

Annual Report of the International Whaling Commission 2008



Covering the
2007-2008
financial year
and the 60th
Annual Meeting
held in
Santiago
Chile
in 2008



Annual Report of the International Whaling Commission 2008

**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 and Barbuda	21/07/82	Mr. A. Liverpool	02/07/04
Argentina	18/05/60	Ambassador S. R. Cerutti	21/01/09
Australia	10/11/48	Ms. D. Petrachenko	09/08/07
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	Mr. B.P. Velloso	31/08/07
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
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Costa Rica	24/07/81	Dr. R. Dobles-Mora	23/05/07
Côte d'Ivoire	08/07/04	Dr. D. A. Jeanson	16/07/04
Croatia	10/01/07	Mr. Z. Šikić	16/02/07
Cyprus	26/02/07	Ms. M. Hadjichristoforou	13/03/07
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
Ecuador	10/05/07	Mr. F. Meneses	23/05/08
Eritrea	10/10/07	Mr. S. M. Ahmed	02/10/08
Estonia	07/01/09	Mr. A. Gromov	04/02/09
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. A. Rerambyath	13/04/04
The Gambia	17/05/05	Mr. S. Jabai	22/05/06
Germany	02/07/82	Mr. G. Lindemann	20/04/07
Greece	16/05/07	Ambassador A. Rallis	25/05/07
Grenada	07/04/93	Hon. G. Bowen	25/06/04
Guatemala	16/05/06	Dr. F. D. Monge	05/11/08
Guinea-Bissau	29/05/07	Mr. D. Gomes	18/08/07
Republic of Guinea	21/06/00	Mr. I. S. 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	Dr. R. B. Lal	29/11/06
Ireland	02/01/85	Mr. J. Fitzgerald	15/05/07
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. A. Nakamae	12/09/08
Kenya	02/12/81	Not notified	
Kiribati	28/12/04	Mrs. R. Nikuata-Rimon	07/06/06
Laos	22/05/07	Dr. B. Khambounheuang	01/10/07
Lithuania	25/11/08	Not notified	
Luxembourg	10/06/05	Mr. C. Origer	10/06/05
Republic of Korea	29/12/78	Mr. Y.H. Ha	30/05/08
Mali	17/08/04	Mr. S. Coulibaly	16/05/08
Republic of the Marshall Islands	01/06/06	Mr. F. Muller	06/06/08
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	09/01/08
Morocco	12/02/01	Mr. A. Benabbou	13/03/09
Nauru	15/06/05	Mr. J. Dowiyogo	20/02/07
Netherlands	14/06/77	Dr. M. J. P. J. Jenniskens	14/11/08
New Zealand	15/06/76	Rt Hon. Sir G. Palmer	02/12/02
Nicaragua	05/06/03	Mr. S. F. Müller	09/06/08

Cont.

<i>Contracting Government</i>	<i>Adherence</i>	<i>Commissioner</i>	<i>Appointment</i>
Norway	03/03/48	Ambassador K. Klepsvik	26/11/04
Oman	15/07/80	Mr. I. S. Al-Busaidi	17/03/03
Republic of Palau	08/05/02	Mr. V. Uherbelau	19/02/09
Panama	12/06/01	Ms. D. Siraze	21/05/07
Peru	18/06/79	Mrs. D. Sotomayor	26/10/06
Portugal	14/05/02	Prof. J. M. M. M. Palmeirim	25/01/06
Romania	09/04/08	Dr. S. Nicolaev	22/07/08
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	Dr. J. E. Edmunds	17/04/07
St Vincent and The Grenadines	22/07/81	Senator E. Snagg	05/03/03
Senegal	15/07/82	Mme. N. Ticke	09/11/05
Slovak Republic	22/03/05	Ms. K. Slabeyova	07/04/06
Slovenia	20/09/06	Mr. J. Kastelic	13/03/07
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. D.C. Cabanas Godino	11/02/09
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
Tanzania	23/06/08	Not notified	
Togo	15/06/05	Dr. B. K. Batassé	11/01/08
Tuvalu	30/06/04	Mr. P. Nelesone	13/07/04
UK	10/11/48	Mr. R. Cowan	21/05/01
Uruguay	27/09/07	Ambassador J. Moreira	26/01/09
USA	10/11/48	Dr. W. Hogarth	06/02/06

Dr. N. Grandy, Secretary to the Commission, 30 March 2009

Preface

Welcome to the eleventh 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 Sixtieth meeting of the IWC, held in Santiago, Chile in June 2008. 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.

Cover photo: poster outside the Centro Cultural Palacio de La Moneda, Santiago.

G.P. DONOVAN

Editor

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**SUMMARY OF MAIN OUTCOMES, DECISIONS AND REQUIRED ACTIONS
FROM THE 60TH ANNUAL MEETING**

The main outcomes, decisions and required actions arising from the 60th Annual Meeting of the IWC are summarised in the table below.

Issue	Main outcomes
The future of the IWC	<ul style="list-style-type: none"> • The Commission had held an intersessional meeting in March 2008 to consider the future of the IWC and to find ways to resolve the issues that have polarised a number of the debates within the organisation. As a result of the productive discussions at that meeting and during the 2008 Annual Meeting, the Commission agreed, by consensus, approaches to: (1) reforming its working procedures and practices, particularly through revisions to its Rules of Procedure and Rules of Debate; and (2) further discussions/negotiations on substantive issues. • A Small Working Group (SWG) was established to assist the Commission to arrive at a consensus solution to the main issues it faces and thus to enable it to best fulfil its role with respect to the conservation of whale stocks and the management of whaling. The SWG's primary task is to make every effort to develop a package or packages for review by the Commission. The SWG's report is to be available at least 5 weeks before IWC/61 in June 2009.
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/61 in 2009. <p>Western North Pacific common minke whales</p> <ul style="list-style-type: none"> • Work continues on the in-depth assessment with special emphasis on J-stock. One of the difficulties with the assessment is the complexity of the population structure of common minke whales in the waters around Japan. The Scientific Committee hopes to clarify stock structure next year. <p>Southern Hemisphere humpback whales</p> <ul style="list-style-type: none"> • Completion of the Comprehensive Assessment of Southern Hemisphere humpback whale breeding stocks B and C off the western and eastern African coasts respectively remains a high priority. Work continues to clarify stock structure. Abundance estimates presented for breeding stock B off Gabon range from around 6,600 (95% CI 4,900-8,800) to 8,200 (95% CI 6,500-10,400). Estimates for stock C3 (C stock comprises four sub-stocks, C1-C4) suggest numbers in the range 4,500-7,700. • Information on other stocks of humpback whales was reviewed including those wintering off western South America and feeding from Isla Chiloe to the Antarctic Peninsula, humpbacks off eastern Australia, New Zealand and the South Pacific Islands and humpbacks off Oman. The high growth rate of the east Australian humpback population has continued, yielding a long-term annual rate of increase of 10.9% (95% CI 10.5-11.4%). This population was estimated to number around 9,700 whales in 2007 (95% CI of 8,600-11,000). <p>Southern Hemisphere blue whales</p> <ul style="list-style-type: none"> • Good progress was made in collating information as part of the Comprehensive Assessment process. • A pre-exploitation abundance of Antarctic blue whales of some 256,000 animals (95% credibility interval of 235,000-307,000) was endorsed together with an estimate that the minimum population size reached was as low as only 395 whales (95% credibility interval of 235-804), i.e. 0.15% of the pre-exploitation level. The population has recently been increasing at an estimated annual rate of 6.4% (95% credibility interval of 2.4-8.4%). The most recent survey abundance estimate (for 1997/98) was about 2,300 blue whales (95% CI 1,150-4,500). <p>Southern Hemisphere right whales</p> <ul style="list-style-type: none"> • Considerable new information on Southern Hemisphere right whales was received including from South America. Right whales off southern Australia have been increasing at around 8% annually (approx. 95% CI 4.5-11.8%). <p>Western North Pacific gray whales</p> <ul style="list-style-type: none"> • Great concern has been expressed 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 serious threats. Entanglements in fishing gear throughout the range also pose a serious threat. • The population has been slowly increasing, at least up until 2005. Concern remains and projections incorporating additional mortalities due to bycatch indicate about a 25% probability of population decline and a substantial risk (about 10%) of extinction by 2050. Development of efficient mitigation is hampered by lack of information on migration routes and breeding destinations. The continued work of the IUCN Western Gray Whale Advisory Panel was welcomed. The urgency of reducing anthropogenic mortality to zero in this population was again stressed.

Issue	Main outcomes
Status of stocks, cont.	<p>Small cetaceans</p> <ul style="list-style-type: none"> • A regional review of conservation issues regarding the (at least) 39 species of small cetaceans in the southeast Pacific was undertaken. Little is known about the distribution and abundance of many of the coastal species and research recommendations were made in this respect. Great concern was expressed regarding habitat degradation and the exclusion of cetaceans from their habitat by aquaculture developments. Recommendations were also made regarding direct and incidental takes. • Progress on previous recommendations was reviewed regarding the vaquita, harbour porpoise, franciscana, illegal takes of botos, the hand-harpoon hunts for Dall's porpoise in Japan and Hector's dolphins. There was continuing concern regarding the vaquita that numbers no more than 150 animals. If the current mortality due to bycatch in fishing gear continues, it is likely that the species will be extinct in five years and probably less. The Scientific Committee strongly recommended that, if extinction is to be avoided, all gillnets should be removed from the upper Gulf of California immediately. The Committee also recommended that catches of Dall's porpoise should be reduced to a sustainable level.
Whale killing methods and associated welfare issues	<ul style="list-style-type: none"> • As usual data on whales killed (e.g. weapons used, times to death, instantaneous death rates, numbers struck and lost) and on improving the humaneness of whaling operations (weapons improvement programmes, training, etc.) were reviewed. • The Commission agreed to hold a 3-day workshop after IWC/61 on welfare issues associated with the entanglement of large whales.
Aboriginal subsistence whaling	<ul style="list-style-type: none"> • The following abundance estimates applicable for use in providing management advice were accepted by the Scientific Committee: eastern gray whales - 20,110 (SE=1,766) from the 2006-2007 southbound migration; minke whales off West Greenland - 10,800 (95% CI=3,600-32,400) from a 2005 aerial survey; fin whales off West Greenland - 4,700 (95% CI=1,900-11,500) for 2007; bowhead whales off West Greenland - 6,300 (95% CI=3,120-12,900). • The Scientific Committee developed a safe method to provide interim management advice on catch limits for up to 10 years (two quota blocks) for fin, humpback and bowhead whales off West Greenland. • The Commission agreed that no changes to the block quotas renewed in 2007 were needed. • A Schedule amendment proposed by Denmark/Greenland for a strike limit of 10 humpback whales annually for the period 2008-2012 for the aboriginal subsistence hunt in West Greenland was not adopted.
The Revised Management Scheme (RMS)	<p>Revised Management Procedure (RMP)</p> <ul style="list-style-type: none"> • Last year, the western North Pacific Bryde's whale <i>Implementation</i> was completed, although abundance estimates for use in the <i>CLA</i> needed to be finalised. Abundance estimates were agreed this year, with a total estimate of around 20,500 whales (approx 95% CI 10,700-39,200). The Scientific Committee is in the middle of the <i>Implementation Process</i> for North Atlantic fin whales and hopes to complete this at next year's meeting. • The Committee reviewed progress in estimating indirect removals including those from bycatch in fishing gear and ship strikes. Substantial progress was made in developing the global IWC database of ship strikes. <p>RMS</p> <ul style="list-style-type: none"> • There were no specific discussions on the RMS. Rather the RMS was included in discussions on the future of IWC.
Sanctuaries	<ul style="list-style-type: none"> • A proposed Schedule amendment to create a South Atlantic Sanctuary was discussed but to facilitate the work on the future of IWC, the sponsors declined to ask for a vote on the proposal.
Socio-economic implications and small-type whaling	<ul style="list-style-type: none"> • Japan again referred to the hardship suffered by its four community-based whaling communities (Abashiri, Ayukawa, Wadoura and Taiji) since the implementation of the commercial whaling moratorium. While in previous years Japan had requested a vote on its proposal to relieve this hardship, this year, because of the progress it saw in the discussions related to the future of the IWC it had decided not do so.
Scientific permits	<ul style="list-style-type: none"> • An improved procedure to review special permit proposals as well as the periodic and final review of results from special permit programmes was agreed by consensus by the Scientific Committee and endorsed by the Commission. • The Scientific Committee reviewed results from Japan's research programmes in the Antarctic (JARPA and 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. <p>Safety issues at sea</p> <ul style="list-style-type: none"> • Protest activities against Japan's whale research vessels in the Antarctic had continued. The Commission again expressed concern over these activities; while the right to peaceful protest was supported, it was agreed that this must be done in a manner that does not present a risk to human life or property and is in accordance with domestic and international law. It was noted that IWC is not the competent body in which to address matters of vessel safety, but that this would be addressed by the International Maritime Organisation.

Issue	Main outcomes
Environmental concerns	<ul style="list-style-type: none"> • The Cetacean Emerging and Resurging Disease group prepared information on cetacean pathogens, biotoxins and disease reports and reviewed progress on disease identification and standardisation, case definition, diagnostic laboratories and data sharing. The impact on cetaceans on infectious and non-infectious diseases in marine mammals was addressed by a two-day workshop. • With respect to ecosystem modelling, this year's focus was planning for the August 2008 joint CCAMLR/IWC workshop to review input data required for ecosystem models to provide advice on krill predators in the Antarctic marine ecosystem. The use of the ECOPATH with ECOSIM software to explore the potential impact of cetaceans on fishery yields was also discussed. • Plans were put in place for a spring 2009 workshop on the effects of climate change on cetaceans. The primary goal of the workshop is to determine how climate change may affect cetaceans, how to best determine these effects, and how to improve conservation under climate changes described in the 4th report of the International Panel on Climate Change. • A Steering Group was established to finalise plans for an intersessional workshop to develop Terms of Reference for Phase II of POLLUTION 2000+. • New information was received on anthropogenic noise in relation to the potential impacts of seismic surveys on cetaceans, mid-frequency sonar and a cetacean stranding event. • The State of the Cetacean Environment Report this year focussed on the Atlantic.
Whalewatching	<ul style="list-style-type: none"> • Over recent years there has been emerging evidence that disturbance from some whalewatching activities may have population-level effects in cetaceans. Plans continue for a large-scale whalewatching experiment to assist in describing such effects, improve understanding of the mechanisms involved and develop mitigation measures. • An overview of whalewatching in South America raised concerns that aerial whalewatching in Chile and Brazil using helicopters has the potential to disturb whales. • The Scientific Committee reviewed aspects of short-term and long-term methods to assess biological impacts of whalewatching on cetaceans and gave advice on further developments. • With respect to guidelines and regulations for whalewatching, the Scientific Committee expressed some concern at the apparent trend of government agencies to use voluntary codes of conduct rather than legal regulations. The Committee recommended that in general, codes of conduct should be supported by appropriate legal regulations and modified if necessary as new biological information emerges. The world-wide compendium of whalewatching guidelines and regulations around the world was updated.
Co-operation with other organisations	<ul style="list-style-type: none"> • The Council of the International Maritime Organisation (IMO) approved the Agreement of Co-operation with IWC at its 100th session in June 2008. The Agreement will now be submitted to the IMO Assembly for final approval at its next session in November 2009. In the meantime, IMO will extend to IWC the privileges and facilities envisioned in the Agreement on a provisional basis.
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 ongoing areas of work, i.e. (1) an investigation of inedible 'stinky' gray whales in the Chukotkan aboriginal subsistence hunt; and (2) ship strikes on cetaceans. It also <i>inter alia</i>: (1) received a report on a workshop held just prior to the Scientific Committee meeting on the status of the southern right whale population of Chile-Peru; (2) reviewed the Scientific Committee's report on whalewatching and considered its role in the management of whalewatching; (3) received a number of voluntary national reports on cetacean conservation activities; and (4) under other matters, received papers introducing a strategy for modernising the role of IWC and proposing the formalised development of regional, non-lethal research partnerships. With respect to work on ship strikes, it was recommended that a Steering Group for a multidisciplinary workshop on ship strike mitigation should be established.
Future work of the Scientific Committee	<p>The Commission adopted the report from the Scientific Committee, including its proposed work plan for 2008/2009 that includes activities in the following areas:</p> <ul style="list-style-type: none"> • continued work on the RMP, particularly with respect to: (1) completing <i>Implementations</i> for western North Pacific Bryde's whales and North Atlantic fin whales; and (2) completing the <i>Implementation Review</i> for North Atlantic minke whales; • continued work on the estimation of bycatch and other human induced mortality for use in the RMP; • continued work on the outstanding aspects of the Aboriginal Subsistence Whaling Management Procedure, particularly the development of an <i>SLA</i> or <i>SLAs</i> to provide long-term management advice for the Greenlandic fisheries and an <i>Implementation Review</i> of eastern North Pacific gray whales; • annual reviews of catch data and management advice for whale stocks subject to aboriginal subsistence takes;

Issue	Main outcomes
Future work of the Scientific Committee, cont.	<ul style="list-style-type: none"> • continued work on in-depth assessments, with particular emphasis on agreeing abundance estimates for Antarctic minke whales, concluding discussions on stock structure of North Pacific common minke whales and completion of the assessments for Southern Hemisphere humpback whales Breeding Stocks B and C; • continued work on the conservation of endangered populations with emphasis on western gray whales and northern right whales; • further review of progress on the TOSSM (Testing of Spatial Structure Models) project and the concept of ‘stock’ in a management context; • review of the report from the Specialist Workshop to evaluate the results from JARPN II; • continued work on environmental concerns, with a focus on: (1) reviewing the report of the second climate change workshop; (2) plans for Phase II of POLLUTION 2000+; (3) reviewing the report from the intersessional group on Cetacean Emerging and Resurging Diseases; and (4) the SOCER report; • continued work on ecosystem modelling with a focus on reviewing the report from the CCAMLR/IWC workshop on modelling Antarctic krill predators and reviewing models from JARPN II; • continued work on issues related to whalewatching with a focus on: (1) discussing the proposal for a large-scale whalewatching experiment; (2) assessing the biological impacts of whalewatching on cetaceans; and (3) reviewing whalewatching in Portugal; and • continued work on small cetaceans, including a review of the systematics, population structure and status of common dolphins.
NGO session	<ul style="list-style-type: none"> • This year the Commission allowed NGOs to address the plenary session. Three organisations from each side of the spectrum were given five minutes each to speak. The organisations selected by their peers were Centro de Conservacion Cetacea, the High North Alliance, WWF, the Women’s Forum for Fish, Greenpeace and Concepesca.
Administration	<p>Use of languages other than English</p> <ul style="list-style-type: none"> • The Commission adopted an amendment to its Rules of Procedure N.1 to introduce French and Spanish as working languages of the Commission and agreed to begin a partial translation of its website into French and Spanish focusing on the most frequently visited pages. <p>Amendments to the Rules of Procedure and Financial Regulations</p> <ul style="list-style-type: none"> • The Commission adopted amendments to Rule of Procedure E.2(a) and Financial Regulation F.2 to clarify the situation with respect to the due date for payment of financial contributions and voting rights. <p>Carbon off-setting</p> <ul style="list-style-type: none"> • The Secretariat was requested to undertake a study to be presented at next year’s meeting, on the feasibility and associated costs of off-setting the carbon emissions of the operation of the Secretariat and the meetings of the IWC to become carbon-neutral.
Financial Contributions Formula	<ul style="list-style-type: none"> • The Commission agreed to update the existing cut-off points defining the capacity-to-pay groups within the Interim Measure used to calculate contributions and to do this in future on an annual basis.
Financial Statements and Budget	<ul style="list-style-type: none"> • The Commission approved: (1) the Provisional Financial Statement for 2007/08 subject to audit; (2) the budget for 2008/09, including the research budget; and (3) increases in the media fee from £50 to £55 for 2009. NGO fees will remain unchanged at £500 for the first observer per organisation and £250 per additional observer.
Date and place of Annual Meetings	<ul style="list-style-type: none"> • The 61st Annual and associated meetings in 2009 will be held in Funchal, Madeira during the period 31 May to 26 June. • No offers to host an Annual Meeting in 2010 were received. The Commission agreed to consider in Madeira the need for a 2010 meeting.
Advisory Committee	<ul style="list-style-type: none"> • The Commissioner for Côte d’Ivoire was elected onto the Advisory Committee for two years to replace the Commissioner for Cameroon. The Commissioner for Chile indicated that he was unable to continue serving on the Advisory Committee and was replaced for one year by the Commissioner for Costa Rica. The Advisory Committee therefore comprises the Chair (USA), the Vice-Chair (Japan), the Chair of the F&A Committee (Antigua and Barbuda), the Commissioner for Côte d’Ivoire and the Commissioner for Costa Rica.

Chair's Report of the 60th Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 60th Annual Meeting of the International Whaling Commission (IWC) took place at the Sheraton Santiago Hotel and Convention Centre, Santiago, Chile from 23 to 27 June 2008. It was chaired by Dr Bill Hogarth (USA). It was attended by 73 of the 81 Contracting Governments. A list of delegates and observers attending the meeting is given in Annex A. The associated meetings of the Scientific Committee and Commission sub-groups were held at the same venue in the period 1 to 19 June.

1.2 Welcome address

Welcome addresses were given by Alejandro Foxley, Minister of Foreign Affairs and Ana Lya Uriarte, Minister of the Environment. They both extended a warm welcome to all participants.

Minister Foxley expressed his pleasure in welcoming IWC back to Latin America after a long absence from the region. He recalled Chile's long history in maritime issues and particularly its role in the creation of the United Nations Convention on Law of the Sea (UNCLOS). He noted that this year, in addition to its regular work, the Commission would be discussing the very important issue of its future. The Minister observed that when the International Convention for the Regulation of Whaling (ICRW) was agreed in 1946, it had been a leading instrument, designed to introduce regulation into a whaling industry where it had been lacking. However, he suggested that over time it is important for any organisation to review and revise as appropriate its function so as to improve its performance and fulfil the expectations of the international community. The Minister believed that the IWC had embarked on such a process at its intersessional meeting in March 2008 - a process that Chile fully supported. He noted that during negotiations, it is necessary for Parties to seek solutions while safeguarding their fundamental issues and those of the international community. He recognised that this will not be easy. Minister Foxley suggested that decisions based on consensus are the first steps to greater understanding and that consensus is a reflection of a commitment to find common ground. He believed voting to be divisive. He noted that while procedural reforms to IWC are required, substantive issues must also be addressed and in this regard indicated that Chile's aims are to strengthen the conservation of cetaceans through management plans at a regional and sub-regional level, to develop non-lethal research programmes and to strengthen science. The Minister stressed the importance of taking an ecosystem approach, following the precautionary principle and applying best practices. He also stressed the important role of civil society in cetacean research and conservation and encouraged their involvement in IWC which he believed would be beneficial to the organisation. Minister Foxley considered science to be fundamental to the proper functioning of the organisation and noted the involvement, this year, of a greater number of scientists from Latin America in the Scientific Committee and hoped this would continue. Finally, on behalf of the Government of Chile and President Bachelet, he wished the meeting success in all its deliberations.

Minister Uriarte also referred to the important role Chile played in establishing UNCLOS and noted the importance Chile gives to ensuring the sustainability of marine resources. She noted that Chile's national waters are home to 50% of known cetacean species which she believed imposed on her country responsibilities to their protection. She also reported that on this day, President Bachelet was declaring Chile a whaling-free country and referred to other measures being taken regarding the protection and conservation of cetaceans including the indefinite extension of the moratorium on whaling in its waters. Minister Uriarte drew attention to the need for IWC to address a range of environmental issues and the effects of climate change on cetaceans in particular. She stressed the need to guarantee a future for IWC and believed that the world would be watching the debate at the Annual Meeting. She wished the meeting good luck and success.

1.3 Opening statements

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

- Uruguay – adhered on 27 September 2007;
- Romania – adhered on 9 April 2008;
- Republic of the Congo – adhered on 29 May 2008; and
- Tanzania – adhered on 23 June 2008.

Of the new Contracting Governments, only Uruguay was represented at the meeting. In its opening statement, Uruguay indicated its pleasure to be back again in the Commission and thanked the Secretariat for the assistance it provided during its re-adherence to the Convention. It thanked the Government of Chile for hosting the Annual Meeting and for its warm welcome. Uruguay stressed the importance it gives to the conservation of marine living resources and referred to a number of regulations it has passed since 1969 regarding the protection and management of marine mammals. It hoped for a successful outcome of the meeting.

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 Cameroon, Côte d'Ivoire, Guatemala, Kenya, Mali, Mauritania and Senegal. The new Contracting Governments of Congo, Romania and Tanzania would not have voting rights until they had paid their financial contributions for 2007/2008. The Secretary noted that when voting commenced, she would call on St. Vincent and The Grenadines to vote first.

1.5 Meeting arrangements

The Chair expressed his hope that discussions during the plenary session could continue in the same constructive manner as those held during the pre-meeting sessions addressing the future of the organisation. He considered it important that all Contracting Governments present had the opportunity to express their points of view without interruption and he requested delegates to try to keep points

of order to a minimum so as to not unnecessarily disrupt the meeting. He reported that he was not aware of any draft Resolutions under preparation but asked Contracting Governments, if any did arise, to consult widely before their presentation to the Commission. He further noted that in the 'no surprise culture' emerging within the organisation, advance warning to him and/or the Secretary, would help keep the agenda on schedule.

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

2. ADOPTION OF THE AGENDA

The Chair drew attention to the Annotated Provisional Agenda and to his proposed order of business.

Japan referred to the comments it submitted on the Draft Agenda circulated in March 2008. It noted that its comments were based on its respect for the Chair's efforts concerning the future of the IWC and in the spirit of co-operation that emerged from the March 2008 intersessional meeting on the future of the organisation. It further noted that, as was the case for the 59th Annual Meeting, its comments reflected Japan's efforts to try to reduce conflicts and to try to build trust and consensus in part by minimising the number of decisions taken by voting at the plenary session. Japan strongly urged other members to contribute in a similar manner especially concerning proposals for Schedule amendments since it believed that obtaining a $\frac{3}{4}$ majority for controversial proposals is not possible under current circumstances.

Japan further remarked that in the past it has expressed the view that it would like to see the Commission focus on its core responsibilities consistent with the Convention and has proposed the deletion of a number of items from the agenda including: whale killing methods and associated welfare issues; proposals for new sanctuaries; health issues; whalewatching; small cetaceans and the Conservation Committee. While noting that its position on these matters is well known, Japan indicated that in keeping with its attempt to reduce conflict within the IWC and as part of its efforts to normalise the organisation, it would not propose the deletion of these or any other agenda item at the 60th Annual Meeting. The Chair thanked Japan for its constructive approach.

Noting that the European Union (EU) had adopted a common position for IWC/60 on a number of IWC matters, Denmark, in agreement with the Slovenian Presidency of the EU, clarified its position in relation to that common position. It informed the meeting that while as an EU Member State, Denmark is bound by the EU common position, because Denmark has overseas territories that are not part of the EU (Greenland and the Faroe Islands) it indicated that it may, in specific cases where the interests of Greenland and the Faroe Islands diverge from those of the EU, need to deviate from the common EU position. It therefore informed the meeting that when Denmark made an intervention, it would be to pursue the interests of its overseas territories and of Greenland in particular.

The adopted agenda is given in Annex B. The list of documents submitted to the meeting is given in Annex C.

3. THE IWC IN THE FUTURE

Although the issue of IWC in the future was item 18 on the Commission's agenda, it was addressed early on in the meeting. The outcome of these discussions is included early in this report since the discussions on IWC's future impacted on discussions under other items

3.1 The March 2008 Intersessional Meeting

At the 59th Annual Meeting in Anchorage in 2007, the Commission agreed that an intersessional meeting should be held prior to the 2008 Annual Meeting to provide an opportunity for Contracting Governments to discuss the future of the organisation, given *inter alia* the impasse reached on the Revised Management Scheme (RMS) and the number of issues for which polarisation rather than consensus appeared to be the norm within the Commission.

In Anchorage, the Commission had considered the outcomes of three non-IWC meetings held between IWC/58 and IWC/59 regarding the future of the organisation. One was held in Tokyo, organised by the Government of Japan, one was held in New York, organised by the Pew Foundation and one was held in Buenos Aires by Latin American countries. In receiving the reports of these meetings, many countries recognised the positive overlap in some of the suggestions made and the Commission agreed that there was merit in pursuing discussions further through an intersessional meeting under the auspices of the IWC. It was agreed that the meeting should be open to all Contracting Governments and observers. It was also agreed that a Steering Group comprising the Commission Chair and Vice-Chair, the Commissioner for Palau (who chaired the Tokyo meeting), the Commissioner for New Zealand (who chaired the New York meeting) and the Commissioner for Chile (representing those involved in the Buenos Aires meeting) would prepare a draft agenda for the meeting that would be circulated to all Contracting Governments for comment.

The Steering Group met in Washington in October 2007. Noting that previous attempts to find a way out of the impasse within IWC had not worked, the Steering Group agreed that there was an urgent need to explore ways that might be more successful and which could improve levels of trust amongst members and others. To this end, rather than launching into negotiations on substantive issues where major differences among IWC members exist, the Steering Group agreed that, initially, it would be more fruitful to take a process-orientated approach and to seek ways to improve how negotiations within the IWC are conducted. The intersessional meeting held in Heathrow, London from 6-8 March 2008 therefore focused on matters of process rather than on matters of substance.

When planning the March 2008 intersessional meeting, the Steering Group had believed it useful to devote the first day to gaining an understanding of the mechanisms used to resolve other difficult international issues via presentations by outside specialists and that to assist in this approach it had agreed to engage the services of an acknowledged expert in this field, i.e. Professor Calestous Juma of the Belfer Center for Science and International Affairs at the Harvard Kennedy School, Boston, USA. Together with the Steering Group, Professor Juma identified two other outside experts to be involved in the meeting (i.e. Ambassador Raúl Estrada-Oyuela, who had been involved

in climate change negotiations and Ambassador Alvaro de Soto, who had been involved with UN peace negotiations).

The Chair's report of the intersessional meeting is included as Annex D. Professor Juma's report on 'The Future of the International Whaling Commission: Strengthening Ocean Diplomacy' is attached as Annex E. His report draws not only on discussions during the intersessional meeting but also on private interviews he conducted with Commissioners/Alternate Commissioners and input he received from a number of non-governmental organisations (NGOs).

During discussions at the March meeting, there was general agreement that the Commission needed to improve the way it conducts its business. A variety of suggestions were made which are described in some detail in the Chair's report. These included:

- (1) striving to reach decisions by consensus wherever possible;
- (2) ensuring that adequate notice is given of matters to be considered by the Commission so as to reduce surprises and allow time for proper consultation;
- (3) recognising the diversity of interests among Commission members and the need for mutual respect and equal treatment of all Contracting Governments;
- (4) improving the negotiation process, for which a variety of mechanisms were proposed including the use of open and closed sessions, smaller groups and 'cooling off' periods;
- (5) reviewing the composition and function of the Scientific Committee;
- (6) improving participation, through, for example, a financial contribution scheme that better-reflects countries' capacity to pay and the introduction of other working languages;
- (7) reviewing the role of the media; and
- (8) improving relationships with other intergovernmental organisations.

Based on the discussions at the intersessional meeting, the Chair of the Commission developed recommendations on: (1) how to improve the practice and procedures of the Commission; and (2) how to approach discussions/negotiations on substantive issues at IWC/60 and beyond.

3.2 Outcome of discussions at the Annual Meeting and action arising

Discussions at IWC/61 on IWC's future were held in a series of open and closed sessions both prior to, and during the plenary meeting. As a result of productive discussions the Commission agreed, by consensus, approaches to: (1) reforming its working procedures and practices; and (2) further discussions/negotiations on substantive issues. These are detailed in Annex F. A summary is provided below.

3.2.1 Working procedures and practices

The Commission agreed that it would make every effort to reach consensus on all matters of substance and that voting should be a last resort. It developed revised Rules of Procedures/Debate to this effect. The Commission recognised that increased dialogue between Contracting Governments and greater use of informal meetings would improve the prospects of achieving consensus. The Commission agreed that the work of the Commission should be organised to provide sufficient opportunities for all proposals to be discussed informally between

Contracting Governments before action was taken by the Commission. It also recognised the importance of ensuring that its proceedings took place in an environment of mutual respect, notwithstanding the differing views and perspectives among Contracting Governments.

To maximise the prospects of reaching consensus, the Commission agreed that full draft text of all proposals for action by the Commission (e.g. Schedule amendments and Resolutions) should be circulated to Contracting Governments 60 days in advance of the annual meeting and that there should be a similar requirement for proposed amendments to the Rules of Procedure and Rules of Debate. Revised Rules of Procedure were developed to this effect.

The Commission also agreed that reducing the uncertainty over the voting intentions of new Contracting Governments would improve the predictability of the Commission's annual meetings. It developed a new Rule of Procedure that would not allow a new Contracting Government to exercise its vote until 30 days after adherence.

Recognising that French and Spanish are the primary languages of many Contracting Governments, the Commission also emphasised the importance of enabling effective participation in its affairs and widely disseminating information to the public through the use of French and Spanish as working languages of the Commission. It amended its Rules of Procedure accordingly (see also section 20.4.1). It should be noted that in this respect the extent of the use of French and Spanish would be as agreed at IWC/59 in Anchorage in 2007, i.e. simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of:

- (1) Resolutions and Schedule amendments;
- (2) the Chair's summary reports of annual meetings;
- (3) Annotated Provisional Agendas; and
- (4) summaries of the Scientific Committee and working group reports.

The Commission further recognised the importance of ensuring accurate and timely information on the Commission's work was provided to the media and encouraged the Chair, Secretary and Head of Science to provide regular briefings to the media at the meetings of the Commission.

The Commission decided to implement the use of French and Spanish as working languages of the Commission beginning with the present meeting and that the other amendments would come into effect at IWC/61 next year.

3.2.2 Further discussions/negotiations on substantive issues

To assist the Commission to arrive at a consensus solution to the main issues it faces and thus to enable it to best fulfil its role with respect to the conservation of whale stocks and the management of whaling, the Commission agreed to establish a Small Working Group on the Future of IWC (SWG). The SWG's primary task is to make every effort to develop a package or packages for review by the Commission. In addition the Commission will meet intersessionally to discuss progress on this task.

It was agreed that membership of the SWG will be representative in terms of, for example, views, geography

and economy and that its members should: (a) consult with those non-participating countries that it broadly represents; and (b) take into account the known general views of all countries that are not members of the working group. It was further agreed that the Chair of the Commission would appoint a facilitator¹ to chair the group under his supervision.

The SWG will present a report on the results of its initial deliberations to the 2009 Intersessional Meeting of the Commission on the Future of IWC. Based upon discussions there, the intersessional meeting will direct the SWG to continue working on a possible package or packages and develop a final report that will be distributed at least 5 weeks before IWC/61 in June 2009.

4. WHALE STOCKS²

4.1 Antarctic minke whales

4.1.1 Report of the Scientific Committee

The Scientific Committee Chair recalled that completion of revised circumpolar abundance estimates for Antarctic minke whales continues to be a high priority as there is no agreed current estimate. Data from the IWC-IDCR/SOWER³ cruises are being used for this purpose. The cruises from 1978/79 to 2003/04 had been divided into three circumpolar series (the CPI, II and III). Standard analyses of minke whale abundance estimates from these surveys have shown an appreciable decline for CPIII. The Scientific Committee Chair noted that for some years now the Committee has been trying to obtain abundance estimates from more sophisticated analyses as part of its examination as to whether the decreases represent a real decline in abundance or whether there are other explanations for the differences (e.g. changes in the number of whales in the pack ice which is outside the survey area). The Committee had hoped to present revised estimates this year using three new model approaches, but although considerable progress was made, this had not been possible. To ensure estimates that can be agreed upon are available next year, a detailed work plan and an intersessional workshop have been scheduled.

Reporting on catch-at-age analyses, the Scientific Committee Chair noted that these analyses are important when examining the consistency of any trends in estimated abundance with biological expectations. He reported that good progress is being made on this work and that current models suggest that the recruitment of Antarctic minke whales in Areas III-West to VI-West increased until about the early- to mid-1960's and declined thereafter. Noting that a key aspect of the reliability of these models is related to their sensitivity to assumptions about scientists' ability to age the animals, the Scientific Committee Chair reported that work is ongoing to develop appropriate error models that can be used in the population models.

4.1.2 Commission discussion and action arising

New Zealand and Japan thanked the Scientific Committee for its report. New Zealand noted that despite the considerable ongoing work to develop an agreed

abundance estimate, this has not been achieved. It believed it is important to understand any changes taking place in the Antarctic. New Zealand also questioned whether, given that the Southern Ocean is a whale sanctuary, the Commission's interests would be better served if the Scientific Committee could provide advice on trends rather than striving to reach consensus on an actual number of Antarctic minke whales. It believed that trend information may be less complicated to develop and may be an indicator of climate change and other environmental effects. With respect to age estimation techniques, New Zealand noted that while the RMP had moved away from using such estimates as they had proved unreliable in the past, one of the principle justifications used for scientific permit whaling is the need for specific information on age and that lethal takes are therefore essential. New Zealand believed that the reported problems with age determination from earplugs suggest that the information yielded is of questionable validity.

Japan hoped that an abundance estimate for Antarctic minke whales could be agreed soon and noted that its scientists continue to be engaged in this work. Like New Zealand, it believed it is important to be aware of changes taking place and indicated that its research programme in the Antarctic, that includes both lethal and non-lethal techniques, are providing valuable information. Japan reported that one of the major outcomes of its research is evidence of a shift in species composition and, while recognising the uncertainties involved in age estimation using earplugs, believed this information is useful for stock assessment and management. It indicated that it too would appreciate some effort on looking at trends in Antarctic species but stressed the need to resolve the reason for the apparent differences in the abundance estimates from CP II and III. Japan reported that data from sighting surveys conducted as part of its JARPA programmes that have been ongoing for 20 years, mainly in Areas IV and V, generally indicate stable minke whale numbers.

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

4.2 Western North Pacific common minke whales

4.2.1 Report of the Scientific Committee

The Chair recalled that the Scientific Committee is in the process of undertaking an in-depth assessment of western North Pacific minke whales, with special reference to what is known as the stock⁴. The first topic addressed this year was stock structure. One of the difficulties facing the in-depth assessment is the apparent complexity of the population structure of common minke whales in the waters around Japan; there are at least four stock structure hypotheses and possibly more. Abundance estimates from sighting surveys in Russian Federation and Korean waters were reviewed but further analytical and field work is required before a final new abundance estimate for the area can be agreed. In particular, information is still lacking from two areas (i.e. areas 10 and 11) and the Committee reiterated its strong recommendation that the Russian

¹From one of the external experts that had so far been involved in discussions, i.e. Professor Calestous Juma, Ambassador Raúl Estrada-Oyuela and Ambassador Alvaro de Soto.

²For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 11 (2009).

³International Decade for Cetacean Research/Southern Ocean Whale and Ecosystem Research Programme.

⁴The Scientific Committee completed a Comprehensive Assessment in 1992. The Committee defines 'Comprehensive Assessment' as '*an in-depth evaluation of the status of all whale stocks in the light of management objectives and procedures...that...would include the examination of current stock size, recent population trends, carrying capacity and productivity.*' *Rep. Int. Whaling Comm.* 37: 147 (1987).

Federation be requested as a matter of priority to give permission for biopsy samples to be taken during surveys in these waters. The Committee hopes to clarify stock structure next year.

With respect to distribution and abundance, the Scientific Committee reviewed a series of abundance estimates from Korean surveys. It noted that because the estimates were not corrected for $g(0)$, they will almost certainly be underestimates. The Committee Chair explained that in essence, not correcting for $g(0)$ means that it is assumed that all animals on the trackline of the survey vessel, even if they are underwater, are seen by the observers. This is almost certainly not the case and it means that the abundance estimates will be underestimates. The Chair noted that there are a number of experimental ways in which this can be taken into account if the appropriate data are collected. The Scientific Committee recommended that this be done in addition to incorporating into the analyses the distance and angle experiments that have been performed. The Committee had also noted that block boundaries and coverage within blocks changed from year to year, and recommended that data from Korean surveys in area 6 be analysed in as consistent manner as possible to obtain trends in abundance over time.

The Committee welcomed new abundance estimates for Japanese waters in sub-areas 6 and 10 and from Russian waters of sub-area 10. The Committee provided some advice for further work, particularly the consolidation of all of the work on abundance estimates to date. A working group was established to assist in this work. The Committee received news of further surveys in the region and were especially pleased to hear of the co-operation between Korean and Chinese researchers.

The Committee expressed concern about the continued high levels of reported bycatch of common minke whales from the J-stock and other coastal populations as well as recent suspicion of illegal catches from the J-stock.

4.2.2 Commission discussion and action arising

Mexico, USA, UK, Australia and Nicaragua expressed concern regarding the status of minke whale stocks, particularly the J-stock, in the western North Pacific and the high levels of bycatch occurring in Korean and Japanese waters. The USA noted that one paper considered by the Scientific Committee estimated that bycatch in Korean waters is 1.8 times higher than that reported. It also believed that more work is necessary to elucidate stock structure of minke whales off the Pacific coast of Japan and supported requesting permission from the Russian Federation for biopsy samples to be taken during surveys in its waters. The USA also noted that the Scientific Committee had encouraged China and the Republic of Korea to collaborate to conduct sightings surveys. It believed such work would contribute to the understanding of minke and other whales in the North Pacific. The UK associated itself with the remarks of the USA and in addition stressed that the issue of stock structure must be addressed before consideration could be given to any kind of 'operation' that could impact on these stocks. Also noting the high bycatch levels that have continued to escalate over the past decade and that takes from directed hunts (as part of whaling under special permit) and illegal hunting contribute to the overall mortality, Australia called for action on two fronts: (1) that national and international effort should be made to dramatically reduce catches of

coastal minke whales in this region, including a call to cease takes under Special Permit, and to decrease illegal hunts and bycatch rates; and (2) to enhance scientific knowledge of these poorly understood populations. With respect to the latter, Australia considered that improved and co-ordinated abundance estimates are required and that all genetic samples, including those acquired from bycatch, should be made freely available for genetic analysis. It believed that only with these efforts could the Scientific Committee provide appropriate advice to the Commission on the conservation status of these populations

In response to the comments of the USA regarding levels of bycatch, the Republic of Korea reported that Korean bycatch is more-or-less constant and that the discrepancy is due to illegal whale meat entering the market, which is not bycatch. Korea stressed the importance of the work being done by the Scientific Committee with which it is co-operating through the provision of data and scientists. It is also co-operating with others via joint surveys.

With respect to biopsy sampling, the Russian Federation informed the meeting that such requests must be made to its Ministry of Foreign Affairs six months in advance of any survey but that requests submitted in this manner would be given proper consideration.

Japan reported that it has been conducting extensive studies in the western North Pacific using both lethal and non-lethal techniques, including sightings surveys in the Sea of Japan and in the Okhotsk Sea. It thanked the Russian Federation for the co-operation it has extended in the past with respect to surveys in its waters and hoped that this would continue in future years. It took account of the Russian Federation's comments regarding timelines for requests. With respect to bycatch in Japanese waters, it reported that this is due to animals becoming caught in fishermen's nets set close to the shore. It noted that although the fishing effort had remained constant, or had even decreased slightly over the last 30 years, bycatch had increased. Japan noted that the Scientific Committee had decided to collect time-series data on historical bycatch estimates per unit effort that may help in understanding this trend. It noted that it would co-operate in collecting and analysing data.

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

4.3 Southern Hemisphere humpback whales

4.3.1 Report of the Scientific Committee

Last year, high priority was given to completion of the Comprehensive Assessment of Southern Hemisphere humpback whale breeding stocks B and C off the western and eastern African coasts respectively. Information presented to the Scientific Committee suggests that the stock structure for both stocks is complex.

With respect to breeding stock B on the west African coast, a series of sub-stocks is proposed. The Scientific Committee Chair noted that the Committee had received quite a lot of new information on stock structure this year, both of a genetic and non-genetic nature. He reported that the data from the southern area are consistent with a mixture of animals from the breeding stock off Gabon and one or more other breeding stocks. The waters off southwestern Africa are probably a migratory corridor with some potential for feeding. The Committee agreed that a compilation of all of the available data accumulated over

the years that are relevant to stock structure for this area be presented and evaluated next year. It also made research recommendations that will help to clarify this issue. With respect to abundance estimates, two estimates for the breeding stock off Gabon were presented and, depending on the dataset used, they were of the order of 6,600 (95% CI 4,900-8,800) to 8,200 (95% CI 6,500-10,400). A number of research recommendations were made to improve understanding of abundance and trends in preparation for assessment of humpbacks off western Africa which will be considered further next year.

The Committee Chair reported that the population structure for breeding Stock C off eastern Africa appears even more complex, particularly when examining the genetic information. He noted that the Committee's discussions on stock structure are directly relevant to the methods it uses to assess stock status. Of special importance in this regard is the way in which catches on the feeding grounds are allocated to the breeding stocks and the exchange rates between stocks. The Chair noted that accounting for the uncertainty in knowledge of stock structure is a key component of the modelling work needed to assess breeding stock C. The Committee agreed that further modelling scenarios should be explored intersessionally. In addition to stock structure, the Chair noted that current abundance is essential to estimating the status of this breeding stock. The Committee was therefore pleased to receive a number of estimates based on photographic or genetic mark-recapture techniques. While further work is needed to properly integrate the information on abundance, estimates for breeding stock C3 (C stock comprises four sub-stocks C1-C4) suggest numbers in the range 4,500-7,700.

The Scientific Committee examined some other general information including that on a non-lethal method for estimating the age of humpback whales from measurements of specific fatty acids present in their outer blubber layer. In addition, after reviewing the work of a review of life history parameters, the Committee agreed that for the time being at least, the maximum annual rate of increase for humpback whales should be considered to be 11%.

The Scientific Committee also reviewed information on other stocks of humpback whales including the stocks wintering off western South America and feeding from Isla Chiloe to the Antarctic Peninsula, humpbacks off eastern Australia, New Zealand and the South Pacific Islands and humpbacks off Oman. A study confirmed that the high growth rate of the east Australian humpback population has continued and yielded a long-term annual rate of increase of 10.9% (95% CI 10.5-11.4%). This population was estimated to number around 9,700 whales in 2007 (95% CI of 8,600-11,000). Humpback whales off Oman in the Arabian Sea seem to be one discrete population and the Committee stressed the importance of increasing research on the status of, and threats to this geographically isolated population.

The Scientific Committee reconfirmed its support for the Antarctic humpback whale photo-identification catalogue. The current total number of catalogued whales identified by fluke, right dorsal fin/flank and left dorsal fin/flank is 2,858, 409 and 405 respectively. The Committee noted the general importance of telemetry (radio and satellite tagging) data to its work with respect to clarifying issues of migration and movements; in this

context it identified the value of photo-identification studies to assist in following the long-term health of animals after they have been tagged.

4.3.2 Commission discussions and action arising

New Zealand welcomed the progress reported by the Scientific Committee and noted that its own scientists had contributed substantially to the collection and analysis of data on Southern Hemisphere humpback whales. With respect to humpback whales in Oceania, New Zealand believed that as more research is conducted, a more complex picture emerges. In particular it noted that the genetic distinctiveness of various humpback populations and the mixing of different breeding populations on feeding grounds are more complicated than previously thought. In addition, it noted the variability of recovery rates of different populations and that while some are increasing at encouraging rates, others such as those around some of the Pacific islands such as Fiji remain at very low levels. New Zealand therefore noted that it is not correct that all humpback whale stocks in the Southern Hemisphere are showing high rates. It therefore supported the Scientific Committee's work plan and indicated that it would continue to contribute to these efforts.

Australia endorsed New Zealand's remarks and drew attention to part of the Scientific Committee report describing a new non-lethal method for estimating the ages of humpback whales using measurements of specific fatty acids present in the outer blubber layer. It welcomed this work and looked forward to the Scientific Committee further developing new and innovative non-lethal research techniques.

Ecuador drew attention to the report from several Latin American scientists regarding the use of photo-identification and migratory movements of humpback whales wintering off the western coast of South America and summering in feeding grounds near Isla Chiloé, Corcovado Gulf, Magellan Strait and the Antarctic Peninsula. It stressed the collaborative nature of this work that had involved comparisons among 10 independent photo-identification catalogues and believed the results demonstrated these non-lethal techniques are a valid way to conduct research. Brazil echoed these remarks.

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

4.4 Southern Hemisphere blue whales

4.4.1 Report of the Scientific Committee

The Chair of the Scientific Committee reported that good progress was made in collating information on Southern Hemisphere blue whales as part of the Comprehensive Assessment process. Information received on pygmy blue whales confirmed that their presence in Antarctic waters is rare. Evidence was also received suggesting that the Chilean blue whales probably represent a discrete population or even subspecies.

Over 300 individual blue whales have been identified thus far from over 20,000 photographs taken during the IDCR/SOWER cruises. The Committee recommended that photographs taken during the Japanese scientific research programmes in the Southern Ocean should be added to those taken on IDCR/SOWER cruises and that analysis of the Japanese photos should be presented next year. The Japanese samples will increase the overall sample size and this greatly enhances the scientific value of both sets of

photographs. A proposal to establish a central web-based catalogue of blue whale identification photographs, primarily for the Southern Hemisphere was endorsed. The system will be designed to facilitate the matching of blue whale photographs among a wide number of researchers and should result in a considerably increased capacity to understand some of the basic questions relating to Southern Hemisphere blue whale populations with respect to movements, basic biology and stock structure.

The Scientific Committee endorsed the results of a paper that suggests a pre-exploitation abundance of Antarctic blue whales of some 256,000 animals (95% credibility interval of 235,000-307,000) and that the minimum population size reached was as low as only 395 whales (95% credibility interval of 235-804), i.e. only 0.15% of the pre-exploitation level. The positive news is that the population has recently been increasing at an estimated annual rate of 6.4% (95% credibility interval of 2.4-8.4%). (The estimated maximum rate of increase for blue whales is about 8.5%.) The most recent survey abundance estimate (for 1997/98) was about 2,300 blue whales (95% CI 1,150-4,500) – however, that is still less than one percent of the pre-exploitation abundance levels.

The Committee agreed that the circumpolar assessment for Antarctic blue whales is now complete.

4.4.2 Commission discussion and action arising

Australia welcomed the completion of the in-depth Assessment of Antarctic blue whales but noted with concern the continued depleted state of this population despite decades of protection. It suggested that it will be many years before Antarctic blue whales reach a more secure conservation status and noted that in this period, the populations are likely to face a rapidly changing Antarctic climate and environment. Australia therefore believed that the continued protection of this, and other depleted Antarctic whale populations should remain among the highest conservation priorities for the Commission.

Costa Rica recommended that the eastern tropical Pacific blue whale stock be included in reviews of Southern Hemisphere blue whales. It noted that while some individuals in this stock have been identified as blue whales of the North Pacific, a large percentage have not and it is thought that they could be linked with blue whales from the Southern Hemisphere.

The Russian Federation objected to the continued use of what it considered to be politicised terms in the Scientific Committee report in the section on blue whales and elsewhere even though it believed there had been agreement last year that such terminology would not be used in either documents or during the sessions themselves and that this applied equally to the Scientific Committee and the Commission itself. It asked that the use of politicised terms cease and that its view be reflected in the Chair's Report.

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

4.5 Other small stocks – gray, bowhead and right whales

4.5.1 Right whales

4.5.1.1 REPORT OF THE SCIENTIFIC COMMITTEE

NORTH ATLANTIC

This stock is critically endangered with a remaining western North Atlantic population of around 300 animals. It is vulnerable to ship strikes and entanglements. The

Chair of the Scientific Committee reported that no new information was received this year. The USA was encouraged to provide annual updates on this stock in the future. The Scientific Committee repeated its previous recommendation that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality to zero.

NORTH PACIFIC

Little information is available on North Pacific right whales other than that the population is probably less than 100 individuals. The Scientific Committee noted that it is not aware of any specific anthropogenic threats but it expressed concern about this small population and encouraged research into its status as soon as possible.

4.5.1.2 COMMISSION DISCUSSION AND ACTION ARISING

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

4.5.2 Bowhead whales

4.5.2.1 REPORT OF THE SCIENTIFIC COMMITTEE

NORTHEAST ATLANTIC

About 20 bowhead whales were sighted at almost 81°N between Svalbard and Greenland in April 2006. There has been an apparent increase in observations of bowhead whales in these waters in recent years but it is not known if these few animals are stragglers from other populations or if they are survivors from the historic Spitsbergen population. If they are survivors of the Spitsbergen population, they are probably from one of the most endangered populations of the large whales in the world. The Committee recommended additional work to clarify the status as soon as practicable.

NORTH PACIFIC

In the Okhotsk Sea, whaling on bowheads started in 1846 and was pursued intensively for two decades and then continued sporadically until 1913. Illegal catches resumed in 1967, but the numbers taken remains unknown. In light of the small population size and the recent catch history, the Committee expressed great concern and recommended that further work to investigate the status be conducted as soon as possible.

4.5.2.2 COMMISSION DISCUSSION AND ACTION ARISING

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

4.5.3 Western North Pacific gray whales

4.5.3.1 REPORT OF THE SCIENTIFIC COMMITTEE

The Scientific Committee and the Commission have expressed great concern over the critically endangered western gray whale on a number of occasions. It is one of the most endangered populations of large whales in the world with a population size of around 130 individuals and only about 23 breeding females. The primary feeding grounds lie along the north-eastern coast of Sakhalin Island, where existing and planned oil and gas developments pose potentially serious threats to the population, through habitat damage, ship strikes, noise pollution and oil spills. Entanglements in fishing gear throughout the range also pose a serious threat to the population.

The Scientific Committee welcomed a progress report on the valuable work undertaken since 1995 by the collaborative Russia-US programme, particularly with respect to photo-identification and genetic data. Information from that programme was incorporated into an

updated assessment of the stock. It is encouraging that the population has been slowly increasing, at least up until 2005. However, its low absolute abundance and the news that five females had died in fishing gear during the past three years reaffirmed its critical status; projections incorporating this absolute number of additional mortalities indicate about a 25% probability of population decline and a substantial risk (about 10%) of extinction by 2050. The introduction by Japan of a new regulation in its 'Fisheries Resource Protection Law' aimed at reducing risk of incidental mortalities of gray whales in fisheries was welcomed.

The Committee made a number of recommendations with respect to the reduction of anthropogenic mortalities and disturbance. Development of efficient mitigation is greatly hampered by lack of information on migration routes and breeding destinations of the gray whales. The Committee noted the value of telemetry work in this regard, but also the need to exercise great care before undertaking such work on an endangered population. It will discuss this further next year. The Committee also reaffirmed its support for the IUCN Western Gray Whale Advisory Panel (WGWAP) with respect to the Sakhalin area. It especially welcomed the work being undertaken by the WGWAP to: (1) prepare for a forthcoming seismic survey in 2009; and (2) compare the photo-identification data from the Russia-US programme and the industry-sponsored Russian programme. It strongly encouraged continued collaboration between these two complementary programmes. With respect to threats caused by fishing gear, the Committee recommended that range states make every effort to determine whether stranded or entangled whales match animals found in the photo-identification catalogues and/or genetic archive and to report such events (including photographs) as soon as possible. Identification of the causes of anthropogenic mortality is important in developing mitigation efforts.

The Scientific Committee again reaffirmed the urgent need to reduce anthropogenic mortality to zero in this population. The work of the WGWAP towards the conservation of this population was endorsed and the participation of the Sakhalin Energy Investment Company in the Panel process was commended. It stressed the need for information on all activities and planned seismic surveys and urged all oil exploration companies to participate fully in the process of providing timely information.

4.5.3.2 COMMISSION DISCUSSION AND ACTION ARISING

Mexico reported that it is a range state for a gray whale stock that has recovered over the years thanks to efforts of a number of countries (e.g. Mexico, USA, Canada) and through the declaration of a sanctuary for gray whales. It noted that of the great whales, the western North Pacific gray whale is at greatest risk of extinction due to a number of threats including seismic exploration and bycatch. It called for the collaboration among Russian and USA scientists to continue, including the search for appropriate mitigation measures.

The UK noted that this population remains listed as endangered on the IUCN Red List and that IWC had passed Resolutions in 2001, 2004 and 2005 urging members to do everything possible to aid its survival and recovery. While recognising IWC as the body for the management and conservation of whales and the unparalleled expertise of its Scientific Committee, the UK

considered the establishment of the WGWAP to be a good initiative. It noted that the Scientific Committee had reaffirmed the urgent need to reduce anthropogenic mortality to zero in this population. The UK believed that IWC should learn from the recent extinction of the baiji and concentrate efforts to prevent the extinction of the western North Pacific gray whale. It welcomed the action taken by Japan and was pleased to note that IUCN will be convening a meeting of range states to work on mitigation. The UK supported fully the Committee's recommendations.

The USA and Australia associated itself with the comments made by Mexico and the UK and also supported the Committee's recommendations. Australia noted the value of establishing conservation management plans for such populations (see section 16.2.1). The Republic of Korea recalled the great cultural significance of this gray whale population. It reported that it engages in gray whale research and that it has taken management measures to reduce entanglement in fishing gear and collisions with ships.

Japan shared the concerns expressed regarding this gray whale population and indicated its firm commitment to aiding its recovery. It drew attention to its recently-amended laws, also referred to by others, that prohibit the retention, sale and possession of meat from this gray whale population. Penalties exist for non-compliance. Japan encouraged all range states to take mitigation measures and stressed the importance of such measures being holistic rather than only relating to fisheries. Japan noted that the deaths of five gray whales had occurred in a period of 36 months but that bycatch before and after this period was rare. It therefore hoped that the higher level of mortalities was an exceptional occurrence. Japan supported the UK's remarks regarding the need to learn from the experience with the baiji.

The Russian Federation reported that this gray whale population is on its national endangered species list and that it is co-operating with the IUCN activities. It noted that the Scientific Committee is calling for a reduction in anthropogenic disturbance but at the same time is calling for intensified research activity. It noted that the 130 whales have been photo-identified over 35,000 times and that 84% have had biopsy samples taken. It did not know if such activities have an adverse effect on the population but suggested that this matter be considered by the Scientific Committee including consideration of how the research should be managed.

4.6 Southern Hemisphere right whales

4.6.1 Report of the Scientific Committee

The Scientific Committee received a considerable amount of new information on southern right whales. Much of the information comes from long-term monitoring programmes; the Committee frequently notes the importance of such programmes to its work.

The Scientific Committee Chair reported that right whales off southern Australia have been increasing at around 8% annually (approx. 95% CI 4.5-11.8%). The value of satellite telemetry studies was illustrated by the information on feeding strategies and movements of animals tagged off South Africa.

The Chair noted that the Committee was pleased to receive information from South America and encouraged further work, noting the value of partnerships amongst

local and national governments, researchers and other stakeholders. It was also pleased to receive the results of a workshop held on the right whales found off Chile and Peru. That workshop had concluded that the right whales in this region were critically endangered and that further work is needed to better understand their status and to enable the development of measures to mitigate anthropogenic disturbance. The Committee recommended further international co-operation amongst researchers and increased photo-identification and biopsy sampling effort. It also encouraged research into the value of protected areas and the conduct of stock-specific assessments. This latter recommendation will be considered further next year.

4.6.2 Commission discussion and action arising

Austria drew attention to the report of the death of around 60 Southern Hemisphere right whale calves and noted that an environmental perturbation, in this case a potentially toxic algal bloom, can significantly impact a small population of endangered whales. It suggested that such environmental scenarios should be included in future IWC deliberations and particularly in future modelling work.

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

5. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

5.1 Data on whales killed and on improving the humaneness of whaling operations

5.1.1 Reporting

As the Working Group on Whale Killing Methods and Associated Welfare Issues did not meet during IWC/60, information from Contracting Governments on whales killed and on improving the humaneness of whaling operations was submitted directed to the plenary. Information associated with whaling operations was submitted by Denmark/Greenland, Norway, the Russian Federation, and the USA and that associated with euthanasia of stranded animals was submitted by New Zealand.

5.1.1.1 NORWAY

Norway reported on its 2007 minke commercial whaling season, noting that 597 whales were taken by 29 vessels. Four whales (0.6 %) were reported lost after they were dead. No whales were reported to have escaped wounded. Harpoon guns equipped with the Norwegian penthrite grenade are used for the hunt, with rifles with full metal jacket, round nosed bullets, as back-up weapons.

Norway provided information on improvements to times to death on whales killed in its hunts based on data collected from over 5,000 whales. In 1981-83 when cold harpoons were used, the percentage of animals recorded dead within 1 minute was 17% and the average time to death (TTD) was more than 11 minutes with a high rate of re-shooting. The results from 2000-2002 with the new penthrite grenade showed that at least 80% of the whales were rendered unconscious or dead instantly. The average TTD was about 2 minutes using the criteria adopted by the IWC (i.e. basically immobility), which may include periods when the animal may have been unconscious or already dead. Very few animals (0.5%) needed a second shot.

In response to concerns expressed in the past that the IWC criteria for death may ignore the risk that whales are only paralysed and still conscious when immobile, Norway reported that from recent investigations, while these would be legitimate concerns if cold harpoons were used, this situation would be very unlikely when using detonating grenades. It therefore concluded that in the case of the Norwegian hunt, the number of animals estimated as dying instantly is an underestimate.

Norway reported that its research and development on hunting and killing methods have resulted in the adoption of improved whaling methods and regulations for several species of whales. Dr Øen has continued his co-operative work with hunters, scientists, authorities, and whale hunters' organisations in Norway, USA (Alaska), the Russian Federation (Chukotka), Greenland, Canada (Nunavut and Nunavik) and Iceland and assisted in the teaching and training of hunters and transferred knowledge, developments and technology derived from the above mentioned research in order to improve the hunting methods and hunting gears used for marine mammals. Norwegian scientists have chaired workshops and lectured in local and international workshops (NAMMCO) and training sessions for hunters of marine mammals. It plans to continue these cooperative efforts.

5.1.1.2 RUSSIAN FEDERATION

The Russian Federation re-iterated that while its view is that animal welfare issues are outside of IWC's mandate, it provides all information requested on its aboriginal subsistence hunt but on a voluntary basis. This year it provided information on *inter alia* TTD, killing method (including number of shots) for all 126 gray whales taken in its 2007 hunt, two of which it reported as inedible. Three gray whales had been struck and lost. There was 100% inspection of the hunt and scientific involvement with 53%. With respect to killing method, harpoons and floats were used for all whales in addition to either the darting gun or rifle or, in most cases both – a rifle being used to guarantee death.

