is decided such nominations should be allowed) would not receive copies of documents made available at the meeting.
- (5) That registration fees be charged per observer, rather than per organisation as at present.
 - Consideration could be given to following the approach of CITES with the fee being higher for the first observer and somewhat less for additional observers. Alternatively, the fee could be the same

for each observer regardless of how many observers an organisation sends. If it is necessary at any time to impose a seat restriction, as mentioned in (3) above, only those observers having a seat would attract a fee.

- Consideration could be given as to: (a) whether there are circumstances in which the fee should be waived or reduced (as in CITES); and (b) whether there should be a charge for interpreters.

No proposals were made regarding criteria: (a) for Contracting Governments to object to the accreditation of a particular NGO; or (b) for the Commission to withdraw accreditation. With respect to the former, it was suggested that the F&A Committee may wish to consider whether criteria should be set (e.g. denial of accreditation would occur if there were objections by a majority of Contracting Governments). With respect to withdrawal of accreditation, the current situation is that once an international organisation is accredited, it remains accredited unless the Commission decides otherwise (Rule of Procedure C.1(b)). Given that an NGO Code of Conduct was under development, which may include consideration of the withdrawal of accreditation, it would appear sensible to continue the *status quo*. In addition, while some intergovernmental organisations appear to require NGOs to request observer status for each meeting, this appears to be somewhat unnecessary and burdensome for both NGOs and the Secretariat (who will have to administer such requests).

EFFECT OF THE PROPOSED CONDITIONS ON THE NUMBER OF OBSERVERS

The Secretariat estimates that at recent venues, it would have been able to provide seating for up to 120-140 NGO observers. There is a risk that removing the requirement for NGOs to be 'international' and allowing up to five observers per organisation to be present in the meeting room at any one time may lead to a significant expansion in number of NGO observers. However, in making these changes one could expect that many of the current 'flag of convenience' organisations would not be used and that the total number of persons attending meetings and having access to documents would not increase significantly. If it is correct that there are around 45 'flag of convenience' organisations, this would suggest that there are really around 45 mainstream NGOs that would attend (based on the average numbers in Table 2), not all of which would wish to send up to five observers. The Secretariat noted that it is difficult to assess in advance the effect on numbers. Consequently it would be wise to introduce any new criteria on a trial basis initially. Although, as suggested above, numbers could be limited to two persons per organisation in cases where seating would be limited. The Secretariat would be able to provide guidance on this sufficiently far in advance of an Annual Meeting to enable NGOs to plan accordingly.

PROPOSED FEE STRUCTURE

The following three options were proposed. They are based on the requirement to achieve a similar income to that under the current fee structure (i.e. be cost-neutral in the first year of its introduction) and on the assumption that with the changes proposed there would be in the order of 45 NGOs seeking accreditation but with a similar number of individuals attending (i.e. 140 including interpreters, based on the average numbers in Table 2). The options also

assume that either interpreters pay a fee or that there are very few interpreters.

Option 1

Levy a fee of £610 for the first observer for each organisation (i.e. the fee for 2006) and half that for each additional observer, i.e.

45 organisations @ £610 for the first observer	27,450
95 additional observers @ £305	<u>28,975</u>
TOTAL	56,425

Option 2

Levy a fee of £500 for the first observer for each organisation and £335 (i.e. two-thirds of the first observer fee) for each additional observer, i.e.

45 organisations @ £500 for the first observer	22,500
95 additional observers @ £335	<u>31,825</u>
TOTAL	54,325

Option 3

Levy a fee of £360 for each observer, i.e.

140 observers @ £360	50,400
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Recognising the differences in scale (and therefore likely income) of different NGOs, at IWC/57, the Commission asked the Advisory Committee to give consideration to the fee structure for NGOs. While the Secretariat noted that none of the three options explicitly recognise the 'wealth' of an individual NGO, the larger NGOs tend to send more observers and thus their scale is recognised through the charge per individual rather than per organisation. It may be considered that Option 1 has the disadvantage that small NGOs sending only a single observer would pay the same as they do at present, while larger organisations currently using 'flag of convenience' organisations would pay quite a bit less. Options 2 and 3 might therefore be seen as somewhat 'fairer'.

MECHANISM FOR INTRODUCING ANY REVISED CRITERIA/CONDITIONS

With respect to introducing revised criteria for NGO accreditation, the Secretariat suggested that the most simple approach would be, once the criteria have been agreed by the Commission (and possibly revised Rules of Procedure adopted), for the Commission to withdraw accreditation from all currently accredited NGOs and invite new applications according to the new criteria. The Secretariat also suggested that it may be sensible to introduce changes on a trial basis so as to be able to determine the impact on observer numbers and income and then to make alterations as necessary.

DRAFT REVISED RULES OF PROCEDURE

Proposed draft revised Rules of Procedure to give effect to the proposed revised criteria/conditions for NGO accreditation and participation in IWC meetings were developed but are not included in this document (please refer to IWC/58/F&A 3).

6.2.2 F&A Committee discussions and recommendations

A number of countries indicated that they considered that it was time to change the criteria/conditions for NGO accreditation, particularly if it led to 'flag of convenience' organisations no longer being used. While a number of countries also welcomed the general approach proposed in document IWC/58/F&A 3, some questioned the suggestion that NGOs seeking accreditation should have a demonstrated interest/competence/experience in the work of IWC as they thought this would be difficult to define. Likewise, several countries did not believe that national NGOs should be approved as being technically qualified by

the State in which it is located. Several countries were reluctant to see a change to the *status quo*.

A range of views were expressed regarding a new fee structure. Of those contributing to discussions, there seemed to be general agreement that fees should be charged per individual rather than per organisation although one country had preference for a system that would allow the basic fee to cover the attendance of two observers. Others thought that this would still encourage the use of flag of convenience organisations. Some favoured option 2 believing that it would be fairer for NGOs based in developing countries. One considered that NGO fees could provide an increase in income, particularly given the wealth of some such organisations, and it was suggested that a capacity-to-pay scale should be introduced in a similar way to that used in the Interim Measure for financial contributions.

Although there were a range of views expressed regarding potential changes to NGO accreditation conditions and fees, the F&A Committee agreed to the proposal of Australia that a small group of countries develop a specific proposal for consideration by the Commission in plenary. New Zealand, the USA, Austria, Monaco and the Netherlands agreed to work with Australia.

7. ELECTION OF NEW CHAIR

The Chair noted that he had served in this capacity for three years. He further noted that the practice within the Commission is to change Chairs of Commission sub-groups every three years. With other groups, appointment of a new Chair is usually done at the beginning of the next meeting. However, as the Chair of the F&A Committee is also a member of the Advisory Committee, it is appropriate to appoint a new Chair at the end of a meeting.

The F&A Committee supported Denmark's proposal that Mr Anthony Liverpool of Antigua and Barbuda be elected as the next Chair of the F&A Committee and agreed that this should be reported to the Commission. Mr Liverpool thanked the committee for his nomination and indicated that he would resign as Chair of the CTF in order to avoid a conflict of interest.

Iceland then thanked Halvard Johansen on behalf of the F&A Committee for the work he had done as Chair over the past three years.

8. OTHER MATTERS

Brazil asked whether the Secretariat could circulate an up-to-date list of Commissioners and their contact details to Contracting Governments after IWC/58.

9. ADOPTION OF THE REPORT

The report was adopted on 15th June 2006.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda

Anthony Liverpool
Tricia Lovell

Argentina

Miguel Iñiguez
Javier Figueroa

Australia

Conall O'Connell
Virginia Mudie
Gillian Slocum
Zena Armstrong
Pam Eiser
Phil Tracey

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Koen Van Waerebeek

Brazil

Régis Pinto de Lima
José Truda Palazzo Jr.