5.1.1.3 DENMARK/GREENLAND

Denmark/Greenland provided summary information for the 2007 subsistence hunt that involved the taking of 167 minke whales (including six struck and lost) and 12 fin whales (including one struck and lost) in the West Greenland hunt and two minke whales in the East Greenland collective hunt. For the West Greenland minke whale hunt, the penthrite grenade and rifle were used as the primary and secondary killing method respectively. For the fin whale hunt, the penthrite grenade was used as the primary and secondary killing method and for the East Greenland minke whale hunt, rifles were used. Summary TTD data were reported by hunt and by method used. All data were reported by the hunters.

5.1.1.4 USA

The USA reported on weapons, techniques and observations in its Alaskan bowhead whale subsistence hunt. The primary weapon in the hunt is a hand-held darting gun armed with an explosive projectile and a harpoon that attaches a line and float to the whale to assist in recovery. The secondary weapon is a smooth bore, eight gauge shoulder gun used to shoot a finned projectile loaded with black powder. The shoulder gun is usually fired immediately after a line and float have been attached to the whale to help ensure a quick kill. In the 2007 season, 63

bowhead whales were taken (including 22 stuck and lost). Hunting conditions in 2007 were challenging due to unpredictable sea ice, weather conditions, equipment malfunctions, and struck whales diving under the shore-fast ice. Qualitative data on TTD were provided. Data on hunting efficiency (i.e. % landed whales of those struck) in the period 1996 to 2007 was reported. Over this period the average efficiency was 78.2% (range of 65-88.4%, STD = 8%), meeting the 1978 commitment to IWC to increase the efficiency from an average of 50% to 75%. However, it was noted that efficiency in any given year is heavily affected by sea, ice, and weather conditions during the bowhead migration. Hunting conditions in 2007 were challenging due to unpredictable sea ice, weather conditions, equipment malfunctions, and struck whales diving under the shore-fast ice and the efficiency this year was 65%. Information was also provided on hunter training and certification.

5.1.1.5 NEW ZEALAND

New Zealand provided information on the euthanasia of six distressed whales that stranded on its coastline between end of February 2007 and end of February 2008 and believed to be beyond hope of recovery. It noted that for these whales (one minke whale, one Gray's beaked whale and four pygmy sperm whales), the chosen method of dispatch was a rifle and that in all but one case a single shot had been used. For one of the pygmy whales, 3 shots close together had been used as required by its standard operating procedure when the individual involved, although experienced with firearms, is not experienced in the euthanasia of whales. Advice on the target area is provided by experienced veterinarians.

5.1.2 Commission discussion and action arising

A number of governments welcomed the reports and urged others to provide similar reports in future. The Republic of Korea considered welfare issues important but outside IWC's mandate. It urged distinction between legislation and developing codes of conduct and noted that reporting of welfare data to IWC should be done on a voluntary basis.

The UK re-iterated that the welfare of hunted whales remains at the top of its agenda at IWC and that the organisation has both the mandate and expertise to deal with the matter. It noted with concern the continued absence of welfare data from some Contracting Governments under whose auspices hunts are conducted and it believed that welfare oversight and reporting must be an essential part of any whaling management regime. The UK therefore urged all Contracting Governments with whale hunts to provide the data requested in Resolution 1999-1⁵. It further urged the Commission to consider the merit in establishing relations with OIE (World Organisation for Animal Health) as this could help broaden welfare discussions at IWC. The UK explained that the OIE, an intergovernmental organisation with 172 members responsible for improving animal health worldwide, has a permanent expert working group on animal welfare that *inter alia* facilitates the development of guidelines for the humane slaughter of animals for food. The UK referred to the high rate of female minke whales taken by Japan in

JARPA II⁶ last year that were pregnant (i.e. 92.3%) which created additional animal welfare concern. Noting that the management of foetuses in abattoirs is frequently subject to strict control such as those outlined by OIE, it asked Japan whether there are any specific measures taken in its special permit whaling hunts to safeguard the humane slaughter of foetuses. Finally the UK expressed regret that the Working Group on Whaling Killing Methods and Associated Welfare Issues had not met this year and believed it was imperative that it met at IWC/61 next year. Luxembourg supported the UK's remarks and Costa Rica supported the establishment of a link with OIE. A number of members also called for a meeting of the Working Group to be scheduled at the 2009 Annual Meeting.

In response to the UK, Japan reported that it gives importance to reducing the suffering of hunted animals in general, not just whales. It recalled that up until a few years ago it had provided extensive data on killing methods and welfare data to the Commission, data that had shown a steady reduction in TTD, and that there had been constructive discussions on this matter. However, given that more recently its data had been used in what it considered to be a non-constructive manner and handled differently to data provided by other governments, Japan had decided to submit its welfare data elsewhere for the time being. In the meantime it would continue its efforts to reduce TTD.

St. Lucia stressed that the Commission should be cognisant that while animal welfare is important, the discussions relate to hunts and that hunter safety, particularly in relation to aboriginal subsistence hunts should also be taken into account. Furthermore it believed that the Commission should commend the extensive work done to improve TTD by those countries conducting whale hunts, whether of a commercial, aboriginal subsistence or scientific nature.

5.2 Preparation for a workshop on welfare issues associated with the entanglement of large whales

5.2.1 Report of the scoping meeting for the workshop

The issue of welfare issues associated with the entanglement of large whales that cannot be released alive was raised by Norway at last year's meeting of the Working Group on Whale Killing Methods and Associated Welfare Issues. In the Commission, Norway suggested that approaches to the euthanasia of entangled whales would benefit from more in-depth discussions and recommended that a one-day workshop be held in association with IWC/60. The Commission agreed and an organising committee, comprising Australia, Denmark (Greenland), Norway and the USA was established to plan a one-day workshop.

At the March 2008 Intersessional Meeting on the Future of IWC, revisions were made to the schedule of meetings at IWC/60 to allow sufficient time for follow-up discussions to the March meeting. As a result, it was agreed to replace the planned workshop on welfare issues associated with entangled/entrapped cetaceans with a scoping meeting of the workshop organising committee. The organising committee met on Tuesday 17 June. Its report, including a draft agenda for the workshop is included as Annex G.

⁵Resolution 1999-1 Arising from the Workshop on Whale Killing Methods. *Ann. Rep. Int. Whaling Comm.* 1999: 51-52.

⁶See footnote 17.

The organising committee recognised that there are three identifiable and linked aspects to this issue:

- (1) prevention/mitigation methods;
- (2) a decision matrix for dealing with entangled animals including a thorough overview of disentanglement techniques; and
- (3) if euthanasia is decided to be the appropriate option, how best this can be achieved.

Although it can be argued that it is logical to focus on prevention/mitigation first, the organising committee agreed that because whales are being entangled now, and will continue to be so until/if effective prevention strategies are developed, it is important from an animal welfare perspective that items (2) and (3) are addressed as a matter of some urgency. For a number of reasons, including the nature of the expertise required and the broad scope of issues under item (1), the organising committee agreed that the initial focus of the workshop should be on items (2) and (3) and that the primary output should be a report providing guidelines for dealing with entangled whales. Given the ambitious nature of the workshop, it was also agreed that to help it reach its goals, a number of review papers should be available well in advance. The USA, Australia and Norway agreed to undertake this work. Terms of Reference for the review papers are included in Annex G.

Regarding the duration, timing and venue for the workshop, the organising committee agreed that 3-4 days would be required and that it could be held either in the period immediately before the Commission meeting at IWC/61 in Madeira next year, or in the intersessional period after the Madeira meeting – the important thing being that the review papers should be available. Regarding the venue, if not held in association with the Annual Meeting in Madeira, the organising committee considered that it would be possible to find a host that could offer a venue and facilities at no cost. With respect to participants, it was agreed that there should be no more than 25-30 people and that they should include experts on the survival outcomes of entangled and released whales; veterinarians with prognosis and euthanasia experience; practical disentanglement specialists and decision makers. Arne Bjørge, Chair of the Scientific Committee, was proposed as workshop Chair.

Finally, the organising committee agreed that upon completion, plans should be made for a workshop focused on mitigation and prevention.

5.2.2 Commission discussion and action arising

Norway and Australia as members of the workshop organising committee were pleased with the open, constructive and fruitful nature of the discussions during the scoping meeting. Having initially proposed a one-day workshop to focus only on the euthanasia of entangled whales, Norway could agree to extend its scope, given that time will be available, to also addressing disentanglement. Australia noted the seriousness with which it takes the entanglement of whales and the importance of preparing thoroughly for the workshop. It did, however, indicate that it should be seen in a wider context, stressing the need to subsequently consider prevention and mitigation. The UK was pleased that the scope of the proposed workshop had been broadened and believed that tackling this issue could be an example of how IWC members can work collaboratively for the wider good of whales. Sweden also recognised entanglement as a problem, particularly for

small cetaceans that are probably entangled in large numbers. It hoped that the output from the workshop focusing on large whales would also provide useful information for small cetaceans.

The Commission supported the workshop proposal and agreed that it should be held in the intersessional period after IWC/61 in Madeira. It was further agreed that the workshop should be chaired by the Chair of the Scientific Committee.

6. ABORIGINAL SUBSISTENCE WHALING⁷

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on 18 June 2008. It was chaired by Jorge Palmeirim and attended by delegates from 27 Contracting Governments. The Chair of the Scientific Committee's Standing Working Group (StWG)* on the Development of an Aboriginal Whaling Management Procedure 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 attached as Annex H.

6.1 Aboriginal Subsistence Whaling Management Procedure (AWMP)

6.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee

6.1.1.1 PROGRESS WITH THE GREENLANDIC RESEARCH PROGRAMME

The Chair of the StWG reported on the Scientific Committee's work. It focussed on developing methods to assess common minke whales using sex ratio data. Considerable progress was made and it expects to complete this work next year when it should be in a position to use it for management advice.

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

6.1.1.2 PREPARATION OF THE IMPLEMENTATION REVIEW FOR GRAY WHALES

Part of the *Strike Limit Algorithm (SLA)* approach of the AWMP involves an *Implementation Review* every five years. The aim of such a review is to examine whether there is any information to suggest that the parameter space used to evaluate the *Gray Whale SLA* was inadequate. The Scientific Committee had noted that, depending on the new information presented next year, there may be a need for additional simulation trials. The Russian Federation had informed the Scientific Committee that it might make a proposal to the Commission regarding struck-and-lost whales and 'stinky whales' when addressing need. If the Commission accepts this, the Committee can take this into account in the *Implementation Review*. The Scientific Committee noted that it will be for the Commission to address need requirements. It further noted that the best manner in which to conduct the *Implementation Review* will be apparent at the latest by the time that papers need to be submitted under the Data Availability Agreement, i.e. 28 February 2009 and the Committee will be informed immediately.

In the Sub-committee the Russian Federation reported on its need requirements and its likely proposed schedule

⁷For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 11 (2009).

*The abbreviation SWG is used elsewhere in the Annexes to this report and the Report of the Scientific Committee.

amendment to take account of 'stinky whales' landed. It was noted that the new request was still less than need. The UK was sympathetic but stressed the need to set strike limits and the need for more data on stinky whales. The Chair of the StWG confirmed that advice is based on strikes. Following this discussion, the Sub-Committee noted the report of the Scientific Committee and its recommendations.

6.1.1.3 GENERAL CONSIDERATION OF THE PROVISION OF AD HOC ADVICE

The Chair of the StWG recalled last year's difficulty regarding *ad hoc* interim advice on strike limits and reported that this year, the Scientific Committee was pleased to have developed a safe method to provide interim management advice for the three fisheries concerned. The Committee had agreed on an approach that can be used to provide advice on catch limits for a limited time only, i.e. for up to two quota blocks (10 years), by which time a full *SLA* approach should have been developed. It had also agreed that no changes should be made to the approach used to provide interim management advice unless a change is proposed to the need requirement, when re-evaluation would be required. The Scientific Committee reaffirmed that long-term advice should be based on an agreed AWMP *SLA* and that such work remains high priority.

There were no comments in the Sub-committee who noted the Scientific Committee's report and its recommendations.

6.1.2 Commission discussions and action arising

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

6.2 Aboriginal Whaling Scheme

6.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

The Sub-committee noted that the StWG will consider issues arising out of the bowhead *Implementation Review* next year.

6.2.2 Commission discussions and action arising

The Commission noted this part of the Sub-committee report.

6.3 Aboriginal subsistence whaling catch limits

6.3.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

6.3.1.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the StWG noted that the Committee had received two papers related to obtaining an abundance estimate for the BCB stock of bowhead whales based on aerial photographs obtained near Barrow, Alaska, during spring 2003 and 2004. These surveys were conducted *inter alia* to obtain an abundance estimate that could be compared to the ice-based estimate from 2001. The impetus for investigating photographic mark-recapture estimates was concern that unstable ice conditions resulting from warming trends in the Arctic might make future ice-based censuses difficult. The 2003-04 abundance estimate was some 11,800 (95% CI = 6,800-20,600), very similar to the forward projected ice-based estimate for 2004 of 11,600. The Scientific Committee had endorsed the use of photo-identification data to obtain abundance estimates for this stock.

The Chair of the StWG noted that catch and efficiency data for the USA 2007 hunt had been presented. A total of 63 were struck and 41 landed giving an efficiency of 65%, lower than the 10-year average of 79% for a number of environmental and logistical reasons. A calf was taken in error but from the *SLA* perspective, the Scientific Committee agreed that this is not a conservation concern. No bowhead whales were taken off Chukotka. The Scientific Committee reaffirmed its advice from last year that the *Bowhead whale SLA* remains the most appropriate tool for providing management advice for this harvest and agreed that results from the *SLA* show that the present strike limits are acceptable and will not harm the stock.

In the Sub-committee, Mr Harry Brower, Chair of the Alaska Eskimo Whaling Commission (AEWC) made presentation on aspects of the bowhead hunt. The UK noted its concern at the rise in the struck and lost rate and asked that if the conditions of this year were to become the accepted norm, whether there was anything that could be done to change the time of the hunt to when conditions might be more favourable and the efficiency might therefore be higher. In reply, the USA noted the continuing use of the penthrate projectile to increase the efficiency but that the hunters had no control over weather and ice conditions.

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

6.3.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

6.3.2 North Pacific Eastern stock of gray whales

6.3.2.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the StWG reported that the Committee had accepted a new abundance estimate for eastern gray whales from the 2006-2007 southbound migration of 20,110 (SE=1,766). The Committee had recognised the phenomenon of 'stinky whales' but could not develop a scientific definition at present. A total of 126 gray whales were landed and used off Chukotka in 2007; in addition 3 were killed but lost and 2 were 'stinky' (inedible). The Scientific Committee reaffirmed its advice that the *Gray Whale SLA* remains the most appropriate tool for providing management advice. It confirmed that the current limits are acceptable and will not harm the stock.

In the Sub-committee there was considerable discussion of 'stinky' whales and a definition for this. It was noted that: (1) the cause remains unknown but that work is ongoing (see also section 16 on the Conservation Committee); and (2) it is a phenomenon not limited to whales but also occurs in other fauna. The Russian Federation proposed a working definition: 'a whale that has a strong, unnatural, pungent smell that makes the whale inedible'. It wanted this definition to at least be included in the Chair's Report of the 2008 Annual Meeting and preferably in a Schedule amendment. The Sub-Committee recommended the Scientific Committee develop a definition of 'stinky' gray whales for next year. It also noted the report of the Scientific Committee and its recommendations.

6.3.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

The Russian Federation re-iterated its comments made in the Sub-committee regarding the definition of 'stinky whales'.

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

6.3.3 Common minke whale stocks off Greenland

6.3.3.1 REPORT OF THE ABORIGINAL SUBSISTENCE

WHALING SUB-COMMITTEE

EAST GREENLAND

Two common minke whales were caught off East Greenland in 2007. There were none struck and lost. In 2007, the Commission agreed to an annual quota of 12 strikes for the period 2008-2012. The Scientific Committee agreed that the present catch limit represents a very small proportion of the Central Stock and that it will not harm the stock.

WEST GREENLAND

The Chair of the StWG had noted that last year the Commission agreed to a quota of 200 minke whales struck annually off West Greenland; the Committee had provided advice on a range of 170-230 animals. The Committee stressed that it had made great progress towards being able to provide firm management advice for this stock. In particular, an abundance estimate from the 2005 aerial survey of 10,800 (95% CI 3,600-32,400) was accepted and considerable progress was made on developing an assessment method incorporating the available sex ratio data. With a further intersessional workshop, it should be possible to finalise work on the applicability of sex ratio data to provide management advice at the 2009 Annual Meeting. Should this work prove successful, it would also represent an important step forward towards the development of a full *SLA* approach for providing long-term advice.

In terms of advice this year, the Committee had noted that the 2005 abundance estimate was not statistically significantly different from the 1993 estimate accepted by the Committee, although the power to detect differences is low owing to low precision and questions about stock structure remain. Although the survey estimate does not apply to the whole population, it is still not presently possible to determine by how much it is an underestimate. This issue will be addressed should the proposed assessment method prove to be applicable next year. However, despite the great improvement in the situation compared to previous years, the Committee remained concerned that it was not in a position to give authoritative advice on safe catch limits this year. Given that, it agreed that it is not possible for it to give more than interim *ad hoc* advice for the forthcoming season, noting that it believed that there was a reasonable chance that it would be in a position to provide advice next year. It noted that last year it had recommended that any quota established by the Commission on the basis of the interim *ad hoc* advice below be limited to one year only.

Until the work on the sex-ratio methods is completed next year, the Committee was therefore in the same position as in the past two years. It again stressed that the Commission should exercise caution when setting catch limits for this stock. The Committee was therefore not in a position to recommend a single number, but repeated its previous advice to the Commission that the estimated annual replacement yield ranges from about 170 to 230 minke whales. The replacement yield is the catch level yielding no net increase in abundance.

The Committee re-emphasised its view that safe long-term management of aboriginal whaling is best accomplished under an agreed AWMP *SLA*. It therefore

agreed that development of an *SLA* for this fishery should begin as soon as practical.

In the Sub-committee, discussions focused on the West Greenland hunt on which there was considerable discussion (see section 5.3.2 of Annex H). These discussions related primarily to the Greenlandic need statement (and the basis used to calculate need) and the commercial element of the hunt, the latter having been prompted by an un-submitted NGO report. Different views were expressed but no consensus view reached and it was agreed that the perspectives given during discussions be transmitted to the Commission in plenary. The Sub-Committee noted the report of the Scientific Committee and its recommendations.

6.3.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

With respect to the development of an AWMP *SLA*, Sweden suggested that the use of the term 'fishery' is misleading and that consideration should be given in future to referring to 'whaling' or 'hunt'. There were no further comments and the Commission noted this part of the Sub-committee's report and endorsed its recommendations.

6.3.4 West Greenland stock of fin whales

6.3.4.1 REPORT OF THE ABORIGINAL SUBSISTENCE

WHALING SUB-COMMITTEE

The Chair of the StWG reported that the Committee had an agreed estimate of abundance of 4,700 (95% CI 1,900-11,500) for 2007. The Committee noted that the updated assessment would be useful not only for developing interim *ad hoc* management advice, but also for the development of a long-term *SLA* for fin whales off West Greenland. A total of 10 fin whales were landed, and 2 struck and lost in 2007. It was noted that in 2007, the Commission agreed to a quota (for the period 2008-2012) of 19 fin whales struck annually off West Greenland based the range 14-26 advised by the Committee. On the basis of the new method developed for determining interim advice (see section 5.1.1.3), the Committee agreed that the current catch limit will not harm the stock.

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

6.3.4.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

6.3.5 West Greenland stock of bowhead whales

6.3.5.1 REPORT OF THE ABORIGINAL SUBSISTENCE

WHALING SUB-COMMITTEE

The Chair of the StWG reported that with respect to stock structure, the working hypothesis is a single shared Canada-Greenland stock in the eastern Arctic (it will be reviewed next year) and that the Scientific Committee had agreed an abundance estimate applicable for providing management advice at this meeting of 6,300 (95% CI = 3,120-12,900). He noted that in 2007, the Commission had agreed to a quota (for the next five years) of two bowhead whales struck annually off West Greenland but with the quota for each year only becoming operative when the Commission has received advice from the Scientific Committee that the strikes are unlikely to endanger the stock. On the basis of the new method developed for determining interim advice (see section 5.1.1.3), the Committee agreed that the current catch limit will not harm the stock. The Committee was aware that catches from the same stock have been taken by a non-member nation, Canada, but that should Canadian catches continue at a

similar level as in recent years, this would not change the Committee's advice with respect to the strike limits agreed for West Greenland.

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

6.3.5.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

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

6.3.6.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The StWG Chair reported that the Scientific Committee had received no information on humpback whales catches off St. Vincent and The Grenadines during 2008 but that after the meeting, St. Vincent and The Grenadines had reported that one animal had been caught and another struck-and-lost. There was no new information on stock structure or on abundance and trends for this stock. The StWG had strongly encouraged collection of genetic samples for any harvested animals as well as fluke photographs, and the submission of these to appropriate catalogues and collections.

In recent years, the Committee has agreed that the animals found off St. Vincent and The Grenadines are part of the large West Indies breeding population. The StWG Chair noted that last year, the Commission adopted a total block catch limit of 20 for the period 2008-12. The Committee agreed that this block catch limit will not harm the stock.

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

6.3.6.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

6.3.7 *Humpback whales off West Greenland*

6.3.7.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the StWG reported that the Scientific Committee had reviewed information on abundance and trends of humpback whales of the West Greenland feeding aggregation (the appropriate management unit for this potential hunt) and agreed that a new, fully corrected estimate for 2007 of 3,040 (95% CI 1,310-7,050) was acceptable for use in assessments. An estimate of the rate of increase of humpback whales off West Greenland of around 9% per year (SE 0.0124) for the period 1984-2007 was also agreed. Last year, the Scientific Committee had been unable to provide management advice for this feeding aggregation, but using the new method developed for determining interim advice (see section 5.1.1.3), the Committee agreed that strikes of up to 10 humpback whales per year will not harm the stock.

In the Sub-committee, Denmark on behalf of Greenland advised that it would be submitting to the Commission a proposed Schedule amendment for the take of humpback whales. The Netherlands sought clarification on why the request was being made now, particularly given that the existing fin whale quota has not been met for many years. Denmark explained that while it had received the first mandate from Greenland in 1997 to request a quota for humpback whales, until now the scientific information and results had not been adequate for a formal request to be made. It further explained that the main reason the fin

whale quota is not fully utilised is that fin whales are large animals, very fast, and there are only a few vessels equipped with harpoons able to take these whales. Denmark further drew attention to the fact that the primary source of meat for Greenlanders has traditionally been humpback and minke whales but that following the protection given to humpback whales from 1987, a quota for fin whales was given to continue the supply of whale meat.

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

6.3.7.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

6.3.8 *Proposed schedule amendment from Denmark/ Greenland*

6.3.8.1 INTRODUCTION

In introducing the proposed Schedule amendment, Greenland gave a presentation summarising: (1) the results from the Scientific Committee with respect to research on large whales in Greenland, particularly humpback and bowhead whales; and (2) plans for Greenlandic whaling in the period 2008-2010. With respect to the latter, Greenland drew attention to its White Paper, submitted last year, on Hunting of Large Whales in Greenland (IWC/59/ASW8) that gave: a review of Greenland's long whaling history; an update of the current status of stocks of large whales found around Greenland; a summary of its legislation and monitoring system regarding the hunting of large whales; an explanation of work to improve animal welfare aspects of the hunt; a discussion of Greenland's current need of whale meat and motivation for whaling; and its future plans regarding the hunting of large whales. Referring to the Scientific Committee's report, Greenland was pleased to read that the Committee agreed that considerable progress had been achieved with the Greenlandic Research Programme and that its discussions had been constructive.

Greenland gave a brief overview of its hunting legislation, including that related to animal welfare issues, its monitoring of and data collection from its large whale hunts, its hunting methods and its efforts to improve animal welfare which, together with hunter safety, it considers important. It then provided detailed information on the way in which whale products are distributed in Greenland and explained how its need for whale meat has been derived.

With respect to the distribution of whale products, Greenland noted that it is necessary to differentiate between the different forms of its hunts. It explained that catches from the collective hunt, representing 20% of the minke whale quota, are distributed at a village level and only among those participating in the hunt and their families if there is surplus depending on the size of the whale and the numbers of hunters participating. Only a small amount of product is sold at local markets depending on the hunters need for money (e.g. in relation to maintenance of their hunting gear). Catches from the harpoon cannon hunt (80% of the minke whale quota and all the fin whale quota) are primarily distributed locally to members of the crew, their family members and friends. Hunters sell some of the catch in local markets and sometimes sell directly to community institutions (e.g. hospitals, nursing homes) to ensure people in such institutions can eat food to which they are accustomed.

Some meat is also sold to local stores with the authorisation to do so and some is sold to the one (and only) processing plant (49%-owned by the Greenland Home Rule Government) to ensure that it is also distributed to villages with little possibility to hunt large whales. Greenland stressed that the plant is only allowed to pack, process and transport whale meat products in accordance with veterinary regulations and that the selling and distribution of whale meat, blubber and mattaq provides a necessary supply and income for the community.

With respect to need, Greenland reported that in 1991, IWC had endorsed an annual need for West Greenland from large whales of 670 tonnes, estimated on the basis of annual average catches of 232 minke whales, 9 fin whale and 14 humpback whales between 1965 and 1985. The equivalent weight was calculated by the Aboriginal Subsistence Whaling Sub-committee and the Technical Committee. Greenland reported that the calculated need has never been met by IWC catch limits. It further noted that the number of Greenlanders living in Greenland has increased by 7-9% since 1991 and that in recent years the catch of key species of other marine mammals and seabirds has been reduced through management regulations. It therefore estimates that the current minimum need in West Greenland from large whales is 730 tonnes.

Greenland reported that catches from West Greenland in 2007 delivered only around 420 tonnes of whale meat, i.e. 250 tonnes less than the endorsed annual need. It recalled that bowhead and humpback whales have been an important source of meat supply in Greenland for thousands of years and that humpback whales were hunted until 1986. It noted that Greenland has gone through enormous changes and as a modern society it continues to rely on natural resources including whales.

With respect to quotas, Greenland noted that under the Schedule amendments adopted last year, the quotas for its hunts of minke whales and bowhead whales off West Greenland require annual review, with those for bowheads only becoming operative when the Commission has received advice that the strikes are unlikely to endanger the stock. Regarding minke whales off West Greenland, Greenland acknowledge that while further work is necessary before the Scientific Committee can provide authoritative advice on safe catch limits (which it hopes to do next year), the Committee's interim *ad hoc* advice had not changed since last year. It therefore sought no change to the current quota. Regarding bowhead whales, Greenland requested that the 2009 quota be confirmed given that the Scientific Committee had agreed that the current catch limit will not harm the stock. Greenland also noted that the Scientific Committee's advice in relation to takes of fin whales off West Greenland and minke whales off East Greenland was that the present catch limits will not harm the stocks. Concerning humpback whales off West Greenland for which it did not yet have a quota, Greenland noted that the Scientific Committee's *ad hoc* interim advice (applicable for up to two quota blocks, i.e. up to 10 years) was that a take of up to 10 humpback whales per year would not harm the stock.

Given all of the above, Denmark/Greenland requested that the following proposed Schedule amendment (changes shown in **bold italics**) be adopted by consensus:

I. Amend Schedule paragraph 13 (b) 3 to insert a new paragraph which will be (v) after the following text:

'The taking by aborigines of minke whales from the West Greenland and Central stocks and fin whales from the West Greenland stock and bowhead whales from the West Greenland feeding aggregation **and humpback whales from the West Greenland feeding aggregation** is permitted and then only when the meat and products are to be used exclusively for local consumption.

(i) The number of fin whales struck from the West Greenland stock in accordance with this sub-paragraph shall not exceed 19 in each of the years 2008, 2009, 2010, 2011 and 2012.

(ii) The number of minke whales struck from the Central stock in accordance with this sub-paragraph shall not exceed 12 in each of the years 2008, 2009, 2010, 2011 and 2012, 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 of the 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 200 in each of the years 2008, 2009, 2010, 2011 and 2012, except that any unused portion of the quota for each year shall be carried forward from that year and added to the strike quota of any of the 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 annually by the Commission, according to the findings and recommendations by the Scientific Committee, which shall be binding.

(iv) The number of bowhead whales struck off West Greenland in accordance with this sub-paragraph shall not exceed 2 in each of the years 2008, 2009, 2010, 2011 and 2012, 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 2 shall be added to the quota for any one year. Furthermore, the quota for each year shall only become operative when the Commission has received advice from the Scientific Committee that the strikes are unlikely to endanger the stock.

(v) The number of humpback whales struck from the West Greenland feeding aggregation shall not exceed 10 in each of the years 2008, 2009, 2010, 2011 and 2012, 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 of the subsequent years, provided that no more than 2 shall be added to the 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 basis of the advice of the Scientific Committee.'

II. Amend Table 1 in the Schedule as follows:

a) In column 'FIN', footnote 2 should read as follows:

'Available to be taken by aborigines pursuant to paragraph 13 (b) 3. Catch limit for each of the years 2008, 2009, 2010, 2011 and 2012.'

b) In column 'Fin', footnote Δ should be deleted.

Greenland noted that even if the above quotas were reached, they would only deliver 694⁸ tonnes of meat which would still be below its projected current need of 730 tonnes.

Noting comments made in the Sub-committee regarding the definition of aboriginal subsistence whaling, particularly in relation to views on what could be considered acceptable in terms of any commercial element, Greenland drew attention to the definition of aboriginal subsistence use adopted by the Commission in 2004⁹ and particularly to the part reading:

'The barter, trade or sharing of whale products in their harvested form with relatives of the participants in the harvest, with others in the local community or with persons in locations other than the local community with whom local residents share familial, social, cultural or economic ties. A generalised currency is involved in this barter and trade, but the predominant portion of the products from such whales are originally directly consumed or utilised in their harvested form within the local community.'

⁸Using the following conversion factors: 1 fin whale = 10 tonnes; 1 minke whale = 2 tonnes; 1 humpback whale = 8 tonnes; and 1 bowhead whale = 12 tonnes.

⁹*Ann. Rep. Int. Whaling Comm.* 2004: 15-17.

Greenland noted that in the definition, the terms 'local community' and 'predominant portion' are not defined. In its view, Greenland is a local community and that a 'predominant portion' would be something above 50%. It further noted that similarities and differences will be found among the different aboriginal subsistence and small-type hunts currently taking place owing to differences *inter alia* in local histories. However, it stressed that these differences be respected.

Finally, Greenland drew the Commission's attention to the fact that:

- (a) the scientific advice required for its requests are in place;
- (b) its hunts are properly regulated;
- (c) there has been a great improvement in hunting methods and gear and a resulting improvement in animal welfare aspects (on which it continues to work to improve);
- (d) the needs for East and West Greenland have been recognised by IWC in 1988 and 1991 respectively; and
- (e) it fulfils the definition for subsistence use and aboriginal subsistence whaling.

It hoped that its presentation gave members a better understanding of the hunting of whales in modern Greenland which it needed so as to obtain international approval for the continuation of sustainable catches of large whales in future.

6.3.8.2 COMMISSION DISCUSSIONS AND ACTION ARISING

The Commission first discussed Denmark/Greenland's proposed Schedule amendment in a private meeting of Commissioners. This was followed by a discussion in plenary which is reported below in some detail given the controversial nature of the debate.

Denmark re-iterated that it believed the proposed Schedule amendment respected all of IWC's requirements in that it respects the Scientific Committee's advice, meets the documented and recognised needs and the hunt is properly regulated. It also considered it to be legitimate both morally and professionally. However, it noted that as is often the case at IWC, there had been a request for horse trading. As a result, Denmark/Greenland was prepared, on a voluntary basis and using a footnote in the Schedule as had been done previously, to reduce its take of fin whales from 19 to eight per year if the proposal for the take of humpback whales is agreed. It hoped that the Schedule amendment could therefore be adopted by consensus on this understanding. However, if there was no consensus, Denmark indicated it would request a vote.

DISCUSSION OF THE PROPOSAL

Slovenia, speaking on behalf of the European Community and its Member States, noted that proposals for the management of aboriginal subsistence whaling are generally supported on the condition that the conservation of relevant whale stocks is not compromised and that due regard is given to the precautionary principle and advice of the Scientific Committee and that whaling operations are properly regulated and catches remain within the scope of documented and recognised subsistence needs. In this regard, Slovenia indicated that the interim management advice of the Scientific Committee, which agreed that the strike of up to 10 humpback whales of West Greenland will not harm the stock, had been noted and it considered that

the whaling operations are properly regulated. However, Slovenia reported that after a lengthy discussion and a thorough examination of the existing information relating to the recognised documented and recognised subsistence needs, the EU did not support the request for the humpback quota. It regretted the current situation and noted that Denmark had indicated its preparedness to co-operate intersessionally with a view to finding a mutually acceptable solution to meet the needs of the people of Greenland.

Given the comments of Slovenia on behalf of the EU, the Chair noted that it appeared that reaching consensus would be unlikely but allowed further discussion before proceeding to a vote as requested by Denmark.

Chile spoke on behalf of the Latin American countries present and the 'Buenos Aires Group'. It noted that these countries support, and would continue to support, aboriginal subsistence whaling and that the right of the application of this principle of subsistence is not in question. However, they had concerns regarding the content of the proposal and its basis, i.e. the determination of needs and other issues. Chile noted that the Scientific Committee had provided *ad hoc* interim advice and had expressed that it is unable to give a firmer recommendation. In light of these elements, the group of Latin American countries in the Buenos Aires Group had taken the collective decision of opposing the proposal. The countries also expressed regret that a divisive proposal had been put forward given the improved working environment within the Commission. Finally, to demonstrate the group's commitment to contributing to a positive environment conducive to substantive negotiations on the future of the IWC, Chile announced that Latin American countries would not ask for action on the proposal for the South Atlantic Sanctuary, although they looked forward to a discussion of the proposed sanctuary.

The Russian Federation, St. Kitts and Nevis, St. Vincent and The Grenadines, Republic of Korea, St. Lucia, Benin, Gabon, Iceland, Palau, Côte d'Ivoire, Japan, Antigua and Barbuda and Norway spoke in very strong terms of their disappointment with the position of the EU and the detrimental impact they believed such a decision would have on the Chair's efforts in relation to the future of IWC.

The Republic of Korea questioned the legal right of the EU to behave in this manner, believing that it was interfering with the legitimate process of IWC. It considered that only IWC Contracting Governments are entitled to speaking rights, not the EU as a whole or as an entity. The Republic of Korea also believed that the EU's action violated the general principles of humanitarian law as confirmed and set out in the United Nations Declaration on the Rights of Indigenous People. France, spoke against this interpretation.

The Russian Federation, believed that the EU had taken its decision prior to receiving the recommendations at the Annual Meeting. It considered that the EU had ignored the advice of the Scientific Committee and questioned whether, with the goal of resolving the organisations difficulties and saving money, the EU was proposing that the Scientific Committee be abolished. It recalled that previously it had proposed that the delicate issue of aboriginal subsistence whaling quotas only be adopted by consensus. It very much regretted the renewal of confrontation within the IWC and that this confrontation was begun by the EU.

St. Kitts and Nevis saw the position of the EU to be an unjustifiable attempt to deny the human rights of a group of indigenous people. At a time of acute world food shortages, it viewed this as a small group of countries, purported to be world leaders, denying marginal people of the right to eat. It noted that other marine resources like the North Atlantic cod that is far more threatened than humpback whales, are pursued by the countries that are denying Greenland's request for humpback whales. Recognising that the EU holds a blocking minority, St. Kitts and Nevis requested the Commission to delay moving to vote to give time for the EU to reconsider its position. Noting the advice of the Scientific Committee that the take of humpback whales would not harm the stock, Côte d'Ivoire also raised the issue of food security.

St. Vincent and The Grenadines also referred to issues of food security, noting the importance of its own subsistence hunt in this respect. Recognising that the proposed Schedule amendment fell within the Scientific Committee's advice and other criteria for aboriginal subsistence whaling, it fully supported the proposal that it wished could be adopted by consensus. It thought it unjustifiable that some countries were asking Greenland to defer its request to yet another year. St. Vincent and The Grenadines believed that the insensitivity to the needs of indigenous people displayed by some member countries had diminished the IWC in the eyes of all progressive people throughout the world. It believed that some countries had shown that their decisions are not based on IWC criteria but on their own interests.

St. Lucia considered the position of the EU to be disregarding science and associated itself with the remarks of the Russian Federation. Anticipating that someone may refer to the Scientific Committee's advice only being of an *ad hoc* interim nature, St. Lucia drew attention to the report of the Aboriginal Subsistence Whaling Sub-committee that states clearly that this advice will be used for a limited time only, i.e. for up to two quota blocks (10 years) during which time the Scientific Committee would develop an appropriate *SLA*. Anticipating that the fin whale hunt would also be raised, St. Lucia recalled that Greenland was issued with a fin whale quota in the past because of the uncertainty of the status of humpback whales, although the current advice is that a quota of 10 humpbacks per year will not harm the stock. However, as noted in the Sub-committee, Greenland has difficulty meeting its fin whale quota because of the difficulty of the hunt and is therefore unable to fulfil its nutritional need. St. Lucia asked why the EU countries could not support the proposal given that they recognise the scientific advice, the need, that Greenland has properly regulated whaling operations and given that Greenland is willing to reduce its fin whale quota. It was concerned that the lack of support was because of a premise based on politics and emotions rather than the rules, regulations and requirements of the Commission.

Benin was disappointed that the improvements seen in debates arising out of the March intersessional meeting were beginning to be lost. It regretted the apparent trivialisation of the Scientific Committee's advice which it was concerned may set a precedent. Gabon made similar remarks.

Iceland recalled that although members of the Commission have held serious differences of opinion on many issues, the matter of aboriginal subsistence whaling has not generally been one of them. It believed that

Greenland had shown flexibility and willingness to compromise but to no avail. Like St. Lucia, Iceland considered that the proposed voluntary reduction of the take of fin whales would result in a situation where Greenland's needs cannot really be the disputed issue and it suggested that member governments were backing away from previous decisions that were based on the very same needs. For Iceland, the important issue was that the Scientific Committee had advised that the proposed take of humpbacks would not harm the stock and would thus be sustainable. It therefore believed that the opposition to the proposal was not based on an environmental or conservation perspective. Furthermore, Iceland saw the new position by several IWC members to oppose a proposal of this sort as being divisive, rather than the fact that Denmark had put the proposal forward. Noting like others that there is opposition to the request despite the fact that the proposal fulfils all the usual IWC criteria that have been used in the past, Iceland believed this could only be seen as the end of the IWC approving whaling quotas for aboriginal peoples.

Japan associated itself with the remarks of St. Lucia. It could see no logic in the position of the EU since they had stated that they recognise the science of the proposal, they recognise that the whaling activities are regulated and they recognise the need but after careful consideration they still opposed the proposal. Japan believed that the people of Greenland had the right to know why the proposal was not being supported by EU countries. Recalling the strong support that had been voiced to seek consensus within IWC, Japan questioned what this meant. It asked whether this means oppressing the right of a people to make a proposal if that is not accepted by a certain group or groups of countries.

From listening to the urgings of many delegations sympathetic to and supportive of Denmark's request on behalf of the people of Greenland, Antigua and Barbuda was convinced that people whose history is replete with oppression, victimisation and marginalisation are more naturally inclined to be sympathetic to the basic and fundamental human rights - in this case food. It believed that the EU and Buenos Aires Group were ignoring the Scientific Committee's advice based on expediency and it was not convinced that the South Atlantic Sanctuary was not being put to the vote as a concession since it would in any case not achieve the required support. Antigua and Barbuda stressed that consensus required give and take by all.

Norway expressed the view that it is a sad day for IWC, that the EU had introduced a totally new element into the workings of IWC with unknown consequences and that it considered this to be a serious setback that undermined the work of the Chair regarding the future of the organisation.

Noting that the same discussions had already taken place during a private meeting of Commissioners and were now being repeated, the UK questioned the point of having such private meetings. However, it endorsed the statement made by Slovenia representing the Member States of the EU and noted that the EU has the right to operate as a block if it so wishes. EU Member States act individually in delivering their vote but act according to a common position. The UK also stressed, contrary to the view of the Russian Federation that the EU's decision on Denmark's proposal was decided prior to the Annual Meeting, that the

EU countries had debated at length as to whether it fell within the EU's mandate. It regretted that there was an issue on the table over which consensus appeared to be impossible.

Germany endorsed the statement made by the Presidency of the European Union and the remarks of the UK, and wished to receive more information relating to the real subsistence needs of the people of Greenland. Germany stressed its high appreciation of the work of the Scientific Committee and believed that while Denmark requests an additional quota for five years, interim management advice of the Scientific Committee is only available for a single year (but see later clarification from the Scientific Committee Chair). Germany regretted the difficult situation before the Commission and would have preferred a decision to have been postponed. France made similar remarks.

Switzerland recognised that respect for indigenous knowledge, cultures and traditional practice contribute to sustainable and equitable allotment and proper management of the environment and that indigenous people possess collective rights which are indispensable for their existence and wellbeing and integral allotment as people. Moreover, indigenous people have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with states or other successors and to have state honour and respect such treaties, agreements and other constructive arrangements. Switzerland noted that it fully recognises the United Nations Declaration on the Rights of Indigenous People and is of the opinion that the IWC should act at least in the spirit of that Declaration. It further noted that over the years it has become practice that catch quotas are allocated to indigenous communities for their subsistence need. However, Switzerland believed that it is in the responsibility of the Commission to allocate such quotas only when certain conditions are met, mainly that such decisions should be based on scientific advice. Switzerland believed all were aware that the Scientific Committee gave an interim management advice that strikes of up to 10 humpback whales will not harm the stock of humpback whales off West Greenland. It believed that this meant that there was no scientific evidence that further catches for subsequent years would be sustainable and because of this it regretted that it could not support the proposed Schedule amendment (see later clarification from the Scientific Committee Chair). In order not to jeopardise the right of the Greenland people, Switzerland reported that it would abstain if the proposal was taken to a vote.

Sweden noted that it supports proposals for the management of aboriginal subsistence whaling on the condition that conservation of relevant stocks is not compromised having due regard to the precautionary principle and the advice of the Scientific Committee and that whaling operations are properly regulated and catches remain within the scope documented and recognised subsistence needs. It then cited a few paragraphs from the United Nations Declaration on the Rights of Indigenous People as follows:

'Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust; Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind; Concerned

that indigenous peoples have suffered from historic injustices as a result of, *inter alia*, their colonisation and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests; Recognising also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States; Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs; Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.'

Given the critical remarks made against the EU position, Slovenia requested the floor for a second time to provide clarification, again speaking on behalf the EU. It stressed that the EU had taken note of the Scientific Committee's advice, did not oppose this advice and did not, under any circumstances, wish to undermine the Committee's work. It believed that science is crucial to take any decision. It stressed that the EU is committed to protecting the rights of indigenous people and their rights to the resources that they have traditionally owned. The EU therefore reaffirmed the role of aboriginal subsistence whaling to satisfy aboriginal subsistence needs. However, Slovenia noted that in this specific case, in this specific year, the EU was of the opinion that information about subsistence needs of the people of Greenland needed to be updated and reassessed before it would be possible to conclude that a quota requested does correspond to the current subsistence needs of Greenland people.

Slovenia then went on to clarify additional issues that have been raised with regard to the acting of the EU. It reiterated that Slovenia currently held the Presidency to the Council of the European Union and that it therefore had the honour to speak at this IWC Annual Meeting on behalf of the European Community and its Members States and that it has the honour to express the coherent position of EU. It noted that the European Community only has observer status in IWC while the EU Members States remain the parties to the IWC. It recalled the statement made by Denmark under item 2 that its views may diverge from the EU rules in so far as this is done to pursue the interest of its overseas territories, in this particular case that of Greenland. Given this, Slovenia indicated that in general, EU Member States remain individual parties to the IWC and that they simply have a common co-ordinated position in this forum. It realised that some members perceive this as a novelty in IWC but noted that this is in line with the regular practice of the EU in the international arena and in line with internal EU procedural rules. It stressed that the IWC rules are respected and did not view the EU co-ordinated position as anything different or unusual. To this end it noted that other groups within IWC have also expressed common positions. Finally, it re-iterated the UK's remarks about no decisions having been made in advance.

NAMMCO was pleased to note that the IWC Scientific Committee this year had reached the same conclusions that the NAMMCO Scientific Committee did one year ago, namely that an annual take of up to 10 humpback whales off West Greenland will not harm the stock. NAMMCO is concerned with coastal communities' rights and needs to make a sustainable living from marine resources. Noting that food security is at the forefront of current global

challenges and concerns, NAMMCO believed that whales, given sound and rational management, represent an especially plentiful, abundant and healthy food resource. It therefore believed that to consciously and actively disregard aboriginal subsistence whaling may at best be considered arrogant. NAMMCO found it of fundamental importance that hunting nations and communities, and in this present case Greenland, be put in a position that gives them the opportunity to harvest from stocks that are viable and where it is well-documented scientifically that the recommended removals will not deplete or endanger the stock. It cautioned that the denial of this right to hunt sustainably will most probably result in critical consequences for alternative species and stocks. In this respect, NAMMCO noted that its Council, on the advice of its Scientific Committee, had for several years expressed great concerns for the takes of narwhal and beluga in West Greenland. It believed it not just to be an assumption that to allow Greenland to hunt humpbacks would reduce the pressure on these two stocks.

Before proceeding to a vote and sensing that there may be some misunderstandings about the scientific advice regarding the requested humpback whale quota, Denmark asked if the Chair of the Scientific Committee could provide clarification. The Chair agreed to this request.

The Scientific Committee Chair stressed that although the Committee had had difficulties in providing *ad hoc* interim advice last year, at this year's meeting it had developed a method to provide safe interim management advice for the fin, bowhead and humpback whales off West Greenland and that this approach can be used to provide advice for up to two block quota blocks, that is 10 years, by which time a full *SLA* approach should have been developed. The Scientific Committee Chair re-iterated that following this method, it had agreed that strikes of up to 10 humpbacks whales per year will not harm the stock and that this advice is applicable for up to two quota blocks.

Argentina sought clarification of factors used by Greenland to convert whales to tonnes in expressing their need. It understood from documents presented by Greenland that the conversion factor used only takes account of the yield of meat and does not include blubber and other edible products. It therefore suggested that if blubber and other parts were included then the conversion factors would be different. Argentina therefore asked if the Scientific Committee could provide advice in Madeira on what the yield of these other products would be. The Chair asked the Scientific Committee to take note of this request.

THE VOTE

On proceeding to a vote, the proposed Schedule amendment received 29 votes in support, 36 against and 2 abstentions. It was therefore not adopted. A number of governments then explained their vote.

EXPLANATIONS OF VOTE

The USA commented that it would have preferred the proposed Schedule amendment to have been withdrawn by Denmark. However, given that this was not the case it had noted the clear advice from the Scientific Committee that the humpback whale take would not harm the stock. Given no scientific justification to do otherwise and given the concern that the USA has for setting any precedent of diverting from the Scientific Committee's advice it supported the proposal. It noted that other governments had raised concerns about Greenland's needs statement and

suggested that this matter be appropriately addressed in the meeting of the Aboriginal Subsistence Whaling Subcommittee at IWC/61 next year.

Mexico noted that this had been a very difficult decision. It noted its own large indigenous population that uses natural resources and therefore understood the nutritional and social cultural needs of Greenlandic communities. However, as it had done previously, Mexico believed that the Greenland Home Rule Government should follow the example of the Eskimos in Barrow regarding the support they have given to research on bowhead whales and the openness with which they have provided the necessary information to assist in the development of a robust and transparent *SLA*. While it recognised that some steps had been taken to this effect, some doubt still remains. Mexico also referred to and supported the comments made earlier by Argentina regarding conversion factors, noting that traditionally the Scientific Committee works on the basis of need being expressed as the number of whales rather than weight. However, it recognised that the multi-species nature of the Greenland hunt complicates the situation.

Switzerland reported that because it bases its decisions mainly on scientific recommendations it had reconsidered its position in view of the clarification given by the Chair of the Scientific Committee. It had therefore voted in support of the proposal.

St. Kitts and Nevis noted that it supported the proposal because it did not want to be party to a position that had ignored the recommendations of the Scientific Committee or the rights of the people of Greenland to feed themselves. It considered that the type of block voting exhibited on this matter will do nothing but render the organisation useless.

Costa Rica reported that it based its position on the social aspects as an integral part of sustainable use. It had not seen a clear distribution of the social benefits of catches and that it believed that any increase in quota should be justified socially with updated data. Nicaragua gave a similar explanation.

Oman explained that it had voted to support the aboriginal subsistence whaling of the people of Greenland based on the findings of the Scientific Committee.

The Republic of Korea explained that it had supported the proposal in consideration of the rights and welfare of the indigenous people of Greenland and on the basis of best scientific evidence.

CONCLUDING REMARKS OF DENMARK/GREENLAND

Denmark noted that it would respect the outcome of the vote but that it would return with a proposal next year. It believed that denial of a quota is not an option given that:

- (1) the Scientific Committee recommended that the requested take would not harm the stock;
- (2) the hunt is strictly regulated; and
- (3) there is a documented and recognised needs statement.

Speaking on behalf of Greenland and the Faroe Islands, Denmark was especially saddened by the unfortunate position taken by various countries and a group of countries at the meeting in spite of clear scientific advice and the stated needs of a small indigenous people. It noted that their vote effectively deprived its Inuit hunters of a much needed quota as well as honouring Greenland's wishes as to their own diet. Nevertheless it hoped that common sense, sound science and respect for indigenous peoples culture and desire eventually will prevail. It

thanked the Commissioners that adhered to these values including those within the EU and it gave particular thanks to the Swedish Commissioner who reminded the meeting of the UN's adopted position on the rights of indigenous peoples.

Greenland confirmed that it would return with a proposal next year for a take of humpback whales and like Denmark thanked those countries that supported the principle of sustainable use. It deeply regretted that IWC was not able to fulfil its obligations when it believed all requirements had been met, noting that this is a new development with respect to aboriginal subsistence whaling (although problems were also encountered with the bowhead whale quota renewal at IWC/54 in Shimonseki in 2002). It believed the attitude shown was disrespectful of the work of the Scientific Committee. Greenland stressed that its 1991 needs statement had been adopted by the Commission and that while that was some time ago, many situations and conditions have not changed. It felt that those opposing its request simply wished to find a new excuse to not allocate humpback whales to Greenland and it saw no evidence of the spirit of co-operation that had been used so frequently during the meeting. It noted that Greenlanders will be frustrated and saddened with what it considers a lack of respect and it indicated that pressure will be brought to bear on the Greenland Home Rule Government and on the Government of Denmark to vote for a withdrawal from the IWC and to work instead with NAMMCO. Finally Greenland wished the Chair of the Commission good luck with his work on the future of IWC, believing it to be a very big challenge.

7. REVISED MANAGEMENT SCHEME

7.1 Revised Management Procedure (RMP)¹⁰

7.1.1 Report of the Scientific Committee

Recognising that the highly technical nature of the work on the RMP means that the Scientific Committee's reports on this issue can be difficult to understand for those not directly involved in the discussions, the Committee requested IWC's Head of Science to develop ways to make its reports on these issues more accessible. The Committee also drew attention to the simple overview of the RMP given in the Chair's Report of the 57th Annual Meeting¹¹.

7.1.1.1 GENERAL RMP ISSUES

Discussions focused on three issues: (1) Maximum Sustainable Yield Rates (MSYR); (2) finalising the process for reviewing proposals to amend the RMP; and (3) consideration of a proposal from Norway to amend the RMP.

Last year the Scientific Committee re-emphasised the importance of a review of maximum sustainable yield rates (MSYR) in the context of RMP issues, especially with respect to considering modifications to the *Catch Limit Algorithm (CLA)*. Although considerable progress was made, insufficient time was available to consider all of the issues. A plan has been put in place to complete this work before the next Annual Meeting. One important aim of the review is to finalise the protocol for reviewing proposals to amend the RMP, such as that from Norway.

7.1.1.2 PREPARATIONS FOR IMPLEMENTATION

The Commission was reminded that the work carried out by the Scientific Committee on *Implementations* is governed by the Requirements and Guidelines developed by the Committee and adopted by the Commission. In essence, once the Commission confirms that the Committee should go ahead with the *Implementation* process, there are a series of steps that must be followed over a two year period, encompassing three annual meetings and two intersessional workshops.

The Committee is examining four cases: the western North Pacific Bryde's whales; North Atlantic fin whales; North Atlantic common minke whales; and North Pacific common minke whales.

WESTERN NORTH PACIFIC BRYDE'S WHALES

Last year, the western North Pacific Bryde's whale *Implementation* was completed, although abundance estimates for use in the *CLA* needed to be finalised (should the Commission request the Committee to calculate catch limits). Abundance estimates were agreed this year, with a total estimate of around 20,500 whales (approx 95% CI 10,700-39,200).

The other item the Committee considered was related to the possibility that Japan might wish to use a variant for RMP *Implementation* that envisaged a research option, the conditions for which are strict and laid out in the Requirements and Guidelines document. There was considerable discussion on a draft research proposal which will continue next year.

NORTH ATLANTIC FIN WHALES

The Scientific Committee is in the middle of the *Implementation Process* for North Atlantic fin whales. The Chair of the Scientific Committee reported that the work is going well and according to schedule. A final trial list that takes into account *inter alia* several stock hypotheses has been agreed and a work plan designed to ensure successful completion of the process at next year's meeting has been developed.

NORTH ATLANTIC COMMON MINKE WHALES

The *Implementation Process* as laid out in the Requirements and Guidelines provides for reviews every five years; the last such review for North Atlantic minke whales was conducted in 2003. A new review has therefore commenced with consideration of new stock structure information. The Committee recommended a fuller examination of the 1997-2002 data given apparent inconsistency with results from recent years.

Abundance estimates for the *Small Areas* in particular with respect to their suitability for use in the RMP and for use in *Implementation Simulation Trials* were reviewed. Further work is needed to finalise a number of the estimates and this will be considered next year. The Committee agreed that no new *Implementation Simulation Trials* are required at present but it agreed that a full re-examination of the trial structure should be undertaken at the next review scheduled for 2013. The Committee made a number of recommendations regarding boundaries of *Medium* and *Small Areas*. It hopes to complete its *Implementation Review* at next year's meeting.

NORTH PACIFIC COMMON MINKE WHALES

Last year, the Committee noted that considerable new information on stock structure had become available since the *Implementation* was completed in 2003 and that further data will be forthcoming from the review of the JARPN II

¹⁰For details of the Scientific Committee's deliberations on this Item see *J. Cetacean Res. Manage. (Suppl.)* 11 (2009).

¹¹*Ann. Rep. Int. Whaling Comm.* 2005: 19-21.

programme. It therefore believed that it would not be feasible to carry out an *Implementation Review* in a single meeting, and recommended that the two-year process envisaged under the 'Requirements and Guidelines for *Implementation*' be followed.

This year, noting that other work underway (e.g. preparations for the JARPN II review and the in-depth assessment of western North Pacific minke whales with an emphasis on J-stock) will contribute to the *Implementation Review*, the Committee agreed to defer further general discussion until next year.

7.1.1.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

The RMP estimates a limit for the number of non-natural removals, not simply a catch limit for commercial whaling. It is therefore important to estimate the numbers of whales removed from the population by indirect means. This year the Scientific Committee addressed mortality due to bycatch in fishery operations, ship strikes, marine debris (e.g. risk from entanglement and ingestion) and noise.

The Scientific Committee reviewed progress towards estimating bycatch using: (1) fisheries data and observer programmes; and (2) genetic data from market sampling. The Scientific Committee has been collaborating with FAO¹² on collation of relevant fisheries and bycatch data with the aim of identifying fisheries where further monitoring would be valuable. With respect to market sampling, while recognising the differing views of various member governments over this issue, the Committee reaffirmed its view that availability of data from DNA registers will improve estimates of total take from market surveys and its ability to review papers containing the results of market sampling. The Committee requested that these be made available through the Committee's Data Availability Agreement.

With respect to ship strikes, the results from studies of collisions between whales and vessels off the Canary Islands and New Zealand and papers on modelling collision risk were reviewed. Substantial progress with the global IWC database of ship strikes has been made. The database design was agreed by the Scientific Committee last year and has also been approved by ACCOBAMS¹³ for its work. Subsequently, a small group of scientists have been populating the database. To date, 763 records, mainly from published sources, have been entered. Consideration is now being given to the best way to continue the data collection process, including ongoing maintenance and quality control of the database and the development of a web-based data entry system via IWC's website. Mortality due to ship strikes is a concern not only with respect to setting commercial and aboriginal subsistence catch limits, but also in evaluating threats to the survival of endangered populations. The issue of ship strikes is also dealt with by the Conservation Committee (see section 16).

With respect to marine debris, the Scientific Committee agreed that consideration of estimation of mortality rates in large whales due to ingestion of marine debris would be valuable and encouraged the submission of papers next year.

With respect to noise, the Scientific Committee agreed that there is a need for internationally co-ordinated research

to address gaps in knowledge on sonar-related cetacean strandings including improving the ability to conduct necropsies as quickly as possible, standardising data collection on the animal's environment at the time of the death/stranding, and co-ordinating with military or other government agencies so that all factors related to the stranding are examined. The impacts of noise are also addressed under Environmental Concerns (see section 12).

7.1.2 Commission discussions and action arising

Australia reported that together with other Asia-Pacific countries, it is doing a lot of work on the impact of marine debris on cetaceans. It looked forward to further examination of this issue by the Scientific Committee.

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

7.2 Revised Management Scheme (RMS)

At the 2006 Annual Meeting, the Commission accepted that an impasse had been reached at the Commission level on RMS discussions. The Commission has not identified specific activities on the RMS since then although this item had been retained on the agenda to provide an opportunity for discussions should they arise.

There were no specific discussions on the RMS at IWC/60, rather the RMS was included as part of the discussions on the future of the organisation (see section 3).

8. SANCTUARIES

8.1 Issues raised in the Scientific Committee

The Chair of the Scientific Committee reported that the Committee did not review any new proposal for sanctuaries. The Committee did, however, recommend participation in an International Conference on Marine Mammal Protected Areas to be convened in March 2009 as this conference will address several themes of relevance for the Committee's consideration of Marine Protected Areas as management tools in Cetacean Conservation Plans.

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

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

8.2.1 Introduction of the proposal

Brazil introduced a proposal to create a South Atlantic Whale Sanctuary on behalf of Argentina, South Africa, all the countries of the Buenos Aires Group and others. It was supported by a video presentation. The amendment proposed was the same as in the previous seven years¹⁴.

Brazil explained that its proposal aims to optimise the non-lethal management of whale populations in the region providing benefits to non-lethal scientific research and the development of sustainable whalewatching tourism, a growing activity in many Latin American countries. It would also create a source of employment. Brazil noted that if adopted by IWC, the sanctuary would guarantee the right of coastal communities in the region to benefit from the non-lethal use of whales, just as communities elsewhere have benefited from consumptive use of whale stocks. It further noted that the sanctuary would contribute to the objective of the ICRW of safeguarding whale stocks for

¹²Food and Agriculture Organisation of the United Nations.

¹³Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area.

¹⁴See for example *Ann. Rep. Int. Whaling Comm.* 2007: 31.

future generations and would be consistent with provisions of the UN Law of the Sea (particularly Article 65) and the Convention on Biological Diversity (CBD).

Brazil expressed its deep appreciation to Argentina and South Africa for co-sponsoring the sanctuary proposal and thanked all those Contracting Governments who had supported it since IWC/53 when it was first introduced – a growing majority in the Commission over the years. It also recognised the role of the Buenos Aires Group in advancing the proposal. Brazil stressed its strong commitment to the implementation of this initiative which, together with the full observance of existing sanctuaries, it believed must be an integral part of any credible vision for the future of IWC. It would therefore continue to promote the South Atlantic Whale Sanctuary as a priority as part of the overall process on IWC's future. However, it noted that in keeping with the fragile understanding collectively reached during the 61st Annual Meeting on how to continue discussion on the organisations future, Brazil would refrain from putting the sanctuary proposal to a vote at this meeting. It was doing so as an expression of its willingness to make a best effort to find a way forward for the Commission to ensure its effectiveness in the conservation of all cetaceans. Finally, Brazil stressed that there should be no doubt of its commitment to the creation of the South Atlantic Whale Sanctuary and that it will consider how to deal with it at the Commission's next session in light of progress made during the intersessional period.

8.2.2 Commission discussions and action arising

Argentina, Chile, France, Australia, India, Germany, Ireland, Mexico, Spain, New Zealand, UK, USA, South Africa, Israel, Portugal, Panama and Peru spoke in support of whale sanctuaries in general and the creation of the South Atlantic Whale Sanctuary in particular. A number of them appreciated the gesture of the co-sponsors not to take the proposal to a vote this year.

Norway, Gabon, Iceland, Russian Federation, Côte d'Ivoire and China indicated that they could not support the proposed sanctuary. While they did not disagree with the need to protect endangered whales, some questioned the scientific basis of the proposal and the need for a new sanctuary given that the moratorium on commercial whaling remains in place. Norway referred to new procedures developed by the Scientific Committee for reviewing sanctuaries and sanctuary proposals that had resulted from the review of the Southern Ocean Sanctuary at the 2004 Annual Meeting¹⁵. Noting that the South Atlantic Whale Sanctuary proposal had been developed prior to these new procedure being agreed, Norway believed that the proposal should be considered as a new proposal that should be reviewed again by the Scientific Committee using this procedure. Iceland welcomed the decision of the sanctuary sponsors not to take the proposal to a vote but believed that simply allowing discussion on this issue had been divisive.

9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

Japan reminded the Commission that its coastal whaling communities have been waiting since 1988 to obtain a whaling quota from IWC. It recalled its disappointment

when last year, despite supporting all the quota renewals for aboriginal subsistence whaling and co-operating fully in all discussions, its request for a quota for its own communities had again been denied. As a result, it had noted that it was time Japan reviewed its relationship with IWC and had referred to its possible withdrawal from the Convention and the establishment of a new management organisation. However, this year, it had found the atmosphere and discussions to be much improved. Consequently, while again having prepared a proposal for a quota for its coastal communities that it considered highly rational, Japan reported that, in support of the Chair's initiative to address the future of IWC, it would not submit it for action.

The Chair thanked Japan for its constructive approach in this matter. There was no further discussion.

10. SCIENTIFIC PERMITS¹⁶

10.1 Improving procedures for reviewing scientific permit proposals

10.1.1 Report of the Scientific Committee

The Scientific Committee agreed by consensus an improved procedure to review special permit proposals as well as the periodic and final review of results from special permit programmes and recommended this to the Commission.

In this approach, reviews will be undertaken at intersessional workshops of independent experts. A limited number of scientists associated with a proposal will be allowed to attend such workshops in an advisory role, primarily to present their proposal or results and to answer questions of clarification. To ensure that the composition of any expert group is considered balanced and fair, the experts will be chosen by the Chair and Vice Chair of the Scientific Committee and IWC's Head of Science in consultation with a Standing Steering Group representing a range of experience and expertise within the Scientific Committee.

The Scientific Committee noted that it was aware of the ongoing process in the Commission regarding the future of IWC and recognised that the agreed procedure might be subject to changes in that context.

10.1.2 Commission discussions and action arising

Mexico, Ecuador, UK, USA, Switzerland, Japan, India, Uruguay and Australia welcomed the progress made, believed it to be an important step in relation to research under special permit and thanked the Scientific Committee for its work. The UK regretted that the timetable for the review of the JARPA II programme was still some years off and noted that the agreed procedure may need to be revisited in light of the outcome of the Commission's discussions on its future. Japan expressed its commitment to follow the new procedure. It hoped this new procedure will help to promote a better understanding of its research activities among a wide audience. Australia looked forward to the outcome of the JARPN II review following this new approach.

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

¹⁵Ann. Rep. Int. Whaling Comm. 2004: 33-34.

¹⁶For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 11 (2009).

10.2 Review of results from existing permits

10.2.1 Report of the Scientific Committee

The Scientific Committee reviewed results from Japan's current research programmes in the Antarctic (i.e. JARPA II¹⁷) and North Pacific (JARPN II¹⁸) and Iceland's programme in the North Atlantic¹⁹.

With respect to JARPA II, 2007/08 was the first year of the full-scale research programme. While permits were issued for minke, fin and, for the first time, humpback whales, Japan subsequently agreed to delay the taking of humpback whales at least until after the 2008 Annual Meeting. In the event, 551 Antarctic minke whales were taken and no fin whales.

In the JARPN II programme, a total of 207 (plus one lost) common minke, 100 sei, 50 Bryde's and 3 sperm whales were taken in 2007. A review of the first six years of JARPN II will take place intersessionally prior to next year's Annual Meeting following the new approach mentioned in section 9.1 above.

Iceland's programme on North Atlantic common minke whales has finished its sampling phase. The total number of common minke whales taken has been 200, the last being taken in 2007. Currently the samples and data are being analyzed and when this has been completed, the programme will be subject to an IWC review following the agreed new procedure.

Again, as in the past, the Committee's discussion on the results from existing permits reflected the deep division within the organisation regarding scientific permit whaling. This division is one of the main reasons why a better approach to the review of proposals and results had been developed.

10.2.2 Commission discussions and action arising

Discussions in the Commission focused on Japan's research programmes under special permit, particularly that in the Southern Ocean.

New Zealand welcomed the Scientific Committee's report and in the spirit of openness and no surprises wished to make clear its objection to whaling under special permit conducted by Japan in the Southern Ocean. It stressed the depth of feeling in New Zealand that such programmes create. It noted that Japan's annual expedition to the

Southern Ocean inflames public opinion in New Zealand leading to the receipt of many complaints regarding the lethal takes in the Southern Ocean sanctuary. New Zealand noted that the regrettable events in recent seasons (see section 11) have underlined its concerns regarding the safety of vessels and their crews and the damage to the pristine Antarctic environment that may occur. It acknowledged Japan's decision not to take humpback whales last season. It recognised this was a difficult decision but respected the courage of the Japanese government. New Zealand looked to Japan's leadership to continue to take hard decisions and called for a halt to the lethal aspects of its research in the Southern Ocean.

Australia associated itself with the remarks of New Zealand. It believed that whaling under special permit has been the most contentious and divisive issue facing the Commission and that there is no need to kill whales for scientific purposes in the 21st century. Australia considered that the programmes purportedly conducted under Article VIII of the Convention add nothing relevant to knowledge for the conservation and management of whales that cannot be obtained by non-lethal means or historical records. It noted that because programmes under special permit are not subjected to formalised oversight by the Commission, whale populations – such as the J-stock minke whales – are put at substantial risk of continued depletion. Australia also believed that special permit programmes conducted within a sanctuary (i.e. JARPA II) undermine the substantial benefits of IWC sanctuaries in a serious and unacceptable manner and that the existing special permit programmes conducted by two countries are in reality commercial whaling operations prohibited by the moratorium. Like New Zealand, the Australian Government and its people were deeply concerned that JARPA II again took place in the Southern Ocean during the austral summer. It too acknowledged the decision by Japan not to proceed to take humpback whales and noted that no fin whales were taken last season, explaining that it has particular concerns for these species due to their conservation status and the importance of humpback whales to the vigorous whale watching industry in Australia and the South Pacific region. Again like New Zealand, Australia called for an ending to lethal research and drew attention to two proposals intended to help resolve this critical problem in the Commission by consensus.

Firstly, Australia proposed that the approach to scientific permits in the Commission be reformed. It noted that at present, Contracting Governments are required to submit plans to the Scientific Committee for review, but that the Commission does not currently play a role in accepting or denying a permit. It welcomed the new procedure for reviewing new, existing and on-going special permit programmes agreed this year by the Scientific Committee noting that this will, importantly, remove the proponents from the review deliberations and make the process more consistent with acceptable science review practice. However, Australia also proposed that the Commission should agree by consensus on its research priorities and adopt criteria to which all research should conform. The Commission could then assess all permit proposals against strict scientific criteria, and governments would issue permits only with the agreement of the Commission. Australia's second proposal was that the Commission should develop regional, non-lethal, whale research plans to coordinate and optimise the research

¹⁷JARPA II - a 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. JARPA II 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.

¹⁸JARPN II 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.

¹⁹A proposed permit by Iceland, primarily for feeding ecology studies for the take of 100 common minke whales, 100 fin whales and 50 sei whales in each of two years was presented at the 55th Annual Meeting in 2003. In the event, Iceland has issued permits to take 38 common minke whales in 2003, 25 minke whales in 2004, 39 minke whales in 2005, 50 minke whales in 2006 and 39 minke whales in 2007.

programs of IWC members against agreed priorities and objectives. It hoped to initiate such a plan for the Southern Ocean and that similar partnerships could be established in other parts of the world (see section 15.3).

Brazil associated itself with the remarks of New Zealand and Australia and believed that the issue of whaling under special permit will be one of the most difficult issues to deal with in the process established regarding the future of the IWC. It voiced its continued strong opposition to such practices and invited those conducting lethal research to suspend such activities thereby contributing to the joint efforts to achieve a better understanding among IWC members.

Slovenia, speaking on behalf of the EU believed that special permit whaling programmes should be brought under IWC control and phased-out completely in the short-to medium-term. The UK associated itself with the remarks of previous speakers. It considered whaling under special permit to be second only to the issue of animal welfare and found it hard to convey the sense of public outrage of the majority of the UK public over Japan's research whaling. Like others, it welcomed that Japan had not taken humpback whales this last season and noted that no fin whales were taken. In this respect and noting that only nine fin whales had been seen by Japan's scientists last season, it asked whether Japan could justify the continued planned take of 50 fin whales in subsequent years of JARPA II. The USA, Argentina, Costa Rica, Chile, Portugal, Mexico, Luxembourg, Peru, Uruguay, France, Panama and Spain associated themselves with previous speakers and reiterated their opposition to whaling under special permit, believing it to be no longer necessary.

As it had on previous occasions, Iceland noted that since lethal scientific research on animals is carried out widely including in all IWC member countries, it is an accepted practice. It urged members to be consistent and to stop treating whales differently from other animals. Switzerland reported that its position is that lethal research on animals is only acceptable on two conditions: (1) that the results cannot be obtained by other research methods; and (2) that the principle of proportionality is followed, i.e. that the expected results of the research will contribute to science in such a fashion that any suffering of animals can be justified.

St. Kitts and Nevis understood that scientific permit whaling remains a controversial issue. However, it stressed that for developing countries, marine scientific research as provided for under UNCLOS and the ICRW is important in developing management approaches for marine living resources, including the ecosystem approach being advocated by many organisations. It therefore congratulated Japan for its continued commitment to research particularly in the Southern Ocean. St. Kitts and Nevis reminded Parties that whales in the high seas are considered common property that therefore required a collective management approach within the framework of the ICRW. It believed that some of the arguments against special permit whaling, especially with respect to humpback whales, were being driven by the economic interests of those promoting whalewatching. However, St. Kitts and Nevis considered that the interests of one group should not supersede the interests of others.

Japan considered that special permit whaling provides a challenge to the newly-established process to address IWC's future, i.e. whether the Commission will be able to

handle it in a diplomatic way or whether discussions will revert to the acrimony of the past. Japan believed that positions on this issue should be formulated on the basis of evidence available. However, its impression was that some governments formulate their positions first and then find the evidence to support them, ignoring information that is not supportive. Japan acknowledged that some countries saw no need, in the 21st century, to kill whales for research, but noted that it would be more convinced by this argument if the same countries believed there is no need to kill any animal. It therefore supported the views of Iceland in this respect. Regarding data from its research programmes, Japan reported that these are available and shared with the Scientific Committee through the Data Availability Agreement which was agreed by consensus. Japan found it ironic that scientists requesting data from its special permit programmes are frequently based in countries who are against these programmes. It questioned why these data are requested if they are not needed. Japan accepted that while there are many emotional views on special permit whaling, the responsibility of governments was not to promote such views but rather to develop positions based on evidence. It also believed that this issue is a challenge for good journalism which should be part of the solution rather than part of the problem. It considered that the equal treatment of views will help IWC to help itself. Japan recognised that continuing the *status quo* within the organisation would be easy but it stressed that members should consider the consequences of doing so. It noted that in trying to change the organisation it will be necessary to change the manner in which discussions are held. Finally, regarding the UK's question, Japan indicated that this would be addressed during its lunchtime presentation on the results from JARPA II.

The Russian Federation, Republic of Korea, Norway, Grenada, St. Lucia and St. Vincent and The Grenadines spoke in support of research under special permit as provided for by the Convention noting that such programmes have provided important information.

11. SAFETY ISSUES AT SEA

This item was included on the agenda at the request of Japan in view of protest activities of the Sea Shepherd Conservation Society that despite the adoption by consensus of IWC Resolutions at the 2006 and 2007 Annual Meetings²⁰ had again been launched against JARPA II research activities in the Southern Ocean during the austral summer of 2007/2008. Japan described the nature of the action taken which it believed had posed a serious threat to the safety of its vessels and their crew. It referred to the statement that had been issued in March by the Intersessional Meeting of the Commission on the Future of IWC, in which the meeting *inter alia*: (1) reiterated that the Commission and its Contracting Governments do not condone and in fact condemn any actions that are a risk to human life and property in relation to the activities of vessels at sea; and (2) urged Contracting Governments to 'take actions, in accordance with relevant rules of international law and respective national laws and regulations, to co-operate to prevent and suppress actions that risk human life and property at sea and with respect to

²⁰Resolution 2006-2 on the Safety of Vessels Engaged in Whaling and Whale Research-related Activities; Resolution 2007-2 on Safety at Sea and Protection of the Marine Environment.

alleged offenders'. Japan welcomed the consultations and co-operation it has had with other relevant governments and the concrete results that are being achieved. It hoped that IWC would encourage future co-operation.

A number of Contracting Governments also welcomed the ongoing co-operation with Japan regarding the recent protest activities in the Southern Ocean. They expressed concern over these activities and while they supported the right to peaceful protest, they noted that this must be done in a manner that does not present a risk to human life or property and is in accordance with domestic and international law. It was noted that IWC is not the competent body in which to address matters of vessel safety, but that this matter was to be discussed the following week at the International Maritime Organisation who has competency on this issue.

12. ENVIRONMENTAL AND HEALTH ISSUES

12.1 Scientific Committee activities²¹

12.1.1 Report of the Scientific Committee

12.1.1.1 CETACEAN DISEASES

The Cetacean Emerging and Resurging Disease (CERD) group established last year prepared information on cetacean pathogens, biotoxins and disease reports. It also reviewed progress on disease identification and standardisation, case definition, diagnostic laboratories and data sharing. Given the paucity of available or targeted diagnostic laboratories and diagnostic tests specific for marine mammals, a list of laboratories and experts for specific or general diagnostic capabilities by country, continent and/or region will be compiled and maintained.

The Scientific Committee received a report from a two-day pre-meeting workshop on skin diseases in cetaceans held in Santiago on 30-31 May. The workshop reviewed the state of knowledge on the examination of, distribution of, and causes of skin diseases in cetaceans with a focus on cetaceans of South America. The potential for impacts of skin diseases in small populations in areas where there are high levels of environmental degradation was recognised and it was agreed that special action should be given to prevalence and impact of skin diseases in dolphins from southern and south-eastern Brazil. With respect to global action, recommendations were made for research, standardisation and on data sharing.

12.1.1.2 ECOSYSTEM MODELLING

The question of ecosystem modelling in the context of cetacean conservation is important and has been addressed by the Scientific Committee on a number of previous occasions. This year, the focus was planning for the joint CCAMLR/IWC workshop, to be held in August 2008, to review input data required for ecosystem models to provide advice on krill predators in the Antarctic marine ecosystem. Expert Working Groups for each of the key taxa were preparing for the workshop. The Scientific Committee agreed that the approach taken by these groups, and the progress being made towards the workshop, was appropriate.

The use of the ECOPATH with ECOSIM software to explore the potential impact of cetaceans on fishery yields was also discussed. The Scientific Committee agreed that simulation testing of multiple models is a valuable

approach, reaffirming its conclusion of 2002 that at this stage, no single approach could be recommended to provide reliable information of value to consideration of cetacean dynamics in an ecosystem context. While this does not necessarily rule out the possibility that inferences could be drawn if a number of different approaches yield qualitatively similar results, the Committee agreed that it may be some time before this situation changes.

12.1.1.3 OTHER HABITAT RELATED MATTERS

CLIMATE CHANGE

The Scientific Committee put plans in place for a second workshop scheduled for February 2009 in Sienna, Italy (the first took place 12 years ago). The primary goal of the workshop is to determine how climate change may affect cetaceans, how to best determine these effects, and how to improve conservation under climate changes described in the 4th report of the International Panel on Climate Change. A Steering Committee was established to agree a final agenda and list of invited participants.

PLANNING OF PHASE II OF POLLUTION 2000+²²

Due to time constraints, the POLLUTION 2000+ Phase II modelling workshop planned for spring 2008 was not held. However, a new Steering Group has been assembled which is finalising plans for an intersessional workshop that will develop Terms of Reference for Phase II of the programme. *Inter alia* the workshop will establish a framework for modelling pollution effects, identify key cetacean populations to be studied, develop a protocol for validating the use of biopsy sampling techniques with respect to pollutant studies and then begin to apply this protocol to large whale species.

ANTHROPOGENIC NOISE

The Scientific Committee received new information on anthropogenic noise in relation to the potential impacts of seismic surveys on cetaceans, on mid-frequency sonar and a cetacean stranding event. It noted a call by a recent International Workshop on Shipping Noise and Marine Mammals for global action to reduce the contributions of shipping to ambient noise with targets being set for the next 10 and 30 years. It endorsed the noise-reduction goal.

SOCER

This year the State of the Cetacean Environment Report focussed on the Atlantic, and is based on literature analyses. Almost half of all the literature published on cetaceans in 2007 dealt primarily with conservation-related issues. The focus of next year's report will be the Pacific Ocean.

12.1.2 Commission discussions and action arising

The Commission noted the Scientific Committee's report and endorsed its recommendations. Comments on specific issues are summarised below.

ECOSYSTEM MODELLING

The USA supported the preparations for the joint IWC/CCAMLR workshop. It also supported the Scientific Committee's statements regarding *inter alia* quantifying uncertainty, the need to understand prey resources, diet overlap, etc. before conclusions on competition can be drawn. Mexico supported these remarks.

²¹For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 11 (2009).

²²POLLUTION 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.

CLIMATE CHANGE

Germany, Peru, Australia, Mexico, Italy, Netherlands, USA, Chile, France, Argentina, Costa Rica, Ecuador, Luxembourg, Switzerland, Nicaragua and Austria all expressed concern regarding the possible impact of climate change on cetaceans and supported the proposed workshop. A number of them noted the importance of taking into account such effects in managing cetaceans. Australia, Germany and the USA pledged financial support as did two NGOs (WDCS and WWF). Costa Rica indicated its interest in hosting a preliminary meeting to the Siena workshop.

ANTHROPOGENIC NOISE

Austria expressed its appreciation for the Scientific Committee's work on environmental issues, noting that it had had a busy and fruitful year. With respect to noise, it noted that noise in the ocean from a number of sources (military sonar, seismic activity, vessel traffic) is increasing and may have the potential to reduce the range over which whales can hear. It suggested that this acoustic 'fog' may be much more important than currently thought. For this reason, and noting the new relationship between IWC and IMO, it urged the Scientific Committee to work specifically on the impacts of noise from shipping. Belgium supported this proposal, noting that other IGOs are also dealing with the issue of noise.

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 comments were made on health issues.

13. WHALEWATCHING

13.1 Report of the Scientific Committee²³

Over recent years there has been emerging evidence that disturbance from some whalewatching activities may have population-level effects in cetaceans. The Scientific Committee is therefore planning a large-scale whalewatching experiment to assist in describing such effects, improve understanding of the mechanisms involved and develop mitigation measures. Work will continue intersessionally and a final research proposal is expected to be available at next year's meeting. An overview of whalewatching in South America raised concerns that aerial whalewatching in Chile and Brazil using helicopters has the potential to disturb whales. The Committee reviewed aspects of short- and long-term methods to assess biological impacts of whalewatching on cetaceans and gave advice on further developments.

With respect to guidelines and regulations for whalewatching, the Committee expressed some concern at the apparent trend of government agencies to use voluntary codes of conduct rather than legal regulations. The Committee recommended that in general, codes of conduct should be supported by appropriate legal regulations and modified if necessary as new biological information emerges. The world-wide compendium of whalewatching

guidelines and regulations around the world was updated and is available on the IWC website (<http://www.iwcoffice.org/conservation/whalewatching.htm#regulations>).

Whalewatching, with a focus on management issues was also addressed by the Conservation Committee (see section 16).

13.2 Commission discussions and action arising

Governor Das Neves of the Province of Chubut, Argentina gave a presentation on whalewatching on the Valdes Peninsula.

Australia noted that it believed that whalewatching is the most significant and important non-consumptive use of cetaceans in the world, both economically and culturally and that successful whalewatching can raise public awareness, improve scientific understanding of cetaceans and create financial incentives for the conservation of the marine environment. It informed the meeting that it had recently commissioned a report into the global socio-economic value of whales. A progress report had just been released that *inter alia* indicated that around 100 million people have participated in whalewatching and that another 10 million more people go whalewatching each year. Australia noted that these figures are supported by other recent data reporting that between 1998 and 2006, whalewatching visits in Latin America have expanded from a quarter of a million to nearly 900,000, contributing US\$80 million in direct expenditure and US\$278 million in total. Australia believed that whalewatching is increasingly important in developing countries, where 45,000 whalewatching trips were recorded in 1998, representing just half a per cent of the global total and has an enormous potential to grow. However, it also believed that the industry is not universally well-managed from a scientific and precautionary aspect and recognised that it may have important impacts on the abundance, distribution, maintenance and recovery of cetacean populations. As such, Australia suggested that the conduct and regulation of whalewatching is of direct concern to the Commission, which should be involved in assessing these impacts and developing measures to minimise them. Australia reported that it will commit voluntary contributions to assist the Commission explore and deliver support to the many countries looking to implement management and realise the benefits of whalewatching for their communities, regions and nations.

Germany believed whalewatching to be an important issue for the Commission and that the Scientific Committee plays an important role. It believed that the development of world-wide regulations was important. Mexico congratulated the Scientific Committee for its work and supported the development of solid scientific plans and the remarks made by Australia. The UK understood that whalewatching can be an important economic driver (whalewatching activities in Scotland generate significant income), demonstrating that whales are valued as live animals. However, like others it recognised that whalewatching activities have the potential to impact whales and agreed that best practice guidelines are needed. The USA also believed whalewatching to be an important non-lethal use of whales and that as noted by Australia and others, the industry brings economic benefits to coastal communities. It supported the Scientific Committee's work and regional workshops that disseminate information on

²³For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage (Suppl.)* 11 (2009).

whalewatching and believed that the Conservation Committee's work is also useful.

New Zealand associated itself with the remarks of Australia and thanked Argentina for its presentation. It recalled that New Zealand has always been a strong supporter of IWC's work on whalewatching. Although, like some other Commission members, it was a country that had practiced commercial whaling, for the past 20 years it has seen a steady increase in the economic benefits provided by whale and dolphin watching. It noted that one of its communities, Kaikoura, has been transformed because of its whalewatching activities that host up to 60,000 people annually. New Zealand reported that whalewatching enterprises exist on both its North and South Islands generating over 120 million New Zealand dollars of tourist revenue. However, like others it believed it essential that such activities are managed in a sustainable manner. New Zealand believed that IWC's work on whalewatching is not only useful to its own Contracting Governments but also to other countries, particularly developing nations who are developing whalewatching activities. It looked forward to continued work in this area which illustrated the positive co-operation that can exist within the organisation.

Argentina also stressed the increasing importance of whalewatching to local communities in Latin America and thanked Australia for making reference to the report recently released. It noted that whalewatching in Latin America is carried out within protected areas and that it promotes responsible whalewatching. Brazil underlined the importance of the non-lethal use of whale resources that bring increasing benefits to local communities. It invited all Contracting Governments to work together to mitigate the possible impacts of whalewatching. Brazil considered whalewatching an important element in discussions on IWC's future. Costa Rica, Chile, Ecuador, Panama and Peru also stressed the importance they gave to this issue and the economic benefits that can accrue from it. Peru noted that whalewatching is just beginning in its country and that it welcomed the opportunity to learn from the experience of others.

Spain and France spoke in support of the Scientific Committee work. Spain was pleased to note that whalewatching activities in the Canary Islands would be reviewed by the Committee in Madeira next year. It also referred to new legislation recently brought in on protective measures for cetaceans. France reported that a code of good conduct for whalewatching in the Pelagos Sanctuary has been developed and that it is encouraging whalewatching, including for the collection of scientific data, in its overseas territories of New Caledonia and French Antigua.

Norway supported the experimental approach being taken by the Scientific Committee to studying impacts of whalewatching on cetaceans. It noted, as previously, that northern Norway has both commercial whaling and whalewatching activities, that there is no conflict between the two and that the government supports both. St. Lucia reported that like Norway, whaling and whalewatching co-exist on its island. It noted that it has to monitor the whalewatching activities and has observed aggressive behaviour by killer whales when guidelines are not followed. Iceland also noted that whaling and whalewatching are not mutually exclusive and that both are conducted in Icelandic waters.

The Republic of Korea reported that it does not currently have any commercial whalewatching activity and that a feasibility study recently carried out indicated that at present whalewatching would not be a substitute for traditional sustainable use. China recognised the economic benefits of whalewatching being realised in some countries. It expressed concern about the increasing number of people participating in such activities and believed that the Scientific Committee should work to reduce the negative impacts to a minimum. Japan noted that it has never opposed whalewatching and suggested that the improved atmosphere within the Commission should make easier discussions on this issue.

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

14. CO-OPERATION WITH OTHER ORGANISATIONS

14.1 Report of the Scientific Committee²⁴

The Scientific Committee has continuing co-operative arrangements with a number of other organisations including CMS (Convention on the Conservation of Migratory Species), ASCOBANS (Agreement on Small Cetaceans of the Baltic and North Seas), ACCOBAMS (Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area), ICES (International Council for the Exploration of the Sea), IATTC (Inter-American Tropical Tuna Commission), ICCAT (International Commission for the Conservation of Atlantic Tuna), CCAMLR (Convention for the Conservation of Antarctic Marine Living Resources), Southern Ocean GLOBEC, NAMMCO (North Atlantic Marine Mammal Commission), FAO (Committee on Fisheries), PICES (North Pacific Marine Science Organisation), IUCN (International Union for the Conservation of Nature) and ECCO (Eastern Caribbean Cetacean Commission). Reports from IWC observers/participants attending meetings of the above organisations were reviewed.

14.2 Commission discussions and action arising

The Commission noted the Scientific Committee's report. The Secretary reported that the IMO (International Maritime Organisation) Council approved the Agreement of Co-operation with IWC at its 100th session from 16-10 June 2008. The Agreement will now be submitted to the IMO Assembly for final approval at its next session in November 2009. The Secretary noted that in the meantime, IMO will extend to IWC the privileges and facilities envisioned in the Agreement on a provisional basis.

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

This year the Scientific Committee undertook a regional review of conservation issues regarding the (at least) 39

²⁴For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 11 (2009).

species of small cetaceans in the southeast Pacific (Columbia, Ecuador, Peru and Chile). The Committee noted that little is known about the distribution and abundance of many of the coastal species that are probably most impacted by anthropogenic activities, including Burmeister's porpoise, Peale's dolphin, bottlenose dolphin and the Chilean dolphin. A number of recommendations were made to improve the knowledge of the abundance, distribution, pattern of residency, population structure, life history and ecology of these and other small cetacean species. The Committee expressed concern with respect to both habitat degradation and the exclusion of small cetaceans from their habitat by aquaculture developments and recommendations were also made with respect to direct and incidental takes. A number of small coastal populations, including bottlenose dolphin, Peale's dolphin and spotted dolphins may be threatened by unregulated and undocumented takes for bait. It recommended that the impacts of such removals be assessed and the status of the affected populations be documented. The Committee also recommended that range states establish programmes for monitoring and reporting of bycatch of small cetaceans as part of their regular fisheries monitoring and that existing bycatch monitoring programmes be continued, particularly in relation to mitigation efforts. Recommendations for further research and regional collaboration (e.g. with IOC/UNESCO²⁵) were made.

The Scientific Committee also reviewed progress on previous recommendations including those with respect to the vaquita, harbour porpoise (exposed to high bycatch throughout its range), franciscana (at risk from harbour development and bycatch), illegal takes of botos, Dall's porpoise (hand-harpoon hunts) and Hector's dolphins (bycatch in gillnet fisheries).

With respect to the vaquita, the Committee noted that the entire population is now most likely to be no more than 150 animals and that there has been an extraordinarily rapid decline of approximately 75% in a decade. It further noted that if the current mortality due to bycatch in fishing gear continues, it is likely that the species will be extinct in five years and probably less. The Committee therefore reiterated its extreme concern about the conservation status of the vaquita which is the most endangered cetacean species in the world. It expressed its great frustration that despite more than a decade of warnings, this species has continued on a rapid path towards extinction due to a lack of effective conservation measures in Mexico (although it welcomed news that Mexico is taking measures to remove fishing gear that entangle these animals). It strongly recommended that, if extinction is to be avoided, all gillnets should be removed from the upper Gulf of California immediately. In the extremely unfortunate circumstance that this does not occur immediately, the Committee indicated that it must certainly occur within the three-year period starting in 2008. To meet this schedule, the Committee encouraged the international community including IWC member countries and non-governmental organisations (NGOs), to assist the government of Mexico in this task.

The Committee reaffirmed its concern over the conservation status of the boto and that directed killing of this species continues without restriction or catch limits. It

recommended that immediate steps be taken by Brazil, Colombia, Peru and Venezuela to stop this hunt and that range states report to next year's meeting regarding progress made.

With respect to Dall's porpoise, it was noted that the hand-harpoon hunt in the western North Pacific near Japan targets a population of *truei*-type porpoises as well as a population of *dalli*-like porpoises. The Committee reported that it had received new abundance estimates calculated from Japanese 2003 survey data for both types which were 173,600 (CV=0.21) and 178,160 (CV=0.23) respectively. It noted that the new estimates are lower than those from 1991. The Committee re-iterated its concerns for stocks of Dall's porpoise and repeated earlier recommendations that catches should be reduced to sustainable levels, that the bycatch levels be quantified and that a full assessment of each of the affected populations be conducted as soon as possible.

Finally, the Committee welcomed new information on abundance surveys in European Atlantic waters and plans for surveys in the Mediterranean. When reviewing the takes of small cetaceans, the Committee noted the apparent paucity of bycatch monitoring data from European fisheries despite the introduction of EU Regulation 812 in 2004. It recommended that information on the efficacy of this regulation be submitted to the Committee for evaluation.

15.1.2 Commission discussions and action arising

Switzerland congratulated the Scientific Committee on its work on small cetaceans, which it considered to be of great importance and hoped would be continued. It reminded the Commission that Switzerland believes that IWC has some responsibility for all cetaceans. Australia also welcomed the Committee's report and endorsed its many recommendations for improving the management of human activities such as directed hunts and fisheries to promote conservation and recovery. It commended governments, including Mexico and New Zealand, who have been making efforts in this regard. The USA associated itself with the remarks of Switzerland and Australia. Austria also believed that work on small cetaceans should be a core issue of the IWC. Noting last year's report on the likely extinction of the baiji, and the Committee's warnings regarding the status of other small and large cetaceans, not least the vaquita, Austria stressed that IWC should act before a stock or species becomes critically endangered, particularly if the threat is of a relatively simple nature, such as direct takes. In this respect it referred to the boto and Dall's porpoise. Sweden, Switzerland and Ireland supported Austria's remarks.

With respect to the vaquita, Mexico thanked the Scientific Committee for its work and confirmed that by Presidential Decree, over 50 million USD is being made available to remove gillnets throughout the range of the vaquita. New Zealand and Spain welcomed this announcement. New Zealand understood how hard it can be to take decisions on small cetaceans. Sweden informed the Commission that in response to the extreme concern expressed by the Scientific Committee last year, it had sent a Demarche to the Mexican government expressing concern but also indicating its willingness to help save the vaquita. It thanked the many other IWC members who joined the Demarche. However, noting the very strong

²⁵Intergovernmental Oceanographic Commission/
United Nations Educational, Scientific and Cultural Organisation.

language used by the Scientific Committee again this year, Sweden remained concerned regarding the status of the vaquita and endorsed fully the Committee's recommendations. The USA also supported the Committee's recommendations and indicated that it had been very pleased to join the friendly Demarche. It looked forward to working with Mexico on this matter. Mexico thanked New Zealand, Sweden and the USA for their support and noted the support for its scientific studies received from the International Fund for Animal Welfare.

Uruguay thanked the Scientific Committee for its work on small cetaceans. With respect to the franciscana, which is found in Brazil, Uruguay and Argentina, Uruguay noted its concern regarding the exposure of this species to bycatch in coastal fisheries leading to the loss of many individuals each year. It requested support to help it with local studies aimed to provide a better understanding of this issue at a regional level.

With respect to the boto, Brazil reported that it has established a national working group of cetacean biologists, fisheries experts and environmental managers to devise better regulations for the fisheries that are the major cause of mortalities of the boto. Luxembourg called for takes of the boto to be reduced.

Cambodia reported that it is taking measures to reduce bycatch of the Irrawaddy dolphin of the upper Mekong River through a reduction in the use of gillnets. The Irrawaddy dolphin numbers around 100 animals and is facing extinction without conservation efforts. China reported on the measures it has taken to protect cetaceans of the Yangtze River (e.g. establishment of 7 sanctuaries, large scale monitoring and the release of young and larval fish as a food source) and its future work plan particularly regarding protection of the finless porpoise. New Zealand thanked Cambodia and China for their reports. Nicaragua congratulated China for its conservation plans.

Sweden, UK, USA, Finland, Switzerland, Belgium, Luxembourg, New Zealand, Mexico, Portugal, Ireland and India expressed concern regarding the conservation status of Dall's porpoise and the current level of directed takes by Japan which they considered to be unsustainable. They supported the Scientific Committee's recommendations. The UK welcomed the new abundance estimates for Dall's porpoise in Japanese waters but noted that they were lower than those from 1991 and that they could be improved. It noted that IWC had repeatedly expressed concern regarding this hunt, including through Resolutions adopted in 1990 and 2001. The UK reported that since 2001 over 88,000 Dall's porpoises had been killed in the hunt and that no information is available on the number of animals struck and lost or caught incidentally. It urged Japan to take advantage of the expertise within the Scientific Committee's Sub-committee on Small Cetaceans in addressing the concerns expressed. The UK, like others, welcomed the indication from Japan that it is reviewing potential management methods for setting catch limits, such as the 'potential biological removal' (PBR) and noted that the use of PBR would result in lower limits than those set currently. Given that current information on Dall's porpoise predicts a poor outlook for this population, the UK hoped that in the new spirit of co-operation emerging in the organisation, Japan would embrace the majority view of members that small cetaceans fall within IWC's

mandate and act accordingly. Finland also welcomed the application of PBR and called on Japan to reduce its level of takes as soon as possible.

The Commission noted this part of 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 DEFINITION

Of general concern to the assessment of any cetaceans is the question of stock definition. 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.

Scientific Committee discussions this year focused on: (1) statistical and genetic issues related to stock definition; and (2) review of progress with the TOSSM (Testing of Spatial Structure Models) project to develop simulation tools that can be used to examine the performance of current and future genetic methods to investigate stock structure in a management context. In relation to the former, the Committee reviewed and updated its proposals on DNA data quality and control for genetic studies relevant to IWC management advice. It strongly recommended adherence to these guidelines for future studies explicitly carried out to provide stock structure advice in a management context, e.g. in relation to AWMP or RMP.

15.2.1.2 DNA TESTING

This item is discussed in response to Commission Resolution 1999-8²⁶. The DNA working group first addressed questions related to genetic methods for species, stock and individual identification and made a number of recommendations on this topic. It also discussed the first round of *GenBank* sequence assessment for species assignment based on 922 sequences from baleen whales deposited in the *GenBank* prior to 2007. The Committee agreed to conduct a second round of *GenBank* sequence assessment for species assignment of baleen whale sequences deposited in *GenBank* in 2007. Genetic samples were collected from Norwegian commercial catches in 2007 and from Japanese scientific whaling and Icelandic scientific and commercial whaling in 2007.

15.2.1.3 IDCR/SOWER CRUISES

The Chair of the Scientific Committee stressed the great contribution of the IDCR/SOWER programme to the Committee's work on Antarctic minke whales and re-emphasised the great contribution that SOWER data make to the work of several of its sub-committees and the Committee itself. He reported that last year the intention was for the IWC/SOWER cruise to investigate the relationship between the density of minke whale abundance inside and outside of the pack ice by conducting an abundance survey outside of the pack ice at the same time

²⁶Ann. Rep. Int. Whaling Comm. 1999: 55.

that the Australian Antarctic Division was conducting an aerial survey inside the pack ice. Unfortunately, due to unforeseen and unavoidable delays, the aerial survey was cancelled, except for a brief, but successful, pilot study which evaluated the equipment and the capabilities of the aircraft. Although the aerial survey was not conducted, the SOWER cruise continued as planned. Other priority objectives for the SOWER cruise that were accomplished were continued research on blue, fin, southern right and humpback whales.

The Committee thanked the Governments of Japan and Australia for providing the vessel, aircraft and crews needed to accomplish these surveys. It also recognised the extensive amount of information on a variety of cetaceans that has been collected during the 30 years of the SOWER cruises. To acknowledge this achievement, the Committee recommended that plans be developed to commemorate these cruises by updating the IWC webpages to include more cruise information and by creating a special volume of the IWC journal that reports some of results that came out of these cruises.

For the 2008/09 cruise, the Committee recommended a study that investigates the temporal changes in the spatial distribution of minke whales in relationship to the receding ice edge; and continuation of its co-operative project with the Australian aerial survey programme with a possible collaborative survey in 2009/10.

15.2.1.4 ELECTION OF OFFICERS

This year was the third year of the three-year term of the current Chair and Vice Chair of the Scientific Committee. According to the Committee's Rules of Procedure, the Vice Chair becomes Chair at the end of the three-year term unless he or she declines. Elections are undertaken by the Heads of Delegations. The Chair of the Scientific Committee reported that during the deliberations of the Head of Delegations it became clear that the Vice Chair (Debbie Palka, USA) had recently received extra commitments but that she would be able to take up the position as Chair after the meeting in 2009. The Heads of Delegations therefore agreed that the best way forward would be for the Chair and Vice Chair to continue in their current positions for another year and to elect a new Vice Chair at next year's meeting when Debbie Palka becomes Chair.

15.2.2 Commission discussions and action arising

Mexico thanked Arne Bjørge for being prepared to stay on as Chair of the Scientific Committee for a further year. The Commission noted this part of the report and endorsed its recommendations.

15.3 New initiatives

15.3.1 Report of the Scientific Committee

The Scientific Committee Chair reported that the Head of Science had introduced a document that outlined a general approach and framework towards developing conservation plans that should optimise the likelihood that such plans should be effective. In discussions it was suggested that this framework could be valuable for the Committee's work, particularly with regard to those populations not considered by the RMP and AWMP. The Committee agreed that the convenors will consider this approach when developing their agenda for next year's meeting.

15.3.2 Commission discussions and action arising

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

The Chair noted that Australia and France had submitted documents for consideration by the Commission under this agenda item.

INITIATIVE OF AUSTRALIA

Australia drew attention to two documents it had prepared for this year's meeting i.e. IWC/60/15 – Conservation management plans for improved cetacean management and IWC/60/16 – Regional non-lethal research partnerships: a proposal for the Southern Ocean. It noted that it would confine its remarks under this agenda item to the second document, with the first being discussed under the agenda item on the Conservation Committee.

Australia reported that it planned to enhance the scientific process that underpins sound conservation efforts in the Commission via the establishment of voluntary, coordinated regional research partnerships. Specifically it proposed the establishment of the first such regional partnership, i.e. for the Southern Ocean.

Before expanding on its proposal it acknowledged the ongoing positive efforts of Japan and the Scientific Committee in conducting some three decades of non-lethal sightings and biopsy surveys in the Southern Ocean. It fully supported this work in which it is collaborating with Japan. However, Australia believed that its proposal takes a substantial further step in advancing scientific research in the Southern Ocean, the aim of these partnerships being to co-ordinate and direct strategic, non-lethal research efforts around a set of collectively agreed objectives. As a general principle, Australia suggested that the research objectives should focus on gathering information on issues that are a high priority for the Commission which might include: the effects of the moratorium on whale populations; constraints to recovery in some populations; ecological relationships; the effects of whale sanctuaries; information relevant to the assessment and effective management of threats such as bycatch and climate change; and information in support of management tools such as Aboriginal Whaling Management Procedures and Conservation Management Plans.

Regarding the Southern Ocean partnership, Australia informed the Commission that it will host a planning meeting in early 2009 to establish the partnership, agree research objectives, and develop a research plan. It noted that the workshop will be open to all interested countries and research groups and will establish a co-operative mechanism to manage and share data and samples. The research plan will be submitted to the Scientific Committee at IWC/61 for review. Following the inclusion of the review suggestions, Australia indicated that the partnership will undertake the research activities and report annually to the Scientific Committee on progress. The partnership will conduct major periodic reviews to direct future efforts.

Australia believed that by implementing such research partnerships, the IWC will: develop synergies between existing but disparate efforts – such that the collective benefit is greater than the sum of the parts; focus existing and new research work on agreed, prioritised issues, and address these at scales that are not possible with smaller programmes; provide the Commission with a research delivery mechanism that responds to priorities identified by the Scientific Committee, and which can respond to emerging issues; build capacity among research partners;

and establish centralised, regional data and sample archives, along with agreed rules for the open and rapid sharing of data and samples.

Finally, Australia announced that it would make a substantial contribution to such a partnership. It urged Japan to consider participating and, in support of this new partnership approach, to suspend its lethal scientific research in the Southern Ocean.

The USA, New Zealand, Brazil, UK, Argentina, France, Chile, Mexico, Spain, Panama, South Africa and Ecuador warmly welcomed and supported Australia's proposal. South Africa requested that the impacts of whalewatching on cetaceans be included in the Southern Ocean partnership and encouraged all Southern Hemisphere member countries to participate. The UK believed that the ideas proposed by Australia were the direction in which IWC should proceed in future.

INITIATIVE OF FRANCE

France introduced document IWC/60/22 that provided a summary of available facts and figures on key subjects discussed by the Scientific Committee. In doing so it noted that the Scientific Committee is internationally renowned, forms the benchmark in this area and provides the basis for the Commission's decisions. However, it drew attention to the complexity and technical nature of the work which of necessity is ongoing over a number of years making it hard to develop a summary of data available in any given year. Given the frequency with which new countries are adhering to the Convention, France believed it is vital for new delegates to have a clear picture of the Scientific Committee's work on a certain number of key subjects. In addition it noted the need, particularly of developing countries and others who do not have delegates to the Scientific Committee meeting, for information that is more readily accessible than the full Committee's report. France suggested that this could be achieved by developing a summary document covering certain issues. Consequently, and by way of illustration, France was presenting a summary document to the Commission based on the scientific publications and data submitted to the IWC Scientific Committee and information drawn from the international scientific literature. The document provided a species-by-species summary of available knowledge of stock distributions, stock numbers and the conservation of the thirteen species of whales covered by the Convention. France noted that the document is currently available in French with a partial translation into English. It stressed that this work should be seen as a starting point or proposal for the type of summary document that could help inform all delegations of the scientific findings discussed by the Scientific Committee. It further stressed that it is in no way intended to replace the Committee's work, but to complement it. Other key subjects could be addressed in the future.

The Chair of the Scientific Committee found the document to be of much interest but noted that the Committee had not yet had a chance to review it. However, he believed that France's initiative was in accord with the Committee's own efforts to improve communication with the Commission. He indicated that he would be pleased to work with France on this matter in the intersessional period.

Mexico, Portugal, Switzerland, Australia, Argentina, Chile, Spain, Russian Federation, Germany, Italy, Peru and Japan welcomed this timely and constructive initiative.

Spain endorsed the remarks of the Scientific Committee Chair and Japan welcomed the Chair of the Committee's offer to work with France. While believing that this summary would help the understanding of the Committee's work, particularly by new members, the Russian Federation considered that documents should be reviewed by the Committee itself to ensure accuracy, particularly with regard to abundance estimates. Italy and Japan agreed.

The Chair concluded that the initiative of France was very useful but that the process should go through or alongside the work of the Scientific Committee to help to improve communication with the Commission.

15.4 Scientific Committee future work plan

15.4.1 Report of the Scientific Committee

The Chair of the Scientific Committee described the work plan drawn up by its 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.

15.4.1.1 RMP

The following issues are high priority topics:

- (1) review MSY rates;
- (2) dependent upon results of (1), finalise the approach for evaluating proposed modifications to the *CLA*;
- (3) complete *Implementation* for the western North Pacific Bryde's whales;
- (4) complete *Implementation* for North Atlantic fin whales; and
- (5) complete *Implementation Review* for North Atlantic minke whales.

15.4.1.2 AWMP

The following issues are high priority topics:

- (1) complete work on sex ratio methods for common minke whales off West Greenland;
- (2) conduct *Implementation Review* of eastern North Pacific gray whales;
- (3) carry out annual review of aboriginal catch limits for Greenland and St. Vincent and The Grenadines fisheries;
- (4) continue work on developing *SLAs* for the Greenland fisheries; and
- (5) consider lessons learned from the bowhead whale *Implementation Review*.

15.4.1.3 BYCATCH AND OTHER ANTHROPOGENIC REMOVALS (BC)

The following issues are high priority topics:

- (1) collaboration with FAO on collation of relevant fisheries data;
- (2) progress on joining the Fishery Resource Monitoring System (FIRMS);
- (3) estimation of bycatch mortality of large whales;
- (4) estimation of risk and rates of entanglement;
- (5) review progress in including information in national Progress Reports;

- (6) review methods to estimate mortality from ship strikes, including modelling risk; and
- (7) continue to develop a global database of ship strike incidents.

The following will be discussed only if there is time and documentation available:

- (8) continue to consider methods for assessing mortality from acoustic sources and marine debris.

15.4.1.4 BOWHEAD, RIGHT AND GRAY WHALES

The following issues are high priority topics:

- (1) assess stock structure and abundance of the eastern Canada and West Greenland bowhead whales;
- (2) provide information to the SWG on the AWMP for the *Implementation Review* of eastern North Pacific gray whales;
- (3) perform annual review of catch information and new scientific information for B-C-B Seas bowhead and eastern North Pacific gray whales;
- (4) review new information on western North Pacific gray whales including the report of the IUCN rangewide workshop;
- (5) review the report of the intersessional Steering Group on the assessment of southern right whales; and
- (6) review new information on all stocks of right whales and the small stocks of bowhead whales.

15.4.1.5 IN-DEPTH ASSESSMENT

The following issues are high priority topics:

- (1) produce agreed abundance estimates of Antarctic minke whales from IDCR/SOWER data (highest priority);
- (2) conduct an analysis of ageing errors that could be used in catch-at-age analyses of Antarctic minke whales;
- (3) continue development of the catch-at-age models of the Antarctic minke whales;
- (4) continue to examine the differences between minke abundance estimates from CPII and CPIII (these may be Area-specific differences), particularly the impact of sea ice conditions on abundance estimates; and
- (5) develop recommendations for future SOWER cruises, both for the short- and long-term.

The following will be discussed only if there is time and documentation available:

- (6) evaluate the JARPA abundance estimates, focusing on minke whale estimates; and
- (7) initiate planning of in-depth assessment of sei whales.

15.4.1.6 IN-DEPTH ASSESSMENT OF WESTERN NORTH PACIFIC COMMON MINKE WHALES WITH A FOCUS ON J-STOCK

The following issues are high priority topics:

- (1) conclude discussions about stock structure in the Sea of Japan;
- (2) consider new information on J-stock animals along the Pacific coast of Japan; and
- (3) integrate information from abundance estimates with the assumption of $g(0)=1$ in surveyed areas.

15.4.1.7 SOUTHERN HEMISPHERE WHALES OTHER THAN ANTARCTIC MINKE WHALES

The following issues are high priority topics:

- (1) humpback whales - complete the assessments of breeding stocks BSB and BSC and continue assessment of breeding stocks D, E and F; and

- (2) blue whales (with emphasis on non-Antarctic blue whales).

15.4.1.8 ENVIRONMENTAL CONCERNS

The following issues are high priority topics:

- (1) review report of the second climate change Workshop;
- (2) review report of the POLLUTION+ Phase II planning Workshop;
- (3) receive the State of the Cetacean Environment Report (SOCER); and
- (4) review report from the intersessional group on cetacean emerging and resurging disease (CERD), including skin disease.

The following will be discussed only if there is time and documentation available:

- (5) review any new information on anthropogenic noise and marine energy production.

15.4.1.9 ECOSYSTEM MODELING (EE)

The following issues are high priority topics:

- (1) review report from the joint CCAMLR/IWC Workshop; and
- (2) review models from JARPN II.

15.4.1.10 STOCK DEFINITION

The following issues are high priority topics:

- (1) statistical and genetic issues relating to stock definition (including further discussion of DNA data quality, and guidelines for appropriate analysis);
- (2) progress on TOSSM; and
- (3) criteria for unit-to- conserve.

15.4.1.11 WHALEWATCHING

The following issues are high priority topics:

- (1) discuss the proposal for a large-scale whalewatching experiment (LaWE);
- (2) review whalewatching in Portugal (Azores, Madeira), Canary Islands and Strait of Gibraltar;
- (3) assess the impacts of whalewatching on cetaceans; and
- (4) review reports from Intersessional Working Groups.

The following will be discussed only if there is time and documentation available:

- (5) consider information from platforms of opportunity of potential value to the Scientific Committee;
- (6) review whalewatching guidelines and regulations; and
- (7) review risks to cetaceans from whalewatching vessel collisions.

15.4.1.12 SMALL CETACEANS

The following issues are high priority topics:

- (1) review systematics, population structure and status of common dolphins;
- (2) review progress on previous recommendations; and
- (3) review takes of small cetaceans.

15.4.1.13 DNA

The following issues are high priority topics:

- (1) review genetic methods for species, stock and individual identification;
- (2) review *GenBank* sequence assessment for species assignment and continue discussion of plans for *GenBank* sequence assessment for species assignment;
- (3) collection and archiving of tissue samples from catches and bycatches; and

- (4) reference databases and standard for diagnostic DNA registries

15.4.1.14 SPECIAL PERMITS (SP)

The following issues are high priority topics:

- (1) review report from the specialist Workshop to evaluate results from JARPN II; and
- (2) receive (but not review) cruise reports from ongoing special permit programmes.

15.4.2 Commission discussions and action arising

The Commission endorsed the programme recommended by the Scientific Committee.

15.5 Adoption of the Report of the Scientific Committee

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

16. CONSERVATION COMMITTEE

The Conservation Committee met on 17 June and was chaired by Hyun-Jin Park (Republic of Korea). Delegates from 27 Contracting Governments participated. A summary of the discussions is provided below. The full report is given in Annex I.

16.1 Report of the Conservation Committee

16.1.1 Adoption of the agenda

Iceland expressed regret that approximately half the Commission were not present and that many countries found the basis of the Committee unacceptable and divisive. Others were pleased that so many countries continued to support the work of the Committee and saw conservation issues as a key priority of the IWC.

16.1.2 Investigation of inedible 'stinky' gray whales

During the meeting of the Conservation Committee at IWC/57 in Ulsan in 2005, it was agreed to establish a research programme to address the issue of inedible 'stinky' gray whales caught by Chukotkan aboriginal subsistence hunters.

The USA reported on continuing joint research by the Russian Federation and the USA to address the issue and noted that the Russian Federation had provided six tissue samples to the Scientific Committee for analysis this year. Research is on-going and a report on the findings should be available for review at IWC/61 next year in Madeira.

16.1.3 Ship strikes

16.1.3.1 SHIP STRIKES WORKING GROUP

The Third Progress Report of the Ship Strikes Working Group (SSWG) was reviewed. The Chair of the SSWG, Alexandre de Lichtervelde (Belgium) informed the Committee that the group had met the previous day to review progress and develop recommendations for further work. The SSWG report is Appendix 4 of Annex H.

He reported on co-operation with IMO, the development by the Scientific Committee of the Global Database on Ship Strikes - which now includes 763 records (see section 7.1.1.3) and outlined current progress against each of the ongoing recommendations in the SSWG work plan. He noted that progress had been made in all areas with the exception of the development and implementation of national legislation but noted that this is the responsibility of Contracting Governments. There was agreement that the SSWG work plan should be updated to reflect the current status of progress and formatted so that the status of the

recommendations and the current work items can be easily identified. With respect to funding, Italy had provided a voluntary contribution to the Conservation Committee of 12,000 Euro for its ship strikes work and Belgium had announced a 17,000 Euro internal budget to promote the collisions database and its utilisation within the maritime transport sector.

Updates had been provided on mitigation measures in the USA, activities of ACCOBAMS and IUCN and the Committee was informed that UNEP is interested in developing a closer dialogue with IWC so as to raise the issue of ship strikes high on its marine environmental conservation and management agenda.

Finally, the SSWG Chair drew attention to the four major recommendations of the SSWG to the Conservation Committee.

- (1) The SSWG endorses the recommendations of the Scientific Committee for future work, including that the Secretariat develop and maintain the ship strikes database and integrate it in the IWC website.
- (2) The Conservation Committee should request Contracting Governments to use the agreed ship strike template and submit ship strikes data to the IWC Secretariat on a regular basis.
- (3) The Conservation Committee should request Contracting Governments to communicate ship strikes data and information to relevant maritime sector bodies, including port authorities, shipping federations, coast guards and other relevant bodies.
- (4) A Steering Committee for a multidisciplinary workshop on ship strike mitigation should be established, noting that workshop participants should represent experts from within the Commission, the Scientific Committee and appropriate other organisations.

With respect to recommendation (4), no date had been set for the workshop but there was general agreement that it should be held after IWC/61 and in light of progress being made on the ship strikes database.

The Committee commended the SSWG report and endorsed the above recommendations. It also noted with appreciation the work of its Chair.

16.1.3.2 CONTRACTING GOVERNMENT REPORTS

Reports on ship strikes of cetaceans were submitted by Australia, France, New Zealand, Spain and the USA.

Australia reported seven instances of ships strikes on cetaceans in 2007 and referred to work within IMO's Marine Environment Protection Committee to *inter alia* develop an IMO guidance document for use by IMO Member Governments in addressing the issue of ship strikes.

France reported that it has introduced applications in the Pelagos Sanctuary to reduce the risks of collisions, most recently developing a real-time whale-position reporting network for merchant ships, i.e. the REPCET project (Real-time Plotting of CETaceans). This system allows for the better exchange of information between merchant ships in the Mediterranean to help crews avoid instances of ship strikes. It reported that the western basin of the Mediterranean and especially the Pelagos Sanctuary zone constitute an ideal 'test area' for measures designed to reduce collision risks which is suitable for replication in other seas and oceans of the world.

New Zealand reported that following IWC/59 in 2007 it had convened a specialist workshop on ship strikes focusing on necropsy techniques and investigations to establish whether or not vessel strike is likely to have been the cause of death in a beached whale. The workshop was followed by a seminar with stakeholders including Ports of Auckland, Auckland Regional Council, Professional Skipper magazine and the New Zealand Navy. Stakeholders were very sympathetic to the problem and expressed a willingness to consider the development of mitigation measures such as speed restrictions or changes to shipping lanes should the weight of scientific evidence point towards vessel strike as a major source of avoidable mortality.

Spain reported that significant steps have been undertaken in the Canaries Archipelago to avoid ship strikes, including recent legislative developments to ensure greater protection for marine mammals. These included (1) a Royal Decree, adopted in December 2007; and (2) an Agreement between the Ministry of Defence, the Ministry of Environment and the Regional Government of the Canary Islands aimed at the conservation and research of cetacean populations to prevent accidental strandings, that entered into force in November 2007. Spain also reported that biological, pathological, physiological and behavioural studies as well as spatial and temporal distribution studies on the cetaceans of the Canaries archipelago, with a special attention to sperm whales and beaked whales, will be carried out with the expectation that these will lead to the establishment of measures to reduce the impact of Navy sonar on cetaceans. Spain further reported on progress in the understanding of the interaction between maritime traffic and cetaceans in the Canaries Archipelago through monitoring of stranded cetaceans. The regional Government of the Canary Islands has the intention to present an exhaustive and detailed study at the 2009 Annual Meeting in Madeira.

The USA reported that it has developed regulatory and non-regulatory measures to reduce ship strikes, including proposed operational measures for vessels, education and outreach programmes, technological research, and research and monitoring activities. It provided an update on its actions to reduce the threat of ship collisions with large whales, including new information regarding four deaths of blue whales in waters off Southern California and northern Baja California, Mexico in September 2007 and actions taken to address this problem. It acknowledged the important work of the SSWG in promoting this issue on a global scale.

16.1.4 Southern right whale population of Chile-Peru

Chile reported on the outcome of the Workshop on the Status of the Southern Right Whale Population held in May 2008. Recommendations included the establishment of a large marine protected area and the promotion of increased regional co-operation to enhance knowledge, training and exchange of information internationally and in the Southern Hemisphere. The group hope to submit a report at IWC/61 on progress and recommendations.

The Committee: (1) stated the importance of continuing work on the status of right whales and recommended that this issue remain a high priority in the future work of the Scientific Committee; and (2) agreed the item be retained on the Conservation Committee's agenda.

16.1.5 Whalewatching

The Conservation Committee reviewed the report of the Scientific Committee's work on whalewatching (see section 13). The compelling evidence that whalewatching may have effects on whale population levels was highlighted. The Conservation Committee *inter alia* took note: (1) that due to enforcement difficulties, adherence to regulations governing vessel behaviour around whales and dolphins, or to codes of conduct, is sometimes poor and that there can be resistance to 'top down' management; and (2) of the Scientific Committee recommendation that codes of conduct should be supported by appropriate legal regulations.

Noting the concern of the Scientific Committee over aerial whalewatching, South Africa asked whether the Scientific Committee could develop recommendations at its meeting next year on how this practice could be better managed. Brazil reported that in development of its national framework in support of the proper management of whalewatching it will draw on experience and best practice elsewhere. Argentina referred to the Second Latin-American Meeting on Cetacean Conservation held in Buenos Aires in December 2007. The meeting had underscored the need to strengthen IWC's activities, including those regarding the non-lethal use and conservation of whales. The December meeting had also agreed 'The Latin American Cooperative Strategy for the Conservation of Cetaceans' which promotes *inter alia* the development of responsible whalewatching tourism in the region through regional workshops for training and exchanging national experiences as well as the exchange of experiences on the enforcement of pertinent national legislations in cetacean conservation and management. Argentina also report that, as a result of a participative process begun by the Government of Chubut (Patagonia, Argentina) to discuss changes that needed to be made to its whale watching regulations, a new law regulating Southern right whale watching was approved in March 2008.

The Russian Federation highlighted the plight of the critically endangered western gray whale (section 4.5.3) and drew attention to the intensity of on-going research, questioning what effect such research has on this population and what rules apply for such research. It sought recommendations in this regard. The Chair of the Scientific Committee Chair indicated that he would draw this concern to the Scientific Committee and investigate whether it could consider the impact of scientific research on this population. He would report back to the Conservation Committee next year. The Conservation Committee urged research groups to collaborate in order to minimise any effects.

Austria was pleased to note countries' willingness to engage in discussion and to look for practical ways to mitigate possible impacts. It urged countries with active whalewatching activities to find a balance between supportive national legislation and voluntary codes of conduct in order to better regulate the industry and provide for the proper management of cetaceans and wondered whether the Conservation Committee could play a role in this regard.

Australia supported the Conservation Committee playing a role in the socio-economic aspects of whalewatching. It noted the recent successful work of the South Pacific Regional Environment Programme (SPREP) working group on whale and dolphin watching that has led

to the development of regional guidelines. It also recalled an earlier suggestion for a group to be established to review existing guidance and to develop best practice guidelines. Australia supported such an initiative and indicated that it could make a voluntary contribution of \$25,000 AUD to support such work. Following further comments by the UK, USA, Mexico, South Africa, Brazil and Argentina there was agreement to establish an intersessional correspondence group to explore this matter. South Africa agreed to convene the group.

Brazil requested that the management of whalewatching be included as a regular item on the Conservation Committee's agenda, recognising that whalewatching has its own challenges and impacts. It noted that scientific aspects of whalewatching have been addressed by the Scientific Committee for a number of years, but that it is not able to follow-up on recommendations relating to management of the activity. Brazil believed that the Conservation Committee was ideally suited to do this. This proposal was welcomed by the Committee and the Chair requested Brazil to develop a more detailed proposal to which South Africa agreed to contribute.

16.1.6 Whale sanctuaries

The Chair of the Scientific Committee reported that no new proposals had been presented at this year's Scientific Committee meeting. He noted the possible Scientific Committee collaboration on the forthcoming First International Conference on Marine Mammal Protected Areas to be held in Hawaii.

Brazil highlighted its intention to re-submit the proposal to the Commission for the creation of a South Atlantic Whale Sanctuary noting that this proposal has been previously endorsed by the Conservation Committee.

16.1.7 National reports on cetacean conservation

The Committee welcomed the National Cetacean Conservation reports which were submitted by Australia, France, New Zealand, USA, Argentina, Italy, Brazil, the UK and Mexico.

Mexico reported on the conservation status and protection of the critically endangered Vaquita river dolphin and thanked those countries supporting its work in this area, noting its protection was being co-ordinated by the Office of the President and thanking other countries for their input into its conservation. Mexico was also pleased to record that \$US18 million are available to be invested in a net buy-out scheme to aid the protection of the species. For further information see section 15.1.

16.1.8 Other

Australia referred to three further papers it had developed. The first, introduced at the March 2008 Intersessional Meeting of the Commission, proposed a strategy for modernising the role of the IWC so it would focus on conservation of whale populations and management of the non-consumptive use of whales. The paper suggests that the IWC can begin to address current shortfalls by: developing internationally agreed, co-operative conservation management plans, taking into account all whale related issues and threats; launching regional, non-lethal, collaborative research programmes to improve management and conservation outcomes for cetaceans; and reforming the management of science conducted under ICRW and IWC auspices, including agreed priorities and criteria for research, and an end to unilateral 'special permit' scientific whaling.

A second paper elaborated on the importance of Conservation Management Plans which would enable the Commission to: more adequately address non-whaling objectives and non-consumptive uses of cetaceans; respond to emerging non-whaling threats to vulnerable cetacean populations; foster co-operation to improve the conservation status of species; build on the technical work of the Scientific Committee and draw on the strategic management advice of the Conservation Committee. It considered that the Conservation Committee will fulfil a crucial role in the development of these plans.

The third paper elaborated on the development of regional non-lethal cetacean research partnerships that Australia believed would strengthen IWC's performance and improve whale conservation, management and recovery (see section 15.3). Australia also called for collaboration between the CMS and IWC and their relevant committees.

The Committee endorsed the Scientific Committee's proposal for a Climate Change Workshop, scheduled for spring 2009 (see section 12).

With respect to the financing of Conservation Committee work, Belgium introduced a paper proposing that the following steps be considered by the Commission: (1) the budget should be adjusted to provide sufficient funds for the conservation projects recommended by the Conservation Committee; (2) the Conservation Committee should put forward a recommended work plan; and (3) the Secretariat should include the required resources, to the extent possible, in its overall budget. This initiative was welcomed by a number of Committee members.

16.2 Commission discussions and action arising

Sweden referred to Iceland's comment made during the Conservation Committee meeting regarding participation in the Committee (see section 16.1.1 above). Noting that only a third of the IWC membership attended the meeting, it too expressed regret that more Contracting Governments did not participate. Iceland thanked Sweden for raising this matter. As it had on previous occasions, it stressed that all Contracting Governments believe that whale conservation is important. Iceland recalled that the lack of participation in the Conservation Committee by some governments was due to the way in which it had been established that had knowingly excluded part of the IWC membership. It was hopeful that these problems could be rectified in future. Argentina disagreed with Iceland's view regarding the establishment of the Conservation Committee and recalled that the Committee had been established by a majority of Commission members. Together with Austria, it noted that the number of governments participating in meetings of the Conservation Committee is similar to the numbers participating in the Infractions and Aboriginal Subsistence Whaling Sub-committees.

With respect to ship strikes, Brazil, Germany and Australia spoke in support of the ongoing activities, including the work plan of the SSWG and the role of its Chair. Brazil called for others to contribute to this work. It believed that the provision of additional geographic data of where ships hit whales are important to identifying critical sites and will assist with the development of mitigation measures. Germany expressed concern with the growing number of collisions with whales and was grateful for the papers submitted by France and Spain regarding their activities. The SSWG Chair was pleased that Brazil,

Portugal and Spain had joined the group since last year's meeting, thanked the Secretariat for hosting the Global Database on Ship Strikes and stressed the need for co-operation with all stakeholders.

Chile noted with appreciation the outcome of the discussions in the Scientific and Conservation Committees regarding southern right whales. It saw this as the beginning of a process that it hoped would lead to the recovery of these populations.

Referring to the International Federation for Animal Welfare (IFAW), the Russian Federation noted that it is an NGO that is not only interested in conservation but also provides technical assistance for studies in this area for which it wished to convey its thanks.

16.2.1 Conservation Management Plans

Australia introduced its document on 'Conservation Plans for Improved Cetacean Management' that had also been submitted to the Conservation Committee (see section 16.1.8 above). It explored: (1) why IWC needs such plans; (2) what the essential elements of such plans would be; and (3) how they might be developed.