Chile

Elsa Cabrera

Czech Republic

Pavla Hýčova

Denmark

Maj Friis Munk

France

Stephane Louhaur
Martine Bigan

Germany

Marlies Reimann

Grenada

Justin Rennie

Iceland

Ásta Einarsdóttir

Italy

Riccardo Rigillo

Japan

Joji Morishita
Dan Goodman
Jiro Hyugaji
Yasuo Iino
Kayo Ohmagari

Republic of Korea

Chiguk Ahn
Zang Geun Kim
Hyun Jin Park

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Monaco

Frederic Briand

Netherlands

Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer
Al Gillespie
Indra Prasad
Phillipa Brakes

Norway

Halvard P. Johansen (Chair)
Anniken Ramberg Krutnes

Portugal

Jorge Palmeirim

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Igor Mikhno
Olga Ipatova (I)

Saint Kitts & Nevis

Daven Joseph
Joseph Simmonds
Heremia Morton Anthony
Raphael Archibald

Saint Lucia

Vaughn Charles
Jeannine Rambally

Saint Vincent and the Grenadines

Raymond Ryan

Solomon Islands

Sylvester Diake

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

Sweden

Bo Fernholm
Stellan Hamrin

Switzerland

Nathalie Bösch

UK

Richard Cowan
James Gray
Alice Lacourt
Jenny Lonsdale
Mark Simmonds

USA

William Hogarth
Roger Eckert
Emily Lindow
John Field
Heather Rockwell

Secretariat

Nicky Grandy (Rapporteur)
Sean Moran (Rapporteur)
Sue Morley

Appendix 2**LIST OF DOCUMENTS**

F&A Committee documents

IWC/58/F&A

- 1 Revised Draft Agenda
- 2 List of Documents
- 3 NGO accreditation and participation in Annual Meetings (submitted by the Secretariat)
- 4 Exploration of a possible one-off amnesty to relieve the debt burden of developing country members of IWC (submitted by the Secretariat)
- 5 Discussion document: Further thoughts on reducing the frequency of IWC meetings (submitted by the Secretariat)
- 5 add Addendum to IWC/58/F&A 5
- 6 Discussion document: Further exploration of possibilities regarding document translation for IWC Annual Meetings (submitted by the Secretariat)
- 7 Review of the budget provision for Annual Meetings (submitted by the Secretariat)
- 8 Proposal to the Finance and Administration Committee concerning the budget for hosting Annual Meetings of the IWC (submitted by St. Kitts and Nevis)
- 9 Report of the Contributions Task Force
- 10 Report of the Budgetary Sub-committee
- 11 Secretary's report on the collection of financial contributions for 2005-2006
- 12 Scientific Committee Invited Participants 2006
- 13 Proposal for an NGO Code of Conduct

Commission Documents

IWC/58/

- Rep1 (Extract from the) Report of the Scientific Committee
5 Financial Statements

Documents from last year

IWC/57/F&A

- 3 Preliminary exploration of costs and implications for the provision of document translation for IWC Annual Meetings
- 9 A preliminary exploration of the possibilities and implications of less frequent meetings of the Commission and its subsidiary groups (prepared by the Secretariat)

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 languages other than English
 - 3.1.3 Frequency of meetings
 - 3.1.4 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
 - 4.1 Report of the Contributions Task Force
 - 4.2 F&A Committee discussions and recommendations
 5. Financial statements, budgets and other matters addressed by the Budgetary Sub-committee
 - 5.1 Review of the provisional financial statement, 2005/2006
 - 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 a possible one-off amnesty to relieve the debt of developing countries
 - 5.2.1 Report of the Budgetary Sub-committee
 - 5.2.2 F&A Committee discussions and recommendations
 - 5.3 Review of the budget provision for Annual Meetings
 - 5.3.1 Report of the Budgetary Sub-committee
 - 5.3.2 F&A Committee discussions and recommendations
 - 5.4 Secretariat offices
 - 5.4.1 Report of the Budgetary Sub-committee
 - 5.4.2 F&A Committee discussions and recommendations
 - 5.5 Consideration of estimated budgets, 2006/2007 and 2007/2008, including the budget for the Scientific Programme
 - 5.5.1 Report of the Budgetary Sub-committee
 - 5.5.2 F&A Committee discussions and recommendations
 - 5.6 Budgetary Sub-committee membership rota
 - 5.6.1 Report of the Budgetary Sub-committee
 - 5.6.2 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 and Advisory Committee
 - 6.2.2 F&A Committee discussions and recommendations
 7. Election of new Chair
 8. Other matters
 9. Adoption of the Report
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Appendix 4

TABLE 2 FROM IWC/57/F&A 8. SUMMARY OF THE STATUS OF (1) MAIN AGREEMENTS⁸ REACHED BY THE TASK FORCE AND (2) REMAINING ISSUES AFTER ITS MEETINGS IN DECEMBER 2002 AND MARCH 2003

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 re-stated 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. 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"> The % of the total contribution this element should represent.

⁸ 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
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; <ul style="list-style-type: none"> - 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 (see Annex 2 of IWC/57/F&A8) 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 2005-2006

Income and Expenditure Account

	Approved Budget		Projected Out-turn	
	£	£	£	£
Income				
Contracting Government contributions		1,359,200		1,351,350
Recovery of arrears		0		0
Interest on overdue financial contributions		0		23,900
Voluntary contributions for research, small cetaceans work and publications		1,000		22,150
Sales of publications		5,600		9,000
Sales of sponsored publications		1,000		1,000
Observers' registration fees		51,700		43,900
UK taxes recoverable		28,930		26,100
Staff assessments		148,200		141,000
Interest receivable		50,100		61,600
Sundry income		0		1,000
		<u>1,645,730</u>		<u>1,681,000</u>
Expenditure				
Secretariat	992,960		973,850	
Publications	50,070		32,500	
Annual meetings	326,000		326,000	
Other meetings	20,000		20,000	
Research expenditure	266,000		266,000	
Small cetaceans	1,000		18,950	
Sundry	0		0	
	<u>1,656,030</u>		<u>1,637,300</u>	
Provisions				
Unpaid interest on overdue contributions	0		9,400	
Severance Pay Provision	-12,100		26,800	
Provision for other doubtful debts	0		0	
		<u>1,643,930</u>		<u>1,673,500</u>
Surplus of income over expenditure		1,800		7,500
Net Transfers from or to (-):				
Sponsored Publications Fund		2,010		-1,600
Small Cetaceans Fund		-50		8,100
Research Fund		-4,000		-6,200
Surplus/Deficit (-) for the year after transfers		<u>-240</u>		<u>7,800</u>

Appendix 6

ANNUAL MEETING COSTS

Table 1

Past budget provisions, allocation between the host government and Secretariat, and actual meeting costs (where known).

Meeting	Location	Month held	Budget (£)	Initial allocation (£)		Actual allocation (£)		Actual Secretariat costs (% of budget)	Actual cost where known (£)
				Secretariat	Government	Secretariat	Government		
IWC/52 (2000)	Adelaide	June/July	212,000						442,700
IWC/53 (2001)	London	July	276,000		n/a				282,700*
IWC/54 (2002)	Shimonoseki	April/May	293,000						1,221,900
IWC/55 (2003)	Berlin	May/June	301,900	105,700	196,200	96,100	205,800	31.83%	400,780
IWC/56 (2004)	Sorrento	June/July	300,000	105,000	195,000	105,600	194,400	35.20%	
IWC/57 (2005)	Ulsan	May/June	315,100	110,300	204,800	117,250	197,850	37.21%	
IWC/58 (2006)	St. Kitts & Nevis	May/June	326,000	114,100	211,900	TBA	TBA	TBA	
IWC/59 (2007)	Alaska	May/June	333,850**						

TBA = To be assessed.

*As there was no offer from a Contracting Government to host IWC/53, the Secretariat made arrangements for it to be held at the Novotel in London. It was possible to keep meeting costs more-or-less within budget as the Novotel, which had recently refurbished its meeting rooms, was offering facilities at a discounted rate. Even so, the meeting had to be held in July when costs are traditionally lower as it is outside the main meeting season. Note however that the actual cost shown does not include the cost of any receptions.

**Provision in proposed budget for 2006/07.

Table 2

Estimated costs (£) for running an IWC Annual Meeting in the UK.

Budget item	Birmingham		Aberdeen	London
	May/June	July	May/June	May/June
Room rental (meeting rooms, Secretariat offices, photocopying room, etc.)	566,000	396,200 ⁹	300,000	420,000
Audio visual (includes equipment for simultaneous interpretation for 2 languages)	20,000	20,000	3,000 ¹⁰	20,000
Photocopying (includes hire/servicing of photocopiers and purchase of paper)	20,000	20,000	20,000	20,000
Security (internal to the meeting venue only)	42,000 ¹¹	42,000	84,000	84,000
Refreshments (tea/coffee etc)	22,500	22,500	22,500	22,500
Secretariat (travel, subsistence and overtime; freight, removals and insurance; equipment and supplies; preparatory site visit)	85,500	85,500	85,500	85,500
Delegates' computing (6 PCs, 4 printers, software, ADSL/broadband connections)	15,000	15,000	15,000	15,000
TOTAL	771,000	601,200	530,000	667,000

Table 3

Illustration of the effect on financial contributions for 2006/07 if the provision for the Annual Meeting is increased.

Capacity-to-pay group	Current proposed contribution for 2006/07 in IWC/58/5 (£) (with AM provision of £333,850)	Contribution (£) required if AM provision increased to £530,000	Increase (£)	Contribution (£) required if AM provision increased to £771,000	Increase (£)
Countries with small delegations (up to 3 persons)					
Group 1	6,563	7,528	965	8,673	2,110
Group 2	11,813	13,551	1,738	15,611	3,798
Group 3	24,285	27,858	3,573	32,092	7,807
Group 4	53,683	61,582	7,899	70,942	17,259
Highest payer: Japan	123,881	142,110	18,229	163,711	39,830

⁹ There is a 30% discount for having the meeting in July instead of May/June.