Australia noted its strong support for the work of the Conservation Committee, believing that it lies at the heart of its own objective of bringing a contemporary conservation and management focus to the Commission and thus bringing IWC into the 21st century. It considered now an ideal time to acknowledge what it sees as a shift in public opinion over recent decades in support of whale conservation and to recognise advances in non-lethal research methodologies.

Australia noted that its vision for IWC's future is underpinned by two initiatives, i.e. internationally-agreed Conservation Management Plans and non-lethal collaborative research partnerships (see section 15.3). Australia considered that the development of agreed conservation management plans may:

- (1) address threats other than whaling, including through the mitigation of bycatch and the regulation of whale watching;
- (2) be tailored to support the recovery of threatened cetacean populations;
- (3) link to and augment actions under other relevant international arrangements, such as those already in place under the auspices of the Convention on Migratory Species; and
- (4) take the form of an international 'species recovery plan', including an assessment process and the development of actions to address identified threats.

Australia looked forward to working with IWC members to strengthen the conservation agenda of the Commission.

New Zealand, USA, Brazil, France, Mexico, the UK, Belgium, South Africa and Spain welcomed Australia's initiative. The USA and UK noted the importance of developing a consensual approach to conservation and to conservation work within IWC. New Zealand reported that it has considerable experience in developing recovery plans for depleted populations and that it is willing to provide considerable support to such initiatives, particularly for cetaceans within its region. Brazil believed the proposals outlined in Australia's documents on conservation management plans and on non-lethal research would bring a new paradigm for whale conservation, particularly in the Southern Hemisphere. It was particularly supportive of

initiatives to strengthen actions on whalewatching and conservation management plans. Brazil further stressed the need for co-operation between the Scientific and Conservation Committee. France, supported by Spain stressed the importance of co-ordination with other organisations work on cetacean recovery plans.

17. CATCHES BY NON-MEMBER NATIONS

There were no contributions or discussions under this item.

18. INFRACTIONS, 2007 SEASON

The Infractions Sub-committee, chaired by Bruno Mainini (Switzerland), met on 23 June. Delegates from 21 Contracting Governments were present. The Sub-committee's report is summarised below. The full report is given in Annex J.

The summary of catches by IWC member nations in the 2007 and 2007/2008 seasons is available as Annex K.

18.1 Report of the Infractions Sub-committee

18.1.1 Infractions reports from Contracting Governments **REPORTS FOR 2007**

Information was received from Denmark, Republic of Korea, Iceland, Norway, Russian Federation, St. Vincent and The Grenadines and the USA (see Appendix 3 of Annex J). Infractions were reported by the USA and the Republic of Korea.

The USA reported that 41 bowhead whales had been landed with 22 struck and lost giving a total of 63 strikes. A small whale concluded to be a calf had been taken accidentally and was reported as an infraction. The animal had been swimming alone and the crew were unable to precisely determine the body length or baleen length while the whale was swimming. No penalty was levied. Responding to a comment on the high number of struck and lost bowhead whales the USA explained that while hunters are working to improve the efficiency of the hunt, weather and ice conditions play a significant role in the hunt efficiency and that better observation of the conditions should help this issue.

The USA also reported on the unauthorised take of a gray whale by five members of the Makah tribe, in consequence of which the five hunters were awaiting sentence. It clarified that, although the take of a gray whale is an illegal act under its domestic laws, the catch limit for Eastern north Pacific gray whales had not been exceeded and hence the gray whale caught by the Makah was not an infraction.

The Republic of Korea reported on the cases of 14 minke whales caught illegally in 2007, noting that commercial whaling has been banned in Korea since 1986. The punishments for these offences include imprisonment for up to 3 years, fines of up to 20 million Korean won (equivalent to about US\$20,000), cancellation of fishing licences and prohibition from selling the meat.

FOLLOW-UP ON EARLIER REPORTS

The USA reported on the completion of the investigation of a stranded humpback whale taken in Kotlik village in October 2006 that had been reported last year. The hunter was sent a warning letter.

There was no new information on the five unresolved infractions by Greenland, the investigations of which remain open.

18.1.2 Surveillance of whaling operations

The USA, the Russian Federation and St. Vincent and The Grenadines stated that 100% of their catches are under direct national inspection. Denmark (Greenland) stated that their catches are subjected to random checks.

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

The following information was provided:

Denmark: Information on date, species, length, sex and the length and sex of any foetus if present is collected for between 71-100% of the catch, depending on the item. The position of each whale killed is collected for 69% of the catch and the name of the area where whales are hunted is reported for most of the remainder. Information on killing methods and struck and lost animals are also collected.

USA: Information on date, time, species, position, length, sex, the length and sex of any foetus if present, killing method and number of struck and lost is collected for 98-100% of the catch. Biological samples are collected for about 80% 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, time, species, position, length, sex, whether the whale is pregnant and/or lactating and numbers struck and lost is collected for 100% of the catch.

Norway and Iceland: The required information was submitted to the Secretariat as noted in the Scientific Committee report²⁷.

18.1.4 Submission of national laws and regulations

A summary of national legislation supplied to the Commission is given in Annex J, Appendix 3, Table 1.

Denmark noted that their newest regulations (dated 2005) had been supplied to the Secretariat in July 2007 but are only available in Greenlandic and Danish.

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.

18.2 Commission discussions and action arising

Austria expressed concern regarding the high struck and lost rates in the Alaskan bowhead whale hunt and asked that measures be put in place to avoid such high occurrences in future. With respect to the gray whale taken by the Makah, Austria requested an explanation as to why it had not been reported as an infraction, particularly in view of language in the Schedule stating that aboriginal subsistence whaling must be conducted under national legislation. In Austria's view, if a whale is killed in violation of national legislation, then it should be reported as an infraction.

In response to Austria, while noting that an explanation had already been provided by the Infractions Subcommittee, the USA noted that the Schedule provides for aboriginal subsistence whaling catch limits for gray whales

based in part on a request by the USA on behalf of the Makah tribe. It further noted that as these Schedule catch limits were not exceeded, no infraction had occurred. The USA acknowledged that Schedule paragraph 13(a)(5) does provide that all aboriginal subsistence whaling shall be conducted under national legislation but noted that this language only requires that relevant domestic legislation be in place. The USA do not interpret this sentence as indicating that any violation of domestic law is also an infraction of the Schedule for two reasons. Firstly, compliance with domestic law is a domestic matter and not subject to IWC review. A domestic law may have requirements not contained in the Schedule. Rather, it is the Schedule provisions themselves, such as catch limits and the prohibition on the take of calves and cow/calf pairs that are relevant. Secondly, the USA believed its view to be supported by the legislative history of paragraph 13(a)(5). It believed that there is no indication in the legislative history to this sentence suggesting anything other than a requirement for relevant domestic implementing legislation. It recalled that prior to 2004, similar language was only in the humpback whale aboriginal subsistence quota language because St. Vincent and The Grenadines did not have relevant domestic legislation in place at that time, but did so later. It further recalled that in 2004, when the Russian Federation sought a Schedule change with respect to gray whales, it was suggested that the St. Vincent and The Grenadines language regarding national legislation should either be deleted or made applicable to all aboriginal subsistence whaling. The Commission agreed to the latter. In conclusion, the USA noted that even though it does not consider the unauthorised take of a gray whale to be an infraction, it had reported on the take to the Infractions Committee.

Responding to a question from France as to what it planned to do to stop the illegal hunting of minke whales the Republic of Korea expressed its concern regarding the continued illegal take. It reported that this was happening despite the fact that it has been conducting extensive, intensive and strict surveillance operations of all possible routes of whale products from the fishing vessels themselves to restaurants. The Republic of Korea reported that it is to undertake a thorough review of its operations to try to find a way to stop the illegal hunting.

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

19. NGO SESSION

This year the Commission allowed NGOs to address the plenary session. Three organisations from each side of the spectrum were given five minutes each to speak. The organisations selected by their peers were Centro de Conservacion Cetacea, the High North Alliance, WWF, the Women's Forum for Fish, Greenpeace and Concepesca.

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 18 June under the chairmanship of Anthony Liverpool (Antigua and Barbuda). Delegates from 33 Contracting Governments attended the meeting. The F&A Committee report is included as Annex L.

²⁷J. Cetacean Res. Manage. (Suppl.) 11 (2009).

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. It was suggested that the TC may no longer be needed and the Committee agreed that this could possibly be included in discussions on the future of the organisation. The Commission agreed.

20.1.2 Frequency of meetings

As in previous years, during the F&A Committee meeting, some countries supported a move to hold the Commission meeting every two to three years; others, while sympathetic to this in principle, believed that such a move is premature given the ongoing discussions on the future of the organisation. Several countries supported continued annual meetings of the Scientific Committee even if the Commission was to meet less frequently. The Committee agreed that this issue would best be addressed in the context of the discussions on the future of the organisation. The Commission agreed.

20.2 NGO participation and accreditation

Last year the Commission adopted changes to the procedure governing accreditation and participation of NGOs in IWC meetings. *Inter alia*, these changes eliminated the requirement for NGOs to maintain international offices, relaxed the restrictions on total attendees from each NGO, and adjusted the fee structure for equitability.

The changes entail that NGO registration fees are now set per individual observer (rather than per organisation as in the past) and that this fee should be income neutral to the IWC. The Secretariat worked with the Advisory Committee to determine the following new fee structure:

- £500 for the first observer per organisation and
- £250 for each additional observer.

There is no charge for interpreters, but NGOs wishing to nominate an interpreter must provide justification to the Secretariat.

The F&A Committee noted that the new system appeared to be working satisfactorily and recommended that the fees for 2008-2009 remain unchanged from the level for 2007-2008, as was proposed in the budget for 2008-2009. The Committee agreed that the fee for interpreters should continue to be waived but that the situation should be kept under review.

The Secretariat drew attention to the fact that it is impossible to determine from the NGO application form whether an application is from a bona fide organisation, or is simply from an interested member of the public. While the concerns expressed by the Secretariat were noted, the Committee felt that problems should be addressed if they arise and that the accreditation criteria should remain unchanged for the present.

The F&A Committee therefore recommended to the Commission that no changes are needed at present to the new accreditation and participation procedures for NGOs, but that they be kept under review. The Commission agreed.

20.3 IWC's website

20.3.1 Linking IWC's website to those of Contracting Governments

Last year the Commission agreed to create links between its own website (<http://www.iwcoffice.org>) and websites of Contracting Governments with the aim of making the views and positions of Contracting Governments on IWC matters equally available to the public. The Commission noted that links have been established with the websites of Australia, France, Norway, Slovenia and the UK. The creation of further links was encouraged.

20.3.2 Translation of IWC's website

20.3.2.1 REPORT OF THE F&A COMMITTEE

An email working group to consider approaches to the translation of the website was established after last year's meeting comprising Argentina, Belgium, France, Gabon, Republic of Guinea, Mali, Monaco, Peru and Spain.

The Secretariat had introduced a document outlining three options regarding how translation of some, or all, of the website could be approached, i.e.

- (1) fully tri-lingual website;
- (2) partially-translated website and
- (3) phased-in approach to a fully trilingual website.

The Secretariat recommended that it would be most sensible in the short-term to select option 2 given:

- (1) that an overhaul/rebuild of the existing website is needed to cater for its growth over the last 5 years and to facilitate its management and the accommodation of recent changes in web technology and that it would be best to delay full translation until after this has been completed;
- (2) that the discussions regarding the extent of the introduction of French and Spanish into the Commission are still ongoing and that the outcome may determine whether or not linguistic experience is needed within the staff of the Secretariat; and
- (3) the budgetary implications.

The phase-in towards a fully tri-lingual website could be determined by the Commission at a later date.

Option 2 involves: (1) making part of the website available in French and Spanish in a similar way as is already being done by some other IGOs who have more than one working language, e.g. by focusing on the most popular pages viewed by the website's audience; and (2) improving machine translation for those parts of the website not translated. The translated pages could be made available on the website as either PDFs (practical at least until the website overhaul) or as web pages that directly mirror those already available in English (to be considered after the overhaul).

Several members of the email working group spoke in support of this approach and France noted that it is considering making a one-off special contribution in kind by providing some translations into French of the most consulted pages. Korea questioned whether the language difficulties expressed by French and Spanish speakers are exaggerated and why some countries (who can also claim to have language difficulties) should be required to contribute to work from which they derive little or no benefit.

While noting the reservations expressed by Korea, the F&A Committee recommended to the Commission that option 2 be implemented given:

- (1) the support from other countries for option 2 at least initially;
- (2) that there was no provision in the proposed budget for 2008-2009 website translation;
- (3) the in-kind offer from France to provide some translated pages; and
- (4) that improving machine translation could be done at a minimal expense (around £1,000 per year).

It further recommended that the Secretariat implement option 2 with assistance from the email working group (e.g. in confirming which pages should be translated, working to customise the dictionary to improve machine translation).

20.3.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

France and Spain spoke in support of the approach being taken regarding translation of the website. France confirmed its willingness to provide translations of the most consulted pages. Spain noted that it was not currently in a position to make a similar offer but indicated that it would like to contribute in some way.

The Commission endorsed the recommendations of the F&A Committee.

20.4 Amendments to the Rules of Procedure and Financial Regulations

20.4.1 Proposal from France to amend the Rules of Procedure to recognise French and Spanish as working languages of the Commission

20.4.1.1 REPORT OF THE F&A COMMITTEE

France recalled that Resolution 2006-3 requested the Secretariat to investigate the possibility of recognizing French and Spanish as working languages of the Commission and also the decision last year for the Commission to provide for simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of:

- (1) Resolutions and Schedule amendments;
- (2) the Chair's summary reports of annual meetings;
- (3) Annotated Provisional Agendas; and
- (4) summaries of the Scientific Committee and working group reports.

Given that it now seems unlikely that the progress made in terms of the use of French and Spanish will be reversed, France proposed that the Rules of Procedure should already be brought in line with actual practice and recommended that Rule of Procedure N.1 concerning languages of the Commission be revised as shown below. Changes are indicated in ***bold, italicised*** text.

From:

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.

To:

N. *Languages* of the Commission

1. English shall be the official *language of the Commission. English, French and Spanish shall be the working languages of the Commission.* 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. *Agreed publications and communications shall be available in English, French and Spanish.*

While many countries spoke in support of France's proposal, several voiced concern. While recognising that the proposal was intended to reflect current practice within IWC, they had not expected the proposed rule changes given last year's agreement. Responding to concern about costs, the Secretariat explained that there would be no budgetary implications. Some countries were also concerned that there was no adequate provision in the proposed revision to prevent expansion of the current practice regarding interpretation and translation into the use of French and Spanish in an equivalent way to English, which would be very costly.

Noting that there was clearly no consensus it was agreed that discussions be deferred to the private meeting of Commissioners on 22 June. Further discussion among countries was encouraged so that the matter could be decided by consensus.

20.4.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

The Commission agreed to adopt this new Rule of Procedure to include French and Spanish as working languages of the Commission as part of its discussions on the future of the organisation (see section 3.2.1). It should be noted, however, that in this respect the extent of the use of French and Spanish would be as agreed at IWC/59 in Anchorage in 2007, i.e. simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of:

- (1) Resolutions and Schedule amendments;
- (2) the Chair's summary reports of annual meetings;
- (3) Annotated Provisional Agendas; and
- (4) summaries of the Scientific Committee and working group reports.

20.4.2 Secretariat proposal to amend Rule of Procedure E.2.(a) and Financial Regulation F.2

The Commission agreed to the following amendments to Rule of Procedure E.2.(a) and Financial Regulation F.2 to clarify the situation with respect to the due date for payment of financial contributions and voting rights with respect to votes by postal or other means (changes are indicated in ***bold italicised*** text):

From:

Rule of Procedure E

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.

To:

Rule of Procedure E

2. (a) The right to vote of representatives of any Contracting Government shall ***be suspended automatically when the annual payment of a Contracting Government including any interest due has not been received by the Commission by the earliest of these dates:***

- 3 months following the due date prescribed in Regulation E.2 of the Financial Regulations; or
- the day before the first day of the next Annual or Special Meeting of the Commission if such a meeting is held within 3 months following the due date; or

- o *in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date.*

This suspension of voting rights applies until payment is received by the Commission unless the Commission decides otherwise.

From:

Financial Regulation F

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.

To:

Financial Regulation F

2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission *by the earliest of these dates:*

- o *3 months following the due date; or*
- o *the day before the first day of the next Annual or Special Meeting of the Commission if such a meeting is held within 3 months following the due date; or,*
- o *in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date,*

the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.

21. FORMULA FOR CALCULATING CONTRIBUTIONS

21.1 Revision of cut-off points defining capacity-to-pay groups

The Interim Measure adopted at the 54th Annual Meeting in 2002 for calculating financial contributions, was introduced to alleviate the financial burden of developing countries. In calculating contributions, the Interim Measure takes account of:

- (1) membership;
- (2) whaling activities;
- (3) the size of delegations to the Commission's Annual Meeting; and
- (4) a country's capacity to pay.

With respect to capacity to pay, Contracting Governments are allocated into one of four groups depending on their Gross National Income (GNI) and their GNI per capita (GNIPC). The measure also takes into account the special position of 'Very Small Countries' as defined at IWC/57 in 2005.

At last year's meeting, noting that the cut-off points defining the capacity to pay had remained unchanged since 2002 and had not been revised to take account of inflation, the Commission requested the Secretariat to review the cut-off points and report back to the F&A Committee this year.

The Commission endorsed the F&A Committee's following recommendations.

- (1) The existing 'cut-off points' used to define 'capacity to pay groups' be updated to 2005 levels using the index provided by the World Bank.
- (2) The updated 'cut-off points' be used in the calculation of Financial Contributions for 2008-2009.
- (3) The Secretariat should update the 'cut-off points' annually using the index provided by the World Bank prior to the calculation of the next year's Financial Contributions.

The existing and updated figures are given in Tables 1 and 2. The Secretariat noted that the update to cut-off points did not affect the allocation of Contracting Governments to capacity to pay groups.

21.2 Other matters

In the Commission, St. Vincent and The Grenadines made a short statement with respect to the assessment of its financial contribution to IWC as a capacity-to-pay Group 1 country and the only country in that Group conducting aboriginal subsistence whaling. It noted that it is a small developing state with limited natural resources and that for many years its agricultural sector has been the principal earner of foreign exchange, with banana export being a major contributor to its GDP. However, St. Vincent and The Grenadines reported that the loss of protection for its export of bananas and sugar to Europe and other developed countries, has led to a significant reduction in foreign exchange which, combined with recent shortages in global food supply and rising oil prices have exacerbated the island's problems.

Table 1

The existing and updated 'cut-off points'.

Group	Existing 'cut-off points'	Updated 'cut-off points'
1	GNI <US\$10,000,000,000 and GNIPC <US\$10,000	GNI <US\$11,850,000,000 and GNIPC <US\$11,850
2	GNI >US\$10,000,000,000 and GNIPC <US\$10,000	GNI >US\$11,850,000,000 and GNIPC <US\$11,850
3	GNI <US\$ 1,000,000,000,000 and GNIPC >US\$10,000	GNI <US\$1,185,000,000,000 and GNIPC >US\$11,850
4	GNI >US\$ 1,000,000,000,000 and GNIPC >US\$10,000	GNI >US\$1,185,000,000,000 and GNIPC >US\$11,850

Table 2

The existing and updated definition of 'Very Small Countries'.

Old	New
(a) a population of less than 100,000, AND (b) a GNI of less than US\$5 billion, AND (c) a GNIPC of more than US\$10,000	(a) a population of less than 100,000, AND (b) a GNI of less than US\$5.925 billion, AND (c) a GNIPC of more than US\$11,850

It stressed the importance of seeking all possible avenues to ensure food security and sustainable livelihoods for its people. With respect to its whale hunt, St. Vincent and The Grenadines reminded the Commission of the very traditional nature of the hunt and that those involved in it are not able to make use of more modern techniques used by other subsistence hunts. It reported that the hunt (four humpbacks a year) yields approximately 32,000 lbs of meat and blubber per year and has a very limited commercial aspect but that because it has a hunt its financial contributions (currently around £15,500) are far higher than those of other Group 1 countries, above that of most Group 2 countries and approaching those of some in Group 3. For a developing country with a population of only 110,000, St. Vincent and The Grenadines believed its contributions to be unfairly high and that it is a situation that needed to be rectified. Therefore, in a spirit of openness and transparency and a commitment to fair play, it was giving the Commission notice that at the 2009 Annual Meeting it intended to propose a reasonable reduction in its contributions that it hoped could be adopted by consensus. Finally, St. Vincent and The Grenadines stressed that its own situation is not unique and that it is clear from the list of governments for whom voting rights have been suspended, that other developing countries also have problems. It was not asking for charity but for equity and fair play.

Cameroon supported the remarks of St. Vincent and The Grenadines. It noted that it takes seriously its own financial contributions to IGOs of which it is a member, but noted that with respect to IWC, because of a conflict between the 28 February deadline set by IWC and its own national budgetary cycle, it generally pays its financial contribution late and therefore also has to pay penalty interest. It asked whether it would be possible for the Commission to change the deadline.

The Chair noted the comments of St. Vincent and The Grenadines and Cameroon and indicated that the Commission would discuss these matters next year.

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/60 with Joji Morishita (Japan) as Chair. The Budgetary Sub-committee had reviewed the provisional financial statement for 2007/2008 and the proposed budgets for 2008/2009 and 2009/2010.

22.1 Review of the Provisional Financial Statement, 2007/2008

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

22.2 Secretariat offices

At last year's meeting, the Commission agreed that the matter of Secretariat relocation away from the Cambridge area is closed for the time being and should only be reopened if a positive decision to do so was taken in the future. It further noted that as the lease on the Secretariat's current offices expires on 17 March 2009 a decision will need to be made at IWC/60 on what to do about Secretariat accommodation at least in the short-term.

During the F&A Committee meeting this year, the Secretariat noted that the options available to the Commission included:

- (1) the re-negotiation of the lease on the current property;
- (2) renting alternative property in the Cambridge area; and
- (3) purchase of a property.

Given the lack of consensus within the Commission regarding property purchase and continuing concerns regarding the future of the organisation, the Secretariat had suggested that the continued rental of property for the Secretariat would be appropriate at present. The Red House is well suited to the needs of the Secretariat and suggesting that the re-negotiation of the lease at an expected lower rent would be preferable to relocating to alternative premises in the Cambridge area.

On the basis of the F&A Committee's recommendations, the Commission agreed that the lease of the current offices of the Secretariat (the Red House, Impington, Cambridge) should be re-negotiated and that £5,000 be added to the proposed budget for 2008-2009 as a contingency for increased legal fees.

22.3 Consideration of estimated budgets, 2008/2009 and 2009/2010

22.3.1 Funding of work on the future of IWC

With respect to the funding of work on discussions on the future of IWC up to and including IWC/61, the Secretariat noted that while a provision of £60,000 for an intersessional meeting of the Commission had been made in the proposed 2008/2009 budget submitted to the F&A Committee for review, no provision had been made for other meetings such as those now agreed for the Small Working Group on the Future of IWC (see section 3). Given no decisions on the number and type of meetings of the working group or on who will be the outside facilitator and what their role would be, the Secretariat noted that it was not possible to develop an accurate estimate of costs. However, in consultation with the Chair and Vice-Chair, the Secretariat believed that it would be appropriate to set funds aside in the region of £150,000. This would include the £60,000 already provided for, leaving a shortfall of £90,000.

The Secretariat suggested the following three options on how to provide for this shortfall:

- (1) voluntary contributions;
- (2) increasing financial contributions; and
- (3) using the Commission's reserves.

It provided an illustration of the size of the increase on financial contributions. For Group 1 countries, the increase in financial contributions for a non-whaling country would be in the order of £250 (and £1,000 for a whaling country). For Group 2 countries, the increase would be in the order of £450 for a non-whaling country (and £1,400 a whaling country). For Group 3, the increase would be around £1,300 (and £2,800 for a whaling country) and for Group 4, the increase would be around £5,000 (and in the range of £7,000-£8,000 for a whaling country). The Secretariat warned that if the work was funded from the Commission's reserves, this would bring the level of reserves down to target level next year, rather than in 2009-2010 as in the forecast budget. The Secretariat further warned that if the Commission wished to maintain its reserves at 100%, it

would no longer be able to adopt deficit budgets and financial contributions would have to rise in 2009-2010. This increase would be higher if significant expenditure is required in 2009-2010, e.g. for meetings and activities associated with continuing work on the future of the organisation. Finally the Secretariat noted that if the Commission identifies the possibility of significant expenditure in 2009/2010 above the level in the current Forecast Budget, it might be prudent to allow for lower increases in Financial Contributions over two years rather than a large increase in a single year, which might present difficulties to Contracting Governments when assessing their other spending priorities.

The Commission decided to fund the work on the future of the organisation from its reserves.

22.3.2 Decisions on estimated budgets

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

- (1) adopted the proposed budget for the 2008/2009 financial year (Annex M) and the provision for research expenditure (Annex N);
- (2) agreed that for 2008-2009, the NGO fee continue to be set at £500 for the first observer from an organisation and at £250 for each additional observer and the media fee be set at £55;
- (3) noted the forecast budget for 2009/2010 (Annex M).

22.4 Budgetary Sub-committee operations

The Commission noted that Andrea Nouak (Austria) and Walter Duebner (Germany) had been elected by consensus as Chair and Vice Chair respectively of the Budgetary Sub-committee. The F&A Committee and Commission thanked the outgoing Chair of the Budgetary Sub-committee, Joji Morishita (Japan) for his work with the BSC. He in turn thanked the members and the Secretariat for their support over the four years that he had held the post.

22.5 Other matters

The Commission agreed to the F&A Committee's recommendation that the Secretariat should undertake a study to be presented at the 2009 Annual Meeting on the feasibility and associated costs of off-setting the carbon emissions of the operation of the Secretariat and the meetings of the IWC and thus to become carbon-neutral.

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

The Commission adopted the report of the F&A Committee, and thanked Mr Liverpool for his chairmanship.

24. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

24.1 61st Annual Meeting, 2009

The 61st Annual and associated meetings in 2009 will be held in Funchal, Madeira during the period 31 May to 26 June. The Commission will meet from Monday to Friday 22-26 June.

24.2 62nd Annual Meeting, 2010

No offers to host an Annual Meeting in 2010 were received. The Commission agreed to consider in Madeira the need for a meeting in 2010.

25. ADVISORY COMMITTEE

The Commissioner for Côte d'Ivoire was elected onto the Advisory Committee for two years to replace the Commissioner for Cameroon. The Commissioner for Chile indicated that he was unable to continue serving on the Advisory Committee and was replaced for one year by the Commissioner for Costa Rica. The Advisory Committee now comprises the Chair (USA), the Vice-Chair (Japan), the Chair of the F&A Committee (Antigua and Barbuda), the Commissioner for Côte d'Ivoire and the Commissioner for Costa Rica.

26. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

The Chair noted that 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.

27. OTHER MATTERS

The meeting was closed at 10.45 on Friday 27 June 2008.

28. 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 60th Annual Meeting

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

Antigua and Barbuda

Anthony Liverpool (C)
Joanne Massiah (AC)

Argentina

Eduardo Iglesias (C)
Javier Figueroa (AC)
Miguel Iñiguez (AC)

Australia

Donna Petrachenko (C)
David Borthwick (AC)
David Dutton (AC)
Peter Garrett (AC)
Andrew McNee (AC)
Crispin Conroy
Pam Eiser
Nick Gales
Lesley Gidding
Darren Kindleysides
Clare Derrington (S)
Matt Levey (S)
Ben Pratt (S)
Milena Rafic (S)
Penelope Toledo-Ocampo (S)
Richard Wilson (S)
James Yeomans (S)

Austria

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

Belgium

Alexandre de Lichtervelde (C)
Koen Van Waerebeek (AC)
Gian Paolo Sanino Vattier

Benin

Joseph Ouake (C)
Catherine Hounkpe (AC)
Abdellah Regragui (I)

Brazil

Bernardo Paranhos Velloso (C)
Onildo João Marini Filho (AC)
José Truda Palazzo (AC)

Cambodia

Nao Thuok (AC)

Cameroon

Baba Ousman (C)

Chile

Cristian Maquieira (C)
Francisco Berguno (AC)
Fernando Danus (AC)
Ximena Alcaiyaga
Maximiliano Bello
Giuliana Furci
Rodrigo Moraga
Antonio Palma
Francisco Ponce
Macarena Quezada
Ruben Rojas
Alvaro Sapag
Ana Lya Uriarte
Alberto Van Klaveren
Jeff Peet (S)
Javier Fernandez (S)
Veronica Rocha (S)
Ricardo Hernandez (S)
Roberto Matus (S)
Ricardo Bosnic (S)
Claudio Ortega (S)

China

Xiangguo Fan (AC)
Guifeng Sun (AC)
Yong Zhou
Baoying Zhu (I)

Costa Rica

Roberto Dobles Mora (C)
Eugenia Arguedas Montezuma (AC)
Javier Rodríguez Fonseca
Carlos Drews

Côte d'Ivoire

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

Croatia

Mirjana Fonjak (AC)
Vesna Terzić (AC)

Cyprus

Myrofora Hadjichristoforou (C)

Czech Republic

Pavla Hýčova (C)

Denmark

Ole Samsing (C)
Amalie Jessen (AC)
Maj Friis Munk (AC)

Karsten Ankjær (AC)

Leif Fontaine
Ole Heinrich
Nette Levermann
Bjorn Kunoy

Ecuador

Federico Meneses Espinosa (C)
Patricia Galiano (AC)

Finland

Esko Jaakkola (C)
Penina Blankett

France

Stephane Louhaur (C)
Laurent Stefanini (AC)
Martine Bigan (AC)
Vincent Ridoux (S)

Gabon

Guy Anicet Reramyath (C)

Gambia

Surwareh Jabai (C)

Germany

Bernd-Udo Hahn (AC)
Walter Duebner (AC)
Monika Roemerscheidt (AC)
Petra Deimer-Schütte

Greece

Chryssoula Karykopoulou-
Vlavianou (AC)

Grenada

Justin Rennie (AC)
Frank Hester

Guinea, Republic of

Ibrahima Sory Toure (C)
Diallo Amadou Tével (AC)
Mohamed Youla

Guinea-Bissau

Daniel Gomes (C)
Domingos Semedo (AC)
Augusto Artur Antonto da Silva
(AC)
Virginia Maria Cruz Godinho Pires
Correia (AC)

Hungary

Zoltan Czirak (AC)

Iceland

Stefan Ásmundsson (C)
Bjarni Sigtryggsson (AC)
Jon Gunnarsson
Kristjan Loftsson
Gisli Vikingsson

India

Ravindra Lal (C)
Anmol Kumar (AC)
B. Swarup (AC)

Ireland

John Fitzgerald (C)

Israel

Esther Efrat-Smilg (C)

Italy

Caterina Fortuna (C)
Plinio Conte (AC)
Michele Alessi (AC)
Alessandro Buda (AC)
Agostina Chessa

Japan

Minoru Morimoto (C)
Akira Nakamae (AC)
Ryotarou Suzuki (AC)
Joji Morishita (AC)
Kiyoshi Ejima
Yoshihiro Fujise
Gabriel Gomez Diaz
Dan Goodman
Mutsuo Goto
Hiroaki Hasegawa
Masato Hayashi
Wataru Hayashi
Koji Hombu
Jiro Hyugaji
Daisuke Kiryu
Tadamasa Kodaira
Hiroaki Kodama
Motohiko Kondo
Takashi Koya
Yasuo Iino
Katsutoshi Mihara
Kayo Ohmagari
Hideaki Okada
Hiroshi Sekitani
Kazutaka Sengen
Keiji Shirae
Yaichi Tanigawa
Yousuke Tsuruho
Daishiro Yamagiwa
Hiroaki Kodama (S)
Taichi Yoneda (S)
Katsunori Miura (S)
Ryuichi Sawada (S)
Ko Takahashi (S)
Wako Okubo (S)
Koichiro Morita (S)
Saemi Baba (I)
Rei Kawagishi (I)
Midori Ota (I)

Kiribati

Reteta Nikuata-Rimon (C)

Republic of Korea

Young-Hyo Ha (C)
Zang-Geun Kim (AC)
Yeon-Suk Lee (AC)
Hyun-Jin Park

Lao PDR

Somphanh Chanphengxay (C)

Luxembourg

Pierre Gallego (AC)
Mark Simmonds (S)

Mali

Seydou Coulibaly (C)
Diallo Madelaine Ba

Marshall Islands

Samuel Lanwi, Jr. (AC)

Mauritania

Azza Ahmed Cheikh
Ould Jedou (AC)

Mexico

Lorenzo Rojas-Bracho (C)
José Trinidad
García Cervantes (AC)

Mongolia

Ts. Dambin (C)
P. Naranbayar

Monaco

Danièle Biancheri-Quintana (C)

Morocco

Abdesslam Fahfouhi (C)
Abdelouahed Benabbou (AC)
Abdelhadi Boucetta

Nauru

Jesaulenko Dowiyogo (C)
Jarden Kephass (AC)

Netherlands

Giuseppe Raaphorst (C)
Benno Bruggink (AC)
Maaikje Moolhuijsen (AC)
Peter Reijnders (AC)
Meike Scheidat (AC)
Frederik Vossenaar (AC)
Rogier van Tooren (AC)

New Zealand

Geoffrey Palmer (C)
Steve Chadwick (AC)
Michael Donogue (AC)
Jan Henderson (AC)
Finnian Cheshire
Nigel Fyfe
Alexander Gillespie

Philippa Brakes (S)
Pip Chapman (S)
Michelle Podmore (S)

Nicaragua

Steadman Fagoth Muller (C)
Edwin Ramon Castro Rivera (AC)
Maria Luisa Robleto Aguilar

Norway

Karsten Klepssvik (C)
Halvard Johansen (AC)
Oddlaug Klakegg
Egil Øen
Einar Tallaksen
Lars Walløe
Hild Ynnesdal
Ole-David Stenseth (S)
Jan Birger Jorgensen (S)

Oman

Ibrahim bin Said Al-Busaidi (C)

Republic of Palau

Fritz Koshiba (AC)
Theofanes Isamu

Panama

Deborah Siraze (C)
Orlando Bernal (AC)

Peru

Doris Sotomayor Yalan (C)
Hector Soldi Soldi (AC)
Carla Stella Maria Chirinos Llerena

Portugal

Jorge Palmeirim (C)
Marinã Sequeira (AC)
Branca Martins da Cruz

Russian Federation

Valentin Ilyashenko (C)
Rudolf Borodin (AC)
Vasilij Titushkin (AC)
Alexander Borodin (S)
Valeriy Fedorov (S)
Igor Mikhno (S)
Alexey Ottoy (S)
Valery Vladimirov (S)
Peter Omrynto (S)
Olga Ipatova (I)
John Tichotsky (I)

Saint Kitts and Nevis

Cedric Liburd (C)
Robelto Hector (AC)
Daven Joseph

Saint Lucia

Jeannine Compton Rambally (C)
Vaughn Charles (AC)

Saint Vincent and The Grenadines

Edwin Snagg (C)
Raymond Ryan (AC)

San Marino

Lino Zonzini (C)

Senegal

Moustapha Thiam (C)

Slovak Republic

Katarina Slabeyova (C)

Slovenia

Janez Kastelic (C)
Andrej Bibic (AC)
Barbara Ernst
Martina Mlinarič
Breda Ogorelec
Alexandra Bacho (S)

Solomon Islands

Sylvester Diake (C)
Nollen Leni (AC)
Christian Ramofafia (AC)

South Africa

Herman Oosthuizen (C)
Maria Mbengashe (AC)

Spain

Carmen Asencio (C)
Juan Manuel Salas

Suriname

Jaswant Sahtoe (C)

Sweden

Bo Fernholm (C)
Stellan Hamrin (AC)
Ingela Karlsson (AC)
Anna Roos (AC)

Switzerland

Bruno Mainini (C)
Martin Krebs (AC)

Togo

Kombiagou Kinam (AC)

Tuvalu

Panapasi Nelson (C)
Teniku Talesi

UK

Richard Cowan (C)
Panayiota Apostolaki (AC)
James Gray (AC)
Trevor Perfect (AC)
Jeff Rooker (AC)
Claire Bass
Douglas Kerr

Jennifer Lonsdale
Luke Warwick
Douglas Wilson
Howard Drake (S)
Amelia Munn (S)

USA

Bill Hogarth (C)
Doug DeMaster (AC)
John Field (AC)
Cheri McCarty (AC)
Keith Benes
Robert Brownell
Shannon Dionne
Roger Eckert
Harry Brower, Jr.
Keith Johnson
Heather Rockwell
Rollie Schmitt
Michael Tillman
Todd Bertosen (S)
Julia Hathaway (S)
Edward Itta (S)
Terra Lederhouse (S)
Lauren Lugo (S)
Eugenio Pineiro-Soler (S)
Jonathan Scordino (S)
Stanley Speaks (S)
Scott Smullen (S)
Doug Tedrick (S)
Ryan Wulff (S)
Dave Whaley (S)

Uruguay

Susana Rivero (C)
Alberto Ponce de León
Gustavo Daniel Somma Riba

EXPERT ADVISER

Calestous Juma

INTERPRETERS

Youssef Benabdeljalil
Mohammed Bennis
Cristian Bianchi
Schéhérazade Matallah-Salah
Letitia Saenz
Sharona Wolkowicz

SCIENTIFIC COMMITTEE

Arne Bjørge (Chair)
Debbie Palka (Vice-Chair)

NON-MEMBER GOVERNMENT OBSERVERS**Canada**

Stefan Romberg

Colombia, Republic of

Giannina Santiago Cabarcas

INTERGOVERNMENTAL ORGANISATION OBSERVERS**European Community**

Soledad Blanco
Julius Langendorff
Irene Plank

NAMMCO

Charlotte Winsnes

Permanent Commission for the South Pacific

Fernando Félix

NON-GOVERNMENTAL ORGANISATION OBSERVERS**Alaska Eskimo Whaling Commission**

George Noongwook
Jessica Lefevre
Karla Kolash
David Harding

All Japan Seamen's Union

Ryuta Miyamoto
Kenji Takahashi
Hideo Kon (I)

American Cetacean Society

Kate Sardi

Animal Welfare Institute

D.J. Schubert
Serda Ozbenina
Craig Van Note
Laura Rojas (I)

Antarctic and Southern Ocean Coalition

James Barnes

Association of Traditional Marine Mammal Hunters of Chukotka

Gennady Inankeuyas
Eduard Zdor
Vladimir Etylin

Beneficiaries of the Sea Coalition

Naoya Tanikawa
Michiko Ichizaki

Biodiversity Action Network East Asia (BANEA)

Ayako Okubo
Atsushi Ishii

Biosphere Institute

Ivan Ortiz Iuengo
Brenda Paredes
Peter Galvez

BlueVoice.org

Hardy Jones
Deborah Cutting
Sakae Hemme Fujiwara (I)

Campaign Whale

Andy Ottaway
Samantha Dawes
Viivi Syrja

Canadian Marine Environment Protection Society

Ericka Ceballos

Center for Respect of Life and Environment

Naomi Rose

Centro de Conservacion Cetacea

Elsa Cabrera
Barbara Galletti
Barbara Fuenzalida

Cetacean Society International

Barbara Kilpatrick
Cynthia Gutierrez
Kate O'Connell (I)

Club de Jovenes Ambientalistas

Rafael Estrada

Comite Ballena Azul

Ernesto Martinez Hellmund

Concepesca

Miguel Marengo

Cousteau Society

Clark Lee Merriam

Dolphin and Whale Action Network

Nanami Kurasawa

Dolphin Connection

Deborah Adams

Earth Island Institute

Mark Palmer

Eastern Caribbean Coalition for Environmental Awareness (ECCEA)

Lesley Suttty
Mona George Dill

Environmental Investigation Agency

Allan Thornton
Caroline Pott

European Bureau for Conservation and Development

Despina Symons

Exxon Mobil Corporation

Bruce Tackett
John Young

Friends of Whalers

Sally Campen

Fundacion Cethus

Vanesa Tossenburger
Cecilia Gasparrou (I)

Global Guardian Trust

Toshikazu Miyamoto

Green Association of Panama (ASVEPA)

Gabriel Despaigne
Juanna Cooke (I)

Greenpeace International

Karen Sack
Wakao Hanaoka
John Frizell
Thilo Maack
Milko Schvartzmann
Samuel Leiva
Leandra Goncalves
Robert Nicoll

Guatemalan Association of Marine Biology (ABIMA)

Lucia Gutierrez

High North Alliance

Laila Jusnes
Lillian Selvik (I)

Humane Society International

Patricia Forkan
Bernard Unti
Jennifer Dinsmore

Instituto Baleia Jubarte

Marcia Engel

Instituto de Conservacion de Ballenas

Roxana Schteinbarg
Diego Tabboada

International Association of Oil and Gas Producers

John Campbell

International Fund for Animal Welfare

Patrick Ramage
Vassili Papastavrou
Beatrice Bugada
Alberto Szekely
Jacob Levenson
Aimee Leslie
Hedia Baccar
Elizabeth Allgood

Ralf Sonntag
Francisco Goncalves

International Transport Workers' Federation

Hiroshi Eguchi

International Wildlife Coalition Brazil

Hemerson Adair Silveira

IWMC World Conservation Trust

Eugene Lapointe

Irish Seal Sanctuary

Brendan Price

Japan Fisheries Association

Jay Hastings

Japan Whale Conservation Network

Naoko Funahashi

Japan Whaling Association

Makoto Ito
Konomu Kubo
Toru Yamamoto
Yoko Shimozuru
Ichiro Wada
Hirohiko Shimizu
Yoshitsugu Kaino
Yoshihiro Tagagi
Hayato Sakurai
Wataru Fujino
Yoshiro Todo
Akinori Tamari
Glenn Inwood

LegaSeaS International

Michael Iliff
Julia Bowett
Rebecca Goldman

Norwegian Society for Protection of Animals

Tanya Schumacher
Linda Rognli (I)

Oceana

Alex Munoz

OceanCare

Andreas Welti

Oceanic Preservation Society

Joe Chisholm
Olivia Ahnemann
Fisher Stevens
Louie Psihoyos

Pew Environment Group

Charles Fox
Leslie Busby
Justin Kenny
Sue Taei

Robin des Bois

Miriam Potter

Shell International

Mark Downes

**Society for the Conservation of
Marine Mammals, Danish Section**

Birgith Sloth

Andrzej Kepel

Species Management Specialists

Robert Jenkins

Te Ohu Kaimoana

Peter Douglas

Ngahiwi Tomoana

Hori Parata

Hera Douglas

Mere Tomoana

**Uruguayan Cetacean Conservation
Organisation (OCC)**

Rodrigo Garcia Pingaro

Varda Group

Rémi Parmentier

Duncan Currie

Werkgroep Zeehond

Geert Drieman

**Whale and Dolphin Conservation
Society**

Sue Fisher

Niki Entrup

Mark Simmonds

Fran Mallion

Marta Hevia (I)

Whaleman International Ltd

Jeff Pantukhoff

Leonor Varela

Whales Alive

Mick McIntyre

Windstar

Nancy Azzam

Women's Forum for Fish

Yuriko Shiraishi

Akiko Sato (I)

**World Society for the Protection of
Animals**

Joanna Toole

Lasse Bruun

Bryant Austin

Marco Calvo

Marcela Vargas (I)

WWF International

Sue Lieberman

Wendy Elliott

Mamadou Diallo

Cesar Guala

Maria Ximena Barrera Rey (I)

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. WHALE STOCKS
(*Chair's Report of the 59th Annual Meeting, Section 3*)
 - 3.1 Antarctic minke whales
 - 3.1.1 Report of the Scientific Committee
 - 3.1.2 Commission discussion and action arising
 - 3.2 Western North Pacific common minke whales
 - 3.2.1 Report of the Scientific Committee
 - 3.2.2 Commission discussion and action arising
 - 3.3 Southern Hemisphere humpback whales
 - 3.3.1 Report of the Scientific Committee
 - 3.3.2 Commission discussion and action arising
 - 3.4 Southern Hemisphere blue whales
 - 3.4.1 Report of the Scientific Committee
 - 3.4.2 Commission discussion and action arising
 - 3.5 Other small stocks: gray, bowhead, right whales
 - 3.5.1 Report of the Scientific Committee
 - 3.5.2 Commission discussion and action arising
 - 3.6 Other
4. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES
(*Chair's Report of the 59th Annual Meeting, Section 4*)
 - 4.1 Data on whales killed and on improving the humaneness of whaling operations
 - 4.1.1 Reports from Contracting Governments with whaling operations
 - 4.1.2 Commission discussion and action arising
 - 4.2 Preparation for the workshop on welfare issues associated with entangled/entrapped cetaceans
 - 4.2.1 Report from the Organising Committee
 - 4.2.2 Commission discussion and action arising
5. ABORIGINAL SUBSISTENCE WHALING
(*Chair's Report of the 59th Annual Meeting, Section 5*)
 - 5.1 Aboriginal Subsistence Whaling Management Procedure
 - 5.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee
 - 5.1.2 Commission discussion and action arising
 - 5.2 Aboriginal Whaling Scheme
 - 5.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee
 - 5.2.2 Commission discussion and action arising
 - 5.3 Aboriginal subsistence whaling catch limits
 - 5.3.1 Report of the Aboriginal Subsistence Whaling Sub-committee
 - 5.3.2 Commission discussion and action arising, including proposal to amend the Schedule
 - 5.4 Other
6. REVISED MANAGEMENT SCHEME (RMS)
(*Chair's Report of the 59th Annual Meeting, Section 6*)
 - 6.1 Revised Management Procedure (RMP)
 - 6.1.1 Report of the Scientific Committee
 - General issues
 - *Implementation* process (Western North Pacific Bryde's whales, North Atlantic fin and common minke whales)
 - Bycatch
 - 6.1.2 Commission discussion and action arising
 - 6.2 Revised Management Scheme
 - 6.3 Other
7. SANCTUARIES
(*Chair's Report of the 59th Annual Meeting, Section 8*)
 - 7.1 Issues raised in the Scientific Committee
 - 7.1.1 Report of the Scientific Committee
 - 7.1.2 Commission discussion and action arising
 - 7.2 Proposal to amend the Schedule to establish a South Atlantic Sanctuary
 - 7.2.1 Introduction of the proposal
 - 7.2.2 Commission discussion and action arising
8. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING
(*Chair's Report of the 59th Annual Meeting, Section 9*)
 - 8.1 Commission discussion and action arising
9. SCIENTIFIC PERMITS
(*Chair's Report of the 59th Annual Meeting, Section 10*)
 - 9.1 Report of the Scientific Committee
 - 9.1.1 Improving procedures for reviewing scientific permit proposals
 - 9.1.2 Review of results from existing permits
 - 9.1.3 Review of new or continuing proposals
 - 9.1.4 Other
 - 9.2 Commission discussion and action arising
10. SAFETY ISSUES AT SEA
(*Chair's Report of the 59th Annual Meeting, Section 11*)
 - 10.1 Introduction by Japan
 - 10.2 Commission discussion and action arising
11. ENVIRONMENTAL AND HEALTH ISSUES
(*Chair's Report of the 59th Annual Meeting, Section 12*)
 - 11.1 Cetacean emerging and resurging diseases
 - 11.1.1 Report of the Scientific Committee
 - 11.1.2 Commission discussion and action arising
 - 11.2 Ecosystem modelling
 - 11.2.1 Report of the Scientific Committee
 - 11.2.2 Commission discussion and action arising

- 11.3 Other habitat-related issues
- 11.3.1 Report of the Scientific Committee
- Climate change workshop preparations
 - Planning of Phase II of POLLUTION 2000+
 - State of the Cetacean Environment (SOCER)
 - Other
- 11.3.2 Commission discussion and action arising
- 11.4 Reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals
- 11.5 Health issues - Commission discussion and action arising
- 11.6 Other
12. WHALEWATCHING
(Chair's Report of the 59th Annual Meeting, Section 13)
- 12.1 Report of the Scientific Committee
- 12.2 Commission discussion and action arising
13. CO-OPERATION WITH OTHER ORGANISATIONS
(Chair's Report of the 59th Annual Meeting, Section 14)
- 13.1 Report of the Scientific Committee
- 13.2 Other reports
- 13.3 Commission discussion and action arising
14. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT
(Chair's Report of the 59th Annual Meeting, Section 15)
- 14.1 Small cetaceans
- 14.1.1 Report of the Scientific Committee
- 14.1.2 Commission discussion and action arising
- 14.2 Other activities
- 14.2.1 Report of the Scientific Committee
- 14.2.2 Commission discussion and action arising
- 14.3 New initiatives
- 14.3.1 Report of the Scientific Committee
- 14.3.2 Commission discussion and action arising
- 14.4 Scientific Committee Future Work Plan
- 14.4.1 Report of the Scientific Committee
- 14.4.2 Commission discussion and action arising
- 14.5 Adoption of the Report
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18. THE IWC IN THE FUTURE
(Chair's Report of the 59th Annual Meeting, Section 7)
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- 19.1 Annual Meeting arrangements and procedures
- 19.1.1 Report of the Finance and Administration Committee
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 - Frequency of meetings
- 19.1.2 Commission discussion and action arising
- 19.2 NGO accreditation and participation
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- 19.2.2 Commission discussion and action arising
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- 19.3.1 Report of the Finance and Administration Committee
- 19.3.2 Commission discussion and action arising
- 19.4 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
- 19.4.1 Report of the Finance and Administration Committee
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23	Proposed Schedule amendment (Greenland catch limits) (submitted by Denmark) [available in French and Spanish]	5.3.2
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¹Except for Annexes.

²The full version of this document is available on the IWC website (in French).

Reports from Commission sub-groups

IWC/60/Rep	Agenda item
1	Report of the Scientific Committee
2	Report of the Finance and Administration Committee
3	Report of the Aboriginal Subsistence Whaling Sub-Committee
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5	Report of the Conservation Committee
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2-FR; 2-SP	Unofficial Chair's summary of IWC/59/Rep2 (Report of the Finance and Administration Committee)
3-FR; 3-SP	Unofficial Chair's summary of IWC/59/Rep3 (Report of the Aboriginal Subsistence Whaling Sub-Committee)
4-FR; 4-SP	Unofficial Chair's summary of IWC/59/Rep4 (Report of the Infractions Sub-committee)
5-FR; 5-SP	Unofficial Chair's summary of IWC/59/Rep5 (Report of the Conservation Committee)
6-FR; 6-SP	Unofficial Chair's summary of IWC/59/Rep6 (Report of the Scoping Meeting)

IWC/60/OS Member Governments

IWC/60/OS
Australia
Argentina, Brazil, Chile, Costa Rica, Ecuador, Guatemala, Mexico, Panama, Peru, Uruguay
Austria
Cambodia
Denmark
India
Japan
Republic of Korea
New Zealand
St. Kitts and Nevis
Slovenia
UK
USA

IWC/60/OS Intergovernmental organisations

IWC/60/OS	
CMS	Convention on the Conservation of Migratory Species of Wild Animals
ASCOBANS	Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas
ACCOBAMS	Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and contiguous Atlantic area
CPPS	Permanent Commission for the South Pacific
NAMMCO	North Atlantic Marine Mammal Commission
ABIMA	Asociación de Biología Marina de Guatemala (Marine Biology Association of Guatemala)
ACS	American Cetacean Society
ASOC	Antarctic and Southern Ocean Coalition
AWI	Animal Welfare Institute
CMEPS	Canadian Marine Environment Protection Society
CS	Cousteau Society
CW	Campaign Whale
GGT	Global Guardian Trust
HIS	Humane Society International
ICB	Instituto de Conservación de Ballenas (Whale Conservation Institute)
ISS	Irish Seal Sanctuary
ITF	International Transport Workers' Federation
IWMC	IWMC World Conservation Trust
JFA	Japan Fisheries Association
JSU	All Japan Seamen's Union
O	Oceana
OCC	Organización para la Conservación de Cetáceos (Cetacean Conservation Organization)
SMS	Species Management Specialists
WWF	World Wildlife Fund International

Annex D

Chair's Report of the Intersessional Meeting on the Future of IWC

6-8 March 2008, Renaissance London Heathrow Hotel, UK

1. INTRODUCTORY ITEMS

The meeting was held at the Renaissance London Heathrow Hotel, UK from 6-8 March 2008. A list of participants is given as Appendix A. It was chaired by Bill Hogarth (USA), Chair of the Commission.

1.1 Introductory remarks

The Chair welcomed participants to the meeting which he considered to be very important in terms of the future of the IWC. He re-iterated his concerns about the organisation's future and again stressed that one of his aims as Chair of the Commission is to try to find a solution to its problems. He noted that during last year's Annual Meeting in Anchorage he had sensed a different attitude to discussions emerging and believed that this was a good sign for finding a way forward. He was therefore heartened to see so many member countries in attendance at the intersessional meeting.

Noting that in Anchorage the Commission agreed to establish a Steering Group, comprising representatives of the Governments of Chile, Japan, New Zealand, Palau, and the United States to plan the intersessional meeting, the Chair thanked the members for their valuable contributions and work over the last several months. He recalled that when the Steering Group met in October 2007, it had decided that at this intersessional meeting, it would not be fruitful to launch immediately into negotiations on the substantive issues that have polarised the membership but rather, at least initially, to focus discussions on process and to seek ways to improve how negotiations are conducted within the IWC. The Chair suggested that if this could be done, subsequent discussions on matters of substance may have more chance of producing a successful outcome. He noted that the format and agenda for the meeting reflected the Steering Group's desire to find a way forward and added that he hoped that the involvement of outside individuals with experience in handling other difficult international issues (see Item 1.2) would be beneficial to the process being embarked upon.

The Chair expressed his optimism that by working together, viable solutions to IWC's current difficulties could be found and encouraged delegates to approach the ensuing discussions with an open mind and positive attitude.

Finally the Chair thanked the UK for hosting the reception the previous evening noting that this had provided an excellent opportunity for participants to interact more informally prior to the beginning of the meeting.

1.2 Management of the meeting

The Chair recalled that when planning the meeting, the Steering Group had believed it useful to devote the first day to gaining an understanding of the mechanisms used to resolve other difficult international issues via presentations

by outside specialists and that to assist in this approach it had agreed to engage the services of an acknowledged expert in this field, i.e. Calestous Juma, Professor of the Practice of International Development and Director of the Science, Technology, and Globalization Project at Harvard University's Kennedy School. The Chair introduced Professor Juma and proposed that since he was participating in the meeting in an advisory capacity he be given speaking rights in a similar manner to those given to the Chair of the Scientific Committee. He noted that together with the Steering Group, Professor Juma had identified two other outside experts to be involved in the meeting (i.e. Ambassador Raúl Estrada-Oyuela and Ambassador Alvaro de Soto) and introduced them to the meeting also. Brief information on the background of the speakers is provided in Appendix B.

The Chair informed the meeting that since discussions on later agenda items would inevitably be somewhat dependent on those on earlier items, he intended to have a meeting of the Steering Group at the end of each day to plan how to proceed on the following day. He further reported his intention to invite Professor Juma and Ambassadors Estrada-Oyuela and de Soto to these meetings.

Given that one of the objectives of the intersessional meeting was to create positive dialogue among participants and that discussions conducted in the margins of the meeting are often as useful as those in session, the Chair encouraged delegates to make the most of the refreshment breaks for which more time than usual had been allowed. He noted that longer breaks would also give Professor Juma time to conduct private interviews with individual Commissioners¹.

The Chair stressed the importance of all Contracting Governments represented at the meeting having the opportunity to express their points of view and hoped this could be done without interruption.

Finally, the Chair re-confirmed previous arrangements for the speaking rights of intergovernmental organisations (IGOs), i.e. that he would allow IGOs to make one intervention. He noted that for this meeting, such interventions would be most appropriate in relation to agenda Items 4 or 5. He requested IGOs to let him know in advance if they wish to speak and under which item.

1.3 Reporting

In the interest of making the best use of the time available, the meeting agreed that a Chair's report summarising the main discussions and outcomes of the meeting should be

¹Professor Juma conducted private interviews with Commissioners/Alternate Commissioners to gain an understanding of individual IWC Contracting Government views regarding *inter alia* how the conflict in the organisation arose and how they believe it might be resolved. (See also Appendix B).

prepared and circulated to all Contracting Governments after the meeting.

Drawing attention to the Commission's Rules of Procedure (Q.1), the Chair noted that discussions at the meeting should be treated as confidential by both delegates and observers until the report of the meeting has been sent to all members of the Commission. He explained that while this rule would allow delegates and observers to make comments about the objectives of the meeting, they should refrain from reporting on the discussions themselves until the report had been issued. Noting that the meeting report would not be available immediately at the end of the meeting, the Chair indicated that reference could be made to the press release to be agreed under Item 6.

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

1.4 Review of documents

The list of documents available to the meeting is given as Appendix C.

2. ADOPTION OF AGENDA

In response to comments received on the draft agenda prior to the meeting, the Chair proposed to allow limited time towards the end of the meeting (under Item 5) for Contracting Governments to identify substantive issues that they believed should be addressed by the Commission.

Japan noted its intention to co-operate with the Chair to rebuild the IWC and that it looked forward to constructive discussions during the intersessional meeting. However, Japan also drew the meeting's attention to the protest activities of the Sea Shepherd Conservation Society against its vessels involved in its research programme in the Antarctic. While recognising the different views held on whaling and respecting the right for peaceful demonstration, Japan considered the recent attack on one of its vessels in which bottles containing butyric acid were thrown on board to be an act of terrorism which should be denounced, particularly given the two Commission Resolutions adopted by consensus at the 2006 and 2007 Annual Meetings². It therefore considered it important that the meeting adopt a statement on safety at sea and indicated its intention to work with others in the margin of the meeting to develop a statement that could be adopted by consensus. The Chair suggested that this matter be dealt with at the end of the meeting under Item 6.

The agenda adopted is given as Appendix D.

3. DRAWING ON OUTSIDE EXPERIENCE

3.1 Professor Calestous Juma

Professor Juma expressed his thanks for the opportunity to become involved in discussions on the future of IWC which he saw as an important organisation. He noted that prior to working at Harvard University he had been Secretary-General of the Convention on Biodiversity (CBD) and had been responsible for not only building a new Secretariat from scratch but also building a new programme of work for the Convention itself. He had therefore had considerable interactions not only with Parties to the Convention, but also with NGOs and other

stakeholders. He believed that his experience from CBD is relevant to discussions on the future of IWC.

Professor Juma noted that in this part of the agenda he wanted to address the following three areas: (1) why it is important that IWC succeeds and evolves; (2) issues surrounding how this could be made to happen; and (3) how IWC could learn from other institutions, regimes and experiences with the benefit of input from the other external speakers.

He stressed that the 1946 International Convention for the Regulation of Whaling (ICRW) is a treaty of the Contracting Governments themselves and while individuals from outside the organisation could be used as a sounding board for ideas, they could not solve the problems faced by the IWC. This could only be done by the parties to the Convention. Professor Juma therefore stressed that a sense of ownership of the Convention by Contracting Governments is very important, together with an interest and willingness to find a way out of the current difficulties. He was therefore encouraged that during the interviews conducted so far with Commissioners/Alternate Commissioners, he had received a wealth of ideas and had sensed optimism about the future of IWC. He was also encouraged by the thoughtful written contributions received from Contracting Governments in response to the 'call for input' provided to participants in meeting document IWC/M08/4³ (the 'call for comment' was developed by the Steering Group as a way to engage Contracting Governments prior to the intersessional meeting itself – see Appendix E) and from IWC-accredited NGOs whom he had approached independently.

Professor Juma noted that the ICRW is one of the oldest of around 260 environmentally-related treaties, many being regional in nature, of which he believed only some 20-30 were fulfilling properly their mandates. During his period at the CBD, he had spent some time examining many treaties and had found that effectiveness appears to be the exception, and not only in the environmental area. He commented that it is therefore not unique for treaties to run into difficulties. Professor Juma therefore believed the work of IWC had implications to other fields and that finding solutions to its problems could be inspirational for other bodies.

Professor Juma considered that the ICRW was very visionary when negotiated back in the 1940s, introducing the concepts of conservation and sustainable use and for decisions to be based on scientific findings. These are now principles reflected in more modern treaties. He noted that environmentally-related treaties are looking for role models and reported that in its early days, the CBD had looked to IWC as a source of ideas regarding mechanisms for obtaining scientific advice to input into a decision-making process. He hoped that IWC as it moved forward would continue to develop interesting ideas that might be applicable to other bodies. However, he expressed real concern over the escalation of debates within IWC that impact adversely on diplomatic relations between nations (not just related to whaling), and stressed the importance of finding ways to stop such escalation. In this regard he

²Resolution 2006-2 on the safety of vessels engaged in whaling and whale research-related activities and Resolution 2007-2 on safety at sea and protection of the environment.

³Contracting Governments were invited to respond to the following two questions: (1) Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor? (2) What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?

noted the keen interest of many involved in UN negotiations for IWC to resolve its problems internally so as to avoid them being brought to the attention of the UN General Assembly which is often the case when treaties fail to find solutions themselves.

Professor Juma believed that IWC has a unique opportunity to evolve into a modern treaty that could serve as flagship for other environmentally-related agreements, particularly those dealing with complex matters of resource management. In this context he noted that whales are not seen simply as a natural resource but also as a metaphor reflecting larger concerns including the way that individuals think about the world and also such issues as equity, differences in power and historical linkages in how neighbouring countries relate to each other. He believed that an increasing number of countries adhering to the Convention are doing so not only because of their interest in the conservation and management of whales but also because the principles being applied in IWC can be applied elsewhere. Professor Juma cautioned that this evolution into a modern-day treaty will require considerable political commitment given the deeply held and differing views of member countries regarding whaling. While he realised the risks involved, he believed that they needed to be taken because of the uncertainty over whether the *status quo* still provided something for everyone, i.e. doing nothing would not necessarily guarantee continuation of the current *status quo*.

Professor Juma believed that Contracting Governments need to have the courage to work together and to take steps to resolve IWC's difficulties. He therefore considered that at this meeting it would be helpful to IWC to receive input on how others have dealt with seemingly intractable problems, for which Ambassador de Soto with his work connected with the UN Law of the Sea and subsequently with a range of peace initiatives is well placed. He also thought it useful to gather ideas on how to connect with the environmental process, for which Ambassador Estrada is well placed given his experience with the negotiations on the Kyoto Protocol and how to approach this if there is a real wish to proceed.

Professor Juma believed that the basis for advancing the ICRW exists and that Commissioners have the ideas necessary to make this happen while recognising the need to accommodate the different sensitivities held among member countries. He noted that in the course of his own work he had found that it is not change that people resist, but potential loss. He stressed the need to open-up the possibility for collective learning at IWC/60 in Chile and beyond.

Finally Professor Juma reported that he would be developing a short document laying out his view on how IWC could move forward based on his interviews with Commissioners/Alternate Commissioners, the call for input and discussions at the intersessional meeting.

3.2 Alvaro de Soto

Ambassador de Soto noted that he felt honoured to be given an opportunity to address the Commission. While he admitted to knowing little about whales and whaling he hoped that his experience over 40 years in conflict negotiation and deadlock resolution would be useful for discussions at the meeting. In this regard he thought it would be useful to highlight three areas in which he had been involved that might be germane to the challenges

faced by IWC (i.e. (1) the 3rd UN Conference on the Law of the Sea (UNCLOS); (2) the workings and practices of the UN Security Council; and (3) various peace negotiations) and then to draw out lessons learned that might be germane to IWC.

UNCLOS

Ambassador de Soto noted that many interests had to be reconciled during the negotiations on UNCLOS. He noted that reconciliation had to combine a substantial body of existing law, areas where no law existed because of new uses of the oceans, where it was necessary to innovate from scratch, and areas where existing law needed to be adjusted. Those involved in negotiations recognised that the only way to address these issues was via a gargantuan package deal. In developing this, Ambassador de Soto explained that three devices had been used: (1) a consensus-seeking mechanism to avoid the precipitous triggering of the use of Rules of Procedure and voting procedures that would threaten collapse of the entire package; (2) use of a single negotiating text; and (3) use of contact (smaller) groups and the concept of miniaturisation in general.

With respect to the consensus-seeking mechanism and to preserve the idea of the development of an overall package, Ambassador de Soto noted that the Conference adopted a gentleman's agreement, based on the strong desirability of the outcome commanding the broadest possible consensus, that '*nothing is agreed until every thing is agreed,*' and that if efforts at consensus failed, the Conference would observe a cooling-off period before resorting to voting. As a result, most of the Convention was adopted by consensus and most of the provisions are accepted today as customary law.

With respect to use of a single negotiating text, Ambassador de Soto explained that in large gatherings, as was the case for UNCLOS, negotiations in terms of straightforward give and take are extremely difficult, if not impossible. Consequently informal gatherings were convened to promote discussion rather than formal negotiations. At the end of a day of discussions, the convenor together with a carefully-selected drafting team, would draft text for review by the informal group the next day. There would be re-iterations of this procedure (as many as 20) until an outcome was achieved that everyone could live with, it being important that there should be no clear winners or losers.

With respect to the use of smaller negotiating groups, Ambassador de Soto reported that these were used to address a regime for the seabed beyond national jurisdiction – the last chapter to be negotiated at UNCLOS. He noted that these discussions had embodied straightforward north versus south negotiations/confrontations in which some industrialised countries wanted as broad a freedom as possible to exploit the resources of this vast area on which there was no existing law governing their exploitation and developing countries who saw this area as a common heritage of mankind and who wanted to see it governed by a regime controlled by an international seabed authority that would ensure that all would benefit and no-one be unduly harmed. Following very slow progress with negotiations conducted in a large group, a decision was taken to establish a smaller group comprising 21 countries divided equally between developed and developing. While only these countries were

allowed to speak, all delegations were allowed access to the meeting room. Ambassador de Soto reported that this format was not successful in promoting give and take but provided a framework through which to channel progress that was achieved in a considerably smaller but still representative group miniaturised so as to allow for its work to be conducted in private. While the smaller group included countries representing all ends of the spectrum, all delegations shared the view that there was a need to reach agreement and to merge this area with the overall Law of the Sea package.

UN Security Council

Ambassador de Soto noted that the UN Security Council has been much maligned in part because of the way it is constituted which many see as unrepresentative of the realities of today. However, he reported that in the last few years, partly because of complaints over the composition but also perhaps to fend off pressure to make significant structural reforms, it has amended its practices. While the Security Council now works in a less secretive manner than before, the work on the most difficult issues is still conducted away from the public eye with nothing being put on record and with only decision-makers present. What occurs in the on-the-record meetings in the formal Council chamber is heavily stage managed and prepared in informal consultations beforehand.

Peace negotiations

Ambassador de Soto recalled his experiences in two sets of peace negotiations, i.e. El Salvador and Cyprus. He noted that in both cases, difficulties had been created by all parties leaking to the public the positions being taken by the differing sides. This had the effect of raising the stakes and undermining the ability of the negotiators involved to engage in give and take lest they be accused of yielding too much. The UN negotiators involved had no alternative but to develop draft texts that were submitted to separate consultations with each side, resulting in a lengthy shuttle-diplomacy process. This provided a framework in which negotiators did not appear to be conceding to each other but rather agreeing to an overall package where an honourable balance was preserved.

Lessons learned germane to IWC

- (1) Negotiate away from the public eye. Ambassador de Soto reported that he has found that negotiations work best if held away from the public eye and that this is particularly important for those issues on which public opinion is inflamed. He suggested that if discussions on such matters are held in public, even the most reasonable compromises can be seen as humiliating sell-outs. He further suggested that open discussions serve to entrench hard positions, prevent underlying issues rather than positions from being addressed, exacerbate conflict and ensure that negotiators leave aside any spirit of compromise. While he was aware that conducting negotiations in private may not be popular with some, he considered this extremely important if a successful outcome is to be achieved.
- (2) Use small negotiating groups (miniaturisation). Ambassador de Soto had found that the greatest possible miniaturisation is needed, noting that the size of participation is inversely proportional to the chance of a successful outcome. Stressing that full powers of decision-making cannot be delegated to such groups,

he noted the importance that participants in the small groups, who should be well plugged in to those whose broad interests they reflect, agree to make good faith efforts to 'sell' the outcome/compromise that emerges to parties not involved.

- (3) Sometimes the language or terms used can hinder negotiations. Ambassador de Soto noted that the language or terms used can create difficulties during negotiations, particularly when dealing with 'high octane' words. In this respect he recommended that it is frequently better to try to leave such loaded language aside and leave it to a later stage and to either find substitutes or break up the underlying concepts into smaller practical components.

In summary, Ambassador de Soto made the following points:

- The question should be asked as to whether IWC is in deadlock or is dysfunctional.
- If the Commission does decide that major repair work is necessary, then if it is in earnest it should:
 - negotiate among decision-makers so as not to have the inhibiting factor of the presence of other players – while non-decision makers have a very important role in society, it is ultimately governments that are accountable to their electorates;
 - try to miniaturise;
 - avoid inflammatory language/terms; and
 - break negotiations into manageable components.

Finally Ambassador de Soto drew attention to the recent emergence of the notion of 'ripeness', i.e. whether an issue is ripe/ready for negotiating. 'Ripeness' has been defined by the existence of a mutually-hurting stalemate, i.e. a situation in which the hurt which parties are enduring is greater than the hurt of solving it. Settlement then becomes a matter of 'how' and not 'whether'. He further noted that while 'ripeness' is not a pre-requisite, the likelihood of success is higher if it is present.

Discussions on clarification

In response to a question regarding involvement of civil society, Ambassador de Soto stressed that it is essential that civil society is involved in policy formulation. He believed that governments failing to do so take serious risks since the outcome of any negotiations may ultimately not be acceptable to their publics. However, it was his view that civil society should not become directly or indirectly the actual negotiator. With respect to their involvement in intergovernmental organisations, he pointed to the UN as having considerable experience in this matter from which IWC could perhaps learn.

Regarding how to take account of the interests of all stakeholders, Ambassador de Soto suggested that this has to be done on a case-by-case basis depending on the various interests involved. He noted that this is a heavy responsibility on whoever is the Chair or 'stage manager' of the negotiations since the identification of basic interests is difficult and can be risky from a political viewpoint. With respect to miniaturisation of negotiations he indicated that it is necessary to balance the need for as small a negotiating group as possible with as large as necessary to be representative.

Responding to a question on whether it is possible to sit at a table where agreements are sought if there is no prior

commitment that whatever is agreed is binding, Ambassador de Soto noted that what is essential in any negotiations is that all participants know what the outcome is going to be, i.e. there has to be transparency. Each person needs to know what the next stage is going to be. He stressed however that in international organisations, discussions have to be done at an executive level.

With respect to how miniaturisation should be done (i.e. how to select who is involved), Ambassador de Soto noted that this is a decision for the Chair or whoever is organising the discussions. He noted that frequently, small groups are created at the initiative of the Chair. He noted the need frequently felt to have geographic areas included but that it is also wise to include representatives of the prevailing interests. Given the need to balance these two aspects, the capacity to miniaturise negotiations is reduced.

It was noted that IWC has tried to miniaturise negotiations in various ways but that while the dynamics of small groups have led to constructive discussions, there has been a tendency for such groups to delude themselves into thinking that their outcomes will be acceptable to a wider majority. Rather the case has been that such outcomes were not acceptable to a wider audience. Ambassador de Soto suggested that perhaps this reflects that the issues were not ripe for negotiation.

3.3 Raúl Estrada-Oyuela

Ambassador Estrada thanked the Commission for its invitation to contribute to the intersessional meeting. He indicated that drawing on his own experiences, particularly in relation to climate change discussions, he would make similar points to those made already by Ambassador de Soto, but concentrate more on the role of the Chair or 'stage manager' in negotiations. At the outset he stressed that there is no single formula that will apply to all situations and no magic formula to resolve all difficulties. In particular he noted that the success of the programmes of intergovernmental organisations depends on the willingness of parties to engage in these programmes. He also noted that because the international legal system is decentralised, regulatory powers exist only when and up to the limit the parties are willing to establish and with the caveats and protections they set, and that these are valid only for those limited areas on which parties are prepared to co-operate. While compliance and/or settlement dispute procedures may be agreed, this is not always the case.

Ambassador Estrada noted that factors that can affect negotiations and decision-making include the interest and emotional involvement of those involved, formalities or lack of formalities of the procedure and/or setting, and the background and tenure of the negotiators themselves. Observing that many IWC Commissioners have known each other for many years, he suggested that while in some situations this familiarity can be of benefit, in others it can complicate the dialogue, particularly when opposite positions are being taken and emotional factors are involved. Ambassador Estrada also noted that the interests of parties can correspond to particular regional situations. Using climate change negotiations as an example, he noted that small island states have different views to large continental states and that uneven levels of development are usually related to energy consumption and therefore very different levels of emissions of greenhouse gases *per capita*. He suggested that disparity in life-styles, culture and traditions are elements that can be found in both

climate change and whaling discussions and that in some sense, the history of industrialisation and the history of whaling could be a similar cause of disagreement.

With respect to the conduct of negotiations, Ambassador Estrada noted that while increasingly, international negotiations require significant scientific input, his view is that negotiating is a task for politicians or diplomats, not for scientists. He recalled that while decision-making by voting was a frequent occurrence in the UN General Assembly 40 years ago, experience has shown that members abstaining in a vote or voting against a motion deem themselves not bound by decisions that they have not supported. Consequently there is now a clear tendency to prefer milder decisions that are adopted by consensus but which carry the commitment of all the parties involved, over more precise and concrete resolutions that may generate refusal or rejection by some. Like Ambassador de Soto, Ambassador Estrada pointed out that consensus does not necessarily mean unanimity but rather that all participants can live with the decision adopted. He noted that consensus texts adopted in climate and other environmental negotiations usually do not fully satisfy the views of all participants but reflect the best possible level of common ground all participants can reach together. Referring to a number of climate change negotiations in which he had been involved, Ambassador Estrada stressed the important role of the Chair/stage manager in assessing the existence of consensus. He explained that this individual must know well the different positions of the parties involved, be able to assess the 'bottom line' and to know how far an assembly will go in search of a common position. Referring to the tendency within IWC to take decisions by voting, Ambassador Estrada indicated that he could not see the purpose of submitting to a vote any proposal that it is known in advance will be rejected. He considered that such behaviour serves only to deepen differences and provoke confrontation and stressed that decision-making in the international arena should not be a zero sum game, i.e. everyone must gain something.

Regarding mechanisms that could be used to create a basis for understanding, Ambassador Estrada suggested that negotiating packages can be a way to facilitate trade-offs and that small informal groups can be useful in seeking compromises. He noted that leading a complex negotiation is not a single man job, but requires team work, with the Chair delegating responsibilities, including a commitment to success, to team members. Recognising that defining the composition and mandates of small groups can have difficulties, Ambassador Estrada noted that on many occasions, to avoid public debates on such matters, he had resorted to unorthodox techniques such as: (1) the creation of 'non groups', not to negotiate, but to advise him on certain issues; and (2) appointment of co-ordinators or facilitators rather than Chairs since the selection of the latter always has implications. He also noted that the selection of participants of a small group is a sensitive matter and requires good knowledge of the various interests and positions. Ambassador Estrada reported that on occasion he had also called together a group of delegates or 'friends of the Chair' to exchange views and seek advice, while stressing to all parties that no negotiations were to take place in such gatherings. He noted that meetings and deliberations of 'like-minded' groups, interest groups or regional groups may help to clarify their positions and aspirations, but warned that they

can delay negotiations. While he believed it necessary to allow like-minded countries the time to adopt a common position that will be conducive to consensus, he also believed that this time should not be unduly long.

Ambassador Estrada noted that while decision-making by consensus is a political option to which governments are inclined, civil society groups often prefer the adoption of texts that support strongly the principles involved in any matter over a compromise among differing views. However, he stressed that while governments should pay attention to the opinion of civil society groups and understand their views, governments are accountable to their electorates. He was of the opinion that while such groups must be given an opportunity to present their views and offer their assessments and proposals, the process of negotiation should be restricted to government delegates only. He supported this restriction since government delegates will be more candid when among colleagues, may explain positions and ask questions that they would never make in public and be more prepared to reconcile different interests. He expressed surprise that IWC levies a fee on NGO observers.

Ambassador Estrada stressed the need for fair behaviour in the use of legal instruments and the implementation of rules of procedure. He noted that in climate change negotiations, like in many other fora, there is a permanent constituency, with parties attending all meetings and following the life of conventions with continuity for many years. He considered this to be a basic condition for rational evolution and progress in decision-making. By contrast, he wondered whether this is the case in IWC and questioned whether the instant membership of any government provided for in Article X.2 of the Convention is helpful. He recalled that other very specialised international instruments such as the Antarctic Treaty require some preconditions for full membership.

Finally, Ambassador Estrada emphasised that a friendly environment aids the decision-making process.

Discussions on clarification

In response to a question on what are some of the key pointers that the Chair or stage manager of negotiations should take on board, Ambassador Estrada noted that such a person requires instinct, experience, dedication to the matter in question and to keep in contact with the countries and/or groups involved, including via visits between sessions.

Regarding suggestions on how to deal with the current situation in IWC of instant membership and voting rights, Ambassador Estrada again drew attention to the requirements of the Antarctic Treaty⁴. He also noted the suggestion made in the call for input (see Appendix E)

⁴The original Signatories to the Treaty are the twelve countries that were active in Antarctica during the International Geophysical Year of 1957-58 and then accepted the invitation of the Government of the United States of America to participate in the diplomatic conference at which the Treaty was negotiated in Washington in 1959. These Parties have the right to participate in the meetings provided for in Article IX of the Treaty.

Since 1959, thirty-four other countries have acceded to the Treaty. According to Art. IX.2, they are entitled to participate in the Consultative Meetings during such times as they demonstrate their interest in Antarctica by 'conducting substantial research activity there'. Sixteen of the acceding countries have had their activities in Antarctica recognised according to this provision, and consequently there are now twenty-eight Consultative Parties in all. The other eighteen Non-Consultative Parties are invited to attend the Consultative Meetings but do not participate in the decision-making.

regarding instituting a period of time between adherence to the Convention and effective membership which is employed in many conventions. He believed that the current situation in IWC can help to create lack of stability in negotiations. Professor Juma also supported the implementation of a 'waiting period' before full membership since this is important in helping to avoid undue surprises, allowing bilateral consultations between existing and new parties prior to meetings. He stressed that such a period had been important in the CBD and had helped to stabilise relationships between players.

An observation was made that Contracting Governments to IWC are often represented by different ministries (e.g. Environment, Fisheries and Foreign Affairs) but that in other conventions running into difficulties, there tends to be greater participation by diplomats. Ambassador Estrada suggested that 19th century diplomacy involving only diplomats no longer exists and that diplomats now need some technical understanding to carry out their missions. However, he noted that while technical/scientific support will be necessary, it is also necessary to have diplomats who can be sufficiently flexible to achieve a compromise. Consequently, the main actors in an agreement will be the diplomats. Professor Juma stressed the need for effective national co-ordination by drawing attention to his experience in the CBD. He noted that the main focal point in CBD negotiations had been predominantly Environment Ministries. They had agreed to negotiate a Treaty on genetically modified organisms (the Biosafety Protocol) that would be primarily the mandate of Agriculture Ministers. By the time the Agriculture Ministers had realised what was happening, it was too late for them to participate in the negotiations. They therefore tried to defeat the outcome by opposing ratification by their governments. In this way, Professor Juma reported that such action impacted on the rate of ratification and subsequent implementation of the Protocol. He suggested that when diplomatic difficulties are encountered, negotiations should include representatives from Ministries of Foreign Affairs.

In response to a request for clarification on what is meant by consensus, Ambassador Estrada noted that 'consensus' could allow for not everyone involved to be in total agreement. He noted however that if there is formal opposition, then there is no consensus. Together with Professor Juma he stressed the importance of the role of the Chair in managing the development of consensus. Ambassador de Soto noted that while UNCLOS had no formal definition of consensus, a definition that has been referred to is one where 'a consensus exists when a decision has been taken without opposition strong enough to demand a vote'.

In response to the remark that currently the only official and working language of the Commission is English, it was noted that the use of language is an administrative decision internal to IWC, although a preference was expressed to allow participants to speak in their own language.

In response to a comment about the current restrictions within IWC for the use of secret ballots, it was noted that it would be unusual for decisions on substantive matters to be taken in this manner.

3.4 General discussions

It was noted that the fundamental issue for IWC is to solve a problem concerning a common resource over which there

are different schools of thought on how it should be used, i.e. an environmental versus a sustainable use perspective. The speakers were invited to provide advice on how such divergent views could be resolved. Ambassador de Soto noted that there are some categories of problems that can be solved by constructive ambiguity where it is not that important if there is not full clarity about what is agreed. However, he noted that there are others where the divergence is so fundamental that the use of constructive ambiguity merely postpones the needed solution. He believed that the situation in IWC falls into the second category. Ambassador Estrada however noted that postponing resolution of an issue can be useful on occasion. Professor Juma noted that the CBD had conservation objectives, sustainable use objectives and benefit sharing objectives. Consequently, a large part of the negotiations had revolved around reaching a common understanding/accommodation of different parties' views.

The observation was made that the presenters had focused more on developing/agreeing new conventions, while IWC faces the problem of operating an existing agreement which may be somewhat different. It was noted that IWC has developed a practice of taking decisions via voting rather than by consensus such that it is operating more like a legislator. It was further suggested that the remorseless use of voting hinders the search for deeper and wider agreements and produces resentment among parties. The presenters were asked to comment on whether reaching agreement via consensus is likely to produce more enduring results. The presenters believed this to be the case. Professor Juma suggested that taking decisions by voting not only alienates parties and creates anxieties but also does not take uncertainty into account, i.e. agreements may not be implemented at the national level. Ambassador de Soto believed that 'hair trigger' voting tends to discourage the possibility of broadening agreement, effective implementation and durability. Ambassador Estrada noted that since the ICRW allows governments to object to decisions of the Commission and to therefore not be bound by them, it is better to reach decisions by consensus.

4. REBUILDING TRUST AND IMPROVING APPROACHES TO DISCUSSIONS AND NEGOTIATIONS WITHIN IWC

Drawing on the presentations by the outside speakers, discussions on these presentations and responses to the call for input (Appendix E), discussions under this agenda Item fell into the following seven broad areas:

- the role/purpose/future of the organisation and ripeness to discuss;
- improving practice and procedures;
- improving the negotiation process;
- the role of science;
- improving participation;
- the role of the media; and
- improving relationships with other intergovernmental organisations.

4.1 The role/purpose/future of the organisation and 'ripeness' to discuss

As mentioned by Professor Juma in his presentation, some noted that the *status quo* within IWC is no longer

acceptable and that if no steps are taken to resolve IWC's difficulties, some Contracting Governments may no longer be able to justify continuation of their membership. The *status quo* would therefore no longer exist. However, it was also noted that in agreeing to address what some saw as an impasse, the Commission may be deluded into believing that a solution will be found and that what is really needed is to first address what the role of IWC should be, given the fundamental differences existing among members regarding the appropriate use of whale resources. With respect to differences, it was noted that member governments do not disagree on the need to protect endangered whale stocks. Rather the underlying problem is what to do with abundant stocks. Furthermore, while the existence of fundamental disagreements was recognised, it was suggested that this does not make it less important to find a way to acknowledge differences and by looking at the underlying positions and principles involved, to see where doing so may lead. It was suggested that if the fundamental principles are so opposite, this will have to be acknowledged if consensus is to be achieved but if such steps fail, the Commission should be brave enough to recognise its failings and perhaps be prepared to work through a different forum.

Differing views were expressed as to whether the future of the IWC is 'ripe' for discussion. It was noted that for this to be the case there must be recognition that the current stalemate is mutually hurting. Some doubt was expressed as to whether this is in fact the case. Some expressed the view that IWC should not be characterised as being dysfunctional or that a lack of trust among parties exists. It was noted that there needs to be a political will to resolve IWC's problems and that solutions will have to come from within IWC. There was however the suggestion that it would be useful if the forthcoming G8 summit could urge IWC to resolve its problems in the near future.

A view was expressed that the only way forward for the organisation is for each 'group' to sacrifice its fundamental positions. For example, the 'anti-whaling' group should drop their stance that there can be no commercial whaling at all and the 'pro-whaling' group should drop the position that scientific permit whaling is beyond a compromise. This would require a commitment or symbolic gesture from governments that they are prepared to make sacrifices and to explore possibilities without pre-set conditions. In this regard, Ambassador de Soto noted that in UNCLOS, there had been a gentleman's agreement under which all parties committed themselves to make every effort possible to reach consensus. He suggested that IWC could make similar vow, indicating that a simple statement would send quite a strong message and would involve a moral commitment.

Another view was expressed that for IWC to move forward, Contracting Governments should not be requested to compromise on their principles at the start of negotiations, but that discussions should first concentrate on areas of mutual interest. It was also stressed that compromises do not necessarily mean selection of the lowest common denominator.

4.2 Improving practice and procedures

There was broad agreement of the need to change the culture and behaviour of IWC to avoid the often acrimonious discussions of the past few years and to strive

to reach decisions by consensus wherever possible rather than resorting to a vote prematurely. A comment was made that consensus is the only adequate way to treat globally important management issues and to define universal principles. Noting the presentations by the outside experts, there was recognition that consensus does not necessarily always mean total agreement but rather that there is sufficient support to move forward on a particular issue or issues.

There was also agreement on the need to adopt measures to ensure adequate notice is given of matters to be considered by the Commission so as to reduce surprises and allow time for proper consultation. It was recognised that such measures would also improve the possibility of reaching decisions by consensus. A number of recommendations were made in this regard including that:

- Full details of any proposed Schedule amendments and amendments to Rules of Procedure should be circulated well in advance of meetings. At present, while notice of proposed amendments must be made 60 days in advance as required by Rule of Procedure R.1, the full text is not always provided until the meeting itself.
- All documents to be considered by the Commission and its sub-groups should be made available by a set deadline, preferably well before the meeting and in the languages used by the Commission. Currently an informal deadline of five weeks prior to a meeting is set via a Circular Communication from the Secretariat.
- A period should be established between the adherence of a new Government to the Convention and its participation as a full member of the Commission as is the case in many conventions⁵. In IWC, currently as soon as a Government adheres and pays the financial contributions due, it has full voting rights. Comments were made that this can create uncertainty at the beginning of Annual Meetings when governments are trying to assess which group has a simple majority.

Noting that currently little meaningful dialogue/exchange occurs between Commission meetings, the promotion of real dialogue among Contracting Governments during intersessional periods was also supported. Suggestions for how this could be done included arranging: a series of bilateral meetings; meetings in the margins of non-IWC meetings at which IWC delegates may be present (i.e. take advantage of other meetings); and meetings in a more informal setting.

There was a call for mutual respect and equal treatment of all Contracting Governments and a recommendation that the Commission should recognise the diversity of interests within the Commission via a written statement. Remarks were made that more attention should be given to the terminology used and the way it is used, for example avoiding contrasting conservation and whaling to suggest that the two are mutually exclusive.

4.3 Improving the negotiation process

It was recognised that the way negotiations are conducted in IWC needs to be improved and a variety of mechanisms were suggested. These included the following.

- Giving an undertaking that 'nothing is agreed until everything is agreed'.
- Using a mixture of open and closed sessions.

It was noted that allowing for the possibility to hold some discussions in private, particularly in relation to addressing difficult matters, would be helpful in making progress. It was recognised that other stakeholders should not be excluded from the process and that they should be kept regularly informed via briefings, including bilateral briefings. A comment was made that the possibility of governments engaging in private, quiet diplomacy should not be confused with exclusiveness or lack of representivity.

- Using smaller groups (miniaturisation).

The notion of using smaller groups to discuss issues as part of the negotiating process was particularly attractive given the increasing number of Contracting Governments. Some concern was expressed that using smaller groups may reduce transparency and affect the ability of developing countries to participate. It was therefore recognised that the composition of small groups would need to be decided with care. A comment was made that there will be an appropriate time to use smaller groups but perhaps not at the outset of negotiations.

On the creation of smaller groups, Ambassador Estrada noted that the Chair has authority to seek advice and could establish one or more groups, none of which have to be permanent. He suggested that the important issue is for parties to have confidence in the Chair and to allow him/her the latitude to seek the best possible advice. He also stressed that small groups are not supposed to decide anything but rather to advise the Chair. Ambassador de Soto noted that miniaturisation is a tool that can be used either by the entire body or the Chair. He underscored his earlier remarks that use of small groups does not deprive any member of participating in any decision. He noted that the Chair could establish a group that is entirely stakeholder free, i.e. comprised of those who have no stake in the outcome but who could help broker a deal.

Reference was made to the fact that IWC had used small groups in the past, but without success. Some suggested that they failed because they did not have sufficient flexibility. Others that it was because the outcome from smaller groups had not been supported by all group members when the outcome was presented to the whole Commission.

- Employing cooling-off periods.

It was recognised that when difficulties arrived during negotiations, it can be useful to employ a cooling-off period so as to avoid, for example, precipitating a vote. This would allow time for more informal discussions to take place outside of the negotiating context. On occasion it may also be useful for the Chair to establish a parallel working group outside of plenary to work on difficult issues.

- Using outside experts/mediators.
- Involving ministers.

It was recognised that there should be commitment at a political level to any negotiations. Such a commitment

⁵For example, for CITES and CBD, the Conventions enter into force for a government 90 days after the deposit of its instrument of ratification, acceptance or accession. For CCAMLR, the waiting period is 30 days.

would help governments explain the outcome of negotiations and any compromises made to their constituencies.

- Involving civil society.

The need to better integrate elements of civil society into the Commission's work was recognised. It was suggested that it would be useful to investigate how this was done by other intergovernmental organisations.

4.4 The role of science

There was agreement that science is key to the IWC, that a positive feature of the organisation is its strong scientific element and that the Scientific Committee is recognised as providing the best available knowledge on cetaceans. It was suggested that the Commission should follow the Scientific Committee and broaden its scope of work to include all cetacean conservation issues and thus complete its transition to a modern cetacean conservation organisation.

It was noted that the Scientific Committee has recently achieved consensus on nearly all of its recommendations, the exception being reviews of scientific permit whaling programmes, but that progress towards consensus is now being made in this area also. A comment was made that while recognising the political pressure the Commission is under to achieve a solution to its problems, the Commission should not resort to bypassing scientific input and retreating to the bad practice and horse trading of the past.

Some believed that the current workload of the Scientific Committee is too high, difficult to prioritise and not adequately integrated into the policy work of the Commission mainly because of its timing, i.e. holding the Scientific Committee meeting in conjunction with the Commission. It was noted that this does not allow sufficient time for proper consideration of the Scientific Committee's work by member governments. The suggestion was therefore made that consideration should be given to separating the Scientific Committee meeting from the Commission meeting so as to provide more time for consideration of the Committee's work.

The need to review the composition and function of the Scientific Committee was also suggested (e.g. improving the involvement of scientists from developing countries and the procedures for inviting scientists to the Committee).

4.5 Improving participation

Currently English is the only official and working language of the Commission, although for the last few years the Commission has been exploring ways to introduce other working languages (French and Spanish). The Commission now provides simultaneous interpretation for French and Spanish and some documentation translation in these languages. However, some delegations stressed the importance of continuing further with such work to enhance the participation of French and Spanish speakers.

Some believed that attention needed to be given to the role of developing countries in IWC. It was noted that the Convention had been developed when whales were hunted primarily for oil. However, in view of UNCLOS it was

stressed that developing countries have a stake in how marine living resources are used and that special consideration should be given to their involvement. The current level of financial contributions for Contracting Governments was identified as an obstacle to the participation of developing countries in IWC. The view was expressed that these should more closely reflect the formula used within the UN.

4.6 The role of the media

It was noted that while the presence of the media at Commission meetings contributes to transparency and the provision of information to the public, there is a tendency for their presence to be used as a mechanism for delegations to speak to their home audiences rather than to other delegations at the meeting. It was further noted that the media tends to focus on issues that divide IWC rather than reporting discussions in a more balanced manner. It was suggested that the role of the media at Annual Meetings should be reviewed.

The need for improved reporting of accurate information on whales and whaling to the public was identified.

4.7 Improving relationships with other inter-governmental organisations (IGOs)

There was a view that IWC should improve co-ordination and co-operation with relevant inter-governmental organisations/agreements such as IMO, UNCLOS, CITES, CMS and CBD and to find a way to take better account of relevant work being done by such bodies. There was a suggestion that this could help to normalise and modernise intergovernmental policy making for the great whales.

5. PLANNING FURTHER DISCUSSIONS ON THE FUTURE OF IWC

5.1 Schedule of meetings at IWC/60

It was agreed to revise the schedule of meetings for IWC/60 agreed in Anchorage last year to allow for open discussions on follow-up to the intersessional meeting over 1½ days during the week of sub-group meetings and to extend the half-day session of the Commissioner's meeting planned for Sunday 22 June to a full day to allow for private discussions. Meetings of the Conservation Committee (CC), the Infractions Sub-committee (INF), the Budgetary Sub-committee (BSC) and the Finance and Administration Committee (F&A) would be unaffected (except for minor re-scheduling), but the planned one-day workshop on welfare issues associated with entangled/entrapped cetaceans would be replaced by a scoping meeting – the workshop itself to be held either prior to or in association with IWC/61. It was understood that if discussions on the follow-up to the intersessional meeting have budgetary implications, these will need to be addressed before the Commission's budget is agreed in plenary. The revised schedule for this part of IWC/60 is therefore as follows:

Revised schedule for IWC/60

Day	Date	Morning	Afternoon
Tuesday	17 June	CC	INF BSC Scoping meeting for workshop on welfare issues associated with entangled/entrapped cetaceans
Wednesday	18 June	ASW	F&A
Thursday	19 June	Follow-up to intersessional meeting on future of IWC	
Friday	20 June	Follow-up to intersessional (cont.)	Report preparation & review
Saturday	21 June	Report preparation/review/translation	
Sunday	22 June	Private meeting of Commissioners	
Monday to Friday	23-27 June	60 th Annual Commission Meeting	

5.2 Development of a draft agenda for the Commission plenary at IWC/60

It was noted that revising the schedule of meetings as described above would still allow time during the plenary for the Commission to deal with standard agenda items and its on-going work programme. It was therefore understood that the draft agenda for the Commission plenary would be similar to those in previous years (i.e. dealing with the regular functioning of the Commission) but that it would also include an item on follow-up to the intersessional meeting. Japan noted that as long as it considered discussions on the future of the organisation were progressing and as an expression of its interest in making progress, it would not submit its usual request for an allocation for its small-type coastal whaling communities. It asked others to take a similar approach so as to allow sufficient time during the plenary for follow-up discussions to the intersessional meeting.

Australia welcomed the discussions and co-operation that had been evident during the intersessional meeting. While it had been happy with the focus of the intersessional meeting being on a process (i.e. how to improve negotiations within IWC), it wished to take advantage of the Chair's proposal to allow limited time under this item for Contracting Governments to identify substantive issues that they believed should be addressed by the Commission in Chile. Australia therefore drew attention to the paper it had submitted on 'Whale Conservation and Management: A Future for the IWC' (Document IWC/M08/Info 11). Australia explained that it is proposing a strategy that focuses on future work that can be done in a collaborative manner without fundamentally challenging the key principles of Contracting Governments regarding the conservation and management of whales. It noted that underpinning this is recognition of the need for IWC to move toward a contemporary international conservation and management function focused on the conservation of whale populations and embracing the non-consumptive use of whales. Australia identified three key areas on which it believed IWC should focus: (1) developing internationally-agreed, co-operative conservation management plans that take into account all whale-related issues and threats; (2) launching regional, non-lethal collaborative research programmes to improve management and conservation outcomes for cetaceans; and (3) reforming the management of science conducted under the ICRW and IWC auspices, including agreed priorities and criteria for research, and an end to unilateral 'special permit' scientific whaling. It believed conservation plans need to address threats other than whaling, focus on recovery of depleted stocks and be linked to the actions of other international bodies and arrangements in place such

as those under CMS. Regarding non-lethal collaborative research programmes, Australia noted that it looked forward to continuing to work with other parties. It recognised that there needs to be a concrete scientific framework underpinning work in these areas. While recalling the success of the Scientific Committee in areas such as comprehensive assessments, it suggested that the Committee could be improved in a number of ways. It believed that the Committee currently lacks a co-ordination mechanism to prioritise and address knowledge gaps linking population studies with threats and that the absence of such a mechanism has hampered the efficient advancement of reliable science with too much effort having been spent in relation to scientific whaling programmes. Australia reported that it wanted to work with others to improve the science within IWC and proposed that a collaborative research partnership be established to strengthen performance of IWC and improve whale conservation and management. It gave notice that it would submit a proposal for consideration at IWC/60 for a Southern Ocean research programme.

The UK thanked Australia for developing its document which it noted was in much alignment with the views of the UK. Given the content of Australia's paper, the UK suggested that there are areas that IWC can and should tackle with respect to conservation that it has been prevented from doing because of a focus on a different set of issues. The UK believed that if IWC could focus on matters on which all parties agreed are important and do this successfully, it may subsequently be able to make progress on more controversial matters.

A number of countries sought clarification from the Chair regarding the process being entered into given the intervention of Australia. The Chair noted that it had been his intention to allow Contracting Governments to identify substantive issues that they believed should be included in the context of discussions on the future of the organisation. Japan therefore indicated that it wished to include small-type whaling in this context. Brazil noted that there are many issues that should be included in this context including non-lethal consumptive use, sanctuaries, whalewatching, scientific whaling and also procedural issues related to the functioning of both the Commission and the Scientific Committee. It stressed the need to be creative on how discussions on the future of IWC are handled in Santiago, but stressed that these discussions should not detract at IWC/60 from the regular functioning of the Commission and its regular agenda items. Iceland did not believe it necessary to develop a list of items since these were already well-known, although it noted the importance it gives to the inclusion of sustainable use of whale resources. It encouraged the Chair to take advice

from others as necessary prior to IWC/60 and come to the Annual Meeting with recommendations on how to take forward the process initiated at this intersessional meeting. Others agreed with this remark.

5.3 Activities prior to IWC/60

St. Kitts and Nevis thanked the Chair and the outside speakers for their excellent work and contributions to the meeting. It considered that the important process started at the intersessional meeting should be continued since it believed an overwhelming majority of parties consider that it is possible to converge on a negotiated solution to IWC's difficulties. In this context and recognising the existence of a number of 'key' issues to be resolved, St. Kitts and Nevis thought it would be fruitful for the Chair, perhaps together with the outside experts, to try to visit capitals of member countries prior to IWC/60 to gain a better understanding of what is underpinning the various positions currently being held.

The Chair responded that Professor Juma would continue to be involved in this issue up and including IWC/60 and that he had already put some thought into how he might arrange some regional meetings which he recognised as being very beneficial.

No further specific activities were identified.

6. CONCLUSIONS AND PRESS RELEASES

6.1 Statement on the outcome of the intersessional meeting

The meeting agreed that a statement from the Chair of the Commission on the outcome of the meeting should be released to the media and made available on IWC's website. The statement is provided in Appendix F.

6.2 Statement on safety at sea

Recognising the dangerous actions recently taken by the Sea Shepherd Conservation Society against vessels involved in Japan's research whaling programme in the Antarctic,

the meeting agreed by consensus a statement on safety at sea. This is provided in Appendix G. It was released to the media and also made available on IWC's website.

6.3 Concluding remarks by the Chair

The Chair re-iterated that when taking on the role of Commission Chair, he gave an undertaking to improve the functioning of IWC so as to be more effective in conserving whale stocks and addressing cultural needs. He expressed his appreciation to delegates for their interest and attention throughout the meeting. The Chair thanked Professor Juma and Ambassadors de Soto and Estrada for their contributions and hard work and believed that their involvement in the process had been very worthwhile. Noting that while Professor Juma will be involved up to and including IWC/60, the Chair indicated that he would consider how continued involvement of the two Ambassadors could be achieved. He noted that would present a report of the meeting to the Commission (which would be circulated well in advance) and in consultation with others, develop a series of recommendations for improved procedures and ideas to take the Commission forward for discussion at IWC/60.

The Chair again thanked the UK government for hosting the reception on Wednesday 5 March. He also thanked the Secretariat for its assistance in preparing the meeting and the interpreters for whom he provides a significant challenge given his southern-Virginian drawl! He encouraged governments and observers to send him any comments they may have on the process being entered into via the Secretariat. He wished everyone a safe journey home.

Chile noted its pleasure that IWC/60 would be held in Santiago and that it was looking forward to welcoming participants in June. While Santiago would be in winter, Chile noted that there would be plenty of wine and pisco sour to provide some warmth. It encouraged the Chair to consider inviting all three experts to the Annual Meeting.

Appendix A

LIST OF PARTICIPANTS

Antigua and Barbuda

Anthony Liverpool (C)

Argentina

Eduardo Iglesias (C)

Javier Figueroa (AC)

Miguel Iñiguez (AC)

Australia

Donna Petrachenko (C)

Andrew McNee (AC)

Nick Gales (AC)

David Dutton (AC)

Pam Eiser

Joe Mitton

Austria

Andrea Nouak (C)

Belgium

Alexandre de Lichtervelde (C)

Benin

Joseph Ouake (C)

Brazil

Bernardo Paranhos Velloso (C)

José Truda Palazzo Jr. (AC)

Maria Angélica Ikeda

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Alexandros Rallis

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Calestous Juma
Raúl Estrada-Oyuella
Alvaro de Soto

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Mamadou Diallo(C) Commissioner
(AC) Alternate Commissioner
(I) Interpreter

Appendix B

INFORMATION ON THE OUTSIDE EXPERTS INVITED TO THE MEETING

Calestous Juma

Calestous Juma, a Kenyan national, is Professor of the Practice of International Development and Director of the Science, Technology, and Globalization Project at Harvard University's Kennedy School. He is a former Executive Secretary of the United Nations Convention on Biological Diversity, Founding Director of the African Centre for Technology Studies in Nairobi, and served as Chancellor of the University of Guyana. Prof. Juma is co-chair of the African High-Level Panel on Modern Biotechnology of the African Union and the New Partnership for Africa's Development (NEPAD). He has been elected to several scientific academies including the Royal Society of London, the US National Academy of Sciences, the Academy of Sciences for the Developing World (TWAS), the Royal Academy of Engineering and the African Academy of Sciences. He holds a DPhil in science and technology policy studies and has won several international awards and honorary degrees for his work on sustainable development.

Professor Juma was engaged by the Commission to help with the planning and execution of the March 2008 Intersessional Meeting of the Future of IWC and to help identify other outside experts. Part of his preparation involved private interviews with Commissioners/Alternate Commissioners conducted by telephone or in person at the meeting to gain an understanding of individual IWC Contracting Government views regarding *inter alia* how the conflict in IWC arose and how they believe it might be

resolved. He undertook to develop a document pulling together the views expressed, but without attribution. The intention is that this document, together with the outcome of discussions at the intersessional meeting, would form the basis upon which Contracting Governments could continue to engage with each other.

Raúl Estrada-Oyuela

Ambassador Estrada-Oyuela has been a major player, in particular, with climate change discussions and the Kyoto Protocol and its implementation, chairing sessions to finalise the negotiations on the Kyoto Protocol. He has also been involved with other environmental and sustainable development issues, was on the Board of Governors of the UN Atomic Energy Agency and has a background in international environmental law and policy. He is a national of Argentina.

Alvaro de Soto

Ambassador de Soto recently concluded 25 years service at the United Nations where he was deeply involved in a range of peace negotiations, his last role being the UN Special Co-ordinator for the Middle East Peace Process. He has a long experience in the UN Security Council, both as a national representative and on behalf of three Secretaries-General and he was also involved in discussions leading up to the adoption of the Law of the Sea Convention. He is a Peruvian national. Both Ambassadors have held senior positions in their national diplomatic services. Both took part in the intersessional meeting in their personal capacities.

Appendix C

LIST OF DOCUMENTS

IWC/M08/

1. Draft agenda
2. List of participants
3. List of documents
4. Responses to the 'call for input'

IWC/M08/Info

1. Extract from the Draft Chair's Report of the 59th Annual Meeting, i.e. the section dealing with discussions under item 7 of the IWC/59 agenda, 'The IWC in the Future'
2. Summary Report of the Conference for the Normalization of the International Whaling Commission, February 13-15, 2007, Tokyo, Japan (submitted by the Republic of Palau) [originally available at IWC/59 as IWC/59/7]
3. Chair's Summary Report of the Symposium on the State of Conservation of Whales in the 21st Century, 12-13 April 2007, New York (submitted by New

Zealand) [originally available at IWC/59 as IWC/59/11]

4. Declaration submitted by Argentina [originally available at IWC/59 as IWC/59/28]
5. Provisional Schedule for IWC/60, Santiago, Chile, 2008 [originally available at IWC/59 as IWC/59/6]
6. Latin American Meeting for the Conservation of Cetaceans, Buenos Aires, 4-5 December 2007 [originally made available at the request of Argentina via Circular Communication IWC.CCG.658 of 21 December 2007]
7. Latin American Co-operation Strategy for the Conservation of Cetaceans [originally made available at the request of Argentina via Circular Communication IWC.CCG.669 of 12 February 2007 – replacing that provided via Circular Communication of IWC.CCG.658]
8. Déclaration du Groupe de Pays Africains Membres de la Commission Baleinière Internationale (CBI). Symposium sur l'Utilisation Durable des Ressources

Marines Vivantes de la Region Africaine, Rabat, 11-12 Février 2008 [Originally made available at the request of the Republic of Guinea via Circular Communication IWC.CCG.672 of 26 February 2008] [English translation available]

9. The Second Pew Whale Symposium, Tokyo, 30-31 January, 2008. Chairman's Summary: Judge Tuiloma

Neroni Slade, Symposium Chairman (submitted by the Netherlands and Argentina) [Also available in French]

10. Letter from Republic of Croatia
11. Whale Conservation and Management: A Future for the IWC (submitted by Australia) [Also available in French and Spanish]

Appendix D

AGENDA

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| <p>1. Introductory items</p> <p>1.1 Introductory remarks/objectives of the meeting</p> <p>1.2 Management of the meeting</p> <p>1.3 Reporting</p> <p>1.4 Review of documents</p> <p>2. Adoption of the Agenda</p> <p>3. Drawing on outside experience</p> | <p>4. Rebuilding trust and improving approaches to discussions and negotiations within IWC</p> <p>5. Planning further discussions on the future of IWC</p> <p>5.1 Schedule of meetings at IWC/60</p> <p>5.2 Development of a draft agenda for the Commission plenary at IWC/60</p> <p>5.3 Activities prior to IWC/60</p> <p>6. Conclusions and press release</p> |
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Appendix E

RESPONSES TO THE 'CALL FOR INPUT'

Introduction

The primary aim of the Intersessional Meeting on the Future of IWC being held from 6-8 March 2008 is to consider a process to determine a way forward for IWC rather to consider matters of substance.

The Steering Group⁶ established to plan and develop a draft agenda for the intersessional meeting, believed that it would be important for individual Contracting Governments to have the opportunity to provide input in advance of the March meeting on their initial thoughts on the negotiating process within the IWC and how it might be improved, and ways in which trust might be rebuilt.

To that end, Contracting Governments, via Circular Communication IWC.CCG.661 of 11 January, were invited to provide written responses to the following two questions:

- (1) Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?
- (2) What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?

Contracting Governments were also encouraged to provide any additional information or ideas they had in relation to how the functioning of IWC can be improved.

Responses were to be compiled, without attributing comments to specific Contracting Governments, and made available prior to the meeting. Please note that when the responses are compiled this will be done without attributing comments to specific Contracting Governments.

Responses received

Responses to the call for input were requested to be submitted by 15 February. As of 26 February, responses had been received from 10 Contracting Governments. If further responses are received, these will be added and this document will be revised accordingly.

The responses are provided verbatim in the following pages.

⁶The Steering Group comprises the Commission Chair, Vice Chair and representatives (from Chile, New Zealand and Palau) of three non-IWC meetings held between the 2006 and 2007 Annual Meetings to discuss the future of IWC. The three meetings were: (1) the Conference for the Normalisation of the International Whaling Commission, Tokyo, February 2007, hosted by the Government of Japan; (2) the Symposium on the State of the Conservation of Whales in the 21st Century, New York, April 2007; and (3) a meeting of Latin American countries held in Buenos Aires in December 2006.

RESPONSE 1

- (1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

In discussions and negotiations on many IWC resolutions political arguments substitute scientific data. Besides, the emotional nature of discussions prevents decision-making by consensus.

- (2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

It is not necessary to rebuild trust between Parties as it exists. The problem is that conservation policy of some countries is based on 'passive protection': unspecified ban for commercial and scientific-purpose whaling in any part of the World's oceans. Others consider that there is a need for active conservation measures, e.g. management of whale populations and sustainable use whaling of wealthy whale stocks on scientific basis.

The problems in question are very delicate and complicated. The main step should be made towards consensus establishment among leader countries of two sides. To reach this goal it will be possibly useful to organise a small group (SG) (not more than 10-12 countries). For example - Japan, Norway, Iceland, Antigua and Barbuda, Grenada, St. Vincent and The Grenadines, from one side, and UK, USA, Australia, NZ, Germany, Brazil, from another. It will be also good to include the Secretariat and Scientific Committee representatives and Professor Jumo (as facilitator) in this SG. It goes without saying that each side may need time and place to conduct consultations with other countries and NGO observers. Mandate of the SG could be as follows to:

- (1) elaborate a strategy on how to reach consensus on harmonisation of different government positions concerning whaling;
- (2) identify discussions format and level; and
- (3) determine the procedure of the whole process.

RESPONSE 2

- (1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

We have observed that some procedures block the negotiation process. For example, when the voting started during the 59th Meeting in Anchorage, it was allowed a new vote category 'not participating'. This category is not consistent with the transparency that should be the norm during the voting process. A country that attends a session shall express a valid vote and not excuse its participation during voting.

Also, as a means to avoid the last minute entry of new states that can bias the results, it must be considered that a country that attends a commission meeting for the first time shall be as an observer, without voting rights and without paying membership. In this way, said country would get used to the issues and procedures of the commission and will get the right to vote at the next meeting.

This measure will block the entry of new states, which are promoted by other members of the commission that want to obtain votes for their own issues. This will also demonstrate the real motivation of these new states in participating at the IWC.

On the other hand, we considered it would be advisable to assert the importance of the Scientific Committee and elevate its influence in the decision making process. It would also be desirable that this Committee would act with more independence and produce more objective results on its research, without any political bias.

Another recommendation that we find important is that the meetings should take place in accessible locations for all countries. It should be taken into account that costs in said locations are high for developing countries.

- (2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

A mandatory practice, which is now being adopted, should be the celebration of intersessional meetings before plenary meetings, in order to solve conflicts. We also consider appropriate to hire facilitators like experts in conflict resolution and promote the participation of international organisations, like FAO, that could act as mediators when conflicts arise.

We also understand that there are economic restraints to the participation of large delegations, which prevents the developing countries from having an adequate representation and puts them in a difficult position.

Moreover, we think that the application of penalties and interests to the contracting parties that do not pay their contributions on time should be reasonable and by no means be a punishment to developing countries.

RESPONSE 3

- (1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

Whales and the IWC have been chosen as the battleground between two opposing cultural forces. The one ('the anti-harvest' movement) is generally of the view that meat originating from wildlife in general, or from wild mammals, or in some cases restricted to wild aquatic mammals, should be avoided primarily due to concern for the biodiversity of the world, but also from a number of other concerns, or just reflecting different dietary habits. The supporters of this view represent a broad coalition of divergent views, ranging from vegetarians to those who accept the consumption of meat, but only from land mammals or even only from farmed land mammals. The other force maintain that meat originating from wild mammals, whether they be terrestrial or aquatic, is a legitimate source of food supply or of monetary income.

With the dual objective of the IWC – conservation and management – the organisation has been chosen as a convenient place to fight out the confrontation between the opposing views. Originally the fight against commercial whaling was based on widespread, and in some cases also objectively well founded, concerns over stock levels of whale populations as they were known in the 1970s, reflecting inadequate management policies and methods

employed by the IWC at the time. The introduction of an interim moratorium on all commercial whaling, followed by scientific effort and the formulation of more adequate management methods, seemed a reasonable option at the time.

The real problem for the IWC has arisen out of the inability to act politically and administratively after the scientists have re-evaluated the stock levels, and constructed an adequate management method (RMP). The inability has been cemented by the present voting rules which require 75% of the votes to be cast for changes – a requirement almost impossible to meet in an organisation split nearly in two equally great parts.

The general public, notably in non-whaling nations, and the popular media, have a very limited understanding of today's real state of the various whale stocks. The idea that 'The Whale' is threatened with extinction is an easily understood and an energetically communicated slogan, but it is evidently far from true. This notion is upheld by some NGOs which want to maintain a cause, and a fund-raising issue, and it is also readily used for politically cost-free political profiling on environmental issues. On the other side the nations wanting to reintroduce whaling seem to have underestimated the strength and in some respects also the legitimacy of scepticism against whaling. They may have been too reluctant to admit that the former ways of conducting whaling did have some problems associated, notably regarding the animal welfare side of whaling. These combined factors have turned debate in the IWC into highly publicised trench warfare, and have made it almost impossible to create the conditions necessary to formulate a new understanding of the IWC's twin purpose – conservation and management. A compromise seems far away, as the present stalemate in the IWC allows:

- those nations who oppose whaling to maintain the moratorium on commercial whaling and to exploit this visible 'green' platform vis-à-vis their public;
- those nations who insist upon continued whaling to do so, either as scientific whaling or under the objection procedure, without the bureaucratic hassle that might become part and parcel of a future RMS compromise;
- the aboriginal societies to get (some) modest quotas for food purposes.

As a consequence any acute need to change the situation is not felt. Almost all – of the traditional concessionaires – seem to get at least some of what they want.

The present situation has been unchanged for more than 20 years. It does not take account of changing circumstances relating to the availability of whales, of the fact that new and efficient management methods have been invented, or to the fact that a number of coastal societies feel that their needs are being overlooked without reason. Neither does the present situation take account of the interesting fact that the number of whales taken in the various whaling operations actually has increased more than 100% during the last 10 years without being subject to international decision making.

With the present voting rules (75% for substantive changes) there is no hope for a change in the basic situation based on the present way of discussing matters. Only a clear and present danger of dissolution of the organisation – as the one we have seen looming on the horizon – might create sufficient interest on both sides to start listening to the other side.

- (2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

It might be noted that apparently the contracting states with the strongest views or interests in the matter are under pressure from strong parts of their constituencies. This makes it extremely difficult for them to be seen to open up a discussion of alternatives. These difficulties are increased by the extreme publicity connected with IWC meetings. In normal international negotiations many different solutions may be discussed and reviewed before coming to a solution which might be acceptable to all. This has for many years not appeared to be feasible in the IWC.

Confidential talks in – or on the margin of – such fora as the upcoming intersessional meeting in London – seem to be the only way forward for the time being.

In addition it might be considered useful to establish a code of conduct on public dealings with whaling matters, not only covering the IWC meetings themselves but also the periods in between.

RESPONSE 4

- (1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

I think that the key problem is that almost every one is more or less 'comfortable' with the current situation: whaling countries actually get what they want (Japan under article VIII of the Conventions and Norway under its objection to the moratorium), while the anti-whaling countries remain opposed to the resumption of the whaling activities, as their public opinion demand from them.

- (2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

I think that a new and different approach is necessary since negotiations have not been successful up to now, despite the good faith efforts taken by many countries during a number of years.

RESPONSE 5

- (1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

(A) Because many of country whale commissioners:

- are unwilling to recognise or accept the fundamental role of IWC is a management organisation for regulation of whaling as provided in the 1946 ICRW;
- do not honour proper implementation of provisions of ICRW, i.e. national licensing permit procedures for scientific whaling;
- do not give due respect to, accept or support the science-based findings, recommendations or reports of IWC's Scientific Committee, i.e. RMP, RMS;
- fail to acknowledge nor honour original understanding and their commitments to the temporary nature of the 1986 moratorium on commercial whaling;

- come to IWC meetings with inflexible national positions, mindset, or preconditions leaving no room for negotiations, accommodations or compromises; and
- are more interested in pushing their national or regional agendas forward than concentrating their time and efforts in narrowing gaps on given issues.

(B) IWC meetings over these many years have been conducted in:

- a confrontational/adversarial manner rather than reconciliatory/accommodating;
- harsh, derogatory and disrespectful languages and remarks have been the rule instead of exception;
- debaters from both sides have been talking at instead of to each other; and
- double standards have been employed in the treatment of similarly situated indigenous people subsisting on annual quotas for whale hunts.

(2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

- Agreement be reached on the conduct of debates, i.e. the chair be empowered to stop the debates if discussions/negotiations are confrontational or adversarial and therefore counterproductive;
- harsh, derogatory, and disrespectful languages not be tolerated;
- debates be minimised so as to encourage plenary to accept findings and reports of the Scientific Committee especially with regards to RMP and RMS;
- representatives not be allowed to set pre-conditions to issues they make concessions to;
- mutual respects for differences be encouraged to prevail instead of putting each other down simply because of the disagreement;
- representatives be advised in advance of the IWC meetings to have open mind and be flexible on issues being resolved; and
- commissioners be authorised by their governments to make decisions on the spot and not bound by instructions from their countries.

You have also asked for additional ideas in relation to how the forthcoming IWC can be improved and what follows are some of such thoughts. Since becoming an IWC member in [], we have observed the detrimental if not divisive role the various environmental organisations, Sea Shepherd and Greenpeace to name a few, have had in the decision-making process of IWC. It seems that their aims, objectives and goals, not to mention their *modus operandi*, have so permeated into policy formulation and have become integral parts of national environmental policies. And as such they unfortunately have given impression to sustainable use group of countries that their colleagues on the other aisles serve as spokesmen for these NGOs in the IWC arena. Ways and means to minimise if not eliminate altogether their role and influence in IWC decision-making process should be developed and implemented.

Finally, we agree with Secretariat's recommendation that comments received not be attributed to sending governments. This approach will remove the traditional bias or prejudice that the polarised camps have become characterised with over the years. The *modus operandi* over these many years has been for each camp to reject

whatever the other side is saying, offering or suggesting irrespective of whether their arguments are science-based, sound or reasonable.

RESPONSE 6

(1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

The very nature of 'conservation and management' of whales in the IWC does not lend itself well to consensus. Especially given the polarised views of parties on conservation and management, there are few issues where a middle-ground, negotiated position currently can be formed. To control the outcome of IWC issues, the parties have spent an inordinate amount of time and capital recruiting new members to their persuasion. This has further confounded the lack of trust among parties. Polarised camps have developed and members have come to view these as inflexible voting blocs (although this is not always accurate); the two groups rarely talk except in formal debate on the issues.

Although disputes over the substance of issues are the primary reason for a lack of consensus, the negotiating process may also be a contributing factor. Member nations with opposing views do not make sufficient efforts for bilateral dialog on IWC matters outside of annual meetings. In the interim between annual meetings, many parties keep up their aggressive positions in other diplomatic arenas and meetings. The short time available for the annual IWC meeting discourages consensus building; therefore parties seek to succeed by simply controlling the outcome of the vote. Moreover, the Commission's practice often allows debates to become unconstructively aggressive, and insufficient attention is given to traditional modes of dispute resolution – particularly when achieving a middle-ground might be possible. Even in opening statements, delegations tend to adopt hard-line postures that set a polarised tone for the balance of the meeting. Finally, this distrust among parties has led to parliamentary maneuvers deliberately designed to confuse or simply buy time.

(2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

Here are a few ideas that might help reduce the conflict and move to negotiated agreements.

- (a) Rule of Procedure E states that members should seek to make decisions by consensus, although this rule is rarely followed. A new rule of procedure should be implemented on 'no surprises'. A member wishing to put forward a new initiative (resolution, Schedule amendment, discussion paper, etc.) would be required to circulate the document in question to the Secretariat no later than 60 days or some other reasonable period before the IWC meeting at which it is to be discussed. This will allow proponents to inform and consult with all parties before tabling the initiative, and seek consensus before it is voted upon. This is aimed at preventing the introduction of controversial actions without timely notification and/or consultation prior to Commission

consideration. Any such rule of procedure could make allowances for late/emergency circulation of resolutions and documents on late-breaking issues that would not unduly inhibit the proceedings.

- (b) IWC members and outside observers have commented on the lack of diplomacy and escalating rhetoric in the Commission as serious barriers to progress. Initially civil debates in plenary sessions too often devolve into unproductive, heated, and repetitive statements. The body should encourage the chair, through acclamation or resolution, to curtail this behaviour by:
- increased reliance on Rules of Debate D(1) and D(2), relating to time limits for speakers and truncated speakers lists;
 - enforcing the policy of allowing oral opening statements only for new members. This is designed to avoid political figures setting a confrontational tone for the meeting; and
 - reminding delegates about the proper use of the parliamentary procedure for a 'point of order', through an education process on this issue.
- (c) In most multilateral environmental institutions, when it becomes apparent that an issue cannot be resolved in plenary or that detailed edits to a text might address a country's concerns, the issue is referred to a working group for continued discussion in a smaller, less formal environment. Such smaller groups are often able to arrive at solutions that the full plenary cannot. References to working groups should become the IWC's standard mode for attempting to resolve disputes during plenary in the first instance. Difficulties of smaller delegations participating in small working groups needs to be addressed, with careful scheduling and close coordination *inter alia*.
The IWC should also formalise other tools to act as 'dispute resolution mechanisms.' One possibility might be the enhanced use of 'friends of the chair' groups. Another possibility might be to provide cooling-off periods while informal consultations take place. Yet another possibility would be to rely more heavily on the Chair's Advisory body to propose consensus recommendations to the Commissioners for their consideration and possible adoption.
- (d) A new resolution should be considered soon that would acknowledge the broad spectrum of issues in the IWC such as cultural diversity, food and economic security, conservation goals, and different uses of whale resources. This is aimed at acknowledging the variety of perspectives in the IWC, without judging which are superior, and calming the somewhat inflammatory nature of debate during Commission deliberations. Many delegations may have difficulties accepting these goals, but just formally acknowledging them should help IWC overcome perceived insensitivities amongst parties and establish a useful foundation for resolving the current impasse.

RESPONSE 7

- (1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

I think there are two main reasons - one being an objective large difference in interests between the countries that oppose all commercial whaling at all times and those countries that want to start whaling now - the other being a lack of interest in keeping the process alive. The latter is of course to a large extent a result of the first one but there is also a basic lack of keeping the negotiating process alive that could be dealt with. New commissioners with experiences from other fora would facilitate the process.

- (2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

One way is to involve more outside experts both in marine ecology and in social science as was done in the PEW meeting in New York. Experienced national negotiators from adjacent fields would also help the process.

Some of the present problems are possible to solve which would create a stronger pressure on those few countries involved in the basic problem concerning whether there should be any commercial whaling at all.

RESPONSE 8

- (1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

The whaling dispute has undergone transition over its history. In the early stage, the issue had been mainly that of economic interests and resource management. IWC members were striving to establish an effective resource management system to conserve and sustainably utilise whale resources. However, at least since the early 1970s, the whaling issue has become a conflict over the different views about whales. Countries supporting the sustainable utilisation of whales regard them as resources valuable as food, while anti-whaling countries grant a special status to whales different from other animals and consider whales as an icon of environmental consciousness. As anti-whaling countries tend to ignore the current status of whale stocks, the nature of the dispute has changed from a conservation and management issue to an issue of conflicting values. Discourse at the IWC reflects this misunderstanding or a confusion of the resource management issues with 'ethical' issues.

Anti-whaling NGOs and some politicians take advantage of this situation and make resolution of whaling issues more difficult. Many anti-whaling countries bear no domestic political cost in opposing whaling, since they no longer have a domestic whaling constituency. By opposing whaling in anti-whaling countries, such politicians and governments obtain political points on environmental issues without losing anything.

Under this political climate, the anti-whaling movement has been able to achieve tremendous success in many countries and further spread to other countries, as the result, the general public of these countries accepted and

became fixated on the view that whales are special animals and that they should not be harvested even if they are abundant.

As scientific data on the whale stocks has been accumulated, it is widely accepted by experts that sustainable whaling is possible for some abundant species. However, because of the intensive lobbying from anti-whaling NGOs, the public are led to believe that all whales are endangered, politicians and anti-whaling IWC member countries maintain their anti-whaling policy. This has rendered the IWC dysfunctional as an international resource management organisation.

Since 1982, the normal rules of debate and treaty interpretation, as well as the globally accepted principles of science-based conservation and management and mutual respect for cultural diversity, have often been put aside in the IWC.

To sum up this, the following eight situations contribute to the current 'impasse' or 'dysfunctional nature' of the IWC.

- Disrespect for international law (the ICRW and treaty interpretation). (Particularly meaning that the current discussion in the IWC tends to disrespect the core principle of the ICRW which is 'orderly development of the whaling industry' as referred in the preamble of the ICRW).
- Disrespect for the principle of science-based policy.
- Excluding whales from the principle of sustainable use of resources.
- Disrespect of cultural diversity related to food and ethics.
- Fuelling emotionalism concerning whales.
- Institutionalised combative/confrontational discourse that discourages cooperation.
- Lack of good faith negotiations.
- Pressure on scientists which results in a lack of consensus scientific advice from the Scientific Committee.

With these situations mentioned above, it is the negotiating environment rather than the process that is the primary factor which has rendered the current impasse in the IWC. This environment has failed to offer a common ground on which its contracting parties can discuss and negotiate the issues.

(2) What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?