¹⁰ Audio visual costs, except for simultaneous interpretation equipment are included in the room rental.

¹¹ This venue has some of its own security staff, therefore the estimate has been reduced by 50%.

Appendix 7

SUMMARY CASH FLOW PROJECTIONS FOR PURCHASE OR LEASE OF THE SECRETARIAT OFFICE

Summary Total Cash Flows							Disc Rate 5.90%	Summary Discounted Cash Flows						
Year	TCF ScA	TCF ScB	TCF ScC	TCF ScD	TCF ScE	TCF ScF	Disc Factor	DCF ScA	DCF ScB	DCF ScC	DCF ScD	DCF ScE	DCF ScF	
2009	171,252	415,094	216,646	575,735	114,224	397,605	1	171,252	415,094	216,646	575,735	114,224	397,605	
2010	67,983	98,932	110,094	145,442	109,737	127,956	0.9443	64,196	93,420	103,960	137,339	103,624	120,827	
2011	68,439	99,387	110,550	145,897	110,420	128,638	0.8917	61,025	88,621	98,575	130,094	98,459	114,704	
2012	68,912	99,860	111,022	146,370	111,128	129,347	0.8420	58,024	84,082	93,481	123,244	93,570	108,910	
2013	72,059	103,008	114,170	149,518	115,406	133,624	0.7951	57,293	81,900	90,775	118,880	91,758	106,243	
2014	82,265	100,861	134,281	147,371	133,219	130,846	0.7508	61,764	75,726	100,817	110,645	100,020	98,239	
2015	84,766	106,962	133,895	153,472	135,440	139,068	0.7090	60,096	75,832	94,927	108,806	96,022	98,594	
2016	79,746	101,941	128,875	148,452	128,837	132,465	0.6695	53,387	68,246	86,277	99,383	86,252	88,681	
2017	80,318	102,513	129,447	149,024	129,694	133,321	0.6322	50,774	64,806	81,832	94,208	81,988	84,282	
2018	83,903	106,098	133,032	152,609	183,793	187,421	0.5969	50,086	63,335	79,413	91,099	109,715	111,881	
2019	95,941	20,259	155,365	20,259	152,138	29,374	0.5637	54,081	11,420	87,578	11,420	85,759	16,558	
2020	92,384	20,901	148,510	20,901	146,288	30,336	0.5323	49,175	11,126	79,050	11,126	77,867	16,148	
2021	93,051	21,569	149,178	21,569	147,289	31,337	0.5026	46,770	10,841	74,981	10,841	74,032	15,751	
2022	100,322	28,840	156,449	28,840	157,098	41,146	0.4746	47,616	13,688	74,255	13,688	74,563	19,529	
2023	97,835	26,353	153,961	26,353	153,901	37,949	0.4482	43,848	11,811	69,003	11,811	68,976	17,008	
Total projected Cash Flow (Expenditure)								Total						
1,339,177 1,452,579 2,085,477 2,031,812 2,028,611 1,810,433								DCF	929,388	1,169,948	1,431,572	1,648,319	1,356,827	1,414,957
Less notional sale of property (income)								Net						
2023 0 -1,763,766 0 -2,746,628 0 -2,235,001							0.4482	0 -790,492 0 -123,095 0 -100,1692						
Net Cash Flow								Net						
1,339,177 -311,187 2,085,477 -714,816 2,028,611 -424,568								DCF	929,388	379,456	1,431,572	417,324	1,356,827	413,265

Appendix 8

PROPOSED BUDGET 2006 - 2007

See Annex L of the Chair's Report.

Appendix 10

SCIENTIFIC COMMITTEE FUNDING REQUIREMENTS FOR 2006/2007

See Annex M of the Chair's Report.

Appendix 11

BUDGETARY SUB-COMMITTEE OPERATIONS

The following summarises the *modus operandi* for the Budgetary Sub-committee agreed by the Commission as of IWC/57. It includes the proposal from the Budgetary Sub-committee (in ***bold italics***) on how to handle the situation when a BSC member coming to the end of their term is appointed as Chair or Vice-Chair such that their continued participation does not block participation of other interested countries.

Membership

Membership of the Budgetary Sub-committee (BSC) consists of:

- 2 members from 'capacity to pay' Group 1;
- 2 members from 'capacity to pay' Group 2;
- 2 members from 'capacity to pay' Group 3; and
- Japan, USA + one other from 'capacity to pay' Group 4.
- Membership is for 3 years (except for Japan and the USA who have a 'permanent' place since they are likely to be the two highest paying contributors under almost any formula for the calculation of financial contributions for the foreseeable future, being the highest payers now and probably in the future).
- Any member that declines to serve will be replaced by the next member in alphabetical sequence within its Group.
- New members of the Commission will be fitted into the cycle at the nearest alphabetical point after they have had a period in which to familiarise themselves with the organisation.
- Two 'open seats' (i.e. for any interested countries) as a fifth membership category.

Table 1 shows the current membership and the provisional rota for BSC membership for 2006-07 to 2008-09 (assuming no country declines to serve).

Election of Chair and Vice-Chair

- The term for Chair and Vice-Chair is for three years and under normal circumstances the Vice-Chair would replace the outgoing Chair.
- Elections shall take place at the end of Sub-committee meetings.
- Any member is eligible to serve as Chair or Vice-Chair.

In the event that a BSC member coming to the end of their term is appointed as Chair or Vice-Chair, the member will be considered as no longer representing his/her government but rather present on the BSC in their capacity as Chair/Vice-Chair. A new country in the

same capacity to pay group will be invited to join the BSC.

Open Seats

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

Contracting Governments as Observers to the BSC

- There is no restriction to contributing countries wishing to attend as observers.
- Non BSC members would not receive documents intersessionally but all documents will be made available to observers at the BSC meeting.
- Observers will not be eligible to be appointed as Chair or Vice-Chair.
- The Chair has discretion to invite comments from observers.

Table 1
Current and future membership of Budgetary Sub-committee based on Contracting Governments as of 1 June 2006.

Term of membership (years)	Current membership* 2005-2006	Future membership assuming no country declines to serve		
		2006-2007	2007-2008	2008-2009
Group 1	3 Benin (1) Gabon (1)	Benin Gabon	Benin Gabon	Gambia Grenada
Group 2	3 Hungary (2) Monaco (1)	Hungary Monaco	Morocco Monaco	Morocco Oman
Group 3	3 Korea, Rep of (3)** Finland (3)	Belgium Denmark	Belgium Denmark	Belgium Denmark
Group 4	3 Germany (1) Japan USA	Germany Japan USA	Germany Japan USA	Italy Japan USA
Open seats	2 Norway (1) Vacant	Norway Vacant	Vacant	
Chair	Joji Morishita (Japan)			
Vice-Chair	Andrea Nouak (Austria)			

*Number in brackets indicates how many years a country has already been a member. **The Republic of Korea had been on the BSC during 2003-2004 and 2004-2005 as a Group 2 country. It was reclassified as a Group 3 country for 2005-2006.

Appendix 12

PROPOSED CODE OF CONDUCT FOR NGOS AT IWC MEETINGS AND COMPLAINTS PROCEDURE

The Commission welcomes the attendance of NGOs at its meetings but such attendance carries certain responsibilities. It is the duty of each NGO to behave with due and proper respect for the meeting proceedings and to all Contracting Governments and other governments attending IWC meetings and to abide by this code of conduct. Disruptive behaviour and/or failure to conform to this code of conduct may result in suspension or withdrawal of accreditation.

A copy of this code of conduct will be issued to each NGO observer at the beginning of each meeting.

Mobile telephones

Mobile telephones shall be switched off or put in 'silent' mode before entry of the observer into the meeting room.

Use of recording equipment

The use of audio and/or visual recording equipment is permitted during Plenary sessions of the Commission provided that such recording is carried out unobtrusively and without disturbance to the meeting. Flash photography is only permitted during the Opening Plenary.

The use of recording equipment is not permitted in meetings of the Commission's sub-groups unless the Commission decides otherwise.

Documents

Quotations from, or use of draft IWC documents is prohibited. Rule of Procedure Q.1¹² regarding confidentiality of reports of meetings of IWC committees, sub-committees and working groups must be respected.

Only official meeting documents submitted by Contracting Governments or prepared by the Secretariat (including the collated Opening Statements from NGOs) may be distributed through pigeon-holes. The Secretariat is solely responsible for such distribution. NGOs may, however, make 'for information' documents available to participants using tables designated for this purpose. Such

documents must indicate which organisation is responsible for them. Documents that do not meet this requirement will be removed by the Secretariat.

While 'for information' documents will not be reviewed by the Secretariat before being placed on the designated tables, those NGOs distributing such documents remain responsible for their content. These documents shall not contain statements that defame any participating organisation or person, or cause serious offence to any government.

Behaviour and demonstrations

Behaviour of representatives of NGOs shall not be disruptive to the proceedings of the meeting. The Chair of the proceedings may ask anyone disrupting the meeting to leave the room.