As the first step, mutual respect for differences, not political coercion, is the solution to facilitate constructive discussion and negotiation in the IWC. It is most important to carefully consider if the IWC can function with two fundamentally different views between pro- and anti-whaling interests as to the value of whales - whether whales can be regarded as food or not. From a pragmatic perspective, whaling is existing and will continue to exist in many regions of the world. The question then is whether or not anti-whaling countries want some roles in the management of this whaling.

Next step will be the establishment of common rules applicable to discussion and negotiations of the IWC which will change the negotiating environment. These rules might include; respect of international law, science-based policy,

sustainable use of marine living resources, respect of cultural diversity related to food and ethics, and spirit of good faith.

As Dr. Hogarth stated in his letter of 20 December 2007 (IWC.CCG.657), it is very important to 'include discussion of many issues, including small type coastal whaling and non-lethal use of cetaceans' to the process he initiated in Anchorage. We contracting parties have to find solutions for these substantial issues as soon as possible to restore credibility of the IWC as an international organisation responsible for conservation and management of whales.

RESPONSE 9

(1) Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?

The management and conservation of large, long lived, highly migratory marine mammals such as cetaceans is a complex issue. The IWC was established for both the proper conservation of whale stocks and the orderly development of a whaling industry. However to date, the majority of its management tools have objectives and controls that are entirely limited to adjustments in the number of whales killed in whaling operations. The limitations of this approach have seen the IWC preside over the systematic over-exploitation of one cetacean species after another.

The modern era has brought successes in whale management that include the declaration of the moratorium on commercial whaling; the establishment of sanctuaries; consensus-based management of aboriginal subsistence whaling quotas; and consideration of emerging environmental issues. These measures have brought about the partial recovery of the world's whale populations but they are only the first steps to successful long-term management.

No one who participates in the IWC would deny that the Commission is currently split between states that fundamentally support non-consumptive use of cetaceans and seek their full protection, and states that could support a resumption of some form of commercial whaling. With such fundamental differences on key positions held by parties to a multilateral organisation, consensus will be difficult to achieve. But that is not the same as instability or an inability to make and hold to decisions. The characterisation that the IWC is at an 'impasse' appears in itself to be accepting the view of those countries that would measure progress solely in terms of steps the Commission is making towards lifting its current ban on commercial whaling. The moratorium on commercial whaling has not been lifted and a Revised Management Scheme has not been agreed because three quarters of the members have not voted to do so. This reflects the legitimate decision-making procedures of the Commission.

It is appropriate for the Commission to reflect the views of its Parties. As the number of adherents to the Convention increases, the Parties become more closely representative of the international community. The polarisation currently experienced in the Commission would be reflected by any Conference of the Parties, UN conference or debate, or similar representative forum. It would be unrealistic to expect any representative international gathering to arrive at consensus, for instance,

on the maintenance of the moratorium, or the resumption of commercial whaling.

The primary issues preventing the Commission moving forward relate more to a lack of recognition of contemporary oceans management principles and Parties' ability to 'opt-out' of Commission decisions. For the IWC to move into the future the key challenges that need to be addressed are: the capacity for countries to 'opt-out' of collective management decisions; the dramatic expansion of special permit scientific whaling; and disagreement over the competency of the IWC on issues such as animal welfare and the management of small cetaceans.

(2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

As some of the heavily exploited populations of whales have started to recover under complete protection from IWC-endorsed commercial whaling, and our knowledge of the abundance of less exploited whale populations has increased, it is not surprising that tensions between conservation and whaling interests have risen. The polarised debate about the future of the IWC and its management options is a natural consequence. However, to characterise this divergence of views as a potentially fatal failure of trust or a fundamental shortcoming of the Convention would be an over-simplification, which fails to acknowledge three critical issues.

1. The ICRW operates legitimately through a set of rules that ensures that substantive changes in its operation are only achieved when three-quarters of its voting members agree to this. Through this near-consensus approach, substantial change is likely to occur at a conservative pace and will reflect the wishes of most members.
2. During the moratorium on commercial whaling the IWC has been successful in arriving at consensus decisions on the management of the one form of whaling that all Parties can accept: Aboriginal and Subsistence Whaling.
3. Learning from the lessons of historical failures in management, the IWC's Scientific Committee has developed and continues to refine a new management procedure for the hypothetical reintroduction of commercial whaling (the Revised Management Procedure: RMP). This procedure, developed in the early 1990s is arguably among the world's most thorough and detailed processes for resource management.

This is not to say that the IWC lacks substantial problems. Among the most critical failures are a dramatic expansion of unregulated whaling, in the form of whaling under special permit and under objection to the moratorium; an ongoing disagreement over inclusion of robust compliance and enforcement requirements into any Revised Management Scheme under which commercial whaling might operate if sufficient members agreed to it; and a lack of agreement over the competency of the IWC on core issues such as the management of small cetaceans (many of which are in urgent need of international management) and animal welfare.

While acknowledging the progress achieved in the past few decades, any effective discussion of the future of the IWC must include a dialogue on how to resolve these

issues. Perhaps most importantly, any future direction for the IWC should include management objectives and priorities beyond the current single fishery paradigm, and accommodate global environmental threats associated with climate change and the overall ecological health of the oceans.

RESPONSE 10

(1) *Why do you think that discussions to date within the IWC have not led to a more consensus-based resolution of IWC's problems? Is the negotiating process itself a factor?*

At this stage it does not make much sense trying to assign responsibilities for the current impasse. Particularly, because the reasons must be sought in structural causes which go beyond the willingness of certain players.

Among such reasons, we can mention, on the one hand, the Convention's institutional deficiencies. That is to say, the ambiguities with regard to its purpose, the possibility for the Parties to be exempted from complying with certain key provisions related to the Convention's Regulation (such is the case of the commercial whaling moratorium) the lack of compliance and dispute settlement regimes, as well as the complicated procedure to amend the Convention which has led it to become an old-fashioned instrument compared to other conventions that address the conservation/use of living marine resources.

On the other hand, the IWC decision-making process and the way in which plenary debates are conducted do not meet the sought objective. If each controversial item on the agenda is discussed in plenary meetings where on many occasions interventions are meant to reflect maximalist positions politically profitable at the domestic level - we cannot expect great progress.

(2) *What are your initial thoughts on how future discussions and negotiations should be organised and conducted, taking into account the need to rebuild trust?*

There is a consensus about IWC abandoning the culture of confrontation, which prevails within the Commission where the primary objective of the delegates discourse seems to be, in some cases, a tactical, political defeat although merely rhetorical over the opposite bloc since no victory can alter the current situation. Although most speeches are not framed within that rationale, it is the most unyielding positions, which have regrettably ended up by splitting the organisation into two irreconcilable blocks.

Within this context and if we would really like to exit the current status of IWC, it would be necessary to:

1. hold closed diplomatic negotiations (either multilateral or bilateral);
2. ensure intersessional contact between the Commissioners of the opposite blocs to foster the confidence that is missing nowadays;
3. establish open working groups in IWC to elaborate on options for the agenda's controversial items, either by correspondence during intersessional periods or in plenary meetings;
4. recognise the need to urgently debate in the Commission all options recently proposed to unlock the current situation (from convening a diplomatic meetings under the auspices of the United Nations through to studying the possibility of amending the

- Convention, or relaunching negotiations on RMS, among other options);
5. foster IWC bonds with other international agencies such as CBD, CMS, CITES, the Antarctic Treaty and the CCAMLR to share experiences and learn from others, particularly on how those organisations handle their internal disputes;
 6. promote a greater participation of the international community in IWC. In this regard, issues such as fostering international cooperation activities in the Commission (e.g. training new Commission members), encouraging the participation of scientists from developing countries on the Scientific Committee and developing an equitable contribution scheme, are all issues which favour the Commission's universal nature;
 7. bearing in mind the importance of the work of the organisations and institutions devoted to cetacean conservation and research, it is important for them to support a potential negotiation process through their responsible participation within IWC;
 8. in plenary, avoid condemnatory resolutions (e.g. JARPA II) and/or political appeals (St. Kitts Declaration) agreed upon on the basis of fluctuating simple majorities to foster an environment of mutual confidence; and
 9. completely leave aside derogatory language, inside and outside IWC meetings.
- With a view to implementing such measures to open up a dialogue, although they guarantee no specific outcome, it is necessary to achieve a basic political agreement that will allow progress in that direction.
- Such a framework agreement should state the negotiating will of all Parties to negotiate a package including all contentious issues, while agreeing on a roadmap to establish negotiating mechanisms and realistic intermediate goals.
- Furthermore, it should include an express acknowledgement of the non-lethal use of cetaceans on equal grounds to other uses of the resource, reflecting existent international consensus with regard to the need of striking a balance between conservation and the rational use of live marine resources.

Appendix F

MEDIA RELEASE:

INTERSESSIONAL MEETING ON THE FUTURE OF THE INTERNATIONAL WHALING COMMISSION RENAISSANCE LONDON HEATHROW HOTEL, 6-8 MARCH 2008

'The intersessional meeting has spent three days discussing positive ways forward for the IWC,' Dr. Hogarth, the Commission's Chair, said today releasing a statement summing up the meeting.

'The IWC has in recent years shown increasing signs of polarisation and has reached something of an impasse. That is why the Annual Meeting in Anchorage last year decided to hold this London meeting,' he said.

'To assist in this process, the Commission obtained the assistance of Prof. Calestous Juma, from Harvard Kennedy School, Ambassador Raúl Estrada-Oyuela and Ambassador Alvaro de Soto, all of whom have extensive and high-level experience with a range of challenging international issues.'

'Intensive discussions following the presentations of the outside experts isolated a number of issues that the Commission will consider in order to improve its practice and procedures,' Dr. Hogarth said.

Among these suggestions were:

- make better efforts to reach decisions by consensus;
- reduce the use of voting;

- adopt measures to ensure adequate notice of matters to be considered to reduce surprises;
- employ cooling off periods when difficulties arise;
- consider using small negotiating groups;
- improve the co-ordination between the IWC and other relevant international conventions;
- discuss how to assist the Chair in the running of meetings;
- discuss how to better integrate elements of civil society into the Commission's work; and
- consider whether to change the time of meetings of the Scientific Committee in order to provide more time for consideration of its work and to undertake a review of its composition and function.

'I will present a report of the meeting to the Commission and in consultation with others develop a series of recommendations for improved procedures to take the Commission forward, at the forthcoming Annual Meeting in Chile in June 2008.'

Appendix G**MEDIA RELEASE:
STATEMENT ON SAFETY AT SEA MADE AT THE INTERNATIONAL WHALING COMMISSION'S
INTERSESSIONAL MEETING**

The Meeting recalled Commission resolution 2007-2 entitled 'Resolution on Safety at Sea and Protection of the Environment' as well as resolution 2006-2 entitled 'Resolution on the Safety of Vessels engaged in Whaling and Whale Research-related Activities', both of which had been adopted by consensus by the Commission. It noted reports of dangerous actions by the Sea Shepherd Conservation Society in the Southern Ocean in recent months directed against Japanese vessels.

It called upon the Sea Shepherd Conservation Society to refrain from dangerous actions that jeopardise safety at sea, and on vessels and crews concerned to exercise restraint. The meeting reiterated that the Commission and its

Contracting Governments do not condone and in fact condemn any actions that are a risk to human life and property in relation to the activities of vessels at sea. It urged Contracting Governments to take actions, in accordance with relevant rules of international law and respective national laws and regulations, to cooperate to prevent and suppress actions that risk human life and property at sea and with respect to alleged offenders.

The Meeting recalled that accreditation for the Sea Shepherd Conservation Society as an observer to the Commission had been denied since 1987 because of unacceptable behaviour and tactics.

Annex E

The Future of the International Whaling Commission - Strengthening Ocean Diplomacy

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Report prepared for the International Whaling Commission, May 2008

INTRODUCTION

Background to this report

At its last session in Anchorage, the International Whaling Commission (IWC) agreed that an intersessional meeting should be held prior to the 2008 Annual Meeting to provide an opportunity for Contracting Governments to discuss the future of the organisation, given *inter alia* the impasse reached on the Revised Management Scheme (RMS) and the number of issues for which polarisation rather than consensus appear to be the norm within the Commission.

The Commission agreed to establish a Steering Group to help prepare the meeting. The Steering Group comprised the Commission Chair, Vice Chair and representatives (from Chile, New Zealand and Palau) of three non-IWC meetings held between the 2006 and 2007 Annual Meetings to discuss the future of IWC.

The Steering Group met in Washington in October 2007 and noted that attempts made to date to find a way out of the impasse in which IWC currently finds itself have not worked, and agreed that there is an urgent need to explore ways that might be more successful and which can improve levels of trust amongst members and others.

Rather than launching into negotiations on substantive issues where major differences among IWC members exist, the Steering Group agreed that, initially, it would be more fruitful to take a process-orientated approach and to seek ways to improve how negotiations within the IWC are conducted.

I was engaged by the Commission to help with the planning and execution of the March 2008 Intersessional Meeting on the Future of IWC and to help identify other outside experts with experience in handling difficult international issues who would be invited to become involved.

Part of my preparation involved private interviews with Commissioners and/or Alternate Commissioners conducted by telephone or in person at the intersessional meeting to gain an understanding of individual IWC Contracting Government views regarding *inter alia* how the conflict in IWC arose and how they believe it might be resolved. I also sought similar input from IWC-accredited non-governmental organisations (NGOs).

This document is a synthesis of the views and ideas expressed during the interviews. The purpose of the document is to provide the IWC with a starting point for negotiating how to shape the future of the organisation without prejudging the outcome. The document does not

cover the full range of input provided to me during the interviews but focuses on key issues related to finding solutions to many of the challenges in the regime through diplomatic means. This approach is guided by the view that there is sufficient knowledge and expertise in the IWC community to provide specific recommendations through a diplomatic process.

Escalation and ramifications

During discussions and interviews with IWC Commissioners and other stakeholders, the majority expressed concern that the controversy over whaling had escalated in recent years as reflected in the rise in media coverage over the confrontation in the Southern Ocean involving Japan's research whaling conducted under special permit.

These confrontations have been receiving increasing media coverage and as a result have highlighted the political nature of the whaling issue. In fact, the issue has now acquired greater diplomatic significance as is illustrated by the recent decision of Australia to appoint a fulltime envoy to deal with whaling. In addition, whaling issues have become a key item on the agenda of diplomatic relations between a growing number of countries. The rise in the number of contracting parties to the whaling treaty is an indication of growing interest in the international community at large.

Furthermore, the tactics used by one campaign group opposing whaling have become more militant, attracting condemnation from IWC member governments via a recent statement.¹ On the whole, the escalation is decisively moving the issue from the purview of natural resources management *per se* into the domain of international diplomacy.

This escalation has implications for the conservation and management of whales in general and for the functioning of the IWC in particular. On the one hand, the escalation has the potential to undermine confidence in the ability of the international community to address critical issues related to the world's oceans. The confrontation is hardly contributing to the conservation of whales given the wide range of threats to which they are exposed. But it also offers an opportunity to find negotiated solutions given the attention that the international community is now paying to the issue.

¹Statement on Safety at Sea made at the International Whaling Commission's intersessional meeting (March 2008).

Despite the challenges, the majority of the Commissioners and stakeholders were optimistic that a diplomatic solution was possible despite divergent views among IWC members.

1. WHALES AND OCEAN DIPLOMACY

Most of the Commissioners and stakeholders located their perception of whales in two broad categories. Some considered whales as natural resources that should be managed like other resources. Others, however, considered whales to belong to a category of species that need to be handled using a different moral standard.

But a closer look at the diverse views expressed by the Commissioners and stakeholders suggests the existence of a more complex view. The whaling controversy has become a symbol of the challenges associated with the management of natural resources in general and oceans in particular. It is being used as a reference point for expressing a diverse range of views and aspirations.

Whales symbolise divergent issues ranging from science-based management of natural resources to moral considerations associated with our relationship with the natural world. Some of the interviewees suggested that it would be difficult to find negotiated compromises until the wider underlying concerns of parties are more clearly articulated than simply pro- or anti-whaling.

While much work has been done on the management of terrestrial ecosystems, there is growing concern over the state of the world's oceans and the limited number of comprehensive international regimes that can address critical issues such as the resources that lie beyond national jurisdiction. This problem is compounded by scientific uncertainties associated with the current state of knowledge of marine ecosystems.

But these uncertainties also represent opportunities to position the International Whaling Commission as a flagship organisation in ocean diplomacy and science-based conservation and management. Many of the practices and proposals generated by IWC can become authoritative sources of standards that can be adopted by other treaties. The scientific and technical foundations upon which to build this new beginning have already been laid. What is needed now is a diplomatic process that realises this goal in the shortest time possible. Failure to do so will not only be detrimental for whales, but it will send a sign of despair to the rest of the international community of the state and fate of the world's oceans.

2. EVOLUTION OF THE CONFLICT

2.1 Evolution of the conflict

Most of the interviewees noted that the origin of the conflict lies in the changing attitudes to the acceptability of whaling over time. The Convention was adopted and IWC established to regulate whaling. At the time, all twelve members were whaling nations and countries did not hold different views on the acceptability of killing whales. However, today, large whales are taken by only seven out of the current membership of 79 countries and very different views exist among the members regarding whales and whaling with some seeking to eliminate whaling altogether, some seeking to restrict it to aboriginal subsistence whaling only and some seeking to allow whaling provided it is shown to be sustainable.

This shift in views has resulted in two major trends in IWC. One approach has been to seek to 'modernise' the treaty to bring it in line with contemporary developments in treaties or agreements whose focus is solely on a narrower definition of 'conservation' than one which includes some lethal use. Another view has focused on ways to 'normalise' the treaty and return it to the core objectives upon which it was founded.

From the interviews, it is also clear that a lack of trust among members has exacerbated the conflict. The loss of trust appears to be the result of two key factors.

First, the lack of good scientific information coupled with ineffective compliance mechanisms in the commercial whaling regime of the past resulted in catastrophic consequences for whale populations in some areas. Even with improved scientific information in the 1970s and the introduction of an international observer scheme, there were still inadequacies and in addition there was a changing view in several western countries as to whether whaling itself was an acceptable activity. This culminated in the IWC voting for a moratorium on commercial whaling in 1982. Subsequently, the IWC Scientific Committee has developed a sophisticated, risk averse scientific approach to estimating safe catch limits. However, such a management system can only make sense if parties can have trust that such systems would be complied with so as to avoid the over-exploitation of the past.

A second source of low levels of trust stems from the view that promises to put in place an improved management system (i.e., RMS) and to lift the moratorium on commercial whaling have not been honoured.

Such an atmosphere makes it difficult for parties to commit to a negotiated outcome. A considerable degree of confidence-building will therefore be required to restore trust in the ability of IWC members to honour negotiated agreements.

The low level of trust is compounded by a decision-making culture and practices within IWC that do not readily lend themselves to confidence-building. These include the regular use of voting and the absence of real dialogue among all parties both during and between meetings of the Commission.

2.2 Basic interests

One of the main issues that define the whaling debate is the general characterisation of the stakeholders into two opposing groups: opponents of whaling and its proponents. This dichotomy makes it easier to mobilise support, especially in the context of a decision-making system that functions largely on the basis of voting. It also makes it easier to communicate simple messages to the general public. But it hardly captures the diversity of interests and views among stakeholders. There are a wide range of underlying basic interests that need to be addressed beyond the simplistic caricatures of being either for or against whaling.

The basic interests of member governments are reflected in differing positions, including:

- (1) the definition of whales as special creatures that should not be hunted under any circumstances except if done for subsistence reasons;

- (2) the view that whales cannot be killed humanely and should therefore not be hunted (an argument that should logically be extended to whaling for subsistence purposes);
- (3) that whales are natural resources like any other that can be exploited provided this is done in a sustainable manner; and
- (4) that whale watching is the only sustainable use of whales, though this too has to be done under proper management practices.

It is interesting that many governments and stakeholders have not fully considered the logical extension of their particular views on whales and whaling to the broader moral, environmental or economic world.

The basic interests of the stakeholders include a complex interaction of factors such as sovereignty, economics, resource management, tourism, domestic political popularity and animal welfare. Many of these issues get conflated and shape public perceptions about whaling. Diplomatic efforts to find solutions to the controversy will make little headway if they do not take into account the underlying concerns, many of which are not publicly stated and are conveniently captured under broad categories of opponents and proponents.

Take whalewatching as an example. Since the adoption of the commercial whaling moratorium, whalewatching has emerged as a significant industry for coastal communities in various countries. This expanding activity is connected to a wide range of other industries such as tourism as well as concerns such as those expressed by some animal welfare groups. Diplomatic efforts that do not take emerging economic activities such as whalewatching and divergent interests into account are likely to run into difficulties. Similarly, solutions that appear to suggest that whaling is an uncivilised activity only to be permitted by people with a less-developed moral code will similarly run into difficulties. A better understanding of such underlying factors is therefore critical to the success of any negotiations.

2.3 Previous efforts to address the conflict

The challenges facing IWC were noted soon after the adoption of the moratorium on commercial whaling but efforts to resolve the issues have been largely unsuccessful. For example, most of the Commissioners interviewed referred to the proposal put forward by Ireland at the 1997 IWC Annual Meeting. The proposal was inspired by the concern that decisions to pursue whaling outside IWC control with the exception of aboriginal subsistence whaling could lead to the break up of the organisation.

Taking into account the fact that IWC had adopted the Revised Management Procedure (RMP) in 1994 and that efforts were underway to develop a revised inspection and control scheme for future commercial whaling, Ireland put forward four proposals. First, it suggested that commercial whaling quotas be restricted to existing coastal whaling and all other waters should be declared a global sanctuary. Second, it proposed that products from commercial whaling be for local consumption only and international trade should be outlawed. Third, it recommended that lethal scientific permit whaling be phased out. Finally, it proposed regulation of the impacts of whalewatching activities.

Building on some of the elements of the 'Irish Proposal', a previous Chairman of the Commission, Henrik Fischer, after consultation with a group of countries known as the 'Friends of the Chair' and including countries with a range of views on whaling, proposed a 'package' for a Revised Management Scheme (RMS) in 2004. The package aimed to represent a compromise of the different views on whaling and contained a number of elements which included:

- (1) the RMP as agreed by the Scientific Committee and endorsed by the Commission;
- (2) a phased-in approach to the resumption of commercial whaling for an initial period (e.g., five years after the lifting of the moratorium), commercial whaling would only be allowed in waters under national jurisdiction;
- (3) a national inspection and observation scheme;
- (4) additional catch verification to combat illegal, unregulated, or unreported whaling and/or unreported bycatches;
- (5) a Compliance Review Committee with duties as developed by the RMS Expert Drafting Group and agreed by the Commission, and inclusion of Schedule text as proposed in Berlin;
- (6) a mechanism to apportion RMS costs among Contracting Governments;
- (7) measures for the lifting of the moratorium;
- (8) recognise the sovereign rights of nations to conduct Whaling under Special Permit but develop a Code of Conduct; and
- (9) explicitly recognise the animal welfare considerations in the Schedule.

In presenting his 'package' of measures Fischer noted that it included, in some way, all but two of the elements that had been discussed in the context of the RMS. The exceptions being blanket trade restrictions and sanctuaries. He considered that while some form of trade restriction might be appropriate in deterring illegal, unregulated and unreported (IUU) whaling, he believed that a blanket ban on international trade in whale products would be discriminatory against some countries, against principles of free trade, and outside the competence of IWC. With respect to sanctuaries, he suggested that each should be reviewed on its own conservation and management merits and would therefore be difficult to build into any RMS 'package'.

While some member countries viewed Fischer's proposal as a good basis for a compromise solution, others were less convinced, with at least one government believing it to be fundamentally flawed. While the Commission at IWC/56 did agree to further intersessional work on an RMS, by IWC/58 in 2006 it agreed that it had reached an impasse and no further work has been done since at the Commission level. On a number of occasions, it has been noted that much of the difficulty the Commission faces over the RMS is due to a fundamental lack of trust between members and a fundamental disagreement over the objectives of the Convention and the principle of sustainable use. This has been reflected in the views frequently expressed that whoever was perceived as on the 'other side' was not negotiating in good faith or making meaningful compromises.

The IWC is now believed by many to have reached a critical impasse in its operations and at least one party to

the treaty has indicated the wish to withdraw from the Convention if the current difficulties are not resolved.

The March 2008 Intersessional Meeting on the Future of IWC confirmed the need to improve the internal workings of the Commission so that it can better address substantial issues. The positive atmosphere demonstrated by the meeting showed the willingness and interest on the part of Contracting Governments to use diplomatic means to resolve the impasse.

3. ISSUES FOR CONSIDERATION

3.1 Substantive issues

Nearly all the Commissioners and stakeholders interviewed acknowledged the difficulties associated with finding a solution to the IWC's problems. This was largely because any proposed solutions would be influenced by uncertainties pertaining to the divergent worldviews related to whales.

They, however, agreed that solutions would need to be worked as 'comprehensive packages' of key issues negotiated by all IWC Commissioners and that results would need to be mutually-beneficial. A minority of others, however, felt that such negotiated solutions would have to reflect their fundamental positions on key issues. Such views would represent a major problem if these fundamental positions are mutually exclusive.

It was widely recognised that any negotiating process will have to address a wide range of issues including scientific permits, coastal whaling, sanctuaries, whalewatching, animal welfare, management procedures, and small cetaceans and that concerted diplomatic efforts that include bilateral and multilateral negotiations within the framework of the treaty will be required.

3.2 Scientific advice

It is clear from the comments made that the Scientific Committee plays a critical role in the functioning of the IWC. However, it is important to recognise that the current difficulties facing the Commission do not result from an inability to provide scientific advice. Nevertheless it is also clear that its effectiveness could be strengthened, for example, through:

- (1) separating meetings of the Scientific Committee from those of the Commission so as to provide more time for consideration of the Committee's work;
- (2) improved co-ordination and co-operation with other relevant scientific organisations in addition to those for which extensive co-operation exists; and
- (3) facilitating participation of scientists from developing countries to better reflect the membership of the Commission.

With respect to separating the meetings of the Scientific Committee and the Commission, the time between these may depend on whether one or both continue to meet on an annual basis, but a three-month advance period could be considered.

3.3 Decision-making process

Voting practices

The current decision-making process relies too heavily on voting and less so on negotiations. Efforts need to be made to develop a culture of negotiation where effort is made to arrive at decisions by consensus. Where decisions cannot

be easily reached, the Commission may choose to defer issues to a future meeting to allow for a cooling-off period. Such periods can also be used to further informal consultations. Voting on substantive issues should be used as a last resort.

IWC could explore adopting measures used in other treaties to foster a culture of compromise and negotiation. For example, organisations such as the World Conservation Union (IUCN) are seeking to raise the number of parties that can bring a resolution forward from five to ten. The rationale for such a move is to promote consultation and the seeking of broad support for proposals before they are tabled for consideration.

Adherence to the Convention

Concern was expressed by a number of Commissioners regarding the fact that a new Government could adhere to the Convention just prior to or even during a meeting of the Commission and immediately have voting rights (providing it had also paid its financial contribution). They commented that this can create an unwelcome degree of uncertainty and surprise. While adherence to the treaty is done transparently by established procedures that provide for the deposition of instruments of accession to the depository government and notification to other parties, it would seem sensible that new parties to the treaty should be allowed to vote only after a defined period following the date of the deposit of their instruments of accession. This would not only reduce the element of surprise but also allow for adequate consultations between new and existing parties to the treaty.

Meetings of the Commission

A number of Commissioners expressed concern that the current annual frequency of meetings does not allow for sufficient intersessional work and suggested that the Commission move to holding meetings every two years. Biannual meetings would provide adequate time for preparation as well as the requisite notice of issues to be discussed.

The move to hold biannual meetings was also supported by those who believe that the rise in the number of contracting parties has increased the pressure to undertake broader consultations which take more time. In addition, others argue that biannual meetings would also create opportunities for extended bilateral contacts among members. The issue of whether to move to biennial meetings is already under consideration by the Commission.

Documentation and proposals

Documents of the Commission will need to be made available to Commission members at least 90 days before the meeting. Proposals and amendments to proposals should be introduced in writing by the Parties and handed to the Secretariat for circulation well in advance of the meeting.

Proceedings of the meetings of the Commission

Concern was expressed during interviews that the current practice of allowing live transmission or external recording of Commission meetings by the media undermines the capacity of the delegates to engage in negotiations. This is mainly because there is a tendency for Commissioners to talk for the benefit of their domestic constituencies rather than to each other.

Also related to this is the desire on the part of many Commissioners to have more opportunities to consult with each other and to negotiate in private while maintaining sufficient communication with other constituencies. This desire would be in line with practices in other treaties where the chair regularly determines which sessions are restricted to Commissioners and which ones are open to non-parties.

Bureau of the Commission

The Intersessional Meeting of the Commission convened in March 2008 benefited significantly from the work of the Steering Group established to plan the meeting and to develop a draft agenda. The Commission could benefit from a standing Bureau elected by the Commission to assist the Chair in planning and running the meetings of the Commission. In addition to helping to plan meetings, such a Bureau would also serve as a communication link between the Chair and the rest of the Commissioners. One option would be to create a new organ that would have geographical as well as thematic representation. Alternatively, the current Advisory Committee could be reconstituted to serve as a Bureau with the requisite representation as determined by the Commission.

Non-governmental organisations

Although NGOs act as observers under IWC with no speaking rights, they represent a diverse source of input into the work of IWC and participate in many of its activities in a number of ways. For example, a number of NGOs are represented on government delegations at both the Commission and Scientific Committee and suitably qualified individuals from NGOs attend the Scientific Committee as invited participants. They also play a major role in lobbying delegates and NGOs are often (unacknowledged) initiators of draft resolutions. At least some delegations have commented that they do not feel able to comment on certain issues because of the perceived domestic power that certain NGOs exhibit and their overall lack of accountability. It would be worth examining the considerable experience in other international regimes on how best to incorporate NGOs in the work of the Commission in a positive manner.

For example, this might be achieved through a new accreditation system that specifies the role they can play under the various organs and functions of the Commission. One of the key issues relates to statements to IWC. NGOs, through a system of collective representation, could be allowed to make formal presentations to Commission meetings. The timing and duration of such presentations would be determined by the Chair of the Commission.

3.4 Operational issues

Public communication

Public communication plays an important role in activities of international treaties and organisations. However, a large part of the media coverage of IWC is devoted to reporting on controversies and little attention is given to other important work that goes on in the Commission. The concentration on controversial issues is of course part of the nature of the press but managing the press should be part of a larger strategy on improving public communication on international activities related to whales. This will, of course, be considerably easier if the Commission can begin to operate in a more co-operative manner aiming at consensus. The present dichotomy of

views on many important issues makes dealing with the press more difficult for the Secretariat. The Secretary should serve as the Commission's spokesperson and should do so in close cooperation with the Chair of the Commission.

Relationship with other bodies

Several comments were made that the Commission, through its Secretary, should seek to improve cooperation with other relevant international, regional and national organisations, under the guidance of the Commission. It is recognised that the Commission already has good scientific co-operation with a number of bodies including IUCN, CMS and its cetacean agreements, and CCAMLR but there would be benefit in improving or establishing co-operation with those organisations that might assist in helping to address threats to cetaceans that do not stem from direct hunting and/or who are addressing similar conservation and management issues. Such cooperation should be carried out with due regard to the need to promote synergy while reducing the transaction costs associated with such cooperation.

Languages

The growth in the membership of the treaty has resulted in demand for documents and interpretation services to be provided in other languages (currently English is the only official and working language of the Commission). A number of Commissioners expressed concern that the absence of documents in other international languages undermines their ability to engage effectively in IWC discussions. The IWC needs to determine the number of languages in which documents and interpretation services are to be provided together with the way in which such changes could be introduced.²

Role of the Secretariat

Some of the activities suggested in this report and elsewhere aimed at improving the work of the Commission may have implications for the work and expertise within the Secretariat. For example, the proposed intersessional work is likely to require an increase in staffing. A more detailed assessment of the impact of changes in IWC will need to be carried out to ensure that new tasks do not exceed the capacity of the Secretariat.

For example, issues such as cooperation with other international bodies as well as tracking of international negotiations in other regimes may require greater investment in legal expertise in the Secretariat. One possible way to address this is to engage a full time staff member with expertise on international law as well as procedural matters to complement the scientific expertise already available in the Secretariat.

4. THE WAY FORWARD

4.1 Implications of continued impasse

Based on the interviews, I believe that continued impasse in IWC has a number of dire consequences for the treaty and its cetacean conservation and management objectives. First, it will encourage member countries to either leave the treaty or reduce their level of participation and

²It is recognised that the Commission is currently working on this matter and that the introduction of French and Spanish as working languages is under consideration.

commitment. Such acts will undermine the capacity of the treaty to meet its objectives and will encourage efforts by other treaties and processes to fill the void.

One possible outcome of such a scenario will be territorial conflicts among competing treaties which will further erode the credibility of the players involved. Attention is therefore likely to shift to such institutional conflicts at the expense of the objectives of the treaties themselves. It is also possible that other negotiations, especially those dealing with biological resources beyond national jurisdiction, could adopt decisions that could curtail the functioning of IWC. In effect, failure to resolve the impasse in a timely manner is likely to render the IWC marginal to ongoing efforts to strengthen ocean diplomacy.

4.2 Options for action

The Commissioners and stakeholders interviewed proposed a wide range of options for finding diplomatic solutions to the challenges facing IWC. These options ranged from convening ministerial meetings to launching a series of negotiations to resolve many of the controversial issues within IWC. Many of the interviewees also thought that such negotiations would provide IWC members with the opportunity to work on issues that they agree on while continuing to explore solutions to issues that they do not readily agree on.

There is, however, consensus that finding ways to accommodate the divergent interests while at the same time advancing the goals of the Convention can best be achieved through a negotiated process that involves the development of a comprehensive package of key issues. It is clear that negotiations should begin in earnest at IWC/60 in Chile.

There are several ways to approach the negotiations. The first option is to launch the negotiations through a series of extraordinary or special meetings of IWC that will work on agreed terms of reference. The results of the meetings will then be reported to the regular sessions of IWC starting in Madeira and continuing as needed. The Chair of IWC will serve as the Chair of the extraordinary meetings and may as needed establish sub-groups to address specific issues with the agreement of IWC members. The task of such sub-groups would be to assist the Chair in finding solutions and compromises to key issues arising from the terms of reference.

A second scenario would be for IWC to establish an Open-ended Working Group (i.e. any or indeed all members of the Commission may decide to participate) on the Future of the Commission. The IWC would elect a Chair of the Working Group. The Chair of the Working Group would work closely with the Chair of the Commission over the period. The Chair of the Working Group may from time to time use sub-groups of countries for assistance in finding compromises to be considered by the Working Group. The results of the Working Group would need to be considered for adoption at the regular sessions of IWC.

A third scenario could be the launching of negotiations initially among all members of the Commission via open and closed or private meetings to ensure that all governments have the opportunity to identify their key issues that should be considered in the development of any comprehensive package. This would be followed by the establishment of a smaller working group (of defined membership) who would, on the basis of discussions of the whole Commission, develop options for comprehensive

packages of key issues for consideration by all parties through both intersessional and regular sessions of IWC.

4.3 Enlarging diplomatic representation

Many of the Commissioners and stakeholders acknowledged the importance of drawing from negotiating experiences in other fora. They, however, stressed that such contributions should be made in ways that help to strengthen IWC. One way to achieve this would be to seek greater involvement of officials from ministries of foreign affairs and other relevant ministries in delegations to IWC meetings. Enlarging diplomatic representation would also reflect the changing character of IWC and the interests of Contracting Governments. For example, issues related to whalewatching are likely to be addressed by ministries responsible for tourism and their interests will need to be more systematically addressed. Some Commissioners were concerned that such enlargement will demand greater coordination costs and might affect the frequency of meetings.

CONCLUSION

The contents of this report are based on interviews with the IWC community. It is intended to encourage the community to find diplomatic solutions to many of the challenges facing the treaty to allow IWC to position itself as a leading source of best practices not only for matters related to whales, but to ocean government in general. But above all, the preparation of the document was guided by the conviction that there is sufficient expertise and political will within the IWC community to embark on a new diplomatic path. The next meeting of IWC therefore represents a unique opportunity for the organisation to forge ahead in a new spirit of open dialogue and compromise.

While this paper deals with multilateral processes, the spirit of dialogue and negotiation that it advances should also be extended to bilateral discussions between nations. Such initiatives will not only help to generate solutions which can be adopted by IWC, but they will help improve understanding among nations as they work together to improve ocean governance through diplomacy. All options for creative thinking should be explored under the circumstances.

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Annex F

Chair's Summary of the Outcome of Discussions on the Future of the International Whaling Commission

At IWC/59 in Anchorage, the Commission agreed that an intersessional meeting should be held prior to the 2008 Annual Meeting to provide an opportunity for Contracting Governments to discuss the future of the organisation.

At the intersessional meeting in March 2008, the Commission focussed on ways to improve the working atmosphere within the Commission. In addition, rather than immediately trying to address substantive issues where major differences among IWC members exist, the Commission agreed to focus on process. As a result of these productive discussions it was agreed to develop:

- (1) recommendations to improve the practice and procedures of the Commission; and
- (2) recommendations on how to approach discussions/negotiations on substantive issues at IWC/60 in Santiago and beyond.

As a result, two papers were developed intersessionally with suggestions for ways forward on both these topics (IWC/60/18 and IWC/60/10). As a result of fruitful and co-operative discussions of these papers, the Commission is pleased to have developed consensus documents on both improved practices and a path towards resolution of substantive issues. These are appendices to this document.

Appendix A

REFORMING THE WORKING PROCEDURES OF THE IWC

At its 60th Annual Meeting, the International Whaling Commission considered improvements to its working practices and procedures in the context of deliberations on the future of the Commission.

The Commission agreed that it would make every effort to reach consensus on all matters of substance and that voting should be a last resort. To this end, the Commission recognised that increased dialogue between Contracting Governments and greater use of informal meetings would improve the prospects of achieving consensus. The Commission agreed that the work of the Commission should be organised to provide sufficient opportunities for all proposals to be discussed informally between Contracting Governments before action was taken by the Commission. The Commission also recognised the importance of ensuring that its proceedings took place in an environment of mutual respect, notwithstanding the differing views and perspectives among Contracting Governments.

The Commission therefore decided to amend the chapeau of Rule E of its Rules of Procedure as follows:

E. The Commission ~~should seek~~ **shall make every effort** to reach its decisions by consensus. ~~Otherwise, If all efforts to reach consensus have been exhausted and no agreement reached,~~ the following Rules of Procedure shall apply:...

The Commission also decided to amend its Rules of Debate by adding a new rule as follows:

C.3. Notwithstanding anything in these Rules, the Chair may suspend the meeting for a brief period at any time in order to allow informal discussions aimed at reaching consensus consistent with Rule E of the Rules of Procedure.

In order to maximise the prospects of reaching consensus, the Commission also agreed that all proposals for action by the Commission should be circulated to Contracting Governments well in advance of the annual meeting. The Commission therefore decided to amend Rule J of its Rules of Procedure as follows:

J. Schedule amendments ~~and~~, recommendations under Article VI **and Resolutions**

1. No item of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, **or Resolutions of the Commission**, shall be the subject of decisive action by the Commission unless the ~~subject matter~~ **full draft text** 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.

2. Notwithstanding the advance notice requirements for draft Resolutions in Rule J.1, at the recommendation of the Chair in consultation with the Advisory Committee, the Commission may decide to consider urgent draft Resolutions which arise after the 60 day deadline where there have been important developments that warrant action in the Commission. The full draft text of any such Resolution must be circulated to all Commissioners prior to the opening of the meeting at which the draft Resolution is to be considered.

The Commission also decided to amend Rule R.1 of its Rules of Procedure, to require the full text of proposed amendments to the Rules of Procedure and Rules of Debate to be circulated well in advance of the annual meeting, as follows:

R.1. These Rules of Procedure **and the Rules of Debate** 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~~ **the full draft text of any proposed amendment shall be circulated** to the Commissioners ~~by the Secretary to the Commission not less than~~ **at least** 60 days in advance of the meeting at which the matter is to be discussed.

The Commission agreed that reducing the uncertainty over the voting intentions of new Contracting Governments would improve the predictability of the Commission's Annual Meetings. It therefore decided to amend its Rules of Procedure as follows:

E.2.(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means:

(i) until 30 days after the date of adherence, although they may participate fully in discussions of the Commission; and

(ii) unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.

Recognising that French and Spanish are the primary languages of many Contracting Governments, the Commission also emphasised the importance of enabling effective participation in its affairs and widely disseminating information to the public through the use of French and Spanish as working languages of the Commission. It therefore decided to amend the Rules of Procedure as follows:

N. Languages of the Commission

1. English shall be the official ~~and working~~ language of the Commission. *English, French and Spanish shall be the working languages of the Commission.* 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. *Agreed publications and communications shall be available in English, French and Spanish.*¹

The Commission further recognised the importance of ensuring accurate and timely information on the Commission's work was provided to the media. It therefore encouraged the Chair, Secretary and Head of Science to provide regular briefings to the media at the meetings of the Commission.

The Commission decided to implement the use of French and Spanish as working languages of the Commission beginning with its 60th Annual Meeting and that the other amendments to the Rules of Procedure contained in this statement would come into effect at the next meeting of the Commission.

Appendix B

TERMS OF REFERENCE FOR THE SMALL WORKING GROUP ON THE FUTURE OF THE IWC

Objectives

To assist the Commission to arrive at a consensus solution to the main issues it faces (based on Table 1) and thus to enable it to best fulfil its role with respect to the conservation of whale stocks and the management of whaling.

The working group's primary task in this regard is to make every effort to develop a package or packages for review by the Commission.

Membership

Membership of the working group will be representative in terms of e.g. views, geography and economy. It will be assisted by the Secretariat in an *ex officio* capacity, providing scientific and technical assistance as needed. A list of core members is attached, although any Commissioner may attend meetings.

In conducting the business of the working group, members agree to:

- (a) consult with those non-participating countries that it broadly represents – this will assist an inclusive process; and
- (b) take into account the known general views of all countries that are not members of the working group.

Chair

The Chair of the Commission will appoint a facilitator, one of the current experts² (based on their availability) to chair the working group under the supervision of the Chair. This will allow the Chair to intervene in the event that discussions reach an impasse.

Table 1

Elements/issues identified as being of importance to one or more Contracting Government in relation to the future of IWC. These are in alphabetical order.

1.	Advisory/Standing Committee or Bureau – need for
2.	Animal welfare
3.	Bycatch and infractions
4.	Climate change
5.	Civil society (involvement of)
6.	Coastal whaling (i.e. within EEZ)
7.	Commercial whaling moratorium
8.	Compliance and monitoring
9.	Conservation Committee
10.	Conservation management plans
11.	Convention (purpose of)
12.	Co-operative non-lethal research programmes
13.	Data provision
14.	Developments in ocean governance
15.	Ecosystem-based approach to management
16.	Environmental threats to cetaceans
17.	Ethics
18.	Financial contribution scheme
19.	Frequency of meetings
20.	Marine Protected Areas (MPAs)
21.	Objections and reservations
22.	Procedural issues – improvements to
23.	Research under special permit
24.	Revised Management Procedure (RMP)
25.	Revised Management Scheme (RMS)
26.	Sanctions
27.	Sanctuaries
28.	Science – role of science and functioning of Scientific Committee
29.	Secretariat – implications for role of/expertise
30.	Socio-economic implications
31.	Small cetaceans
32.	Trade restrictions
33.	Whalewatching/non-lethal use

¹As agreed at IWC/59 in Anchorage in 2007: i.e. simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of: (1) Resolutions and Schedule amendments; (2) the Chair's summary reports of Annual Meetings; (3) Annotated Provisional Agendas; and (4) summaries of the Scientific Committee and working group reports.

²Professor Calestous Juma, Ambassador Raúl Estrada-Oyuela and Ambassador Alvaro de Soto.

Mode of working

The working group shall decide its own *modus operandi* at an initial meeting in Santiago. It will include email, conference calls and at least one meeting prior to an intersessional meeting of the Commission. The level of confidentiality shall be such that it allows a free exchange of ideas within the working group; meetings will be closed to observers. After any meetings, the working group will develop a brief progress report to be circulated to the Commission. As noted above, members will be free to (and should) consult with countries who are not members of the working group.

Reporting

The working group will present a report on the results of its initial deliberations to the 2009 Intersessional Meeting of the Commission on the Future of IWC³; the report will be distributed at least five weeks before the intersessional. Based upon discussions there, the intersessional will direct the Working Group to continue working on a possible package or packages and develop a final report that will be distributed at least five weeks before IWC/61. The Chair of the Commission will report to all Contracting Parties on the progress made at the 2009 intersessional meeting.

Table 2
Contracting Governments who indicated their interest in participating in the small working group.

1. Antigua and Barbuda	13. Japan
2. Argentina	14. Korea, Republic of
3. Australia	15. Netherlands
4. Brazil	16. New Zealand
5. Cameroon	17. Norway
6. Chile	18. Palau
7. China	19. Panama
8. Costa Rica	20. St. Kitts and Nevis
9. Denmark	21. South Africa
10. France	22. Sweden
11. Iceland	23. Germany
12. Italy	24. USA

Appendix C

TERMS OF REFERENCE FOR THE INTERSESSIONAL CORRESPONDENCE GROUP ON ISSUES RELATED TO THE SCIENTIFIC COMMITTEE

The objective of the correspondence group is to develop a discussion document (and if it deems appropriate, recommendations) on the issues listed below, recognising the inter-relationship of a number of aspects of the issues. The discussion document produced will be forwarded to the small working group on the future of the IWC at a time to be determined.

- (1) Consideration of the advantages and disadvantages of separating the Annual Meeting of the Scientific Committee from that of the Commission; this will include *inter alia*:
 - (a) logistical and financial aspects;
 - (b) scientific aspects;
 - (c) communication with the Commission⁴;
 - (d) confidentiality aspects; and
 - (e) consideration of the applicability of other 'models' such as that of the IPCC.
- (2) Consideration of ways to increase participation in the Scientific Committee of scientists from developing countries in the work of the Scientific Committee; this will include *inter alia*:
 - (a) selection process and preparation for meeting;
 - (b) financial aspects; and
 - (c) relationship with the overall invited participant process (see 4 below).
- (3) Consideration of ways in which the Scientific Committee can assist in improving the knowledge and technical capability of scientists from countries where cetacean research is in its infancy so that they can better contribute to the work of the Scientific Committee and to conservation and management issues within their region; this will include *inter alia*:
 - (a) possibility of regional training workshops (consider collaboration with other organisations, e.g. FAO, UNEP, IUCN);
 - (b) provision of materials (e.g. documents); and
 - (c) financial aspects
- (4) Review of the process for inviting participants to the Scientific Committee; this will include *inter alia*:
 - (a) objectives for inviting participants;
 - (b) reasons for non-inclusion of IWC-funded participants on national delegations of developed countries;
 - (c) selection process and advice; and
 - (d) financial aspects.

³The Chair of the working group will consult with the Secretariat and the Advisory Group in establishing a date for the intersessional meeting such that a decision can be taken on the dates by November 2008.

⁴Note that other initiatives to improve the communication with the Commission and others with respect to clarity/content of the plenary report etc. are being undertaken by the Scientific Committee itself and the initiative of France.

Annex G

Report of the Scoping Meeting for a Workshop on Welfare Issues Associated with the Entanglement of Large Whales

Tuesday 17 June 2008, Santiago, Chile

1. APPOINTMENT OF CHAIR AND RAPPORTEUR

Greg Donovan was appointed as Chair and Australia as rapporteur with assistance from the USA. Final report editing was carried out by the Chair. The report does not always follow the chronological order of the discussions but rather draws upon all discussions to develop conclusions under each agenda item. The list of participants is given as Appendix A.

2. ADOPTION OF DRAFT AGENDA (FOR THE SCOPING MEETING)

The Agenda adopted is given as Appendix B. Given that this was formally a meeting of the organising committee established by the Commission last year (Australia, Denmark [Greenland], Norway, USA), it was agreed that while the meeting would be open, only members of the organising committee would participate actively.

3. BACKGROUND TO THE WORKSHOP

The issue of welfare issues associated with the entanglement of large whales that cannot be released alive was raised by Norway at last year's meeting of the Working Group on Whale Killing Methods and Associated Welfare Issues. In the Commission, Norway suggested that approaches to the euthanasia of entangled whales would benefit from more in-depth discussions and recommended that a one-day Workshop be held in association with IWC/60.

At the March 2008 Intersessional Meeting on the Future of IWC, revisions were made to the schedule of meetings at IWC/60 to allow sufficient time for follow-up discussions to the March meeting. As a result, it was agreed to replace the planned one-day Workshop on welfare issues associated with entangled/entrapped cetaceans with this half-day scoping meeting of the Workshop organising committee.

4. SCOPE, TITLE AND OUTPUT OF THE WORKSHOP

As indicated above, the Workshop proposed by Norway last year was to focus on approaches to the euthanasia of large entangled whales that cannot be released alive. When the co-chairs (Norway and Australia) were developing a draft agenda for the Workshop for review by the organising committee in Santiago, Australia suggested expanding the Workshop to include an overview of current methods used to mitigate the entanglement of large whales and the development of a decision matrix under which entangled whales are managed. It was agreed that discussion of the scope of the Workshop was a key task for this scoping meeting.

In discussion it emerged that there are three identifiable, although interlinked aspects to this issue:

- (1) prevention/mitigation methods;
- (2) a decision matrix for dealing with entangled animals including a thorough overview of disentanglement techniques; and
- (3) if euthanasia is decided to be the appropriate option, how best this can be achieved.

The organising committee agreed that prevention is certainly the ultimate solution to entanglement issues. It also recognised that considerable work on mitigation methods is occurring throughout the world but that as yet prevention is a goal that has not been achieved although entanglement rates have in some cases been reduced. It is a complex and large subject; while there are general aspects, it will need to be dealt with on a case specific basis (e.g. by fishing gear, geographical region, species etc.).

Although it can be argued that it is logical to focus on prevention/mitigation first, the organising committee agreed that because whales are being entangled now, and will continue to be so until/if effective prevention strategies are developed, it is important from an animal welfare perspective that items (2) and (3) above are addressed as a matter of some urgency. For a number of reasons, including the nature of the expertise required and the broad scope of issues under item (1), the organising committee agreed, therefore, to focus initial consideration on Items (2) and (3) for this Workshop. There was a valuable discussion as to whether these could best be addressed separately or together. The organising committee agreed that given the inter-relationship between these in providing advice on how to deal with entangled whales, it was appropriate to discuss them together. In doing so it recognised that this was a large and ambitious task. This is considered further in the discussions related to timing of the Workshop. Although there are other scenarios where similar advice may be required (e.g. ice entrapments), the organising committee agree that the focus should be restricted to entanglements in fishing gear and marine debris.

In terms of the output from the Workshop, it was agreed that the primary output should be a report that lays out guidelines for dealing with entangled whales. Key components of this will be the development of a decision matrix leading to the most appropriate action to be taken and, if the decision is taken that euthanasia is the most appropriate course of action in a particular case, the best methods to achieve this.

The organising committee agreed that upon completion of the present Workshop, plans should be made for a Workshop focussed on mitigation and prevention.

5. REVIEW OF DRAFT AGENDA FOR THE WORKSHOP

The organising committee had before it a preliminary draft agenda for consideration. As a result of its discussions

under Item 4 on the scope of the Workshop, it agreed a revised draft agenda and this is given as Appendix C.

Given the ambitious nature of the Workshop, the organising committee agreed that it would only be feasible for it to reach its goals if a number of review papers were available well in advance of the Workshop. Detailed Terms of Reference are given in Appendix D.

The review papers are:

- Overview of Survivorship of Large Whales (Jooke Robbins, Amy Knowlton);
- Overview of Entanglement of Large Whales (Teri Rowles: co-ordinator);
- Overview of the Disentanglement of Large Whales (Dave Matilla, Doug Coughran);
- Euthanasia (Egil Øen, Teri Rowles); and
- Overview of Development of Decision Matrix for Large Whale Entanglement (Nick Gales, Teri Rowles).

The organising committee was very grateful to the governments of the USA, Australia and Norway for agreeing to undertake this work.

6. DURATION, TIMING AND VENUE FOR THE WORKSHOP

Given the broad nature of the agreed scope and the importance of having sufficient time to develop authoritative and comprehensive guidelines, the organising committee agreed that the Workshop would require 3-4 days. With respect to timing the Workshop developed two options for the Commission to consider:

- 3-4 days during the period immediately before the Commission meeting in Madeira; or
- 3-4 days in the intersessional period before or after the Madeira meeting.

At this stage, the organising committee did not nominate a preference. However they stress the importance of allowing sufficient time for the review papers to be developed. This is crucial to the success of the Workshop. They also stressed the importance of providing guidelines in a timely manner on this important issue, but recognised that speed should not be the primary factor, it is better to hold a Workshop slightly later when all the preparatory work has been satisfactorily completed than to hold one prematurely that does not meet its goals.

In terms of venue, clearly for the first option it is Madeira. The Secretariat is investigating the possibility

of this. For the second option, it was considered that it would be possible to find a host that would offer a venue and facilities for no cost.

7. PARTICIPANTS TO THE WORKSHOP

The organising committee agreed that this should be an expert Workshop only. To be successful it was agreed that if possible the Workshop should be no more than 25-30 people. Participants should include experts on the survival outcomes of entangled and released whales; veterinarians with prognosis and euthanasia experience; practical disentanglement specialists and decision makers. It was agreed that in addition to experts provided by governments, provision should be made in the budget for some 4-6 Invited Participants. Depending on the venue and the location of the experts, this would require some £4-6,000.

8. WORKSHOP CHAIR

The organising committee agreed that the Chair of the Scientific Committee would be an appropriate candidate. It noted that if the meeting was held immediately prior to the Commission meeting then this could be problematic in terms of his other responsibilities.

9. DOCUMENTS AND OTHER PREPARATIONS REQUIRED

This is covered under the requested overview documents discussed under Item 5.

10. BUDGET

Given the discussion above, the primary funding would be related to the participation of 4-6 invited experts at an estimated cost of £4-6,000. If the Workshop is held at a time that precludes the presence of the Chair of the Scientific Committee, then additional funding may be required for a Chair as was the case at previous Workshops.

11. OTHER

The Chair thanked the members for extremely productive and constructive discussions. The stage was set for a very valuable Workshop. The organising committee thanked the Chair for guiding them through the discussions.

Appendix A

LIST OF PARTICIPANTS

Australia

Nick Gales
Milena Rafic
Lesley Gidding

Austria

Michael Stachowitsch

Denmark

Ole Samsing
Nette Levermann
Amalie Jessen

Ole Heinrich
Leif Fontaine

Finland

Esko Jaakkola
Penina Blankett

Germany

Karl-Hermann Kock
Petra Deimer-Schütte

Norway

Halvard Johansen

Egil Øen
Hild Ynnesdal

USA

Doug DeMaster
David Mattila
Teri Rowles
Cheri McCarty
Heather Rockwell

Secretariat

Greg Donovan

Appendix B

SCOPING MEETING AGENDA

- | | |
|---|--|
| 1. Appointment of Chair and rapporteur | 7. Participants to the Workshop |
| 2. Adoption of draft agenda (for the scoping meeting) | 8. Workshop Chair |
| 3. Background to the Workshop | 9. Documents and other preparations required |
| 4. Scope, title and output of the Workshop | 10. Budget |
| 5. Review of draft agenda for the Workshop | 11. Other |
| 6. Duration, timing and venue for the Workshop | |
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Appendix C

DRAFT WORKSHOP AGENDA

- | | |
|---|--|
| 1. Introductory items | |
| 1.1 Appointment of Chair | |
| 1.2 Appointment of rapporteur(s) | |
| 1.3 Review of documents | |
| 2. Objectives for the Workshop | |
| 3. Adoption of the Agenda | |
| 4. Overview of the entanglement of large whales | |
| 4.1 Key species involved | |
| • Species of whales most commonly entangled | |
| • Identification of the most critical interactions occurring (endangered species etc) | |
| 4.2 Priority regions | |
| 4.3 Types of entanglements | |
| • Categories/classes/types of entanglements | |
| • Entanglements in floating or movable gears | |
| • Entanglements in immovable or anchored gears | |
| • Types of gears regularly causing entanglements | |
| 4.4 Damages and wounds commonly seen on entangled whales | |
| • Superficial wounds of minor severity? | |
| • More severe damages or wounds? | |
| • Emaciation/physical exhaustion? | |
| 4.5 National data on large whale entanglements (input from member governments) | |
| • National reports on number of whales entangled each year, including species and locations and type of entanglement | |
| • National reports on entanglement release attempts, times to death and types of entanglements that have led to death | |
| 5. Overview of the disentanglement of large whales | |
| 5.1 Current/commonly used methods for disentangling whales | |
| • Communication networks | |
| • Methodology | |
| • Equipment | |
| • Personnel | |
| • Training | |
| 5.2 Risk assessments | |
| • Risk assessments: Personnel | |
| • Known and possible risks for personnel in conjunction with disentanglement operations | |
| • Risk assessments: Whales after disentangling | |
| | • Methods for evaluation of the health condition of the entangled whale |
| | • Types of wounds and the wound healing process in whales |
| | • Possible scenarios after disentanglement |
| | • The whale survives with negligible damage to organs |
| | • The whale might survive, but is severely crippled |
| | • The whale will not survive and will die from its wounds/exhaustion/starvation |
| | 5.3 Improving disentanglement operations |
| | • Information sharing and communication networks |
| | 6. Euthanasia of whales that cannot be disentangled or will not survive after disentanglement |
| | 6.1 Identification of those situations for which euthanasia should be considered or recommended |
| | • Whales that cannot be disentangled or will not survive after disentanglement due to exhaustion or because vital organs are severely hurt or damaged |
| | 6.2 Methods for the humane euthanasia of entangled whales |
| | • Types of weapons and equipment vs. species of whales |
| | • Training of personnel |
| | 7. Development of a decision matrix for large whale entanglements |
| | The development of a decision matrix (or 'decision tree') to follow once an entangled whale is reported could be considered. This would draw on discussions under Item 6 and include, for example: |
| | • Reporting mechanisms |
| | • Response options |
| | • Critical decision points |
| | • Decisions to intervene or monitor |
| | • Type of intervention – disentanglement or euthanasia |
| | 8. Data collection and reporting |
| | 9. Synthesis |
| | 10. Other business |
| | 11. Recommendations |
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Appendix D

TERMS OF REFERENCE FOR REVIEW PAPERS FOR THE WORKSHOP ON WELFARE ISSUES ASSOCIATED WITH THE ENTANGLEMENT OF LARGE WHALES

Agenda on Overview of Entanglement of Large Whales

Review Paper 1: Overview of Survivorship of Large Whales (Jooke Robbins, Amy Knowlton)

- Review of data on survivorship of large whales in relation to species and gear type where possible.
- Humpback and right whales in the US Atlantic coast will be used as an example.

Review Paper 2: Overview of Entanglement of Large Whales (Teri Rowles: co-ordinator)

- Review the global species of large whales that are entangled in fishing gear with reference to region and gear type.
- Review the nature, scale and severity of entanglement types.
- Review data on health consequences, including pathology of entanglements.

Agenda on Overview of Disentanglement of Large Whales

Review Paper 3: Overview of the Disentanglement of Large Whales (Dave Matilla, Doug Coughran)

- Review of current disentanglement techniques, including:
 - network structure (information sharing, communications and outreach);
 - report assessment and reliability;
 - assessment of the severity of entanglement and welfare implications for the whale;
 - tracking equipment;
 - disentanglement equipment and methodologies;

- safety protocols and training;
- documentation, follow-up and review procedures; and
- disentanglement success rates by species, region and gear types.

Agenda on Overview of Euthanasia of Large Whales

Review Paper 4: Euthanasia (Egil Øen, Teri Rowles)

Note: this review should focus only on agenda item 7.2 as the one on 7.1 should be dealt with under the decision matrix discussions. It should include issues of safety to human operators, welfare considerations for the whale, post-mortem issues (such as carcass handling, toxin introduction to environment etc.).

Agenda on Overview of Decision Matrices for Entangled Large Whales

Review Paper 5: Development of Decision Matrix for Large Whale Entanglement (Nick Gales, Teri Rowles)

- Review of international decision matrices for disentanglement actions, including a discussion of:
 - assessment of report and decision options;
 - visual assessment of animal (entanglement type and gear type); and
 - assessment of options based on environmental conditions and available resources:
 - no action needed;
 - tag and track for later action; or
 - take immediate action.
- Review of data to inform decision points within the matrix.

Annex H

Report of the Sub-Committee on Aboriginal Subsistence Whaling

Wednesday, 18 June 2008, Santiago, Chile

1. INTRODUCTORY ITEMS

A list of participants is given in Appendix 1. Terms of Reference for the Sub-Committee are given in Appendix 2.

1.1 Appointment of Chair

Jorge Palmeirim (Portugal) was appointed as Chair.

1.2 Appointment of Rapporteur

Pam Eiser (Australia) was appointed as Rapporteur, with assistance from Greg Donovan (Secretariat and Chair of the Scientific Committee's Standing Working Group (SWG) on the Development of an Aboriginal Whaling Management Procedure (AWMP)).

1.3 Review of documents

The following documents were available to the Sub-Committee:

IWC/60/ASW

- 1 rev Revised draft agenda (and annotations)
- 2 List of documents
- 3 Aboriginal harvest of gray and bowhead whales in the Russian Federation in 2007 (submitted by the Russian Federation)
- 4 Informational update on 'stinky' gray whales (submitted by the USA and Russian Federation)

IWC/60/Rep1 (extract)

Report of the Scientific Committee

IWC/60/21

Report on weapons, techniques, and observations in the Alaskan bowhead whale subsistence hunt (submitted by the USA - tabled for information only and not for discussion)

2. ADOPTION OF AGENDA

The Chair advised the meeting of some additions to the circulated Agenda. The Agenda, as adopted, 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.

As it has stated on many occasions, the Committee has never been able to provide satisfactory management advice for common minke whales off West Greenland. Since 2006, it has focussed on developing assessment methods that rely on the observed sex ratio in the catches. In short,

the broad lack of change in the catch sex ratio, despite the consistently high catch of females, implies that catches off West Greenland have not markedly affected population size. However, this inference is based on the assumption that, for example, there is no confounding of the trend over time in sex ratio and other factors.

Since last year's meeting, considerable progress has been made at an intersessional Workshop held in Copenhagen, and at the Annual Meeting. Attention has focussed on two areas: understanding the sex ratio data themselves and examining any potential confounding factors that might preclude their use in assessments; and the development of the assessment methods themselves. Considerable work has been put into both these issues.

The Committee agreed that the two methods before it provided the first scientifically justifiable way to overcome the Committee's past inability to provide management advice based on a population model. However, there remain some quite complex numerical issues that mean that the Committee was unable to be fully confident that the results were sufficiently robust to form the basis for management advice at this meeting. The Committee therefore focussed on the additional work and process needed to complete a population model-based assessment of common minke whales off West Greenland.