Demonstrations at the meeting venue shall take place at sites designated for such purposes by the host government. In any event, demonstrations shall neither take place within the meeting rooms or their immediate vicinity within the venue of the meeting controlled by the IWC, nor impede access to the meeting venue, nor shall they threaten the physical safety of delegations attending the meeting.

Complaints

Differences in views and philosophy are natural and should be respected. Any participant shall refrain from measures, including verbal, written, or physical attacks designed to deter the exercise of the rights of others to hold and express different views.

Any participant who has a grievance in this regard should submit a written complaint to the Secretary, who will try to resolve the problem with the parties concerned. If this fails, the Secretary will report the matter to the Advisory Committee who shall liaise with the parties concerned to seek a resolution. If this fails, the Advisory Committee will refer to the Commission for decision-making.

¹²Reports 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 Procedures E.5.(a) and E.5.(b).'

Annex K

Proposal for Interpretation and Translation Facilities Surrounding the 2007 Annual Meeting in Anchorage

The Secretariat

INTRODUCTION

This document has been produced as a result of discussions in the Finance and Administration Committee (IWC/58/Rep2), Item 3.1.2, 'Use of languages other than English'.

INTERPRETATION

The Secretariat understands that the Contracting Governments of France and Spain hope to be able to repeat their generous offer to provide voluntary contributions to pay for simultaneous interpretation into French and Spanish for the private Commissioners' meeting and the Plenary sessions for the 2007 Commission meeting in Anchorage, although it must be stressed that they cannot be certain that funds will be available. However, assuming voluntary contributions are forthcoming, we would suggest that it is appropriate for Commission funds to be used to pay for the travel and subsistence of these interpreters. Assuming travel costs of £1,000 and a subsistence rate of £150 per day, this would amount to some £8,200 for four interpreters (two for each language). The Secretariat will be responsible for hiring suitable interpreters (with advice from the intersessional task force (see below)).

The host government (in this case the USA) will arrange to provide booths for the French and Spanish interpreters and headsets for the participants as part of the meeting costs (as agreed at the 2004 Annual Meeting). It would be valuable if an additional booth could be provided to host the Japanese interpreters.

TRANSLATION

Thanks to a kind voluntary contribution of Monaco, as a pilot experiment, summaries of key sub-committee reports were translated into French during the 2006 Commission meeting. We understand that this experiment, coupled with the voluntary translation of a summary of the Scientific Committee Report provided by France, was well received. As the next trial phase (i.e. the 2007 meeting), the Secretariat proposes that at least the following documents be translated into French¹:

- (1) summary of the Chair's report for the 2006 meeting;
- (2) annotated provisional agenda;
- (3) summary of the Scientific Committee report (see Appendix 1);
- (4) Chair's summaries of Working Group Reports; and
- (5) Resolutions and Schedule Amendments.

¹ In the case of the Scientific Committee report summary, we would suggest that this be in French and Spanish as part of the trial.

As shown in Appendix 1, we suggest that the most appropriate people to work on the translation of the summary of the Scientific Committee report are French and Spanish scientists. As an IWC contribution to this work, we suggest that the Commission pays for the additional subsistence costs for two scientists to remain for four days after the close of the Scientific Committee meeting i.e. a cost of £1,200.

Items (1) and (2) can be carried out remotely for a cost of about £1,200. At least initially, we would suggest that translation for (4) and (5) should be carried out *in situ*, with quality control being voluntarily carried out by one or more delegations. This exercise could be funded by the Commission and would require travel and subsistence for 1 translator for 7 days, plus some £500 per day translation fee. Following the assumptions above, this would amount to some £5,550. This approach implies that the Chairs of Working Groups or Committees provide short, unofficial summaries of their reports for translation.

ROLE OF THE INTERSESSIONAL E-MAIL GROUP ('TASK FORCE')

We suggest that it would be valuable to establish an intersessional e-mail task force. Their role would be to:

- (1) review the outline for the summary of the Scientific Committee report proposed by the Chair of the Scientific Committee, head of Science and French and Spanish scientists (see Appendix 1);
- (2) provide advice to the Secretariat, if needed, on choice of suitable translators/interpreters;
- (3) develop a recommendation for the F&A Committee with regard to deadlines for translations under (5) to be available;
- (4) act as an informal 'quality control' group for the Chair's summaries of Working Groups/Committees during the 2007 meeting; and
- (5) based on their experience up to the beginning of the Plenary, develop, with the Secretariat, a proposal for full or further implementation for consideration at the 2007 meeting by the Plenary.

SUMMARY OF COSTS

The costs of this proposal will be partly met from the Commission's funds as shown in the table below. The approximate costs under the assumptions made above will be £16,150. Given the likelihood that the pre-budgeted (£17,000) RMS intersessional meeting will not take place, the above work could be undertaken with no need for an increase in contributions for 2006/2007.

Table 1

Approximate costs of translation and interpretation into French and Spanish at the Annual Meeting in Anchorage.

Activity	How costs met	Estimated cost to Commission (£)
SIMULTANEOUS INTERPRETATION FOR FRENCH AND SPANISH		
• Salary of 4 interpreters (2 per language)	Assume costs will be met through voluntary contributions	0
• Travel and subsistence costs for 4 interpreters	From the Commission	8,200
TRANSLATION		
Summary of Scientific Committee Report in French and Spanish		
• Salary of scientists doing translation	Assume met by their Contracting Government	0
• Subsistence costs for two scientists to remain for 4 days after the close of the Scientific Committee meeting	From the Commission	1,200
Chair's Summary report of IWC/58, 2006 and Annotated Provisional Agenda for IWC/59		
• Salary of translator	From the Commission	1,200
Chair's summaries of Working Group reports and Resolutions and Schedule amendments		
• Salary and subsistence costs of a translator working <i>in situ</i> (i.e. at the meeting)	From the Commission	5,550
TOTAL		16,150

Appendix 1

PROPOSAL AS TO HOW TO PROCEED WITH RESPECT TO *TRIAL* TRANSLATIONS OF AN UNOFFICIAL SUMMARY OF THE SCIENTIFIC COMMITTEE REPORT

- (1) The Chair of the Committee, the Head of Science and one or more French and one or more Spanish-speaking scientists (on a voluntary basis) work to produce an outline of the topics the summary report might contain (e.g. priority agenda items, recommendations only, focus on issues related to French and Spanish speaking countries etc). This outline will be forwarded to the intersessional task force for comment and agreement – ultimately this document is being produced for the benefit of national governments rather than scientists and it important that their needs are met to the extent possible.
- (2) When the task force reaches agreement on the outline, it will form the basis of the ‘summary’ for the 2007 Annual Meeting.
- (3) At the conclusion of the Scientific Committee meeting, the Chair of the Scientific Committee, the Head of Science and the volunteer French and Spanish-speaking scientists will:
 - (a) go through the Scientific Committee report together and agree what sections the French/Spanish summaries should contain, on the basis of the agreed outline;
 - (b) on the basis of these discussions, the French and Spanish-speaking scientists will produce an unofficial summary translation (they may do this themselves or check the translation of translators) that will be made available to those countries who request it. It will not form part of the official meeting documentation, but rather will serve as a tool to facilitate participation of francophone and Spanish delegations;
 - (c) sufficient time will be allowed for those scientists to complete the translation; but
 - (d) an English summary will **not** be produced.
- (4) It **must** be agreed in advance that the ‘fairness’ or ‘accuracy’ of the summary translation document (or any of the scientists involved) will not be the focus of any Government interventions during the post-Scientific Committee period. The only document of reference will be the Scientific Committee Report provided in English.

Annex L

Approved Budget for 2006/2007 and Forecast Budget for 2007/2008

Income and Expenditure Account

	Approved Budget - 2006/07		<i>Forecast Budget - 2007/08</i>	
Income	£	£	£	£
Contracting Government contributions		1,351,350		1,351,350
Recovery of Arrears		0		0
Interest on late financial contributions		0		0
Voluntary contributions		5,500		2,000
Sales of publications		17,500		18,000
Sales of sponsored publications		1,000		1,050
Observers' registration fees		44,950		46,000
UK taxes recoverable		29,800		27,900
Staff assessments		154,800		161,600
Interest receivable		50,150		47,000
Sundry income		1,000		1,000
		1,656,050		1,655,900
Expenditure				
Secretariat	1,023,480		1,049,650	
Publications	43,350		34,200	
Annual meetings	333,850		342,000	
Other meetings	20,500		21,000	
Research expenditure	274,000		285,700	
Small cetaceans	4,550		1,050	
Sundry	0		0	
	1,699,730		1,733,600	
Provisions				
Unpaid contributions	0		0	
Unpaid interest on overdue contributions	0		0	
Severance Pay Provision	28,500		32,700	
Provision for other doubtful debts	0		0	
	0		0	
Surplus of income over expenditure		1,728,230		1,766,300
		-72,180		-110,400
Net Transfers from or to (-):				
Sponsored Publications Fund		-2,000		-2,100
Research Fund		-6,500		-6,700
Small Cetaceans Fund		-50		-50
Surplus/Deficit (-) for the year after transfers		-80,730		-119,250

Annex M

Approved Research Budget for 2006/2007

	Approved budget £
RMP	
North Pacific Bryde's whales <i>Implementation</i> – second intersessional workshop	7,500
AWMP	
AWMP developer's fund	9,000
Greenland common minke whales: use of sex ratio data in assessments	3,500
Two intersessional workshops to allow completion of the <i>Implementation Review</i> in 2007	16,000
IA	
SOWER circumpolar cruise 2006/2007	76,000
Investigation of likely precision of future abundance estimates using a single SOWER vessel	4,000
Incorporation of 2005/2006 data into IWC-DESS	2,000
Analysis of previous data (BT mode) to <i>inter alia</i> allow finalisation of cruise planning	6,000
Maintenance of IWC-DESS	2,000
Further development of hazard probability method to estimate abundance of Antarctic minke whales	1,700
Investigation of the relationship between minke whales and sea ice	700
Antarctic minke whales: continuation of previous catch-at-age analysis study	20,000
Digitise, catalogue and analyse blue whale photographs from the IWC IDCR and SOWER cruises	8,500
SH	
Antarctic catalogue	6,600
Humpback whale population dynamics model	2,000
Forwarding the in-depth assessment of southern blue whales	6,000
SD	
TOSSM development: generation of datasets	16,000
BC	
Further simulations to investigate the performance of various sampling designs	2,000
Development of standardised reporting of collisions between whales and vessels	1,000
E	
CCAMLR-IWC steering group for joint workshop on the Antarctic ecosystem and krill predators	3,000
FAO expert consultation on modelling ecosystem interactions	1,500
Completion of the Southern Ocean Collaboration database	15,000
Continuation of analyses of high priority projects identified last year	12,000
Possible collaboration with CCAMLR for a joint cruise in 2008	1,000
SOCER report	0*
SP	
JARPA review workshop	13,000
Scientific Committee general	
Invited participants fund	38,000
TOTAL	274,000

*Funded from residual voluntary contribution from Austria.

Note: A brief description of the items listed above can be found in the Report of the Scientific Committee (IWC/58/Rep1).

Annex N

Budgetary Sub-Committee Operations

The following summarises the *modus operandi* for the Budgetary Sub-committee agreed by the Commission as of IWC/58.

Membership

Membership of the Budgetary Sub-committee (BSC) consists of:

- 2 members from 'capacity to pay' Group 1.
- 2 members from 'capacity to pay' Group 2.
- 2 members from 'capacity to pay' Group 3.
- Japan, USA + one other from 'capacity to pay' Group 4.
- Membership is for 3 years (except for Japan and the USA who have a 'permanent' place since they are likely to be the two highest paying contributors under almost any formula for the calculation of financial contributions for the foreseeable future, being the highest payers now and probably in the future).
- Any member that declines to serve will be replaced by the next member in alphabetical sequence within its Group.
- New members of the Commission will be fitted into the cycle at the nearest alphabetical point after they have had a period in which to familiarise themselves with the organisation.
- Two 'open seats' (i.e. for any interested countries) as a fifth membership category.

Election of Chair and Vice-Chair

- The term for Chair and Vice-Chair is for three years and under normal circumstances the Vice-Chair would replace the outgoing Chair.
- Elections shall take place at the end of Sub-committee meetings.

- Any member is eligible to serve as Chair or Vice-Chair.

In the event that a BSC member coming to the end of their term is appointed as Chair or Vice-Chair, the member will be considered as no longer representing his/her government but rather present on the BSC in their capacity as Chair/Vice-Chair. A new country in the same capacity to pay group will be invited to join the BSC.

Open seats

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

Contracting Governments as observers to the BSC

- There is no restriction to contributing countries wishing to attend as observers.
- Non BSC members would not receive documents intersessionally but all documents will be made available to observers at the BSC meeting.
- Observers will not be eligible to be appointed as Chair or Vice-Chair.
- The Chair has discretion to invite comments from observers.

Annex O

Amendments to the Schedule Adopted at the 58th Annual Meeting

At the 58th Annual Meeting of the International Whaling Commission held in St. Kitts and Nevis from 16-20 June 2006, 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.

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 ***2006/2007*** pelagic season, ***2007*** coastal season, ***2007*** season, or ***2007*** as appropriate.

Financial Statements
for the
Year ended 31 August 2006

Financial Statements for the year ended 31 August 2006

Statement of 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.

Independent Auditors Report to the Commission

We have audited the financial statements of the International Whaling Commission which comprise the accounting policies, the income and expenditure account, the analysis of expenditure, the balance sheet and the related notes 1 to 8. These financial statements have been prepared under the accounting policies set out therein. This report is made solely to the Commission. Our audit work has been undertaken so that we might state to the Commission those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Commission for our audit work, for this report, or for the opinions we have formed.

Respective Responsibilities of the Secretary and Auditors

As described in the statement of the Secretary's responsibilities, the Secretary is responsible for the preparation of financial statements.

Neither statute nor the Commission has prescribed that the financial statements should give a true and fair view of the Commission's state of affairs at the end of each year within the specialised meaning of that expression in relation to financial statements. This recognised terminology signifies in accounting terms that statements are generally accepted as true and fair only if they comply in all material aspects with accepted accounting principles. These are embodied in accounting standards issued by the Accounting Standards Board. The Commission has adopted certain accounting policies which represent departures from accounting standards:

- fixed assets are not capitalised within the Commission's accounts. Instead fixed assets are charged to the income and expenditure account in the year of acquisition. Hence, the residual values of the furniture, fixtures and fittings and equipment are not reflected in the accounts;
- publications stocks are charged to the income and expenditure account in the year of acquisition and their year end valuation is not reflected in the accounts.
- provision is made for the severance pay which would be payable should the Commission cease to function.

This is permissible as the financial statements are not required to give a true and fair view.

It is our responsibility to form an independent opinion, based on our audit, on those statements and to report our opinion to you. We also report if the Commission has not kept proper accounting records or if we

have not received all the information and explanations we require for our audit.

Basis of Opinion

We conducted our audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Secretary in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Commission's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement whether caused by fraud or other irregularity or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

Added Emphasis

In forming our opinion we have taken account of the absence of a requirement for the financial statements to give a true and fair view as described above.

Opinion

In our opinion the financial statements have been properly prepared in accordance with the accounting policies and present a proper record of the transactions of the Commission for the year ended 31 August 2006.

D A Green & Sons, Chartered Certified Accountants, St Ives, 19 January 2007

Accounting Policies - Year Ended 31 August 2006

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 £164,000 and its realisable value is not significant. Proposed expenditure on new items is included in budgets and raised by contributions for the year.

Publications

The full cost of printing publications is written off in the year. No account is taken of stocks which remain unsold at the balance sheet date.

Most sales occur shortly after publication and so stocks held are unlikely to result in many sales, consequently their net realisable value is not significant.

Severance Pay Provision

The Commission provides for an indemnity to members of staff in the event of their appointment being terminated on the abolition of their posts.

The indemnity varies according to length of service and therefore an annual provision is made to bring the total provision up to the maximum liability. This liability is calculated after adjusting for staff assessments since they would not form part of the Commission's liability.

Interest on Overdue Contributions

Interest is included in the income and expenditure account on the accruals basis and provision is made where its recoverability is in doubt.

Leases

The costs of operating leases are charged to the income and expenditure account as they accrue.

Foreign Exchange

Transactions dominated in foreign currencies are translated into sterling at rates ruling at the date of the transactions. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated at the rates ruling at that date. These translation differences are dealt with in the income and expenditure account.

Retirement Benefits Scheme

The Commission operates a defined contribution retirement benefits scheme. The costs represent the amount of the Commission's contributions payable to the scheme in respect of the accounting period.