It agreed that the best way to maintain effective progress on this high priority work was through intersessional meetings. Specifically, the SWG recommended that two meetings take place: the first, a small technical meeting is to standardise methods and solve numerical issues, while the second would be a full SWG Workshop to review the results of the work in relation to the work plan to ensure that the SWG and thus the Committee will be in a position to make management recommendations at the 2009 Annual Meeting.

3.1.2 Discussion and recommendations

The UK expressed continuing concern at the aspect of the sex bias ratio in the catch and asked whether the Scientific Committee had considered that the bias might be due to factors other than the relative distribution of the population. In response, the Chair of the SWG confirmed that this issue has been taken very seriously and this is why some 2½ to 3 years has been spent on this work. He also confirmed that various potential confounding factors had been considered in the development of these assessments.

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

3.2 Preparation of the Implementation Review for gray whales

3.2.1 Report of the Scientific Committee

The Chair of the SWG recalled that the Committee worked for a number of years to develop the *Gray Whale Strike Limit Algorithm (SLA)* to provide safe long-term management advice as part of the AWMP. In developing

this approach, a key element was the concept of undertaking an *Implementation Review* every five years. The aim of such a review is to examine whether there is any information to suggest that the parameter space used to evaluate the *Gray Whale SLA* was inadequate.

Information on new data and analyses likely to be presented next year will include estimates of past and present abundance, calf counts on migration and in the winter areas, estimates of calving intervals, information on strandings, ship strikes and entanglements, a revision of the catch history, information on feeding range in relation to regime shifts and an update of the population dynamics modelling framework.

Depending on the results of these analyses, there may be a need for additional simulation trials. All data to be considered during the gray whale *Implementation Review* needed to satisfy the Data Availability Agreement.

The Scientific Committee had been informed by the Russian Federation that it was considering a proposal to the Commission that would involve consideration of struck-and-lost whales and 'stinky whales' when addressing need (Annex E, Appendix 4 of the Report of the Scientific Committee). The *SLA* approach evaluates conservation performance in terms of strike limits and within a particular range of need levels referred to as a need envelope. It is a Commission matter to address need requirements. Should the Commission request advice on a specific level of need, the first step is for the Committee to examine whether this fits within the need envelope used to evaluate the *Gray Whale SLA*. If this is the case, further trials and evaluation are not required. The Committee noted that the proposal provided by the Russian Federation for taking into account struck-and-lost whales and 'stinky whales' was within the tested parameter space for the *Gray Whale SLA*. It also drew to the Commission's attention that it cannot evaluate the risk of a catch limit established solely in terms of landed whales, since a limit on strikes is required to control total mortality.

The Committee agreed that the gray whale *Implementation Review* can be accomplished during the 2009 Annual Meeting if there is no need to change the hypotheses, need envelope or range of parameter values used in trials, but that a pre-meeting or intersessional meeting might be required if new trials need to be specified and run. The best manner in which to conduct the *Implementation Review* will be apparent at the latest by the time that papers need to be submitted under the Data Availability Agreement, i.e. 28 February 2009 and the Committee will be informed immediately.

3.2.2 Discussion and recommendations

The Russian Federation advised that it has provided to the IWC information on the needs of the Chukotkan native peoples several times, including in 1997, 2002 and 2007 (for example *Ann. Rep. Int. Whaling Comm.* 2002: 68 and IWC/59/ASW3), which is reflected in the IWC Annual Reports and other IWC-related reports. The Russian Federation noted that no objections have ever been made. The needs statement establishes that 350 gray whales per year are required. The current quota is 620 for the years 2008-2012 with no more than 140 per year landed. The Russian Federation noted that it currently agreed with this quota due to technical and other reasons even though the needs are far greater. As outlined in Appendix 5 of Annex

E in the report of the Scientific Committee, the Russian Federation noted that with *SLA* implementation it would likely propose:

The number of landed whales for the period of 2008-2012 must not exceed 620. For each of these years the number of whales struck shall not exceed 154 (140 + 10 percent of 140) except that it shall be allowed to transfer the actual number of struck-and-lost and stinky whales (up to 70 for the five years, 14 per year) from the previous years to any subsequent years (2008-2012), but the number landed cannot exceed 140 whales in any one year.

The Russian Federation considered that this request works well within the proposed scheme and is much less than the needs of the native people. The take would be less than MSY of the stock, at 0.6 MSY level, and considers new census data for whales and other basic parameters. The Russian Federation considers such a proposal to be within the framework of the *SLA* for gray whales for which there will be an *Implementation* next year.

Mexico asked whether there is any information to indicate that there may be relevant factors that have not been taken into account when evaluating the *Gray Whale SLA*. The Chair of the SWG advised that there is no information yet to suggest that the 'parameter space' for which the *Gray Whale SLA* was investigated was inadequate, but that was the purpose of the *Implementation Review*; the available information would be examined next year to determine whether this was the case or not.

The UK indicated that whilst it was not unsympathetic to the situation of the Russian native peoples, it did have a concern at moving from an *SLA* to a calculation based on the number of whales landed. The UK noted that in aboriginal subsistence hunts the struck and lost ratio is generally higher than that in commercial hunts and whilst little is known about the survival of struck whales, it is probably low. With respect to the issue of stinky whales, the UK said that if it could have confidence in the proportion of struck whales likely to be stinky, then it would be prepared to consider how this could be built into the system so long as the Scientific Committee is able to advise that the strike limit obtained is sustainable.

The Chair of the SWG confirmed that the Scientific Committee provides its advice based on strikes and assumes that all strikes lead to death.

Following this discussion, the Sub-Committee noted the report of the Scientific Committee and its recommendations.

3.3 General consideration of the provision of *ad hoc* advice

3.3.1 Report of the Scientific Committee

The Chair of the SWG recalled that last year, the Committee had drawn attention to the general difficulty regarding the provision of *ad hoc* interim advice on catch limits and, in particular, its view that it was inappropriate to provide such advice for long time periods. This is a problem that has often faced the Committee in the past. An approach to examining this was presented by Witting at the intersessional Workshop (SC/60/Rep2) which welcomed this work and made several recommendations for improvements.

The SWG received an extended and updated version at the Annual Meeting. It evaluated simple methods for providing *ad hoc* interim management on strike limits using trial simulations for fin whales and humpback whales off West Greenland, and bowhead whales off West

Greenland and Eastern Canada to assess the safety of *ad hoc* interim management advice.

In effect, the approach follows the simulation approach used to evaluate full *SLAs* but the intention is rather more limited than for evaluating long-term *SLAs* – the aim is to examine the safety of simple approaches to providing interim advice.

Whilst recognising that the analyses were not sufficient (nor designed) to allow decisions to be made regarding *SLAs* for use over a long period (this will require more careful consideration of scenarios and uncertainties), the Committee agreed that the approach provided an excellent basis to move forward to evaluate methods for providing *ad hoc* interim advice. It tested a wide range of scenarios that represented a major challenge for any methods for providing *ad hoc* advice.

Recognising the need for Secretariat validation of software/analyses on which management advice will be based, the calculations were made using Secretariat-validated software based on the control program used to evaluate the *Gray Whale SLA*. Three possible ways of setting interim advice were examined, all of which linked need (expressed in strikes) and the most recent estimate of abundance and the confidence in the estimate. The scenarios examined were related to the fin, bowhead and humpback whales off West Greenland.

The options were evaluated on the basis of examining three conservation-related statistics and one need-related statistic. Priority was given to conservation performance over a 100-year period in the following manner:

- (1) first of all conservation performance was examined by looking to see if the final population size was at or above 60% of initial (the conventional *MSY* level) or if it wasn't, that the population was recovering; and
- (2) once satisfied that the conservation performance was good, the options were then ranked in terms of their need satisfaction (particularly over the first 20 years).

In examining the results for fin, humpback and bowhead whales, in each case, it turned out that 'option C' (2% of the lower 5th percentile of the most recent estimate of abundance) performed best.

The Chair of the SWG concluded that the Committee was pleased to have developed a safe method to provide interim management advice for the three fisheries concerned and it thanked Witting, in particular, for his work in this regard.

It had agreed that option C can be used to provide advice on catch limits for a limited time only (i.e. for up to two quota blocks for 10 years) by which time a full *Strike Limit Algorithm (SLA)* approach should have been developed. It had also agreed that no changes should be made to the approach used to provide interim management advice unless a change is proposed to the need requirement, when re-evaluation would be required.

The Committee also reaffirmed its view that long-term management advice should be based on an agreed *AWMP SLA*. As discussed above the Committee has been concentrating on developing an approach to provide advice using the sex ratio data and finalisation of this assessment will provide an important basis for *SLA* development. It also agreed that the work on the fin whale *SLA* should be also accorded high priority and be considered at the forthcoming intersessional Workshop.

3.3.2 Discussion and recommendations

There were no comments and the Sub-Committee noted 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 recalled that since 2002, the Committee has recommended scientific aspects of an aboriginal whaling scheme (AWS) intended for use in conjunction with *SLAs* (the specifications can be found in *Ann. Rep. Int. Whaling Comm.* 2002: 74-5). The SWG did not have time to fully consider issues arising out of the bowhead *Implementation Review* at the present meeting but will have a thorough discussion next year.

4.2 Discussion and recommendations

There were no comments and the Sub-Committee noted the report of the Scientific Committee.

5. ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

5.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales (annual review)

5.1.1 Report of the Scientific Committee

The Chair of the SWG noted that the Committee had received two papers related to obtaining an abundance estimate for the B-C-B Seas stock of bowhead whales based on aerial photographs obtained near Barrow, Alaska, during spring 2003 and 2004. These surveys were conducted *inter alia* to obtain an abundance estimate that could be compared to the ice-based estimate from 2001. The impetus for investigating photographic mark-recapture estimates was concern that unstable ice conditions resulting from warming trends in the Arctic might make future ice-based censuses difficult. The 2003-04 abundance estimate was some 11,800 (95% CI=6,800-20,600), very similar to the forward projected ice-based estimate for 2004 of 11,600.

The Committee endorsed the general approach of using photo-identification data to obtain abundance estimates and it looked forward to receiving the final analyses next year. The Committee agreed that the implications (if any) of moving from the ice-based census to a mark-recapture approach should be considered by the SWG on the *AWMP* in the context of use of the *Bowhead SLA*.

A total of 63 bowhead whales were struck in the 2007 hunt resulting in 41 animals landed (17 males, 24 females, including one autumn calf). The efficiency (no. landed/no. struck) of the hunt was 65%, lower than the 10-year average of 79%, for a number of environmental and logistical reasons. The Alaskan Eskimo Whaling Commission determined that hunters mistakenly harvested the calf thinking it was a small independent whale; autumn calves are close in body length to yearlings and it is difficult to determine their status when swimming alone. The Committee had agreed that from the perspective of the *Bowhead SLA*, there is no additional conservation concern over the taking of a calf.

No bowhead whales were taken by Russian hunters, for technical reasons and because the animals had migrated farther off the coast than usual.

The Committee reaffirmed its advice from last year that the *Bowhead SLA* remains the most appropriate tool for providing management advice for this harvest. The results from the *SLA* show that the present strike limits are acceptable and will not harm the stock.

5.1.2 Discussion and recommendations

Sweden noted the forward projected ice-based estimate for 2004 (of 11,600) and asked what the ice-based estimate from 2001 had been, and what was the annual percentage rate of increase. The Chair of the SWG recalled that the 2001 estimate had been around 10,400 with 95 percent confidence intervals of 8,200-13,500 and that the annual rate of increase since 1978 has been about 3.2 percent (95% CI=1.4-5.1%).

The USA introduced Mr Harry Brower, Chair of the Alaska Eskimo Whaling Commission (AEWC) to make a presentation on behalf of the AEWC. The Chair of the AEWC noted that the Alaskan Eskimo bowhead whale subsistence hunt takes place in 11 villages which span over 1,000 miles of northern Alaskan coastline. The culture and social structure of these communities is built around the annual subsistence harvest of the Bering-Chukchi-Beaufort Seas (B-C-B) stock of bowhead whales. The Chair of the AEWC reported that under the AEWC's management of the Alaskan bowhead whale subsistence hunt, the B-C-B stock remains healthy and is continuing to increase. He noted that over the last three decades the IWC's Scientific Committee has concluded that the B-C-B stock is continuing to increase and calf production is high. In 2007, the Scientific Committee confirmed that the B-C-B bowheads are in fact one stock.

The Chair of the AEWC further reported that the village of Point Lay was accepted as a member of the Alaska Eskimo Whaling Commission by unanimous consent of the whaling captains during the AEWC's Annual Meeting in February 2008. This admission was based on the needs study completed by Stephen Braund, who had also prepared the original 1983 report on the Alaskan Eskimo aboriginal subsistence need for bowhead whales, and periodic updates. Mr Braund had also prepared the needs study for the village of Little Diomedé which had been accepted into the AEWC about 10 years ago.

The Chair of the AEWC advised that during the 2007 bowhead whale subsistence hunt in Alaska, 63 whales were struck with 41 landed, for an efficiency rate of 65 percent. He noted that this figure is lower than the 12-year average of 78 percent efficiency and explained that most of the struck and lost whales occurred in the spring when unusually poor ice and weather conditions were experienced. These conditions had made hunting very difficult and dangerous; in some villages there were only a few good days of hunting. The Chair of the AEWC further noted the continuing expansion of the use of penthrite projectiles. He reported that whaling captains in five of the villages have now been trained in their use and a new shipment of 100 projectiles has just been received. The AEWC is looking into travel, shipping and training funds for the remaining villages.

In closing, the Chair of the AEWC thanked the US Government for the opportunity to manage the bowhead whale subsistence hunt under the Cooperative Agreement. He also thanked both the USA and the North Slope

Borough for the very significant contributions of financial and scientific support for research on bowhead whale biology.

The UK expressed gratitude for the report from the AEWC but noted its concern at the rise in the struck and lost rate. It asked, if the conditions of this year were to become the accepted norm, whether there was anything that could be done to change the time of the hunt to when conditions might be more favourable and the efficiency might therefore be higher. In reply, the USA noted the continuing use of the penthrite projectile in order to increase the efficiency. With regard to weather and ice conditions, it observed that these were something over which the hunters had no control.

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

5.2 North Pacific Eastern stock of gray whales (annual review)

5.2.1 Report of the Scientific Committee

The Chair of the SWG reported that the Committee had accepted a new abundance estimate for eastern gray whales from the 2006-2007 southbound migration of 20,110 (SE=1,766). It also received new information and a review of past data from one of the Mexican breeding lagoons (Laguna San Ignacio).

The Committee had received a proposal that a 'stinky whale' be defined as a whale that has a strong, unnatural, pungent odour that makes the whale inedible. Results of the analysis of tissue samples from two stinky gray whales and one edible control whale collected in 2007 had been presented. After discussion, the Committee agreed that a scientific definition cannot be developed now, the Committee recognised that the 'stinky' condition is a real phenomenon characterised by a distinct odour not found in the majority of whales. This odour may be detectable from landed whales or sometimes from the whale's blow. The reason for this condition is unknown, but research is ongoing.

A total of 126 gray whales were landed and utilised by aboriginal hunters of Chukotka, Russia in 2007; in addition 3 were killed but lost and 2 were 'stinky' (inedible).

The Committee reaffirmed its advice that the *Gray Whale SLA* remains the most appropriate tool for providing management advice. It confirms that the current limits are acceptable and will not harm the stock.

5.2.2 Discussion and recommendations

Mexico recognised the issue of stinky whales as a serious problem, and suggested that the terminology used to describe the phenomenon should be changed from 'stinky' to 'inedible' whales.

The Russian Federation noted that, as promised in 2007, it had proposed to the Scientific Committee a definition of a 'stinky whale': a whale that has a strong, unnatural, pungent odour that makes the whale inedible. This proposed definition had been discussed for some time at the Scientific Committee and the conclusion reached was that this is a real phenomenon and the whales smell bad. Whilst a scientific definition had not been agreed at this time, the main point is that the animals have an unnatural smell and they are inedible. The Russian Federation told how in villages where there had only been a small harvest of whales the people had eaten stinky whales as there was

no other source of meat but had ended up sick with allergies and diarrhoea. The dogs in the villages do not eat meat or blubber from these whales.

The Russian Federation recalled that in their definition of 'stinky whales', the whales have an unnatural smell and are inedible and said that it would like to have this definition included in the Schedule. The Russian Federation noted that discussion of this definition could continue and that even if it is not in the Schedule said that it should be included in the Chair's Report of the IWC and other reports. It proposed that its proposed definition be used as a working definition.

Sweden then referred to a reference to 'stinkers' in the paper by the USA (IWC/60/21) which had been tabled for information. Sweden noted that it had thought that the stinky phenomena was restricted to gray whales of Chukotka and asked if the reference to 'stinkers' is the same as 'stinky whales' and if this phenomenon is therefore occurring elsewhere. The USA clarified that it is a different phenomena and that whales with a medicinal smell are not reported in Alaska. The term 'stinker' refers to a bowhead whale that has been struck and lost under the ice and then later retrieved in a decomposed state. The Russian Federation added that the 'stinky' phenomena so far noted in Chukotka is not confined to whales but has also been observed by native people in other species such as walrus, seal, some ducks, molluscs and in murre eggs.

The Chair then invited the Russian Federation to present paper IWC/60/ASW4 (Informational update on 'stinky' gray whales).

The Russian Federation recalled the earlier discussion of a definition for 'stinky' whales and repeated that it would like its working definition ('a whale that has a strong, unnatural, pungent smell that makes the whale inedible') at least included in the Chair's Report of the Plenary and ideally, for it to be incorporated in the Schedule. The paper provides a progress report on the results of ongoing research on 'stinky' whales. The Russian Federation noted that, last year, samples from two stinky whales and one control whale were collected. The samples arrived at the laboratory without being thawed from their original freeze and the chemist noted that there was a strong smell associated with the liquid obtained when the sample was thawed. This kind of liquid is only available from the thaw after the initial freezing, and this was the first time therefore that this type of intercellular fluid could be analysed. The chemical compounds identified are used for extinguishing fires and are of a type not used in Russia for fire suppression. The Russian Federation noted that whilst there are no consistent numbers for stinky whales from year to year, the trend appears to be an overall increase in the numbers of whales with this particular smell.

In terms of future research, the Russian Federation agreed to continue to collect samples and divide them between laboratories in Russia and USA, and also to invite chemists and toxicologists from other countries such as Mexico, Norway and Japan to participate in this work. If possible, it will also attempt to collect samples from other animals with a similar stinky smell. Whilst flame retardants appear to be the cause of the smell, further work by US chemists will provide a final conclusion to the chemical analyses.

The USA added that its scientists are working with the Russian scientists in developing a cooperative research effort in 2008. It is also hoped to include other international scientists as part of this work.

Japan noted that its scientists have participated and cooperated in this work, and they will continue to do so. Japan queried whether fire retardants used in fighting mountain and forest fires in North America contained the chemical compounds identified.

The Republic of Korea expressed its initial thought that if a working definition of 'stinky' whales is to be included, then some sort of legal caution would also be needed to indicate a potential risk to humans from consuming 'stinky' whales which could be harmful or even lethal.

The UK expressed some difficulty that if the Scientific Committee did not seem to think it had the basis to arrive at a definition for 'stinky' whales this year then it would be reluctant for this Sub-Committee to recommend a definition. It queried what advantage there was from including a definition in the Schedule unless there was also a provision for such whales to be discounted against the quota. There had been no discussion however of this latter point and any agreement still appeared to be some way off.

At the request of the Russian Federation, the Sub-Committee **agreed to recommend** that the Scientific Committee be requested to recommend a definition of 'stinky' gray whales for next year.

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

5.3 Common minke whale stocks off Greenland (annual review)

5.3.1 Report of the Scientific Committee

The Chair of the SWG reminded the Committee that there are two fisheries to consider under this Agenda Item, that off East Greenland and that off West Greenland.

EAST GREENLAND

The Chair of the SWG reported that two common minke whales were caught off East Greenland in 2007 (1 female; 1 unidentified sex) and there were none struck and lost. Relevant new information on the Central stock of common minke whales was considered under the *Implementation Review* of common minke whales in the North Atlantic.

In 2007, the Commission agreed to a quota of 12 minke whales struck annually from the stock off East Greenland for 2008-2012, which the Committee stated was acceptable in 2007. The present catch limit represents a very small proportion of the Central stock. The Committee agreed that the present catch limit will not harm the stock.

WEST GREENLAND

The Chair of the SWG had noted that last year the Commission agreed to a quota of 200 minke whales struck annually off West Greenland; the Committee had provided advice on a range of 170-230. The Committee stressed that it has made great progress towards being able to provide firm management advice for this stock. In particular, there is an accepted abundance estimate from the 2005 aerial survey of 10,800 (95% CI 3,600-32,400). In addition, as already discussed, considerable progress had been made on developing an assessment method incorporating the available sex ratio data. With a further intersessional Workshop, it should be possible to finalise work on the applicability of sex ratio data to provide management advice at the 2009 Annual Meeting. Should this work

prove successful, it would also represent an important step forward towards the development of a full *SLA* approach for providing long-term advice.

In terms of advice this year, the Committee had noted that the 2005 abundance estimate was not statistically significantly different from the 1993 estimate accepted by the Committee, although the power to detect differences is low owing to low precision. Questions about stock structure remain. Although the survey estimate does not apply to the whole population, it is still not presently possible to determine by how much it is an underestimate. This issue will be addressed should the proposed assessment method prove to be applicable next year. However, despite the great improvement in the situation compared to previous years, the Committee remains concerned that it is not in a position to give authoritative advice on safe catch limits this year. Given that, it agreed that it is not possible for it to give more than interim *ad hoc* advice for the forthcoming season, noting that it believed that there was a reasonable chance that it would be in a position to provide advice next year. It notes that last year it had recommended that any quota established by the Commission on the basis of the interim *ad hoc* advice below be limited to one year only.

Until the work on the sex-ratio methods is completed next year, the Committee is therefore in the same position as in the past two years. It again stressed that the Commission should exercise caution when setting catch limits for this stock. The Committee was thus not in a position to recommend a single number, but repeated its previous advice to the Commission that the estimated annual replacement yield ranges from about 170 to 230. The replacement yield is the catch level yielding no net increase in abundance.

It re-emphasised its view that safe long-term management of aboriginal whaling is best accomplished under an agreed *AWMP SLA*. It therefore agreed that development of an *SLA* for this fishery should begin as soon as practical.

5.3.2 Discussion and recommendations

Argentina queried the Chair of the SWG as to whether the interim advice might put the population under threat, particularly given sex ratio bias in the catch. The Chair of the SWG responded that the Scientific Committee was not in a position this year to give authoritative advice on safe catch limits but had given interim *ad hoc* advice which was the same as the advice given for the previous two years. The Chair of the SWG emphasised that the Scientific Committee had agreed that this advice was for one year only; and they would not have given it if they believed it as inappropriate. The Committee believed that next year, it should be in a position to give advice based on the sex-ratio method he had referred to earlier. He also noted that the Committee agreed that it was not appropriate for it to provide advice such as this year after year and this was why it was giving such high priority to developing a safe assessment method for the coming year as well as placing emphasis on developing *SLAs* for the Greenlandic fisheries.

The UK said that many delegates would have seen the recent NGO report examining commercial elements in Greenlandic Aboriginal Subsistence Whaling which suggests that the nature and volume of sale of product from this hunt is of a level to cause concern. The report suggests that some 40-50 minke whales are purchased commercially

and sold in supermarkets for considerable profit. Little of these funds appear to go back to local communities. The UK said that, if accurate, this situation is of considerable concern to it. Whilst the UK did not suggest that a commercial element in aboriginal subsistence whaling is entirely prohibited, this should be on a limited scale. The UK said that it would not envisage that limited trade equated to trade involving some one-quarter of the total animals taken. Any commercial aspect should relate primarily to the buying of product and its sale within the local community.

The UK further questioned the basis of determining subsistence need. The UK's concern is not to provide product to every Greenlander but essentially to the hunting and fishing communities. The UK asked whether in determining need, the figures are based on the entire population of Greenland. The UK also noted that, according to this report, a significant volume of product is still in (presumably supermarket) freezers. The UK's concern is to determine what the real need is and suggested that the Scientific Committee in cooperation with Denmark might consider this. Attention was also drawn to the different conversion factors used for assessing whales to product.

This issue, the UK said, goes to the heart of a key principle on which subsistence whaling rests and by which it is allowed to proceed in a slightly less rigorous manner than commercial whaling. But if the whaling is really commercial or substantially commercial in nature then it should not be permitted as aboriginal subsistence whaling.

Greenland on behalf of Denmark responded that the document referred to by the UK is not an official IWC document submitted to the Sub-Committee so there should not be any discussion of its contents or the allegations made by the UK. The report has not been submitted to Greenland so there has been no time to study it or speak to the people involved in the study, which it understands was done in secret by WSPA. Whilst there was no wish to prolong the discussion, the representative from Greenland referred Sub-Committee members to the definition of 'subsistence' contained in the Chair's report of the 56th Annual Meeting of the IWC in 2004 (*Ann. Rep. Int. Whaling Comm.* 2004: 15). This is the practice followed in Greenland. The word 'predominant' however from this definition is undefined.

Denmark commented further on the commercial aspect. It noted that the Central Government requires Greenland to enter into monetary transactions as the purchase of the penthrite grenade and other equipment is an expensive exercise. Denmark added that if money were not involved then you would be left to hunt with a cold harpoon, which needs to be viewed in an animal welfare context.

New Zealand commented that the point raised by the UK and commented on by Denmark raises an important question of principle: what is Aboriginal Subsistence Whaling? This will be important for later discussions in the Plenary. New Zealand suggested that it is known what aboriginal subsistence whaling is not – it is not commercial whaling. New Zealand referred to the provisions of Schedule paragraph 13, and noted that paragraph 13(a) tells us that aboriginal subsistence whaling is to satisfy aboriginal subsistence need, but recognised that these words do require some interpretation. The next question then relates to customary and traditional use of whale products by indigenous people. New Zealand then noted

that the second requirement of the Schedule relevant to Greenland aboriginal subsistence whaling is in paragraph 13(3) that the take is only available '*when the meat and products are to be used exclusively for local consumption*'. New Zealand suggested that if this legal interpretation is valid, then whale meat that moves in the channels of commerce is not in conformity with aboriginal subsistence whaling, and such whaling is in fact commercial whaling. The distinction between commercial whaling and aboriginal subsistence whaling is necessary and important and the definition of aboriginal subsistence whaling is not an elastic definition that can be portrayed as something it is not. It is a point of very substantial importance as to what the category is; what it comprises; and what it doesn't comprise.

The Greenland representative then referred members to the document submitted last year by Denmark, IWC/59/ASW8 (White Paper on Hunting of Large Whales in Greenland), which provides a brief review of Greenland whaling history, and covers welfare aspects, the needs issue, and future plans. The report by the NGO being referred to by New Zealand and the UK consists of numbers that are not right and has been made using misleading means and in secret, and included the taking of video footage. The people who had provided information did not know that it would be misused in the IWC by member states referring to this report in this meeting and the NGO distributing it. The Greenland representative requested that the allegations made by the UK and New Zealand be withdrawn and that members use as their reference the White Paper presented by Denmark in 2007. The Greenland representative noted that considerable progress has been made by the Greenland Research Project and the IWC has received the various documents and these have been dealt with in a constructive manner. The Greenland delegation members are proud that the work of scientists has resulted in new, clear recommendations for all but minke whales off West Greenland. The Greenland representative foreshadowed some new presentation of needs being made during the Commission meeting.

Denmark further noted that Greenland is a special place where it is not easy to get to various locations and where there is an obligation to secure food supplies in various areas. Meat taken in one place therefore, needs to be transferred to other areas. Denmark also noted that the company in question is owned by the Greenland Home Rule Government so any profit is the people's.

The Chair recognised that this issue is very important, but there was little hope for consensus. He proposed that there be an opportunity now for views to be expressed and that the various perspectives be transmitted to the Plenary.

The UK referred to the earlier intervention by the representative of Greenland in which she had asked the UK to withdraw its allegations. The UK stated that it had referred to a report and said that if the report proved to be true then it raised some serious concerns.

New Zealand also responded to the request for it to withdraw its allegations, noting that it did not even refer to the WSPA report but had only been trying to bring the issue of aboriginal subsistence whaling within the language of the Schedule. There was no allegation therefore for it to withdraw.

Germany asked if Greenland could give more information about the commercial sales. It also sought clarification as to the basis for the calculation of need. Is

the need based on the Inuit population, or the total population of Greenland? Germany observed that aboriginal subsistence whaling has further intensified but would only see a basis for calculation of additional quotas if current limits for all species have been fully utilised.

Australia recalled the practice in a number of other conventions when a third party report is produced for it to be assumed that the state party is fulfilling its obligations, but for that party to reflect on its obligations under the relevant convention and report back to the members. Australia suggested that Denmark might like to consider such an approach.

Denmark then responded to a number of the questions or points made. In order to help develop an understanding of the use of large mammals in Greenland, the representative of Greenland explained that after a whale is caught the whale meat, blubber and mattak are divided and distributed in various ways. Some goes to the hunter and families where the whale is taken; some is sold in the local market; some is stored for the hunters own private use in the winter; some is dried and salted; some is sold to the one plant (in Maniitsoq) that is purchasing whale meat and from here meat, blubber and mattak is distributed to places where the hunt of large whales is not possible or where only a small number are taken. The Greenland representative said that it is not at all a secret that there are local sales of whale meat and that Greenland has been open in providing this information.

On the question of sales or distribution to non-residents, the representative of Greenland said that it is not their nature to prevent tourists or family members from tasting whale meat. Just as in the same way that as a tourist in Australia the representative of Greenland had tasted kangaroo and crocodiles, it is assumed that tourists in Greenland would like to taste whale meat. The assumption is that this is not talking about a large amount of whale meat. On the question as to why Greenland does not take the whole quota of fin whales, the representative explained that fin whales are not a favoured species as the whales are fast and big and difficult to take and difficult to flense but the quota was forced on them when the taking of humpback whales was stopped. For further information, members were referred to the White Paper produced in 2007. Greenland said that since the report had been produced by an NGO and had been distributed through unofficial channels there is no need to use time in discussion of it.

On the request from Germany for more information to be provided to the Commission Meeting the Greenland representative said that they are not able to collect such information in a few days and they would not react to that request as the document concerned is not an official IWC document. On the question as to whether the needs statement put forward last year was based on the total Greenland population or just the Inuit population, the representative of Greenland replied that in Greenland, they do not distinguish between Inuit, Danes and people from other nations. The needs statement is for the total population. It would be discriminatory to tell Danes that they cannot eat whale meat because they are Danes.

Denmark further referred to the definition of subsistence use adopted in 2004 whereby the meat is predominantly consumed by the communities and said that this is what is happening in Greenland. Denmark added that the conditions in the aboriginal hunt in Greenland are difficult

and when a hot harpoon is used this must be financed by the selling of meat and government assistance. Again there is consistency with the definition of subsistence use. Responding further to Germany's comments, Denmark said that it is not possible to reply as people are not registered according to ethnic origin, but instead are registered according to where they were born. Thus a baby of Greenlandic parents born in Copenhagen is a Dane.

Switzerland commented that it was quite difficult to have a proper discussion on this issue given that it is based on a document presented by an NGO containing a lot of information. Noting the White Paper presented by Denmark in 2007, Switzerland asked it if would be possible for Denmark to submit next year a similar sort of document giving information on species hunted, need and methods of distribution.

Responding to an earlier suggestion that the Scientific Committee might look at the need, the Chair of the SWG pointed out that it is accepted practice by the Commission that the Scientific Committee is not the appropriate body to look at need but it is in the terms of reference for this Sub-Committee. The UK clarified that what could be asked of the Scientific Committee is not for it to report on need, but for it to consider what the yield of meat and products might be from the various species of whales taken. The Chair of the SWG confirmed that the Scientific Committee could consider this if it received a paper on the topic.

The Sub-Committee agreed that the perspectives put during this discussion be transmitted to the Plenary. The Sub-Committee also noted 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 was pleased to report that the Committee had an agreed estimate of abundance of 4,656 (CV=0.46; 95% CI 1,890-11,470) for 2007. It had also received a new assessment incorporating this estimate using the method approved last year. It noted that the updated assessment would be useful not only for developing interim *ad hoc* management advice, but also for the development of a long-term *SLA* for fin whales off West Greenland.

A total of 10 (4 females, 6 males) fin whales were landed, and 2 struck and lost, in West Greenland in 2007.

In 2007, the Commission agreed to a quota (for the next five years) of 19 fin whales struck annually off West Greenland based on the range of 14-26 advised by the Committee last year. This year, the Committee was pleased to have developed an agreed approach for determining interim management advice for this stock as discussed under Item 3.3. above. On the basis of this the Committee agreed that the current catch limit will not harm the stock.

5.4.2 Discussion and recommendations

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

5.5 West Greenland stock of bowhead whales

5.5.1 Report of the Scientific Committee

The Chair of the SWG reported that the Committee had considered two new papers relevant to the question of the stock structure of bowhead whales of Eastern Canada and West Greenland. Unfortunately, the discovery of some errors in genetic data during the meeting meant that the Committee could not discuss the genetic information this

year. On the basis of the information available to it, the Committee reconfirmed that a single shared Canada-Greenland stock in the eastern Arctic should be considered the working hypothesis. A thorough discussion on stock structure, including revised analyses of genetic data will occur at next year's meeting.

The Committee was also pleased to agree an abundance estimate applicable for providing management advice at this meeting: 6,344 (95% CI=3,119-12,906). The estimate is expected to be negatively (conservatively) biased because of the strip transect approach adopted and because the survey effort covered only a portion of the population.

The Chair of the SWG noted that in 2007, the Commission had agreed to a quota (for the next five years) of two bowhead whales struck annually off West Greenland but the quota for each year shall only become operative when the Commission has received advice from the Scientific Committee that the strikes are unlikely to endanger the stock.

This year, the Committee was pleased to have developed an agreed approach for determining interim management advice for this stock (see Item 3.3). Given this, the Committee agreed that the current catch limit will not harm the stock. It was also aware that catches from the same stock have been taken by a non-member nation, Canada. It noted that should Canadian catches continue at a similar level as in recent years, this would not change the Committee's advice with respect to the strike limits agreed for West Greenland.

5.5.2 Discussion and recommendations

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

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

5.6.1 Report of the Scientific Committee

The Chair of the SWG noted that the Committee had received no information on catches of humpback whales off St. Vincent and The Grenadines during 2008 but he noted that after the meeting, St. Vincent and The Grenadines had reported that one animal had been caught and another struck and lost. There was no new information on stock structure or on abundance and trends for this stock. The SWG strongly encouraged collection of genetic samples for any harvested animals as well as fluke photographs, and submission of these to appropriate catalogues and collections. In respect of genetic samples, the SWG had agreed that the North Atlantic Whale Archive maintained by Per Palsbøll at Stockholm University was an appropriate facility.

In recent years, the Committee has agreed that the animals found off St. Vincent and The Grenadines are part of the large West Indies breeding population. The Commission adopted a total block catch limit of 20 for the period 2008-12. The Committee agreed that this catch limit block will not harm the stock.

5.6.2 Discussion and recommendations

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

5.7 Humpback whales off West Greenland

5.7.1 Report of the Scientific Committee

The Chair of the SWG was pleased to report that the Committee had reviewed information on abundance and

trends of humpback whales of the West Greenland feeding aggregation. The Committee had previously agreed that this was the appropriate management unit for this potential fishery. The Committee agreed that a new, fully corrected estimate for 2007 of 3,040 (CV=0.45; 95% CI 1,310-7,050) was acceptable for use in assessments. It also agreed an estimate of the rate of increase of humpback whales off West Greenland was around 9% per year (SE 0.0124) for the period 1984-2007. The comment was made that apparently few calves were reported from West Greenland given this rate of increase and the Greenlandic scientists agreed to examine the original field notes from the surveys to examine this.

The Committee also received an assessment paper. However, it had agreed that while modelling exercises such as this were interesting and provided some information on underlying population dynamics, it was more appropriate to focus future management efforts on the approaches such as that considered under Item 3.3.

Last year, the Committee had been unable to provide management advice for the humpback aggregation off West Greenland. This year, the Committee was pleased to have developed an agreed approach for determining interim management advice for this feeding aggregation (see Item 3.3). Given this, the Committee agreed that strikes of up to 10 humpback whales will not harm the stock.

5.7.2 Discussion and recommendations

Denmark on behalf of Greenland advised that it would be submitting to the Commission a proposed Schedule amendment for the take of humpback whales. In an earlier discussion the Netherlands had asked why this issue was critical at this time, but also noted a previous comment that fin whales are fast and difficult to catch whilst humpback whales are slow and easy to catch and thought that this may be the answer. The Netherlands therefore asked whether there were animal welfare reasons for this quota. Denmark advised that in 1997 it had received the first mandate from Greenland to request a quota for humpback whales but until now the scientific information and results had not

been adequate and so the decision was taken not to put a formal request for a quota to the Commission.

The Netherlands further observed that on the one hand the existing quota has not been met for many years, but on the other an additional quota is being requested. Denmark explained that the main reason the quota is not fully utilised is that fin whales are large animals, very fast, and there are only a few vessels equipped with harpoons able to take these whales. The primary source of meat for Greenlanders has traditionally been humpback and minke whales. In order to continue to obtain whale meat, a quota for fin whales was given following the protection of humpback whales. With respect to animal welfare, Denmark explained that it is not only the techniques used that affects this, but also the weather and ice conditions play a significant role. Denmark gave the example of East Greenland, where the quota was not fully utilised last year due to the ice conditions and bad weather.

Mexico noted that the population growth rate is at its limit but also that almost no calves were seen. Mexico speculated that either the humpback calves were somewhere else or the calves had been missed by the observers. The Chair of the SWG advised that the information provided regarding the estimates of abundance estimates had been based on the number of sightings of individual animals; the Greenlandic scientists had agreed to go back to the original notes to check whether calves had been recorded. In any event, the estimate of the rate of increase would not be affected.

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

6. OTHER MATTERS

No other matters were raised.

7. ADOPTION OF REPORT

The report was adopted 'by post' on 22 June 2008.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Donna Petrachenko
Nick Gales
Lesley Gidding
Andrew McNee
Pam Eiser

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Alexandre de Lichtevelde

Brazil

José Palazzo
Onildo João Marini Filho

Denmark

Leif Fontaine
Ole Heinrich
Nette Leverman
Amalie Jessen
Lars Witting

Finland

Esko Jaakkola
Penina Blankett

Germany

Walter Duebner

Karl-Hermann Kock

Petra Deimer-Schuette

Iceland

Stefán Ásmundsson
Gísli Víkingsson

Italy

Caterina Fortuna

Japan

Minoru Morimoto
Joji Morishita
Dan Goodman
Takashi Koya
Akira Nakamae
Hideaki Okada

Republic of Korea

Hyun-Jin Park
Yeon-Suk Lee
Zang Geun Kim

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer
Jan Henderson
Mike Donoghue

Norway

Halvard Johansen
Egil Øen
Lars Walløe
Hild Ynnesdal
Einar Tallaksen

Portugal

Jorge Palmeirim
Marina Sequeira

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Peter Omrynto

St. Lucia

Vaughn Charles

St. Vincent and The Grenadines

Raymond Ryan

South Africa

Herman Oosthuizen

Spain

Carmen Asencio
Santiago Lens

Sweden

Bo Fernholm
Stellan Hamrin

Switzerland

Bruno Mainini

UK

Richard Cowan
Panayiota Apostolaki
Trevor Perfect
Luke Warwick
Claire Bass
Jennifer Lonsdale

USA

Doug DeMaster
Bob Brownell
Shannon Dionne
Roger Eckert
Cheri McCarty
Rollie Schmitt
Michael Tillman
Heather Rockwell
Terra Lederhouse

Secretariat

Greg Donovan

Appendix 2
AGENDA

- | | |
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| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Appointment of Chair 1.2 Appointment of rapporteur 1.3 Review of documents 2. Adoption of the Agenda 3. Aboriginal Subsistence Whaling Management Procedure <ol style="list-style-type: none"> 3.1 Progress with the Greenlandic Research Programme <ol style="list-style-type: none"> 3.1.1 Report of the Scientific Committee 3.1.2 Discussion and recommendations 3.2 Preparation of the <i>Implementation Review</i> for gray whales <ol style="list-style-type: none"> 3.2.1 Report of the Scientific Committee 3.2.2 Discussion and recommendations 3.3 General consideration of the provision of <i>ad hoc</i> advice <ol style="list-style-type: none"> 3.3.1 Report of the Scientific Committee 3.3.2 Discussion and recommendations 4. Aboriginal Whaling Scheme (AWS) <ol style="list-style-type: none"> 4.1 Report of the Scientific Committee 4.2 Discussion and recommendations 5. Aboriginal subsistence whaling catch limits <ol style="list-style-type: none"> 5.1 B-C-B Seas stock of bowhead whales | <ol style="list-style-type: none"> 5.1.1 Report of the Scientific Committee 5.1.2 Discussion and recommendations 5.2 North Pacific Eastern stock of gray whales <ol style="list-style-type: none"> 5.2.1 Report of the Scientific Committee 5.2.2 Discussion and recommendations 5.3 Common minke whale stocks off Greenland <ol style="list-style-type: none"> 5.3.1 Report of the Scientific Committee 5.3.2 Discussion and recommendations 5.4 West Greenland stock of fin whales <ol style="list-style-type: none"> 5.4.1 Report of the Scientific Committee 5.4.2 Discussion and recommendations 5.5 West Greenland stock of bowhead whales <ol style="list-style-type: none"> 5.5.1 Report of the Scientific Committee 5.5.2 Discussion and recommendations 5.6 North Atlantic humpback whales off St. Vincent and The Grenadines <ol style="list-style-type: none"> 5.6.1 Report of the Scientific Committee 5.6.2 Discussion and recommendations 5.7 Humpback whales off West Greenland <ol style="list-style-type: none"> 5.7.1 Report of the Scientific Committee 5.7.2 Discussion and recommendations 6. Other matters 7. Adoption of the Report |
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TERMS OF REFERENCE

The Terms of Reference of the Aboriginal Subsistence Whaling Sub-Committee are to consider the 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 I

Report of the Conservation Committee

Tuesday 17 June 2008, Santiago, Chile

The meeting was opened by Hyun-Jin Park (Republic of Korea), who welcomed participants. A list of participants is given in Appendix 1.

1. INTRODUCTORY ITEMS

1.1 Election of Chair

Hyun-Jin Park (Republic of Korea) was confirmed as Chair.

1.2 Appointment of rapporteur

James Gray (United Kingdom) was appointed rapporteur.

1.3 Review of documents

A list of documents is attached as Appendix 2.

2. ADOPTION OF THE AGENDA

The Agenda, as circulated, was adopted without change (see Appendix 3). The Chair suggested that papers IWC/60/14rev, IWC/60/CCInfo1, IWC/60/15 and IWC/60/16 (see Appendix 2) be addressed under Item 9 'Other Matters'.

Iceland read a brief statement expressing regret that approximately half the Commission were not present and that many countries found the basis of the Committee unacceptable and divisive. Iceland indicated that it would make no further interventions stressing that its silence should not be taken as acceptance of any further comments made or decisions reached and noting that no decisions of the Committee could be reported as being reached by consensus.

Australia was pleased that so many countries continued to support the work of the Committee and saw conservation issues as a key priority of the IWC. Austria stated its belief that the work of the Conservation Committee was in line with current scientific strategies addressing the proper management and conservation of whales and that this year again almost 50% of all the scientific literature published on cetaceans dealt with environmental and conservation issues and many others contained related themes. Brazil supported the views expressed by Australia and Austria and encouraged all members to participate in the work of the Committee. Korea hoped that the difficulties over the establishment of the Conservation Committee as referred to by Iceland could be resolved thus enabling all members to participate in future.

3. INVESTIGATION OF INEDIBLE 'STINKY' GRAY WHALES

3.1 Report on progress

The Chair recalled that during the meeting of the Conservation Committee at IWC/57 in Ulsan in 2005, it was agreed to establish a research programme to address

the issue of inedible 'stinky' gray whales caught by the Chukotkan aboriginal subsistence hunters. The Chair invited the Russian Federation and the USA to report on progress.

The USA reported on continuing joint research to address the issue and noted that the Russian Federation had provided a total of six tissue samples to the IWC Scientific Committee for analysis this year. Research was on-going and a report on the findings would be available for review at IWC/61 next year in Madeira.

3.2 Committee discussions and recommendations

There being no discussion, the Chair welcomed the research and looked forward to receiving the report at next year's meeting.

4. SHIP STRIKES

4.1 Report from the Ship Strikes Working Group

The Chair noted the Third Progress Report from the Ship Strikes Working Group (SSWG) (IWC/60/CC3).

The Chair also noted that Australia, New Zealand, USA, France and Spain had submitted documents relating to ship strikes and that a relevant extract from the report of the Scientific Committee was also available. He suggested that these papers be dealt with first.

National Reports

New Zealand thanked Belgium for its chairmanship of the SSWG and noted that the work of the SSWG was providing a practical information source that could be used to help mitigate problems in its own area of the world. New Zealand was pleased to see the issue of ship strikes raised at the International Maritime Organization (IMO) and congratulated the SSWG on the excellent progress it had made. As mentioned in last year's report, the problem of ship strikes is becoming of increasing concern in the Hauraki Gulf in New Zealand. Following IWC/59, New Zealand reported that it had convened a specialist Workshop on ship strikes led by Dr Michael Moore, an experienced forensic veterinary scientist from Woods Hole Oceanographic Institute in the USA. Dr Moore provided clear directions for conducting a necropsy of a dead beached whale to investigate whether or not vessel strike is likely to have been the cause of death. Key features of such necropsies include: the need for a small but skilled team to conduct the necropsy, the importance of having heavy machinery at hand to assist with dismantling the carcass in a careful manner to look for signs of vessel strike and the importance of pathological and histological investigations of tissues to look for indications of vessel strike at the cellular level.

New Zealand noted that the Workshop had been followed by a seminar with stakeholders including Ports of Auckland, Auckland Regional Council, *Professional Skipper* magazine and the New Zealand Navy. Stake-

holders were very sympathetic to the problem and expressed a willingness to consider the development of mitigation measures such as speed restrictions or changes to shipping lanes should the weight of scientific evidence point towards vessel strike as a major source of avoidable mortality. Subsequent to the Workshop, two of the stakeholders provided financial and material support to allow for a more detailed examination of the records of possible ship strikes in the Hauraki Gulf area. The results of this work have been submitted to the Scientific Committee as SC/60/BC9, and will be submitted for publication shortly. The number of ship strikes on Bryde's whales reported in this paper should be regarded as more reliable than the provisional estimates reported last year.

Spain introduced IWC/60/CC12 (Interaction between maritime traffic and cetaceans in the Canaries Archipelago). It reported that significant steps have been undertaken to avoid ship strikes, including recent legislative developments to ensure greater protection for marine mammals. Recent developments include a 'Royal Decree Establishing Measures for the Protection of Cetaceans' which had been adopted by the Spanish Central Government in December 2007. The objective of the Royal Decree, to be applied in Spanish jurisdictional waters, is the establishment of specific protection measures for cetaceans to improve the ecological status of their populations. The Decree established a 'Mobile Area for the Protection of Cetaceans', defined as a cylinder of 500m of radius, 500m high and 60m deep, around a cetacean or group of cetaceans. The mobile area distinguishes five different sub areas: which are:

- (1) Area of exclusion;
- (2) Area of restricted stay;
- (3) Area of approximation;
- (4) Aerial area; and
- (5) Submarine area.

Special attention is given to impacts from whale watching activities, for which the Royal Decree provides a specific code of conduct.

An Agreement between the Ministry of Defence, the Ministry of Environment and the Regional Government of the Canary Islands aimed at the conservation and research of cetaceans populations in order to prevent accidental strandings entered into force in November 2007. Biological, pathological, physiological and behavioural studies as well as spatial and temporal distribution studies on the cetaceans of the Canaries archipelago, with special attention to sperm whales and beaked whales, will be carried out. It is expected that these studies will lead to the establishment of measures to reduce the impact of Navy sonars on cetaceans.

Spain further reported on progress in the understanding of the interaction between maritime traffic and cetaceans in the Canaries Archipelago through monitoring of stranded cetaceans. This work had been carried out by the regional Government of the Canary Islands in collaboration with cetacean biological and pathological experts. Since 2000, the average number of stranded cetaceans per year in the Canaries has been 44 animals. Since that year, the coverage of the stranding network in the islands is complete and homogenous. The data of stranded cetaceans showing definite or probable signs of collision with ships represent around 10-11% of all the mortality factors of the stranded and analysed cetaceans. The regional Government of the

Canary Islands has the intention to present an exhaustive and detailed study at IWC/61 in Madeira.

The USA introduced IWC/60/CC7 (Update on the United States actions to reduce the threat of ship collisions with large whales). The USA provided new information regarding four deaths of blue whales in waters off Southern California and northern Baja California, Mexico in September 2007 with injuries consistent with collision with a large vessel. At the time of the events, working cooperatively, NOAA's Fisheries Service, Channel Islands National Marine Sanctuary and the Weather Service, together with the USCG, and the Ports of Los Angeles and Long Beach quickly prepared and began to broadcast advisories for mariners entering the Santa Barbara shipping channel. Based on aerial surveys, hourly notices of whale locations were broadcast to mariners and large vessels were requested voluntarily to decrease speeds to no greater than 10 knots while transiting the channel. Vessel monitoring by the ports initially indicated that voluntary compliance was high. After the guidance had been issued, only one further blue whale death attributed to ship strikes was reported.

The USA also reported that it has developed regulatory and non-regulatory measures to reduce ship strikes, including proposed operational measures for vessels, education and outreach programmes, technological research, and research and monitoring activities. It further acknowledged the important work of the SSWG in promoting this issue on a global scale.

France presented IWC/60/CC9-FR (Whale-ship collisions: work and outlook from a team in the pelages Sanctuary). It reported that the western basin of the Mediterranean and especially the Pelagos Sanctuary zone constitute an ideal 'test area' for measures designed to reduce collision risks which is suitable for replication in other seas and oceans of the world. Maritime traffic in the sector is particularly intense and is growing. These ecological and human parameters combine to make the Pelagos Sanctuary a high-risk collision zone.

France reported that it has introduced applications to reduce the risks of collisions, most recently developing a real-time whale-position reporting network for merchant ships (REPCET; REal-time Plotting of CETaceans). This system allows for the better exchange of information between merchant ships in the Mediterranean to help crews avoid instances of ship strikes. Sightings of cetaceans are transmitted to a land based observer which is then sent to all ships in the area allowing vessels to adapt speed or alter course according to the presence of whales thereby reducing the risk of collision.

Australia reported seven instances of ships strikes on cetaceans in 2007 (further details can be found in IWC/60/CC4). It was pleased to note the successful proposal to add measures to prevent ship strikes on cetaceans to the work programme of the IMO Marine Environment Protection Committee. The aim of the work is *inter alia* to develop an IMO guidance document for use by IMO member governments in addressing the issue of ship strikes. Australia looked forward to further work being done and encouraged the continued process of the IWC attaining IGO status in the IMO.

Ship Strikes Working Group (SSWG)

Alexandre de Lichtervelde from Belgium (Chair of the SSWG) introduced the Third Progress Report from the SSWG (IWC/60/CC3) and noted they had in addition met

on Monday 16 June 2008 to review progress and to develop recommendations for further work for review by the Conservation Committee. The report of that meeting, including the further recommendations, is included as Appendix 4. He noted that significant progress has been made, primarily in relation to the IMO, where ship strikes are now on the agenda of the work programme of the Marine Environment Protection Committee, but also regarding future IWC observer status, and in the development of a global database on ship strikes, which now includes 763 records.

The SSWG Chair outlined current progress against each of the ongoing recommendations in the current SSWG work plan, noting that progress had been made in all areas except the development and implementation of national legislation. He encouraged IWC members to continue to include ship strikes data in national progress reports and noted that work has been carried out with success to set up a centralised international database on ship strikes and develop it as proposed by the Scientific Committee.

The SSWG Chair noted that introducing national and regional legislation to reduce the impact of ship strikes, with priority for high-risk areas, remained valid and is the responsibility of Contracting Governments and further noted that the Canary Islands and Hauraki Gulf are the first two examples of high-risk areas for consideration by the SSWG. He noted that some progress has been made to identify and circulate information on training material for crew and maritime officials and that it will remain an ongoing process. Spain was welcomed as a new member of the SSWG and the group was encouraged to circulate the progress report and other ship strikes information more widely and to all stakeholders.

The SSWG Chair noted the intention of several countries to submit collisions data at IWC/61 in 2009 and further stressed the importance of the variety of sources for ship strike information and data, e.g.: stranding networks; scientific research; port authorities; and international organisations such as the FAO; and dedicated marine mammal observers.

Updates were provided on mitigation measures in the USA and on progress with intergovernmental organisations and NGOs, in particular IUCN and UNEP. It was reported that the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS) adopted, during its third meeting of Contracting Parties, a resolution on ship strikes on large whales in the Mediterranean Sea (Res. 3.14).

It was further reported that UNEP has 'recognised the matter of ship strikes as an issue of concern and informed that it will be interested in developing a closer dialogue on the ways it could, together with IMO and other relevant organisations bring this matter to a higher place on the marine environmental conservation and management agenda'. With regard to shipping and other industries, it was noted that BP Shipping is funding a Marine Mammal Observation Pack to be used onboard its oil and chemical tankers.

Outlining the next steps to be taken, the SSWG Chair suggested the establishment of a steering committee to develop terms of reference and a proposal for an interdisciplinary Workshop on ship strike mitigation. It was also proposed that the event be focused on the Mediterranean. Regarding the global collisions database, the Chair of the Bycatch Sub-Committee and the

Secretariat explained the required tasks to develop it further and stressed its usefulness for future modelling.

Concluding, the SSWG Chair was pleased to see that the issue of ship strikes had now developed a higher profile in the international community, including increased awareness of the problem, that more data are now available and some technical solutions under development, and that there was a greater involvement of international organisations. He welcomed continued work on this issue and thanked Italy for its voluntary financial contribution for further work.

Attention was drawn to the four major recommendations of the Ship Strikes Working Group to the Conservation Committee.

- (1) The SSWG endorses the recommendations of the Scientific Committee for future work, including that the Secretariat develop and maintain the ship strikes database and integrate it in the IWC website.
- (2) The Conservation Committee should request Contracting Governments to use the agreed ship strike template and submit ship strikes data to the IWC Secretariat on a regular basis.
- (3) The Conservation Committee should request contracting governments to communicate ship strikes data and information to relevant maritime sector bodies, including port authorities, shipping federations, coast guards and other relevant bodies.
- (4) The establishment of a Steering Committee for a multidisciplinary Workshop on ship strike mitigation, noting that Workshop participants should represent experts from within the Commission, the Scientific Committee and appropriate other organisations.

The Committee endorsed these recommendations.

The Chair of the SSWG thanked all countries, the Secretariat, and NGOs for their contribution on the issue.

The UK and Brazil thanked the Chair for the work of the SSWG and welcomed its continued development.

5. SOUTHERN RIGHT WHALE POPULATION OF CHILE-PERU

5.1 Reports from the Workshop and Scientific Committee

Chile reported on the outcome of the Workshop on the status of the southern right whale population held in May 2008 (SC/60/BRG36). The Workshop had analysed existing information on the status of the population and reviewed ecological and biological data on the species. Participants recognised the 'critically endangered' status of this population and the need for greater protection. A number of studies were presented which, upon request, will be sent to interested delegations.

Chile thanked the Governments of Brazil, Uruguay, Peru and Argentina for contributing to this work. Five recommendations came from this Workshop, including the establishment of a large marine protected area and the promotion of increased regional co-operation to enhance knowledge, training and exchange of information internationally and in the Southern Hemisphere. The group hope to submit a report at IWC/61 on progress and recommendations.

In addition the Chair of the Scientific Committee put forward a number of complimentary recommendations including endorsing further international research.

5.2 Committee discussions and recommendations

Australia stated the importance of continuing work on the status of right whales and recommended that this issue remain a high priority in the future work of the Scientific Committee. Argentina and Brazil associated itself with the comments of Australia and encouraged further work.

New Zealand reported a similar experience it had had with dwindling numbers of right whales in its territorial waters. The population is now recovering and stands at between 1,000-1,200 animals due in part to the establishment of protected areas and limiting whale watching operations until the population had shown signs of recovery. New Zealand encouraged the work of the group and was keen to investigate collaborative opportunities.

Chile requested that the item be retained on future agenda of the Conservation Committee. The Committee agreed.

6. WHALEWATCHING

6.1 Report from the Scientific Committee

The Chair of the Scientific Committee introduced the report of the Sub-Committee on Whalewatching. He highlighted the compelling evidence that whalewatching may have effects on whale population levels. The Chair further presented the report of the Intersessional Workshop (SC/60/Rep6) to plan a Large-Scale Whalewatching Experiment (LaWE). The Committee endorsed the report of the Workshop.

The Scientific Committee noted that due to enforcement difficulties, adherence to regulations governing vessel behaviour around whales and dolphins, or to codes of conduct, is sometimes poor and that there can be resistance to 'top down' management. The Committee recommended that codes of conduct should be supported by appropriate legal regulations. Brazil supported the continued work of the Scientific Committee on this issue. Brazil will look to develop its national framework in support of the proper management of whalewatching and will draw on experience and best practice elsewhere.

6.2 Committee discussions and recommendations

Austria pointed to the wealth of information on the potential problems that exist with whalewatching and was pleased to note countries' willingness to engage in discussion and to look for practical ways to mitigate the effects. It urged countries with active whalewatching activities to find a balance between supportive national legislation and voluntary codes of conduct in order to better regulate the industry and provide for the proper management of cetaceans. In addition, it underlined the importance of submitting whalewatching data to the scientific community.

South Africa noted a concern of the Scientific Committee over aerial whalewatching activity. It was pleased to note information on this issue will be collated for consideration and requested, if possible, that the Scientific Committee could provide some scientific recommendations at next year's meeting.

Australia noted the recent successful work of South Pacific Regional Environment Programme (SPREP) working group on whale and dolphin watching. Australia reported that it had pledged \$25,000 in voluntary

contributions to support a potential Workshop to look at developing voluntary 'best practice' guidelines for the industry.

Brazil requested that the management of whalewatching be included as a regular item on the Committee's agenda, recognising that whalewatching has its own challenges and impacts. It noted that scientific aspects of whalewatching have been addressed by the Scientific Committee for a number of years, but that it is not able to follow-up on recommendations relating to management of the activity. Brazil believed that the Conservation Committee was ideally suited to do this. This proposal was welcomed by the Committee and the Chair requested Brazil to develop a more detailed proposal to which South Africa agreed to contribute.

Mexico pointed out that the development of whalewatching as an economic activity has been faster than the development of knowledge to assess impacts of whalewatching on whales. Reports of the Scientific Committee have pointed out that some ecotourism operations may have a negative impact on small cetaceans. However, to date, no such studies have been conducted concerning the possible impacts of whalewatching on large whales. We have a global activity that involves millions of people/year and exposes 700-1,000 cetacean populations to whalewatching worth millions of dollars. Given the lack of definitive studies to guide management of whalewatching, it is important to attain the best and most responsible practises for whalewatching management. Mexico further supported the work of the Whalewatching sub-committee and the establishment of an intersessional correspondence group to look at all aspects of whalewatching and make recommendations for any potential future Workshop. Herman Oosthuizen (South Africa) agreed to convene this group. Brazil supported this idea and recognised Australia's contribution in furthering work on this issue. Mexico expressed its willingness to take part in any group.

Argentina reports that the Argentine Government hosted the Second Latin-American Meeting on Cetacean Conservation on 4-5 December 2007 in Buenos Aires. The meeting underscored the need to strengthen the activities of the Commission, especially those regarding the non-lethal use and conservation of whales, such as the work of the Conservation Committee and continuation of the work on whale killing methods and associate welfare issues. Argentina reported that participants at the December meeting had agreed 'The Latin American Cooperative Strategy for the Conservation of Cetaceans' which promotes *inter alia* the development of responsible whalewatching tourism in the region through regional Workshops for training and exchanging national experiences as well as the exchange of experiences on the enforcement of pertinent national legislations in cetacean conservation and management.

As reported previously, the government of Chubut (Patagonia, Argentina) began a participative process in 2006 to discuss changes that needed to be made to its whalewatching regulations. As a result of this process carried out by the province of Chubut, whalewatching companies, non-governmental organisations and local authorities, Law N° 5714 which regulates southern right whale watching was approved in March 2008. For all these reasons, Argentina endorsed the proposal of Brazil and South Africa.

The Russian Federation highlighted the plight of the critically endangered western gray whale, which may number about 100 animals and made reference to the intensity of on-going research. The Russian Federation asked what effect such research has on this population and what rules apply for such research and asked for recommendations. The Scientific Committee Chair noted these remarks that he would report to the Scientific Committee. He would also investigate whether the Scientific Committee could consider the impact of scientific research on this population and report back to the Conservation Committee next year. Australia urged research groups to collaborate in order to minimise any effects. The Committee endorsed this recommendation.

7. WHALE SANCTUARIES

The Chair of the Scientific Committee reported that no new proposals had been presented at this year's Scientific Committee meeting. He noted the possible Scientific Committee collaboration on the forthcoming First International Conference on Marine Mammal Protected Areas to be held in Hawaii.

Brazil highlighted its intention to once again submit the proposal to the Commission for the creation of a South Atlantic Whale Sanctuary, and noted that this proposal has been endorsed by the Conservation Committee on a previous occasion. Denmark asked the Scientific Committee to review and provide advice on any new proposal for sanctuaries. The Chair of the Scientific Committee confirmed that a procedure is already in place that allows for discussion on any new or re-submitted sanctuary proposal.

Germany noted the ninth meeting of the Conference of Parties of the Convention on Biological Diversity working group on marine and coastal biodiversity which invited Governments to identify significant marine areas in need of protection and to implement conservation and management measures.

8. NATIONAL REPORTS ON CETACEAN CONSERVATION

8.1 Introduction of national reports

National Cetacean Conservation reports had been submitted by Australia, France, New Zealand, USA, Argentina, Italy, Brazil, the UK and Mexico. As in previous years, such reports were welcomed by the Committee and other countries were encouraged to submit them in future.

Mexico reported on the conservation status and protection of the critically endangered vaquita river dolphin and thanked those countries supporting its work in this area, noting its protection was being co-ordinated by the Office of the President and thanking other countries for their input into its conservation. Mexico was pleased to record that \$US18 million are available to be invested in a net buy-out scheme to aid the protection of the species.

9. OTHER MATTERS

Australia presented two further papers introduced to the Scientific Committee this year, as the Committee may be the forum in which to take these initiatives forward.

Firstly, IWC/M08/Info11 (Whale Conservation and Management: A Future for the IWC), which was introduced at the intersessional meeting in March this year, proposed a strategy for modernising the role of the IWC towards contemporary conservation and management focused on conservation of whale populations and managing non-consumptive use of whales.