Income and Expenditure Account (Year Ended 31 August 2006)

		2006		2005	
	[Note]	£	£	£	£
Income: continuing operations					
Contributions from member governments			1,368,878		1,376,204
Interest on overdue financial contributions			22,480		30,591
Voluntary contributions for research, small cetaceans work and publications			42,893		6,539
Sales of publications			17,909		14,483
Sales of sponsored publications	[1]/8		1,526		1,730
Observers' registration fees			45,276		48,018
UK taxes recoverable			23,512		20,957
Staff assessments			145,866		140,184
Interest receivable			74,882		66,842
Sundry income			964		433
			<u>1,744,186</u>		<u>1,705,981</u>
Expenditure					
Secretariat	6	957,007		941,600	
Publications	6	28,071		29,486	
Annual meetings		326,000		315,100	
Other meetings		18,643		13,268	
Research expenditure	[2]/6	307,219		256,895	
Small cetaceans	[3]/6	13,350		25,672	
Sundry		6,501		2,445	
		<u>1,656,791</u>		<u>1,584,466</u>	
Provisions made for:					
Unpaid contributions		(23,814)		23,885	
Unpaid interest on overdue contributions		(57,409)		(55,465)	
Severance pay	[5]	31,600		1,200	
Other doubtful debts		1,816	1,608,984	(1,796)	1,552,290
			<u>1,608,984</u>	<u>(1,796)</u>	<u>1,552,290</u>
Surplus of income:					
Continuing operations	[7]		135,202		153,691
Net transfers from/(to) funds:					
Publications fund	[1]	(2,027)		(2,152)	
Research Fund	[2]	4,898		10,035	
Small cetaceans fund	[3]	(2,325)	546	18,762	26,645
			<u>135,748</u>		<u>180,336</u>
Surplus for the year after transfers	[4]		<u>135,748</u>		<u>180,336</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.

During 2005-06 the Commission was pledged Voluntary Contributions to the General Fund totalling £75.9k in support of IWC/58. Some of these contributions have already been received by the Commission and used to offset expenditure incurred on behalf of the Government of St. Kitts and Nevis. The remaining Voluntary Contributions will be passed directly to St. Kitts and Nevis. All outstanding expenditure incurred by the Commission on behalf of St. Kitts and Nevis has been invoiced to the government. Voluntary Contributions to the General Fund and associated expenditure are not reflected in the income and expenditure account.

Analysis of Expenditure (Year Ended 31 August 2006)

	2006	2005
	£	£
SECRETARIAT		
Salaries, national insurance and allowances	623,168	609,339
Retirement and other Benefit Schemes	128,438	123,178
Travelling expenses	5,320	3,699
Office rent, heating and maintenance	109,997	113,483
Insurance	5,410	5,443
Postage and telecommunications	15,092	18,926
Office equipment and consumables	48,883	54,272
Professional fees	11,066	7,797
Training and recruitment	3,593	2,405
Photocopying	6,040	3,058
Sundries	0	0
	<u>957,007</u>	<u>941,600</u>
PUBLICATIONS		
Annual Report	6,108	5,746
Journal of Cetacean Research and Management	21,963	23,740
	<u>28,071</u>	<u>29,486</u>
RESEARCH		
Invited participants	35,773	30,670
SOWER:		
2004/2005 SOWER cruise	0	82,537
2005/2006 SOWER cruise	62,761	0
Contract 9 - Genetics - Palsbøll	0	1,046
Contract 14 - Analysis support including DESS maintenance/development	14,675	13,236
Contract 16 - Southern Hemisphere humpback catalogue	7,078	5,161
Southern Hemisphere humpback workshop	8,055	0
Southern Hemisphere humpback population dynamics model	1,004	0
SO-GLOBEC	47,089	36,448
Pollution 2000+	31,507	0
Seismic surveys workshop	7,404	0
BC workshop on market sampling	0	4,527
BC estimation using market data	3,645	0
AWMP fund for developers	9,931	9,874
AWMP intersessional workshop	5,608	8,717
AWMP genetic simulation studies	0	10,277
FAO fisheries workshop	656	0
AS Greenland Research Programme	20,553	0
IA development support	24,214	27,003
Habitat degradation workshop and cetacean environmental projects	4,542	14,838
RMP (SC) intersessional workshop (Bryde's whales)	7,542	7,151
RMP North Atlantic fin whales joint workshop with NAMMCO	1,974	0
E/IA/BRG sea ice and whale habitat	43	3,411
Southern Hemisphere blue whales data analysis	1,500	0
Meeting to obtain SH humpback catch data	3,590	0
SD intersessional workshop on TOSSM	6,185	0
Other (including exchange differences)	1,890	1,999
	<u>307,219</u>	<u>256,895</u>
SMALL CETACEANS		
Invited participants	6,181	5,442
Bycatch reduction	7,062	19,847
Common dolphins in South America	0	182
Other (including exchange losses)	107	201
	<u>13,350</u>	<u>25,672</u>

Balance Sheet 31 August 2005

	[note]	£	2006	£	£	2005	£
CURRENT ASSETS							
Cash on short term deposit							
General fund		1,629,313			1,524,028		
Research fund		136,263			157,295		
Publications fund		26,492			29,107		
Small Cetaceans fund		10,879	1,802,947		10,227	1,720,657	
Cash at bank on current account							
Research fund		1,000			1,000		
Publications fund		1,000			1,000		
Small Cetaceans fund		1,000			1,000		
Cash in hand		55	3,055		131	3,131	
			1,806,002			1,723,788	
Outstanding contributions from members, including interest		469,261			528,764		
Less provision for doubtful debts		(447,541)	21,720		(528,764)	0	
Other debtors and prepayments			117,114			92,787	
			1,944,836			1,816,575	
CREDITORS:							
Amounts falling due within one year	[6]		(118,301)			(156,842)	
NET CURRENT ASSETS			1,826,535			1,659,733	
PROVISION FOR SEVERANCE PAY	[5]		(364,300)			(332,700)	
			1,462,235			1,327,033	
<i>Financed by</i>							
Publications fund	[1]		35,388			33,361	
Research fund	[2]		133,914			138,812	
Small cetaceans fund	[3]		17,218			14,893	
General fund	[4]		1,275,715			1,139,967	
	[7]		1,462,235			1,327,033	

Approved on behalf of the Commission
Nicola J. Grandy (Secretary)
19 January 2007

Notes to the Accounts

	2006 £	2005 £
1. Publications fund		
Interest receivable	501	422
Receipts from sales of sponsored publications	1,526	1,730
Net transfers to income and expenditure account	2,027	2,152
Opening balances at 1 September 2005	33,361	31,209
Closing balances at 31 August 2006	<u>35,388</u>	<u>33,361</u>
2. Research fund		
Allocation for research	266,000	240,850
UK taxes recoverable	3,904	1,359
Voluntary contributions received	27,365	0
Interest receivable	5,052	4,651
Expenditure	(307,219)	(256,895)
Net transfers (to) income and expenditure account	(4,898)	(10,035)
Opening balances at 1 September 2005	138,812	148,847
Closing balances at 31 August 2006	<u>133,914</u>	<u>138,812</u>
3. Small cetaceans fund		
Voluntary contributions received	15,528	6,539
Interest receivable	147	371
Expenditure	(13,350)	(25,672)
Net transfer from/(to) income and expenditure account	2,325	(18,762)
Opening balances at 1 September 2005	14,893	33,655
Closing balances at 31 August 2006	<u>17,218</u>	<u>14,893</u>
4. General fund		
Opening balances at 1 September 2005	1,139,967	959,631
Surplus transferred from income and expenditure account	135,748	180,336
Closing balances at 31 August 2006	<u>1,275,715</u>	<u>1,139,967</u>
5. Provision for severance pay		
Opening balances at 1 September 2005	332,700	331,500
Transfer from (to) income and expenditure account, being:		
Allocation	24,560	(9,749)
Interest received	7,040	10,949
Closing balances at 31 August 2006	<u>364,300</u>	<u>332,700</u>
6. Creditors: amounts falling due within one year		
Deferred contributions income	50,415	95,880
Other creditors and accruals	67,886	60,962
	<u>118,301</u>	<u>156,842</u>
7. Reconciliation of movement in funds		
Surplus of income over expenditure	135,202	153,691
Opening Funds	1,327,033	1,173,342
	<u>1,462,235</u>	<u>1,327,033</u>
8. Financial commitments		

The Commission had annual commitments at 31 August 2006 under non-cancellable operating leases as set out below and which expire:

	2006		2005	
	Land and buildings £	Office equipment £	Land and buildings £	Office equipment £
Within 2 to 5 years	75,000	22,630	0	22,630
After five years	0	0	75,000	0
	<u>75,000</u>	<u>22,630</u>	<u>75,000</u>	<u>22,630</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.177 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 58th Annual Meeting
St. Kitts and Nevis, 16-20 June 2006**



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 58th Annual Meeting in June 2006. The amendments, which are shown in *italic bold* type, came into effect on 4 October 2006.

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 shepherdii*).

“bottlenose whale” means any whale known as Baird’s beaked whale (*Berardius bairdii*), Arnoux’s whale (*Berardius arnuxii*), southern bottlenose whale (*Hyperoodon planifrons*), or northern bottlenose whale (*Hyperoodon ampullatus*).

“killer whale” (*Orcinus orca*) means any whale known as killer whale or orca.

“pilot whale” means any whale known as long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*G. macrorhynchus*).

“sperm whale” (*Physeter macrocephalus*) means any whale known as sperm whale, spermacet whale, cachalot or pot whale.

C. General

“strike” means to penetrate with a weapon used for whaling.

“land” means to retrieve to a factory ship, land station, or other place where a whale can be treated.

“take” means to flag, buoy or make fast to a whale catcher.

“lose” means to either strike or take but not to land.

“dauhval” means any unclaimed dead whale found floating.

“lactating whale” means (a) with respect to baleen whales - a female which has any milk present in a mammary gland, (b) with respect to sperm whales - a female which has milk present in a mammary gland the maximum thickness (depth) of which is 10cm or more. This measurement shall be at the mid ventral point of the mammary gland perpendicular to the body axis, and shall be logged to the nearest centimetre; that is to say, any gland between 9.5cm and 10.5cm shall be logged as 10cm. The measurement of any gland which falls on an exact 0.5 centimetre shall be logged at the next 0.5 centimetre, e.g.

10.5cm shall be logged as 11.0cm. However, 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 subparagraph 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 LIMITS* (excluding Bryde's whales)

Area	SEI		MINKE		FIN		BLUE		RIGHT, BOWHEAD, HUMPBACK		PYGMY RIGHT		GRAY	
	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit
SOUTHERN HEMISPHERE-2006/2007 pelagic season and 2007 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-2007 season														
ARCTIC	.	.	.	.	.	.	.	.	.	.	PS	0	.	.
NORTH PACIFIC														
Whole region	PS	0	.	0	PS	0	PS	0	PS	0	PS	0	.	.
Okhotsk Sea-West Pacific Stock	.	.	-	0	.	.	.	.	.	.	.	.	.	.
Sea of Japan-Yellow Sea-East	.	.	.	.	.	.	.	.	.	.	.	.	.	.
China Sea Stock	.	.	PS	0	.	.	.	.	.	.	.	.	.	.
Remainder	.	.	IMS	0	.	.	.	.	.	.	.	.	.	1
Eastern Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	SMS
Western Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	PS
NORTH ATLANTIC														
Whole region	.	.	.	0	.	.	PS	0	PS	0	PS	0	.	.
West Greenland Stock	.	.	PS	0	.	19 ^{2A}	.	.	.	.	.	.	.	.
Newfoundland-Labrador Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
Canadian East Coast Stock	.	.	.	0	.	.	.	.	.	.	.	.	.	.
Nova Scotia Stock	PS	0	.	.	PS	0	.	.	.	.	.	.	.	.
Central Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
East Greenland-Iceland Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
Iceland-Denmark Strait Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Spain-Portugal-British Isles	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Northeastern Stock	.	.	PS*	0	.	.	.	.	.	.	.	.	.	.
West Norway-Faroe Islands	.	.	.	.	PS	0	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
North Norway Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Eastern Stock	.	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.

³ 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.

⁴ 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-2006/2007 pelagic season and 2007 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-2007 season		
Eastern Stock	IMS	0
Western Stock	IMS	0
East China Sea Stock	PS	0
NORTH ATLANTIC-2007 season		
	IMS	0
NORTHERN INDIAN OCEAN-2007 season		
	-	0

⁺ The catch limits of zero introduced in Table 2 as editorial amendments as a result of the coming into effect of paragraph 10(e) are not binding upon the governments of the countries which lodged and have not withdrawn objections to the said paragraph.

*The Governments of Japan, Norway, Peru and the Union of Soviet Socialist Republics lodged objection to paragraph 10(e) within the prescribed period. For all other Contracting Governments this paragraph came into force on 3 February 1983. Peru withdrew its objection on 22 July 1983. The Government of Japan withdrew its objections with effect from 1 May 1987 with respect to commercial pelagic whaling; from 1 October 1987 with respect to commercial coastal whaling for minke and Bryde's whales; and from 1 April 1988 with respect to commercial coastal sperm whaling. The objections of Norway and the Russian Federation not having been withdrawn, the paragraph is not binding upon these Governments.

•Iceland's instrument of adherence to the International Convention for the Regulation of Whaling and the Protocol to the Convention deposited on 10 October 2002 states that Iceland 'adheres to the aforesaid Convention and Protocol with a reservation with respect to paragraph 10(e) of the Schedule attached to the Convention'. The instrument further states the following:

'Notwithstanding this, the Government of Iceland will not authorise whaling for commercial purposes by Icelandic vessels before 2006 and, thereafter, will not authorise such whaling while progress is being made in negotiations within the IWC on the RMS. This does not apply, however, in case of the so-called moratorium on whaling for commercial purposes, contained in paragraph 10(e) of the Schedule not being lifted within a reasonable time after the completion of the RMS. Under no circumstances will whaling for commercial purposes be authorised without a sound scientific basis and an effective management and enforcement scheme.'

#The Governments of Argentina, Australia, Brazil, Chile, Finland, France, Germany, Italy, Mexico, Monaco, the Netherlands, New Zealand, Peru, San Marino, Spain, Sweden, UK and the USA have lodged objections to Iceland's reservation to paragraph 10(e).

Table 3
Toothed whale stock classifications and catch limits. ⁺

SOUTHERN HEMISPHERE-2006/2007 pelagic season and 2007 coastal season			
Division	Longitudes	Classification	SPERM Catch limit
1	60°W-30°W	-	0
2	30°W-20°E	-	0
3	20°E-60°E	-	0
4	60°E-90°E	-	0
5	90°-130°E	-	0
6	130°E-160°E	-	0
7	160°E-170°W	-	0
8	170°W-100°W	-	0
9	100°W-60°W	-	0
NORTHERN HEMISPHERE-2007 season			
NORTH PACIFIC			
Western Division		PS	0 ¹
Eastern Division		-	0
NORTH ATLANTIC			
NORTHERN INDIAN OCEAN		-	0
BOTTLENOSE			
NORTH ATLANTIC		PS	0

¹No 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 2006/2007 pelagic season and the 2007 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 2007 and in the North Atlantic Ocean in 2007 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.

¹The Commission, on advice of the Scientific Committee, shall establish as far as possible (a) a minimum stock level for each stock below which whales shall not be taken, and (b) a rate of increase towards the MSY level for each stock. The Scientific Committee shall advise on a minimum stock level and on a range of rates of increase towards the MSY level under different catch regimes.

- (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 waters 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
 - (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

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
 Date and time delivered to factory
 Resting: Time stopped (for drifting or resting)
 Time finished drifting/resting
 Time ceased operations

WEATHER CONDITIONS			
	Wind force and direction	Sea state	Visibility
Total searching time.....	.....	.....	.....
Total chasing time .....	.....	.....	.....
A) with asdic .....	.....	.....	.....
B) without asdic .....	.....	.....	.....
Total handling time .....	.....	.....	.....
Total towing time .....	.....	.....	.....
Total resting time .....	.....	.....	.....
Other time (e.g. bunkering, in port) .....	.....	.....	.....
Whales Seen (No. and No. of schools)			
Blue.....	Bryde's		
Fin.....	Minke		
Humpback.....	Sperm		
Right.....	Others (specify)		
Sci.....	.....	
Signed.....	.....	

*Time whales reported to catcher means the time when the catcher is told of the position of a school and starts to move towards it to chase it.

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.

Rules of Procedure and Financial Regulations

As amended by the Commission at the 58th Annual Meeting, June 2006
(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 ***appeal against any ruling of the Chair***;
 - (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

1. The Commission shall appoint a Secretary and shall designate staff positions to be filled through appointments made by the Secretary. The Commission shall fix the terms of employment, rate of remuneration including tax assessment and superannuation and travelling expenses for the members of the Secretariat.
2. The Secretary is the executive officer of the Commission and shall:
 - (a) be responsible to the Commission for the control and supervision of the staff and management of its office and for the receipt and disbursement of all monies received by the Commission;
 - (b) make arrangements for all meetings of the Commission and its committees and provide necessary secretarial assistance;
 - (c) prepare and submit to the Chair a draft of the Commission's budget for each year and shall subsequently submit the budget to all Contracting Governments and Commissioners as early as possible before the Annual Meeting;
 - (d) despatch by the most expeditious means available:
 - (i) a draft agenda for the Annual Commission Meeting to all Contracting Governments and Commissioners 100 days in advance of the meeting for comment and any additions with annotations they wish to propose;
 - (ii) an annotated provisional agenda to all Contracting Governments and Commissioners not less than 60 days in advance of the Annual Commission Meeting. Included in the annotations should be a brief description of each item, and in so far as possible, documentation relevant to agenda items should be referred to in the annotation and sent to member nations at the earliest possible date;
 - (e) receive, tabulate and publish notifications and other information required by the Convention in such form and manner as may be prescribed by the Commission;
 - (f) perform such other functions as may be assigned to him/her by the Commission or its Chair;
 - (g) where appropriate, provide copies or availability to a copy of reports of the Commission including reports of Observers under the International Observer Scheme, upon request after such reports have been considered by the Commission.

I. Chair of Scientific Committee

1. The Chair of the Scientific Committee may attend meetings of the Commission and Technical Committee in an *ex officio* capacity without vote, at the invitation

of the Chair of the Commission or Technical Committee respectively in order to represent the views of the Scientific Committee.

J. Schedule amendments and recommendations under Article VI

1. No item of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the annotated provisional agenda circulated to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.

K. Financial

1. The financial year of the Commission shall be from 1st September to 31st August.
2. Any request to Contracting Governments for financial contributions shall be accompanied by a statement of the Commission's expenditure for the appropriate year, actual or estimated.
3. Annual payments and other financial contributions by Contracting Governments shall be made payable to the Commission and shall be in pounds sterling.

L. Offices

1. The seat of the Commission shall be located in the United Kingdom.

M. Committees

1. The Commission shall establish a Scientific Committee, a Technical Committee and a Finance and Administration Committee. Commissioners shall notify their desire to be represented on the Scientific, Technical and Finance and Administration Committees 28 days prior to the meetings, and shall designate the approximate size of their delegations.
2. The Chair may constitute such *ad hoc* committees as may be necessary from time to time, with similar arrangements for notification of the numbers of participants as in paragraph 1 above where appropriate. Each committee shall elect its Chair. The Secretary shall furnish appropriate secretarial services to each committee.
3. Sub-committees and working groups may be designated by the Commission to consider technical issues as appropriate, and each will report to the Technical Committee or the plenary session of the Commission as the Commission may decide.
4. The Scientific Committee shall review the current scientific and statistical information with respect to whales and whaling, shall review current scientific research programmes of Governments, other international organisations or of private organisations, shall review the scientific permits and scientific programmes for which Contracting Governments plan to issue scientific permits, shall consider such additional matters as may be referred to it by the Commission or by the Chair of the Commission, and shall submit reports and recommendations to the Commission.
5. The preliminary report of the Scientific Committee should be completed and available to all

Commissioners by the opening date of the Annual Commission Meeting.

6. The Secretary shall be an *ex officio* member of the Scientific Committee without vote.
7. The Technical Committee shall, as directed by the Commission or the Chair of the Commission, prepare reports and make recommendations on:
 - (a) management principles, categories, criteria and definitions, taking into account the recommendations of the Scientific Committee, as a means of helping the Commission to deal with management issues as they arise;
 - (b) technical and practical options for implementation of conservation measures based on Scientific Committee advice;
 - (c) the implementation of decisions taken by the Commission through resolutions and through Schedule provisions;
 - (d) Commission agenda items assigned to it;
 - (e) any other matters.
8. The Finance and Administration Committee shall advise the Commission on expenditure, budgets, scale of contributions, financial regulations, staff questions, and such other matters as the Commission may refer to it from time to time.
9. The Commission shall establish an Advisory Committee. This Committee shall comprise the Chair, Vice-Chair, Chair of the Finance and Administration Committee, Secretary and two Commissioners to broadly represent the interests within the IWC forum. The appointment of the Commissioners shall be for two years on alternative years.

The role of the Committee shall be to assist and advise the Secretariat on administrative matters upon request by the Secretariat or agreement in the Commission. The Committee is not a decision-making forum and shall not deal with policy matters or administrative matters that are within the scope of the Finance and Administration Committee other than making recommendations to this Committee.

N. Language of the Commission

1. English shall be the official and working language of the Commission but Commissioners may speak in any other language, if desired, it being understood that Commissioners doing so will provide their own interpreters. All official publications and communications of the Commission shall be in English.

O. Records of Meetings

1. The proceedings of the meetings of the Commission and those of its committees shall be recorded in summary form.

P. Reports

1. Commissioners should arrange for reports on the subject of whaling published in their own countries to be sent to the Commission for record purposes.
2. The Chair's Report of the most recent Annual Commission Meeting shall be published in the Annual Report of the year just completed.

Q. Commission Documents

1. Reports of meetings of all committees, sub-committees and working groups of the Commission are confidential (i.e. reporting of discussions, conclusions and recommendations made during a meeting is prohibited) until the opening plenary session of the Commission meeting to which they are submitted, or in the case of intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports, with the exception of the report of the Finance and Administration Committee, shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).
2. Any document submitted to the Commission for distribution to Commissioners, Contracting Governments or members of the Scientific Committee is considered to be in the public domain unless it is designated by the author or government submitting it to be restricted. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.
3. Observers admitted under Rule of Procedure C.1.(a) and (b) may submit Opening Statements which will be included in the official documentation of the Annual or other Meeting concerned. They shall be presented in the format and the quantities determined by the Secretariat for meeting documentation.

The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.¹

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.

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.

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

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 question voted upon shall be stated as: Shall the decision of the Chair be overturned?* 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 Chair³, 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:

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.

- (h) 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.

³ [Invited participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

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

D. Meetings

1. Meetings of the Scientific Committee as used in these rules include all meetings of subgroups of the Committee, e.g. sub-committees, working groups, workshops, etc.
2. The Scientific Committee shall meet prior to the Annual Meeting of the Commission. Special meetings of the Scientific Committee or its subgroups may be held as agreed by the Commission or the Chair of the Commission.
3. The Scientific Committee will organise its work in accordance with a schedule determined by the Chair with the advice of a group comprising sub-committee/working group chairs and relevant members of the Secretariat.

E. Scientific Papers and Documents

The following documents and papers will be considered by the Scientific Committee for discussion and inclusion in its report to the Commission:

1. Progress Reports. Each nation having information on the biology of cetaceans, cetacean research, the taking of cetaceans, or other matters it deems appropriate should prepare a brief progress report following in the format agreed by the Committee.
2. Special Reports. The Committee may request special reports as necessary on matters to be considered by the Committee for the following year.
3. Sub-committee Reports. Reports of the sub-committees or working groups shall be included as annexes to the Report to the Commission. Recommendations contained therein shall be subject to modification by the full Committee before inclusion in its Report.
4. Scientific and Working Papers.
 - (a) Any scientist may submit a scientific paper for consideration by the Committee. The format and submission procedure shall be in accordance with guidelines established by the Secretariat with the concurrence of the Committee. Papers published elsewhere may be distributed to Committee members for information as relevant to specific topics under consideration.
 - (b) Scientific papers will be considered for discussion and inclusion in the papers of the Committee only if the paper is received by the Secretariat on or by the first day of the annual Committee meeting, intersessional meeting or any sub-group.

Exceptions to this rule can be granted by the Chair of the Committee where there are exceptional extenuating circumstances.

- (c) Working papers will be distributed for discussion only if prior permission is given by the Chair of the committee or relevant sub-group. They will be archived only if they are appended to the meeting report.
 - (d) The Scientific Committee may receive and consider unpublished scientific documents from non-members of the Committee (including observers) and may invite them to introduce their documents at a meeting of the Committee provided that they are received under the same conditions (with regard to timing etc.) that apply to members.
5. Publication of Scientific Papers and Reports.
- (a) Scientific papers and reports considered by the Committee that are not already published shall be included in the Commission's archives in the form in which they were considered by the Committee or its sub-committees. Papers submitted to meetings shall be available on request at the same time as the report of the meeting concerned (see (b) below).
 - (b) The report of the Annual Meeting of the Scientific Committee shall be distributed to the Commission no later than the beginning of the opening plenary of the Annual Commission Meeting and is confidential until this time.

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

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

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

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

- (c) Scientific papers and reports (revised as necessary) may be considered for publication by the Commission. Papers shall be subject to peer review before publication. Papers submitted shall follow the Guidelines for Authors published by the Commission.

F. Review of Scientific Permits

1. When proposed scientific permits are sent to the Secretariat before they are issued by national governments the Scientific Committee shall review the scientific aspects of the proposed research at its annual meeting, or during a special meeting called for that purpose and comment on them to the Commission.

2. The review process shall take into account guidelines issued by the Commission.
3. The proposed permits and supporting documents should include specifics as to the objectives of the research, number, sex, size, and stock of the animals to be taken, opportunities for participation in the research by scientists of other nations, and the possible effect on conservation of the stock resulting from granting the permits.
4. Preliminary results of any research resulting from the permits should be made available for the next meeting of the Scientific Committee as part of the national progress report or as a special report, paper or series of papers.

G. Financial Support for Research Proposals

1. The Scientific Committee shall identify research needs.
2. It shall consider unsolicited research proposals seeking financial support from the Commission to address these needs. A sub-committee shall be established to review and rank research proposals received 4 months in advance of the Annual Meeting and shall make recommendations to the full Committee.
3. The Scientific Committee shall recommend in priority order those research proposals for Commission financial support as it judges best meet its objectives.

H. Availability of data

The Scientific Committee shall work with the Secretariat to ensure that catch and scientific data that the Commission holds are archived and accessible using modern computer data handling techniques. Access to such data shall be subject to the following rules.

1. Information identified in Section VI of the Schedule that shall be notified or forwarded to the IWC or other body designated under Article VII of the Convention.

This information is available on request through the Secretariat to any interested persons with a legitimate claim relative to the aims and purposes of the Convention⁴.

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.

⁴ [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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