In this paper, Australia suggests that the IWC can begin to address these shortfalls by: developing internationally agreed, co-operative conservation management plans, taking into account all whale related issues and threats; launching regional, non-lethal, collaborative research programmes to improve management and conservation outcomes for cetaceans; and reforming the management of science conducted under ICRW and IWC auspices, including agreed priorities and criteria for research, and an end to unilateral 'special permit' scientific whaling. New Zealand, the UK and Brazil welcomed the views expressed.

Australia further noted the importance of Conservation Management Plans, as outlined in IWC/60/15, that would enable the Commission to more adequately address non-whaling objectives and non-consumptive uses of cetaceans; respond to emerging non-whaling threats to vulnerable cetacean populations; foster co-operation to improve the conservation status of species; build on the technical work of the Scientific Committee and draw on the strategic management advice of the Conservation Committee. It considered that the Conservation Committee will fulfil a crucial role in the development of these plans.

Australia also introduced its paper on collaborative, regional non-lethal research partnerships, outlining a proposal for the southern ocean (IWC/60/16). In this paper, which was also discussed by the Scientific Committee, Australia proposes the formalised development of regional, non-lethal cetacean research partnerships which will strengthen the performance of the IWC as well as improve whale conservation, management and recovery. Australia has proposed, as an example of such a collaborative research program, a Southern Ocean non-lethal whale research partnership which Australia will develop over the next several Austral summers. The Southern Ocean partnership will be an inclusive program that will encourage cooperation between all IWC members interested in contributing to non-lethal cetacean research in the Southern Ocean. Australia intends to host a planning meeting between now and IWC/61 to refine the goals and methodology of this partnership. There will be an open invitation to IWC members to attend this meeting.

Australia drew attention to the progress made by the Scientific Committee on the forthcoming Climate Change Workshop, noting the primary purpose of the Workshop is to assess the current position and to identify which other kinds of data should be collected. The Workshop is scheduled for spring 2009, with Mark Simmonds as Convenor and Nick Gales as Chair.

Australia, as the current Chair of the CMS standing committee, also thanked the Committee for the opportunity to present IWC/60/CCInfo1 (Developing a CMS programme of work to address adverse human induced impacts on cetaceans). This highlighted the active role CMS plays in cetacean conservation. At the 8th CoP, the secretariat of the CMS Scientific Council was requested to develop a draft programme of work for consideration at the 9th Meeting of Parties in November 2008.

Australia also called for collaboration between CMS and IWC and their relevant committees, highlighting resolution 8.22 of CMS which requests specific consideration of entanglement, bycatch, climate change, ship strikes, pollution, habitat, feeding ground degradation among others. The paper further details the specific activities to be undertaken and requests the support of the IWC Conservation Committee and the Scientific Committee, in particular Bill Perrin (IWC Scientific Committee observer to the CMS) and Greg Donovan (Head of Science at the IWC).

Belgium introduced IWC/60/CC14rev (Future IWC work on cetacean conservation issues, including budgetary implications) and proposed that the following steps be considered by the Commission:

- (1) the budget should be adjusted to provide sufficient funds for the conservation projects recommended by

the Conservation Committee to ensure the scientific needs of the Commission's conservation agenda are met;

- (2) the Conservation Committee should put forward a recommended work plan; and
- (3) the Secretariat should include the required resources, to the extent possible, in its overall budget.

Australia, supported by Brazil and the UK welcomed this initiative and looked forward to further discussion in the Commission.

Brazil thanked the Chair for running an excellent meeting.

10. ADOPTION OF REPORT

The report was adopted 'by post' on 22 June 2008.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Donna Petrachenko

Nick Gales

Andrew McNee

Pam Eiser

Milena Rafic

Lesley Gidding

Austria

Andrea Nouak

Michael Stachowitsch

Belgium

Alexandre de Lichtervelde

Brazil

José Palazzo

Onildo João Marini Filho

Chile

Cristian Maquieira

Francisco Ponce

Maximiliano Bello

Ximena Alcayaga

Karin Mundnich

Francisco Berguño

Czech Republic

Pavla Hýčová

Denmark

Nette Levermann

Finland

Esko Jaakkola

Penina Blankett

France

Vincent Ridoux

Germany

Oliver Schall

Petra Deimer Schütte

Walter Duebner

Karl Hermann-Kock

Iceland

Stefán Ásmunsson

Italy

Roberto Giangreco

Caterina Fortuna

Andrea Lorenzoni

Republic of Korea

Zang Geun Kim

Yeon-Suk Lee

Hyun-Jin Park (Chair)

Luxembourg

Pierre Gallego

New Zealand

Geoffrey Palmer

Michael Donoghue

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaïke Moolhuijsen

Norway

Hild Ynnesdal

Egil O. Øen

Portugal

Marine Sequiera

Russian Federation

Valentin Ilyashenko

Rudolf Borodin

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

Santiago Lens

Sweden

Bo Fernholm

Stellan Hamrin

Switzerland

Bruno Mainini

UK

Richard Cowan

Trevor Perfect

Luke Warwick

Panayiota Apostolaki

Chris Parsons

Claire Bass

Jennifer Lonsdale

USA

Roger Eckert

Rollie Schmitten

Michael Tillman

Shannon Dionne

John Field

Terra Lederhouse

Ryan Wulff

Heather Rockwell

Bob Brownell

Doug Demaster

Cheri McCarty

Scientific Committee

Arne Bjorge

Secretariat

Nicky Grandy

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. Investigation of inedible 'stinky' gray whales <ol style="list-style-type: none"> 3.1 Report on progress 3.2 Committee discussions and recommendations 4. Ship strikes <ol style="list-style-type: none"> 4.1 Report from the Ship Strikes Working Group 4.2 Committee discussions and recommendations 5. Southern right whale population of Chile-Peru | <ol style="list-style-type: none"> 5.1 Reports from the Workshop and Scientific Committee 5.2 Committee discussions and recommendations 6. Whalewatching <ol style="list-style-type: none"> 6.1 Report from the Scientific Committee 6.2 Committee discussions and recommendations 7. Whale sanctuaries 8. National reports on cetacean conservation <ol style="list-style-type: none"> 8.1 Introduction of national reports 8.2 Committee discussion and recommendations 9. Other matters 10. Adoption of the Report |
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Appendix 3**LIST OF DOCUMENTS**

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| <p>IWC/60/CC</p> <ol style="list-style-type: none"> 1rev Revised Draft Agenda 2 List of documents 3 Ship Strikes Working Group: Third progress report to the Conservation Committee 4 Country Report on Ship Strikes: Australia 5 Voluntary National Cetacean Conservation Report: Australia 6 Voluntary National Cetacean Conservation Report: USA 7 Update on the United States' Actions to Reduce the Threat of Ship Collisions with Large Whales 8 Voluntary National Cetacean Conservation Report: UK 9rev Whale-ship collisions: work and outlook from a team in the Pelagos Sanctuary. The example of the REPCET project (submitted by France) – also available in French (IWC/60/CC9-FR) 10 Voluntary National Cetacean Conservation Report: New Zealand 11 Voluntary National Cetacean Conservation Report for the Year 2007 (submitted by France) | <ol style="list-style-type: none"> 12 Interaction between maritime traffic and cetaceans in the Canaries Archipelago (submitted by Spain and the Regional Government of the Canary Islands) 13 Voluntary National Cetacean Conservation Report: Argentina 14 Voluntary National Cetacean Conservation Report: Brazil Info1 Developing a CMS programme of work to address adverse human induced impacts on cetaceans (submitted by CMS) <p>IWC/60/</p> <ol style="list-style-type: none"> 14rev Future IWC work on cetacean conservation issues, including budgetary implications (submitted by Belgium and France) 15 Conservation Management Plans for Improved Cetacean Management (submitted by Australia) 16 Regional Non-Lethal Research Partnerships: a proposal for the Southern Ocean (submitted by Australia) <p>IWC/60/Rep</p> <ol style="list-style-type: none"> 1 Scientific Committee Report (extracts; Annex M) |
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Appendix 4

REPORT OF THE SHIP STRIKES WORKING GROUP

16 June 2008, Santiago, Chile

1. Chair's welcome and opening remarks

The meeting was chaired by Alexandre de Lichtervelde (Belgium), who welcomed the group and in particular the newest member to the Ship Strikes Working Group (SSWG), Spain. The list of participants is given as Adjunct 1.

2. Appointment of rapporteur

Lesley Gidding (Australia) was appointed as rapporteur.

3. Adoption of agenda

The proposed agenda of the meeting was adopted (see Adjunct 2).

4. Review of available documents

See Adjunct 3.

5. Review of progress made since the 59th Annual Meeting of the IWC (Anchorage, 2007)

The Chair presented the Third Progress Report of the SSWG to the Conservation Committee (IWC/60/CC3) noting significant progress has been made, primarily in relation to the cooperation with the International Maritime Organization (IMO) and in the development of a global database on ship strikes.

Cooperation with IMO

The Chair reported that a joint submission has been prepared by a core group of countries and organisations, coordinated by Belgium, for submission to the 57th meeting of the IMO Marine Environment Protection Committee (MEPC57). This invited the Committee to add a new item to its work programme on measures for minimising the risks of ship strikes with cetaceans. The proposal, presented by Belgium, was adopted with strong support and the issue received a high priority. The work of the IMO will include scoping of the issue, preparing an IMO guidance document and the consideration of any gaps in actions that may be taken. This proposal will be further discussed at the next MEPC meeting in October 2008.

The IWC Secretary (Nicky Grandy) reported that the Secretariat wrote to the Secretary-General of IMO expressing IWC's interest in concluding an agreement of co-operation with IMO and thus gaining status as an accredited Inter-Governmental Organisation (IGO). Draft *Terms of an Agreement of Cooperation Between IMO and IWC* have been developed and will be reviewed by the IMO Council at its meeting 16-20 June 2008 and by the Commission during its plenary (23-27 June 2008). It is hoped that the IMO Council will grant the IWC interim IGO status until formal approval can be considered at the next IMO General Assembly in 2009.

Global database on ship strikes

Russell Leaper, Chair of the Sub-Committee on Estimation of Bycatch and Other Human-Induced Mortality, reported on the progress of the global IWC database of ship strikes. The database design developed by the Vessel Strike Data

Standardisation Group was agreed by the Scientific Committee in 2007 and it has also been approved by ACCOBAMS for their work. Subsequently, a small group of scientists have been populating the database. To date, 763 records, mainly from published sources, have been entered. The second report of the Vessel Strike Data Standardisation Group (SC/60/BC5) identified some problems encountered during data entry, particularly validation of data sources and assessing the uncertainty surrounding source data. Consideration is now being given to the best way to continue the data collection process, including ongoing maintenance and quality control of the database and the development of a web-based data entry system. The Scientific Committee has formed a Ship Strikes Data Review Group to validate all data and develop a recommended way forward for the coming year, as discussed further below.

Other progress

The Chair provided a summary of other progress that has been made since IWC/59, including the following.

- Steps taken to minimise the threat or severity of ship strikes in Glacier Bay National Park and Preserve, USA. The actions include restrictions on the number of vessels entering the Park, boater education on operating safely in the presence of whales, restrictions on vessel speed and course and specified approach distances.
- ACCOBAMS adoption of a resolution on ship strikes on large whales in the Mediterranean Sea.
- The IUCN Western Gray Whale Advisory Panel (WGWAP) continued consideration of the mitigation of vessel collision risk on the feeding grounds, including recommendations that marine mammal observers be placed on all key vessels.
- The Chair will be leading a discussion group on collisions at the 4th World Conservation Congress (IUCN) in Barcelona in October 2009 and is seeking to gather a group of experts representative of the different aspects of the issue.
- Following contacts at high level with UNEP, the organisation communicated that it will be interested to develop a closer dialogue to bring this matter to a higher place on the marine environmental conservation and management agenda.
- Information on ship strikes has been provided by the IWC Secretariat as input to the UN Secretary General annual report on Oceans and the Law of the Sea.

Review of Scientific Committee and Conservation Committee documents

Russell Leaper summarised the ship strike-related discussions of the Sub-Committee on Estimation of Bycatch and Other Human-Induced Mortality. SC/60/BC6 reports that 11% of 556 cetacean carcasses found ashore in the Canary Islands between 1991 and 2007 had been classified as fatalities from collisions with vessels. It was noted that lethal ship strikes appear to have increased considerably in recent years and that sperm whales were

the most frequently reported. Potential mitigation measures were discussed, as was the importance of determining whether the animals had been struck before or after death. SC/60/BC9 reported on ship collisions with Bryde's whales off northern New Zealand. Vessel traffic coincides with Bryde's whale habitat, especially around the main port of Auckland, in the Hauraki Gulf. A review of stranding data for northern New Zealand, showed that between 1989 and 2007, about 34% of Bryde's whale carcasses ($n=38$) were confirmed or suspected to have died due to vessel strike injuries.

Leaper reiterated that abundance and trend data are required to understand population level significance of ship strike mortality as well as to interpret changes in reported collision rates, and compare areas thought to have the highest collision risk with reported stranding or carcass locations.

Information from country reports and industry

South Africa informed the meeting that it is looking to identify capacity to work on collating ship strikes information and a South Africa ship strikes report will be submitted to IWC/61. Brazil commented that it is currently finalising the 3rd edition of their National Action Plan for the Conservation on Marine Mammals which will include monitoring and mitigation of ship strikes, in particular evaluating the possibility to modify shipping routes and vessel speeds. Brazil noted that there have only been two cases of reported ship strike per year for the past two years so there is no evidence that the incident of ship strikes is currently increasing in Brazilian waters. The US noted that it will be in the position to submit a paper at IWC/61 on the incident of ship strikes in Hawaiian waters. Belgium noted that BP Shipping has commissioned a Marine Mammal Observation Pack to be used on board its oil and chemical tankers. Argentina reported that there is a potentially increasing risk of ship collisions to right whales off the coast of Argentina (as outlined in IWC/60/BC4). From 1974 to 2004, the southern right whale population observed at Peninsula Valdés has grown at an annual rate of approximately 7% and coincidentally, in the same time period, the human population of the city of Puerto Madryn and vessel activity in the bay in front of the city (Bahía Nueva) had the same average annual growth rate of 7%. The local coast guard are currently looking at ways to minimise the risk to right whales.

In its summary of IWC/60/CC12, Spain reported that for many years, a thorough monitoring of stranded cetaceans has been carried out by the regional Government of the Canary Islands in collaboration with cetacean biological and pathological experts. Since 2000, the average number of stranded cetaceans per year in the Canaries has been 44 animals. Those related to interaction with ships or that show definite or probable signs of collision with ships represent around 10-11% of all the mortality factors of the stranded and analysed cetaceans. Taking into account all the data available to the regional administration, an exhaustive revision of strandings related to collisions is being done. A detailed report with the data of all the historic records of cetacean collision, including the analysis on the degree of certainty of the collision, probability and whether the collision occurred before or after death, will be submitted to IWC/61. A three year Agreement between the Ministry of Defence, the Ministry of the Environment and

the Regional Government of the Canary Islands aiming at the conservation and research of cetaceans populations in order to prevent collisions was entered into force in November 2007. Biological, pathological, physiological and behavioural studies, as well as spatial and temporal distribution studies on the cetaceans of the Canary archipelago, with a special attention to sperm whales and beaked whales, will be carried out.

New Zealand congratulated Belgium on the excellent progress the SSWG has made since Belgium became the Chair on this issue. It then provided a summary of the ship strike issues of the Hauraki Gulf area. The outcome of work undertaken to determine whether stranded whales were the result of ship strikes was that it is not always obvious from the injuries on the animal whether it had been involved in a ship strike and it is important to have a skilled team and the right equipment on the scene to accurately assess the physical damage to the animal. New Zealand has managed to secure funding to further develop this work. New Zealand would like to thank France and others for their contributions to the ship strikes work and it is particularly interested in the work that France is developing in its REPCET programme. New Zealand would like to introduce a similar programme and would like to collaborate with France on this.

France introduced its REPCET programme, which was developed in consultation with NGOs and industry. The concept is to develop a system that allows watch keepers and marine mammal observers on merchant ships in the Pelagos Sanctuary area to report in real time on a web-based system the location, species, and behaviour of cetacean sightings. This system was developed in response to a significant ship strike issue in the busy shipping lanes of the Mediterranean Sea potentially impacting important isolated Mediterranean populations. This project is in the early stages and had recently received funding support from ACCOBAMS and the French government. Italy asked if the French scientists involved in this work would be able to attend the IWC/61 Scientific Committee so that they may discuss this work in details and offered to assist in funding their attendance if necessary. France indicated that the relevant scientists would be attending IWC/61.

Greg Donovan (IWC Secretariat and member of the IUCN Western Gray Whale Advisory Panel) reported that the Panel, although recommending that dedicated marine mammal observers be placed on all vessels in the Western gray whale feeding grounds, has undertaken simulation studies that revealed that their effectiveness was limited, especially in poorer weather conditions, and, of course at night and in fog.

An NGO representative from Uruguay noted that they have provided a for information document commenting on collisions with southern right whales in Uruguayan waters.

Australia, who submitted a brief ship strikes report this year, thanked the Chair for his excellent work in taking the ship strikes work forward and the many contributors to this work.

6. Review of the overall SSWG work plan and cooperation with other organisations

6.1 SSWG work plan

The Chair outlined the current progress against each of the ongoing recommendations in the current SSWG work plan.

Rec. 1 All National Progress Reports on cetacean research submitted by IWC members should include ship strike data in a format allowing their full utilisation

The Chair noted that this work is ongoing and encouraged the SSWG to continue submitting data to this work. The current summary table drawn from national progress reports indicates that 26 animals from five species have been reported as ship strike incidents.

Rec. 2 Set up a centralised international database on ship strikes

The Chair noted that this work has been carried out with success and is to be progressed.

Rec. 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.

The Chair noted that this work is still valid and is the responsibility of contracting governments. The Chair further noted that the Canary Islands and Hauraki Gulf are the first two examples of high-risk areas for consideration by the SSWG.

Rec. 4 Identify and circulate information on training material for crew and maritime officials

The Chair noted that some progress has been made and that it will remain an ongoing process.

Rec. 5 Continue the work within the ship strikes working group, widen its membership and circulate the progress report widely.

The Chair welcomed Spain as a new member of the SSWG and encouraged the group to circulate the progress report and other ship strikes information more widely and to all stakeholders.

The Chair stressed the importance to consider the variety of sources for ship strike information and data. For example stranding networks, scientific research, port authorities, international organisations such as the FAO and dedicated marine mammal observers. The United Kingdom agreed with the Chair and suggested as a further source of information ocean yacht associations and that the SSWG should develop a reporting template for circulation to potential collision data providers.

Australia recommended that on a practical level, the SSWG work plan should be updated to reflect the current status of progress and formatted so that the status of the recommendations and the current work items can be easily identified. The Secretariat supported this recommendation. It was agreed that Australia should help in redrafting the work plan.

6.2 Cooperation with other organisations

The Chair outlined the process that will be followed at the next IMO MEPC meeting in October and explained that relevant Conservation Committee and Scientific Committee papers will also be submitted as supporting documentation. He stressed that ship strikes is a three-pronged issue, as it has potential impacts on human safety and potential economic implications besides impacts on cetacean conservation. Germany suggested that the IWC could make a recommendation to the IMO. The Chair referred to the current consideration by the IMO of IWC observer status and that it would become clearer how to proceed when the decision has been taken this month.

The Secretariat (Greg Donovan) commented on the excellent cooperation that the IWC has now developed on

this issue, particularly with ACCOBAMS and ASCOBANS. For example, the ACCOBAMS scientific steering group established to take this work forward with the IWC comprises three IWC Scientific Committee members.

7. Next steps

7.1 Global database on ship strikes

Russell Leaper and the Secretariat (Greg Donovan) outlined that the required tasks were divided into 'one-off' items and ongoing work. The one-off tasks are: (1) to generate a web-based data entry system; and to (2) further refine the database design. Ongoing tasks are to:

- (1) continue to investigate sources of historical records to populate the database;
- (2) receive and process additional records that have not been presented to the Committee;
- (3) follow up with data holders on summary reports in National Progress Reports in order to ensure as much detail as possible about each incident is entered into the database; and
- (4) follow up with authors of papers presented to the Scientific Committee that include data on incidents that are not already in the database.

Leaper also commented on the future use of the database and that, with a few more years of data, modelling will be able to provide an assessment of the correlation between whale populations, abundance and location and shipping routes to quantify the risk of collisions. Donovan noted the link between the database and the modelling work. He stressed the importance of developing a sound scientific basis for both identifying where ship strikes represented a threat to the status of particular cetacean populations and for identifying and developing effective mitigation measures. He noted that the particular contribution that the SSWG can make at this stage is in encouraging governments to obtain and provide data for the database. Australia added its support to this work, also noting the importance of linking this work to actions to mitigate ship strikes. The USA reminded the meeting that the quality of the data used in the database needs to be verified to a high standard, noting that this is of particular importance to the USA due to regulatory pressures.

Donovan noted that the Scientific Committee has approved a budget request to be submitted to the Commission to take this work forward in the coming year.

7.2 Multidisciplinary Workshop on ship strike mitigation

The Chair suggested the establishment of a steering committee to develop terms of reference and proposal for an interdisciplinary Workshop on ship strike mitigation. The Chair suggested that the Workshop be held after IWC/61 when there is sufficient data available, that other organisations should be invited to be represented and that it could focus on the Mediterranean as a case study. The Secretariat (Greg Donovan) supported these suggestions and commented that the date for the Workshop should not be set at this stage, but rather be determined in the light of progress made with respect to the database. Donovan also commented on the importance of the Workshop including all stakeholders as well as representatives from both the Commission and the Scientific Committee. The Chair called for expressions of interest to participate in the steering committee. Australia indicated its interest in being part of the steering committee.

7.2 Funding

Italy has provided a voluntary contribution to the Conservation Committee of 12,000 Euro for its ship strikes work; the utilisation of these funds will be discussed by the Conservation Committee. Belgium announced a 17,000 Euro internal budget to promote the collisions database and its utilisation within the maritime transport sector.

8. Recommendations of the Ship Strikes Working Group to the Conservation Committee

The Ship Strikes Working Group meeting of 16 June 2008 agreed the following recommendations for further work and forwards them to the Conservation Committee for consideration.

- (1) The SSWG endorses the recommendations of the Scientific Committee for future work, including that

the Secretariat host the ship strikes database and integrate it in the IWC website.

- (2) The Conservation Committee should request Contracting Governments to use the agreed ship strike template and submit ship strikes data to the IWC Secretariat on a regular basis.
- (3) The Conservation Committee should request Contracting Governments to communicate ship strikes data and information to relevant maritime sector bodies, including port authorities, shipping federations, coast guards and other relevant bodies.
- (4) The development of a Steering Committee for a multidisciplinary Workshop on ship strike mitigation, noting that Workshop participants should represent experts from within the Commission, the Scientific Committee and appropriate other organisations.

Adjunct 1: List of Participants

Argentina

Miguel Iñiguez

Australia

Andrew McNee
Lesley Gidding

Belgium

Alexandre de Lichtervelde (Chair)
Gian Paolo SaninoVattier

Brazil

Onildo João Marini

Denmark

Amalie Jessen
Nette Levermann

France

Vincent Ridoux

Germany

Oliver Schall
Walter Dübner
Petra Deimer-Schütte
Karl-Herman Kock

Italy

Caterina Fortuna

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaik Moolhuijsen

New Zealand

Mike Donoghue

Portugal

Marina Sequeira

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

UK

Russell Leaper
Jennifer Lonsdale
Luke Warwick

USA

Doug DeMaster
Robert Brownell
David Mattila
Teri Rowles
Debra Palka

IWC Secretariat

Greg Donovan
Nicky Grandy

NGO REPRESENTATIVES

Canada

Ericka Ceballos

Denmark

Birgith Sloth

Poland

Andrzej Kepel

Uruguay

Rodrigo García

Adjunct 2: Agenda

1. Chair's welcome and opening remarks
 2. Appointment of rapporteur(s)
 3. Adoption of the Agenda
 4. Review of available documents (Adjunct 3)
 5. Review of progress made since the 59th Annual Meeting in Anchorage
 6. Review of the overall SSWG work plan and co-operation with other organisations
 7. Next steps
 8. Recommendations
 - 8.1 Recommendations relevant to the Conservation Committee
 - 8.2 Recommendations relevant to the Scientific Committee
-

Adjunct 3: List of documents**Conservation Committee documents**

IWC/60/CC

- 3 Ship Strikes Working Group: Third Progress Report
- 4 Country Report on Ship Strikes - by Australia
- 7 Update on the United States' Actions to Reduce the Threat of Ship Collisions with Large Whales - by USA
- 9 Whale-ship collisions - by France
- 10 Voluntary national cetacean conservation report - by New Zealand
- 12 Interaction between maritime traffic and cetaceans in the Canaries Archipelago - by Spain

Scientific Committee documents

IWC/60/Rep

- 1 Report of the Sub-Committee (extracts on Bycatch and other Human-Induced Mortality, including Annex J)

SC/60/BC

- 3 Leaper, R. and Danbolt, M. Use of Automatic Identification Systems (AIS) data to estimate patterns of shipping density for use in modelling collision risk with whales. 8pp.

- 4 Martinez, D.P. and Guzman, J. Whales and the city: A southern right whale ship strike scenario in Peninsula Valdes? 18pp.
 - 5 Van Waerebeek, K. and Leaper, R. Second report of the IWC Vessel Strike Data Standardisation Working Group. 8pp.
 - 6 Carrillo, M. and Ritter, F. Increasing numbers of ship strikes in the Canary Islands: Proposals for immediate action to reduce risk of vessel-whale collisions. 9pp.
 - 7 Panigada, S., Donovan, G.P. and Hammond, P.S. Work programme and protocols to assess human induced mortality on fin whales and ship strikes with large whales and smaller cetaceans in the ACCOBAMS area. 5pp.
 - 8 Williams, R. Modelling ship strike risk to fin, humpback and killer whales in British Columbia, Canada. 18pp.
 - 9 Behrens, S. and Constantine, R. Large whale and vessel collisions in northern New Zealand. 14pp.
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Annex J

Report of the Infractions Sub-Committee

Tuesday, 17 June 2008, Santiago, Chile

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

Bruno Mainini (Switzerland) 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/60/Inf

- 1 Revised Draft Agenda
- 2 Annotated Draft Agenda
- 3 National Legislation details supplied to the IWC
- 4 Draft summary of Infraction Reports received by the Commission in 2007

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. Japan and Norway continued to hold this opinion but in a spirit of co-operation it did not request the item be deleted. The draft Agenda was adopted unchanged (Appendix 2).

3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2007

3.1 Reports for 2007

The Sub-Committee reviewed IWC/60/Inf3 (draft summary of infraction reports received by the Commission for 2007). A revised version is given as Appendix 3 to this report.

The USA reported on its aboriginal catch in 2007. Information from the Alaskan Eskimo Whaling Commission showed 41 bowhead whales had been landed with 22 struck and lost giving a total of 63 strikes. A small whale concluded to be a calf had been taken accidentally and was reported as an infraction as detailed in table 2 of Appendix 3. The animal had been swimming alone and the crew were unable to precisely determine the body length or baleen length while the whale was swimming. No penalty was levied. In addition the USA reported on the

unauthorised take of a gray whale by five members of the Makah tribe, in consequence of which the five hunters are awaiting sentence.

The Chair commented on the high number of struck and lost bowhead whales this year and asked if any measures were being introduced to improve the situation in the future. The USA explained that while hunters are working to improve the efficiency of the hunt, weather and ice conditions play a significant role in the hunt efficiency and that better observation of the conditions should help this issue.

In response to a question from Japan, the USA clarified that, although the take of a gray whale is an illegal act under its domestic laws, the catch limit for eastern North Pacific gray whales had not been exceeded and hence the gray whale caught by the Makah was not an infraction.

No infractions were reported by Denmark (Greenland) or St. Vincent and The Grenadines or the Russian Federation this year. The Russian Federation requested that the two stinky gray whales included in their harvest be annotated as such in Appendix 3.

The Republic of Korea reported on the cases of 14 minke whales caught illegally in 2007, noting that commercial whaling has been banned in Korea since 1986. The punishments for these offences include imprisonment for up to 3 years, fines of up to 20 million Korean won (equivalent to about US\$20,000), cancellation of fishing licences and prohibition from selling the meat.

3.2 Follow-up on earlier reports

The USA reported on the completion of the investigation of a stranded humpback whale taken in Kotlik village in October 2006 that had been reported last year. The hunter was sent a warning letter.

There was no new information on the five unresolved infractions by Greenland (numbers 2005.1, 2006.1, .2, .3 and .4), the investigations of which remain open.

4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Reports submitted by the USA, the Russian Federation and St. Vincent and The Grenadines stated that 100% of their catches are under direct national inspection. Denmark (Greenland) stated that their catches were subjected to a random check.

5. CHECKLIST OF INFORMATION REQUIRED OR REQUESTED UNDER SECTION VI OF THE SCHEDULE

The 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, species, length, sex and the length and sex of any foetus if present is collected for between 71-100% of the catch, depending on the item. The position of each whale killed is collected for 69% of the catch and the name of the area where whales are hunted is reported for most of the remainder. Information on killing methods and struck and lost animals are also collected.

USA: Information on date, time, species, position, length, sex, the length and sex of any foetus if present, killing method and number of struck and lost is collected for 98-100% of the catch. Biological samples are collected for about 80% 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, time, species, position, length, sex, whether the whale is pregnant and/or lactating and numbers struck and lost is collected for 100% of the catch.

Norway and Iceland: The required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/60/Rep1).

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of National Legislation supplied to the Commission is given in Table 1.

Denmark noted that their newest regulations (dated 2005) had been supplied to the Secretariat in July 2007 but are only available in Greenlandic and Danish.

Table 1
National Legislation details supplied to the IWC.¹

Country	Date of most recent material	Country	Date of most recent material
Antigua and Barbuda	None	Korea, Republic of	1996
Argentina	2003	Laos	None
Australia	2000	Luxembourg	None
Austria	1998	Mali	None
Belgium	2002	Marshall Islands, Republic of	None
Belize	None	Mauritania	None
Benin	None	Mexico	2006
Brazil	1987	Monaco	None
Cambodia	None	Mongolia	None
Cameroon	None	Morocco	None
Chile	1983	Nauru	None
China, People's Republic of	1983	Netherlands, The	2002
Congo, Republic of	None	New Zealand	1992
Costa Rica	None	Nicaragua	None
Cote D'Ivoire	None	Norway	2000
Croatia, Republic of	None	Oman	1981
Cyprus	None	Palau, Republic of	None
Czech Republic	None	Panama	None
Denmark (including Greenland)	2005	Peru	1984
Dominica	None	Portugal	2004
Ecuador	None	Romania	None
Finland	1983	Russian Federation	1998
France	1994	San Marino	None
Gabon	None	Saint Kitts and Nevis	None
Gambia	None	Saint Lucia	1984
Germany	1982	Saint Vincent and The Grenadines	2003
Greece	None	Senegal	None
Grenada	None	Slovak Republic	None
Guatemala	None	Slovenia	None
Guinea-Bissau	None	Solomon Islands	None
Guinea, Republic of	None	South Africa	1998
Hungary	None	Spain	1987
Iceland	1985	Suriname	None
India	1981	Sweden	2004
Ireland	2000	Switzerland	1986
Israel	None	Togo	None
Italy	None	Tuvalu	None
Japan	2004	Uruguay	None
Kenya	None	UK	1996
Kiribati	None	USA	2004

¹Up to the end of May 2008. Dates in the table refer to the date of the material not the date of submission. ²Member states of the European Union are subject also to relevant regulations established by the Commission of the European Union. The date of the most recent EU legislation supplied to the International Whaling Commission is 2004.

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 Other

No other matters were raised.

8. ADOPTION OF REPORT

The report was adopted 'by post' at 10:00 on 20 June 2008.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Pam Eiser
Andrew McNee
Milena Rafic

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Alexandre de Lichtevelde

Brazil

Onildo João Marini Filho

Denmark

Ole Samsing
Leif Fontaine
Ole Heinrich
Amalie Jessen
Nette Levermann

Iceland

Stefán Ásmundsson
Gísli Víkingsson

Italy

Caterina Fortuna
Michele Alessi

Japan

Minoru Morimoto
Takashi Koya
Joji Morishita
Hideaki Okada
Kayo Ohmagari

Republic of Korea

Zang Geun Kim
Yeon Suk Lee
Hyun-Jin Park

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer
Michael Donoghue

Norway

Halvard Johansen
Egil Øen
Hild Ynnesdal

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Vladimir Etylin

Olga Ipatova
Alexey Ottoy
John Tichotsky

St. Vincent and The Grenadines

Raymond Ryan

South Africa

Herman Oosthuizen

Switzerland

Bruno Mainini (Chair)

UK

Richard Cowan
Claire Bass
Jenny Lonsdale
Trevor Perfect
Luke Warwick

USA

Doug DeMaster
Harry Brower
Roger Eckert
Terra Lederhouse
Cheri McCarty
Heather Rockwell
Rollie Schmitt
Michael Tillman
Ryan Wulff

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 <ol style="list-style-type: none"> 3.1 Reports for 2007 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 Other 8. Adoption of the Report |
|--|---|

Appendix 3**SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION IN 2007**

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.

Catch and associated data for commercial and scientific permit catches were submitted to the IWC Secretariat

(IWC/60/Rep1). Norway took 597 minke whales (including 5 lost) in her commercial whaling operations and reported no infractions. Iceland took 6 minke whales in her commercial whaling operations. Aboriginal subsistence catches and infractions are summarised in Table 1.

Table 2 gives details of the infractions reported in the 2007 season. There was no new information on the five unresolved infractions by Greenland (numbers 2005.1, 2006.1, .2, .3 and .4), and the investigations remain open.

Table 1
Summary of Aboriginal subsistence catches and infractions reported for the 2007 season.

Country	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/comments
Denmark							
West Greenland	Fin	6	4	10	2	12	None
	Minke	38	121	161 ¹	6	167	None
East Greenland	Minke	0	1	2 ²	0	2	None
St. Vincent and The Grenadines							
	Humpback	0	1	1	0	1	None
USA							
	Bowhead	17	24	41	22	63	1 ³
	Gray	0	0	0	1 ²	1	0
Russian Federation							
	Gray	48	78	126	5 ⁵	131	None
Republic of Korea							
	Minke	-	-	-	-	-	14 ⁴

¹Includes 2 animals of unknown sex. ²Includes 1 animal of unknown sex. ³See Table 2, infraction 2007.1. ⁴See Table 2 infractions 2007.2-2007.10.

⁵Includes 2 stinky whales (females) + 3 struck and lost.

Table 2
List of infractions from the 2007 season.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Investigation complete?
2007.1	USA	Bow-head	-	6.1m	9 Oct. 2007	Calf	A small whale was landed at Barrow on 9 October. Biologists examined the animal and concluded it was a calf based on: the animal's body length (6.1m); very short baleen (29cm); gray colour; sloughing skin (all characteristic of a calf); although no milk was found in the stomach.	The Alaska Eskimo Whaling Commission held a hearing in December 2007 and summoned all the whaling crews that had been involved in the harvest or towing of the whale. After listening to testimony, the AEWK Executive Board determined that the crew accidentally harvested the calf because the animal was swimming alone (i.e. no large whale was in the vicinity when the calf was struck) and the crew was not able to precisely determine the body length or baleen length while the whale was swimming. No penalty was levied.	Yes
2007.2	Korea	Minke	-	7m	26 Mar. 2007	No quota	Whale was caught by a fishing vessel with a harpoon and transported. The take was done covertly at about 20 miles off Dong-gu, in Ulsan, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 1 year of imprisonment and 2 years probation; • 10 months of imprisonment and 2 years probation; • 8 months of imprisonment and 2 years probation; • 6 months of imprisonment and 2 years probation; • fine US\$2,000. 	Yes
2007.3	Korea	Minke	-	5m	8 Apr. 2007	No quota	Whale was caught on 8 April by a fishing vessel. The take was done covertly at about 8 miles off Haeundaegu, in Busan, with a harpoon.	<ul style="list-style-type: none"> • 1 year of imprisonment and 2 years probation; • 10 months of imprisonment and 2 years probation; • 8 months of imprisonment and 2 years probation. 	Yes
2007.4	Korea	Minke	-	4m	27 Apr. 2007	No quota	Whale was caught on 27 April by fishing vessels. The take was done covertly at about 100 miles off Jangsaengpo, in Ulsan, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 8 months imprisonment and 2 years probation; • 3 violators were fined US\$5,000. 	Yes
2007.5	Korea	2 Minke	-	5m 6m	11 May 2007	No quota	Whales were caught on 11 May by fishing vessels. The take was covertly done in waters neighbouring Gyeongsangbuk-Do, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 6 months of imprisonment and 2 years probation; • 8 months of imprisonment and 2 years probation; • 2 violators were imprisoned for 1 year; • 1 violator was fined US\$5,000; 2 were fined US\$7,000 and 1 was fined US\$10,000. 	Yes
2007.6	Korea	4 Minke	-	4m 5m 6m	20 May 2007	No quota	Whales were caught on 20 May by fishing vessels at about 9 miles off Chung Hamyun, Pohang-Si.	<ul style="list-style-type: none"> • 18 months of imprisonment and 3 years probation. 	Yes
2007.7	Korea	Minke	-	7m	1 Jun. 2007	No quota	Whale was caught on 1 June by a fishing vessel. The take was done covertly at about 12 miles off Young-Duck Gun, Gyeongsangbuk-Do.	<ul style="list-style-type: none"> • 18 months imprisonment and 3 years probation; • fined US\$3,000. 	Yes
2007.8	Korea	Minke	-	5.5m	23 Jun. 2007	No quota	Whale caught on 23 June by fishing vessels 2 miles off Pohang-Si, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 16 months imprisonment and 3 years probation. 	Yes
2007.9	Korea	2 Minke	-	5.5m 6m	26 Jun. 2007	No quota	Whales were taken on 26 June by fishing vessels but not reported. They were covertly conveyed to land.	<ul style="list-style-type: none"> • 6 months imprisonment and 3 years probation; • fined US\$2,000. 	Yes
2007.10	Korea	Minke	-	7m	19 Dec. 2007	No quota	Whale was caught on 19 December by fishing vessels. The take was done covertly at about 13 miles off Uljin Gyeongsangbuk-Do and conveyed to land.	<ul style="list-style-type: none"> • 18 months imprisonment and 2 years probation; • fined US\$5,000. 	Yes

Annex K

Catches by IWC Member Nations in the 2007 and 2007/2008 Seasons

Prepared by the Secretariat

	Fin	Humpback	Sei	Bryde's	Minke	Sperm	Bowhead	Gray	Operation
North Atlantic									
Denmark									
(West Greenland)	12 ¹	-	-	-	167 ²	-	-	-	Aboriginal subsistence
(East Greenland)	-	-	-	-	2	-	-	-	Aboriginal subsistence
Iceland	-	-	-	-	39 ³	-	-	-	Special Permit
Iceland	-	-	-	-	6	-	-	-	Whaling under Objection
Norway	-	-	-	-	597 ⁴	-	-	-	Whaling under Objection
St. Vincent and The Grenadines	-	1	-	-	-	-	-	-	Aboriginal subsistence
North Pacific									
Japan	-	-	100	50	208 ⁵	3	-	-	Special Permit
Korea	-	-	-	-	14 ⁶	-	-	-	
Russian Federation	-	-	-	-	-	-	-	131 ⁷	Aboriginal subsistence
USA	-	-	-	-	-	-	63 ⁸	1 ⁹	Aboriginal subsistence
Antarctic									
Japan	-	-	-	-	551	-	-	-	Special Permit

¹Including 2 struck and lost. ²Including 6 struck and lost. ³Including 2 lost. ⁴Including 5 lost. ⁵Including 1 lost. ⁶The Republic of Korea reported that 14 minke whales had been deliberately killed (see IWC/60/Rep 4 for details). ⁷Including 3 struck and lost and 2 stinky whales. ⁸Including 22 struck and lost. ⁹Struck and lost.

Annex L

Report of the Finance and Administration Committee

Wednesday 18 June 2008, Santiago, Chile

1. INTRODUCTORY ITEMS

The list of participants is given in Appendix 1.

1.1 Appointment of Chair

Anthony Liverpool (Antigua and Barbuda) 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 rapporteur

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.

There was a suggestion that the Technical Committee may no longer be needed and that the Rules of Procedure could be revised to remove this Committee. The Committee agreed that this possibility could be included in discussions on the future of the organisation.

3.1.2 Frequency of meetings

The Chair recalled that the issue of how frequently the Commission and its subgroups should meet has been addressed for several years. He noted that last year, despite a Special Session of the F&A Committee on Frequency of Meetings and further brief discussions during the private meeting of Commissioners and during the plenary, the matter remained unresolved. The Commission had, however, agreed to retain the item of meeting frequency on the agenda of future meetings, noting also that it may also be relevant to discussions on the future of the organisation.

As previously, while some countries supported a move to the Commission meeting every two to three years, others, while sympathetic to this in principle, believed that such a move is premature given the ongoing discussions on the future of the organisation. Several countries supported

continued annual meetings of the Scientific Committee even if the Commission was to meet less frequently. The Chair noted these different views and suggested that this issue would best be addressed in the context of the discussions on the future of the organisation. The Committee agreed.

3.2 NGO accreditation and participation

3.2.1 Introduction by the Secretariat

The Secretariat noted that at IWC/59 in Anchorage, the Commission adopted changes to the procedure governing accreditation and participation of NGOs in IWC meetings. *Inter alia*, these changes eliminated the requirement for NGOs to maintain international offices, relaxed the restrictions on total attendees from each NGO, and adjusted the fee structure for equitability. Specifically, the Commission:

- (1) adopted revisions to Rule of Procedure C;
- (2) agreed that a fee per individual observer should apply to NGOs and that this fee would be income-neutral to the IWC;
- (3) requested the Secretariat to inform all currently accredited NGOs of this decision within 90 days of the meeting, including a request to submit the standard Observer Application Form (see Annex 2) prior to the start of the next Annual Meeting;
- (4) decided that pursuant to Rule C.1(b) of the Rules of Procedure, that currently accredited non-governmental organisations that do not provide the standard Observer Application Form to the Secretariat before the start of the next Annual Meeting, shall be removed from the list of accredited observers (such removal is without prejudice to such NGOs receiving accreditation in future years); and
- (5) agreed to review the effectiveness of the new Rules of Procedure after a 2-year operating trial (i.e. at IWC/62).

Although the Commission agreed to review the effectiveness of the new rules at IWC/62, the Secretariat thought it would be of interest to report back to the F&A Committee on experiences to date. Furthermore, in setting the new NGO fees, the Secretariat had indicated to the NGOs that the new fee structure would be reviewed by the F&A Committee at IWC/60 and adjusted as appropriate for IWC/61.

ACCREDITATION/RE-ACCREDITATION OF NGOS SINCE IWC/59

The Secretariat reported that NGOs accredited prior to IWC/59 were notified by the Secretariat on 16 August concerning the Commission's decisions regarding accreditation and participation of NGOs and at the same time were invited to re-accredit themselves by completing and returning the standard NGO Observer Application Form. Of 132 NGOs that had IWC accreditation as of

IWC/59, 75 applied for re-accreditation and have been re-accredited. Eighteen new NGOs applied for and were granted accreditation.

NEW NGO FEES, NUMBERS REGISTERING FOR IWC/60 AND ANTICIPATED INCOME

With respect to NGO registration fees, the changes adopted in Anchorage included that fees should in future be set per individual observer (rather than per organisation as in the past) and that this fee should be income neutral to the IWC. There was no further guidance on how fees should be set. The Secretariat therefore worked with the Advisory Committee to determine the following new fee structure and conditions:

- £500 for the first observer per organisation; and
- £250 for each additional observer.

INTERPRETERS

There will be no charge for interpreters, but those NGOs wishing to nominate an interpreter must provide justification to the Secretariat and information on the qualifications and/or language abilities of the interpreter nominated. Each NGO will be normally be restricted to the designation of one interpreter per organisation.

DOCUMENTS

For documents not made available in advance of meetings via IWC's website, copies will be provided to all nominated observers and interpreters (whereas in the past each organisation received a single copy with another copy for interpreters). The Secretariat will develop an appropriate distribution system.

The Secretariat noted that the rationale for setting the new fee structure was based on the need to generate around £52,000 from 60 organisations and 130 individual observers (the £52,000 and number of observers being averages over the last 5 years, and the 60 organisations was an estimation of those that might apply for re-accreditation). It was recognised that the levels set would generate income somewhat less than the 5-year average income, but would be closer to the 3-year average of £47,800 and to the figure of £48,400 income assumed in the 2007/08 budget. The Secretariat also explained that one of the main reasons for waiving the fee for interpreters was to try to be fairer for small NGOs who may not have the necessary language skills and would therefore need an interpreter. If a fee had been set for interpreters, this would have brought the cost for an NGO sending a delegation of one person plus an interpreter to £750, i.e. higher than the level of £650 per organisation that was to have been set for 2008/09 prior to the Commission's decision to change the NGO accreditation and participation procedure.

As of 9 June, 66 organisations had registered for IWC/60, involving some 155 individual observers, eleven of which had been designated as interpreters. This would generate an expected income of £52,500.

ISSUES TO CONSIDER

The Secretariat identified the following issues for consideration by the F&A Committee:

- (1) level of fees for 2008-2009;
- (2) whether to continue to waive the fee for interpreters;
- (3) criteria for accreditation; and
- (4) whether NGO observers only present for the meetings of the Commission's sub-groups and not plenary should be charged a fee.

With respect to the **level of fees for 2008-2009**, the Secretariat noted that the proposed budget for 2008-2009 (IWC/60/5) proposes the same level of fees for 2008-2009 as that for 2007-2008 so as to allow time to assess the level of income received under the new procedure. Given the expected income for IWC/60 from NGOs based on registrations for IWC/60 is in line with the mean income over the last 5 years, the Secretariat suggested that this recommendation seemed sensible. It was noted that the Budgetary Sub-committee, that had addressed this matter on the previous day, was of the same opinion.

Regarding whether or not to continue to **waive the fee for interpreters**, the Secretariat noted the general recognition that under the previous NGO accreditation and participation procedures, the designation of individuals as interpreters had probably been abused and used as a means of allowing access of up to two people per organisation into the meeting room. The mean number of NGO interpreters over the past 3 and 5 years was 23 and 21 respectively. Under the new rules, the seating limitation to one observer per NGO has been removed, and for IWC/60, as of 9 June only 11 individuals had been designated as interpreters. The Secretariat noted that this reduction may also reflect the provision of simultaneous interpretation during the plenary for French and Spanish speakers. However, it questioned whether, given that simultaneous interpretation for French and Spanish is now provided during the plenary, and Commissioners speaking other languages provide their own consecutive interpretation, waiving of the fee for interpreters could be justified, and noted that some NGOs justified appointing interpreters to help with communicating with Commissioners and others outside of the meeting room where interpretation is not provided.

The Secretariat drew attention to the fact that under the new rules, any NGO which expresses an interest in matters covered by the Commission may be accredited as an observer. Those interested are required to complete the standard application form, which, other than contact details, requires only a statement of interest and a mission statement or charter. The Secretariat noted that from this information, it is impossible to determine whether an NGO applying is *bona fide* and is an actual organisation, or whether the person applying is simply an interested member of the public who may be prepared to pay a fee to attend an IWC meeting to which observers are allowed. Further noting that it felt somewhat uneasy with this situation, it sought clarification from the F&A Committee sure whether this was the intention of the Commission when adopting the new rules.

With respect to **NGO observers that only attend the meetings of the Commission's sub-groups**, the Secretariat suggested that there should be no charge.

3.2.2 F&A Committee discussions and recommendations

Within the Committee, the general view was that on the whole, the new system appeared to be working satisfactorily and it noted that no significant complaints had been received. With respect to interpreters, the reduction in numbers was noted and the view expressed that their role could legitimately include assisting communication with Commissioners and others outside of the meeting rooms. It was therefore considered that the fee should continue to be waived but that the situation should be kept under review. With respect to accreditation criteria,

while the concerns expressed by the Secretariat were noted, it was felt that problems should be addressed if they arise and that the criteria should remain unchanged for the present.

Given the discussions, the F&A Committee **recommends** that no changes are needed at present to the new accreditation and participation procedures, but that they be kept under review.

3.3 IWC's website

3.3.1 Linking IWC's website to those of Contracting Governments

Last year the Commission agreed to create links between its own website (www.iwcoffice.org) and websites of Contracting Governments where governments express their views and positions on IWC matters with the aim of making the views and positions of Contracting Governments equally available to the public. Contracting Governments were invited to provide the URLs of the relevant pages of their websites to the Secretariat via Circular Communication IWC.CCG.678 of 12 March 2008.

The Secretariat reported that links had been established with the websites of Australia, France, Norway, Slovenia and the UK. There were no comments.

3.3.2 Translation of IWC's website

INTRODUCTION BY THE SECRETARIAT

The Secretariat noted the recent decisions of the Commission with regard to the provision of simultaneous interpretation and document translation at its meetings, and recalled that at IWC/59 there had also been support for the phased-in translation of IWC's website, which is currently only in English, into French and Spanish. It further noted that the Commission had agreed to establish an email working group to consider approaches to the translation of the website and that those Contracting Governments that had expressed an interest in joining such a group comprised Argentina, Belgium, France, Gabon, Republic of Guinea, Mali, Monaco, Peru and Spain.

The Secretariat introduced a document outlining three options open to the Commission regarding how translation of some, or all, of the website could be approached. This included information on potential costs and workload implications of each and a recommendation from the Secretariat. The intention had been to circulate the document first to the email working group so that it could bring forward recommendations to the Finance and Administration Committee. However, given the delay in development of the document (for which the Secretariat apologised), it was circulated to Commissioners and Contracting Governments at the same time as to the email working group.

In introducing the document, the Secretariat drew attention to the approaches taken by some other intergovernmental organisations (IGOs) that have more than one official and/or working language and noted that while some have websites fully available in all working languages others either have partially-translated websites or English-version only websites. The reasons given by those IGOs that limit the extent to which their websites are translated included cost and availability of internal translation resources.

The Secretariat provided information on the current IWC website, including size and cost, languages and current translation situation, availability of machine

translation and the planned rebuild of the site to cater for its growth, facilitate its management and accommodate recent changes in web technology since its last rebuild in 2003.

With respect to machine translation, the Secretariat noted that this is performed by a computer program which automatically analyses the meaning of a sentence and attempts to produce a sentence in a different language which conveys the same meaning. Therefore machine translation is a useful way to get the basic ideas of a sentence, but is not to be considered a direct translation as no computer program can translate correctly 100% of the time. The accuracy of this tool is limited by the dictionary database that it uses over which the Secretariat has no control (it is a free service). The Secretariat noted that the main benefit of this type of translation is that it is in 'real time', so what is on the page today is what gets translated; any updates to the site will be reflected in the translation provided by the tool. However it noted that when a complete webpage is translated using machine translation the design and functionality of the page are often compromised which can result in: dead or incorrect hyperlinks; non-functional menus or drop-downs; misalignment of tables, images etc. The Secretariat reported that the level of accuracy of machine translation can be increased; some translation companies offer bespoke software that provides the same level of translation as the current service initially, but in collaboration with the Secretariat, the dictionary database could be customised to make machine translations made more accurate. One company quoted an increase in accuracy from 75% to 95% using this technology. The cost involved with using this service is minimal (approx £15-30 per month for both languages), although the Secretariat noted that the design implications mentioned may persist and that: (1) further time would be required to create and tailor the custom dictionary; and (2) input from scientists may be required to help build a portfolio of appropriate technical terms.

The Secretariat suggested that the following factors are pertinent to discussions on a potential website translation.

- The Secretariat currently has no internal multilingual expertise available, therefore any translation work in the near future would need to be outsourced. The work on translating the website ties in with the possible future need to have linguistic expertise at the Secretariat for document translation as raised during the Commission's discussions on the introduction of other working languages. Website translation and subsequent updates could then be managed by internal linguist(s), as seen with other IGOs (e.g. CITES).
- The IWC website is dynamic rather than static, so requires regular updating. The level of updates across the entire site is sporadic and difficult to predict. They can occur on a daily basis at certain times of the year (e.g. during the Annual Meeting). The volume of updates has increased each year since the website's creation.
- If translations were introduced, the level of notification/recording of updates coupled with the added web publishing/management tasks would significantly increase the workload for the Secretariat, especially at the already-busiest periods of the year.

Three options were provided for the consideration of the F&A Committee:

- (1) fully tri-lingual website;
- (2) partial translation; or
- (3) phased-in approach to a fully tri-lingual site.

These are described, together with an indication of timescale involved, in Appendix 4.

The Secretariat drew attention to the fact that there was no provision in the proposed budget for 2008/2009 for the funding of any translation work connected to the website. Consequently, should the Commission decide to move ahead with any options regarding translation of the website it would have to be funded either from a provision added to the proposed 2008/2009 budget (thereby all Contracting Governments contribute to the costs) or by voluntary contributions (either monetary or in kind).

The Secretariat recommended that it would be most sensible in the short-term to select Option 2, i.e. partial translation of the website given:

- (1) that an overhaul/rebuild of the existing website is needed to cater for its growth over the last five years and to facilitate its management and the accommodation of recent changes in web technology and that it would be best to delay full translation until after this has been completed;
- (2) that the discussions regarding the extent of the introduction of French and Spanish into the Commission are still ongoing and that the outcome may determine whether or not linguistic experience is needed within the staff of the Secretariat; and
- (3) the budgetary implications. The phase-in towards a fully tri-lingual website could be determined by the Commission at a later date.

In summary, Option 2 involves: (1) making part of the website available in French and Spanish in a similar way as is already being done by some other IGOs who have more than one working language, e.g. by focusing on the most popular pages viewed by the website's audience; and (2) improving machine translation for those parts of the website not translated. The Secretariat noted that the translated pages could be made available on the website as either PDFs or as web pages that directly mirror those already available in English. It indicated a preference for the latter, since the timescale is dependent only on the receipt of the translated material itself, whereas it would only be sensible to do the former concurrent with, or after the website rebuild.

F&A COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

The Chair first invited comment from members of the email working group. Argentina, France and Spain responded.

Spain noted that although Option 1 (fully tri-lingual website) might be the ideal option, it did not think this would be realistic at the moment considering: (a) the planned rebuild of the entire website; and (b) that Options 2 (partially translated website) or 3 (phased-in approach to fully tri-lingual website) would receive more support from the Commission. It suggested therefore that Option 2 could be a good starting point, providing the move to a fully translated website remains open. Spain noted that in addition to being much less expensive ($\frac{1}{4}$ of the estimated budget for Option 1 if the 20 most popular pages are translated), Option 2 could be implemented in the short term, since it does not require waiting until the entire website has been rebuilt. It believed that translating the

most popular pages seemed a reasonable approach, but suggested that it would only be necessary to include the 2 or 3 most recent Annual Meetings reports. With respect to machine translation, Spain thought this practical but believed that improving and customising this facility would be essential through the mechanisms suggested by the Secretariat (which it noted would not be at a very high cost). Spain considered that to create and tailor the custom dictionary should not be a very difficult task since most of the words and wording are already available in the translations of the Convention to French and Spanish provided by France and Spain, and that scientists and delegates would be pleased to help build a portfolio of appropriate technical terms.

Argentina concurred with the views expressed by Spain. In addition, Argentina noted that for some Latin American countries that are considering adhering to the Convention, it is very important having an 'official translation' by the IWC of the Convention and the Schedule. In this regard, it believed that Option 2 – which could be implemented in short period of time – would have a very positive political effect as a tool to facilitate the entrance of new members to the organisation.

France agreed that Option 1 is not realistic and expressed a preference for Option 3, noting that this would first involve a partial translation of the website (i.e. Option 2). In this respect, France recognised the practicality of providing PDF documents of the translated material in the short term, but suggested that proper web pages might be developed following the website rebuild, noting that this would create a better image of the site. France was sceptical about the value of machine translation and stressed that it should be made clear on the website that it is a facility that should be used with care. Finally, as a demonstration of its commitment to this issue, France noted that it is considering making a one-off special contribution in kind by providing some translations into French of the most consulted pages. It hoped that this would help launch the process of website translation in a similar way as its provision of interpreters helped launch the introduction of simultaneous interpretation in the Commission plenary and private meetings of Commissioners.

Korea noted its reservations about the need to introduce more working languages and asked which criteria had been used as a basis for choosing French and Spanish. It questioned whether the language difficulties expressed by French and Spanish speakers are exaggerated and why some countries (who can also claim to have language difficulties) should be required to contribute to work from which they derive little or no benefit.

While noting the reservations expressed by Korea, the Secretariat suggested that Option 2 be implemented given:

- (1) the support from other countries for Option 2 (partial translation of the website) at least initially;
- (2) that there was no provision in the proposed budget for 2008-2009 for work on translation of the website;
- (3) the in-kind offer from France to provide some translated pages; and
- (4) that improving machine translation could be done at a minimal expense (around £1,000 per year).

The Secretariat further suggested that it implement Option 2 with assistance from the email working group (e.g. in confirming which pages should be translated,

working to customise the dictionary to improve machine translation). The F&A Committee agreed to **recommend** the Secretariat's suggested approach to the Commission noting the comments of Korea.

3.4 Amendments to the Rules of Procedure and Financial Regulations

3.4.1 Proposal from France to amend the Rules of Procedure to recognise French and Spanish as working languages of the Commission

INTRODUCTION BY FRANCE

France noted that currently English is the only official and working language of the Commission, although Commissioners may speak in any other language, if desired, it being understood that Commissioners doing so will provide their own interpreters (Rule of Procedure N.1). It recalled that from time to time over the years the Commission has discussed making provision for the use of other languages, with most recent discussions initiated during IWC/54 in Shimonoseki in 2002. Since then, this subject has been discussed every year by the F&A Committee and considerable progress in terms of multilingualism has been made with IWC Annual Plenary Meetings now being held in English, French and Spanish with simultaneous interpretation provided by the Commission and with the most important documents now available in these three languages. Also noting the discussions on translation of the IWC website, France welcomed such developments believing they show that the IWC is a forward-looking organisation which is moving towards compliance with international standards.

France recalled that Resolution 2006-3 requested the Secretariat to investigate the possibility of recognising French and Spanish as working languages of the Commission at the 2007 IWC Annual Meeting and that the Secretariat's document IWC/59/F&A5 was the basis for the decision at IWC/59 last year for the Commission to provide for simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of:

- (1) Resolutions and Schedule amendments;
- (2) the Chair's summary reports of annual meetings;
- (3) Annotated Provisional Agendas; and
- (4) summaries of the Scientific Committee and working group reports.

It was agreed that the lessons learned from this new situation would be reviewed at the meetings in Santiago in 2008 and Madeira in 2009.

Given that it now seems unlikely that the progress made in terms of the use of French and Spanish will be reversed, France proposed that the Rules of Procedure should be brought in line with actual practice. Referring to document IWC/59/F&A5 it pointed out that there is no universally-accepted definition of the term 'working' language and that every organisation gives its own meaning to the term. In any case, the current situation described above for the most part provides an acceptable and clear definition of 'working' language in the context of current practice within IWC.

Based on these observations, France considered it appropriate to amend the Rules of Procedure to recognise French and Spanish in addition to English as IWC working languages, noting that practical and financial modalities would continue to be discussed this year and in 2009, as

agreed in 2007. It did not believe that such a change would disrupt these discussions but rather would be a positive sign and noteworthy progress for the IWC.

France therefore recommended that Rule of Procedure N.1 concerning languages of the Commission be revised as shown below. Changes are indicated in **bold, italicised** text.

From:

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.

To:

N. *Languages* of the Commission

1. English shall be the official *language of the Commission. English, French and Spanish shall be the working languages of the Commission.* 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. *Agreed publications and communications shall be available in English, French and Spanish.*

F&A COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

While many countries spoke in support of France's proposal believing that such a move would reflect practice in other IGOs, several voiced concern. While these countries recognised that the proposal was intended to reflect current practice now within IWC, they had not expected the proposed rule changes given the agreement reached last year. In answer to a question about any budgetary implications the Secretariat informed the Committee that there are no budgetary implications. Some countries were also concerned that there was no adequate provision in the proposed revision to prevent expansion of the current practice regarding interpretation and translation into the use of French and Spanish in an equivalent way to English, which would be very costly.

Noting that there was clearly no consensus on the proposal from France and the preference expressed at the March 2008 intersessional meeting in Heathrow on the future of IWC to reach decisions by consensus, the Chair suggested that discussions be deferred to the private meeting of Commissioners on 22 June. In the meantime he encouraged further discussion among countries so that the matter could be decided by consensus. The F&A Committee agreed.

3.4.2 Secretariat proposal to amend Rule of Procedure E.2.(a) and Financial Regulation F.2

The Secretariat noted that at IWC/54 in 2002, the Commission adopted several amendments to its Rules of Procedure and Financial Regulations to tighten-up the link between payment of financial contributions and voting rights for existing and new Contracting Governments. Following IWC/54, the Secretariat realised that the amendments to Rule of Procedure E.2.(a) and Financial Regulation F.2 in relation to existing Contracting Governments had omitted unintentionally mention of a 'vote by postal or other means' and rectified this by amending the rules at IWC/55 in 2003. When reviewing the Rules of Procedure and Financial Regulations more recently, the Secretariat noted that the revisions to Rule of Procedure E.2.(a) and Financial Regulation F.2 adopted at IWC/55, rather than simply addressing the omission of mention of a 'vote by postal or other means', has the

unintended effect of suspending an existing Contracting Government's right to vote if it has not paid its financial contribution prior to the due date. Consequently, under the current rules, if a vote by postal or other means occurs before the due date, then dues must be paid by this time, i.e. earlier than they would normally be due in order for an existing Contracting Government to be eligible to vote. While votes by postal or other means are rare, they could arise with little warning. If such votes were to occur, the present provision requiring early payment of dues could result in the denial of voting rights to several if not most Contracting Governments. The budgetary process of governments is not amenable to such surprises. The Secretariat therefore proposed the following revisions to the rules to correct for this. The Secretariat noted that while few changes are proposed to the actual words used in Rule of Procedure E.2.(a), they have been rearranged to improve clarity.

Rule of Procedure E 2(a)

From:

Rule of Procedure E

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.

To:

Rule of Procedure E

2. (a) The right to vote of representatives of any Contracting Government *shall be suspended automatically when the annual payment of a Contracting Government including any interest due has not been received by the Commission by the earliest of these dates:*

- *3 months following the due date prescribed in Regulation E.2 of the Financial Regulations; or*
- *the day before the first day of the next Annual or Special Meeting of the Commission if such a meeting is held within 3 months following the due date; or*
- *in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date.*

This suspension of voting rights applies until payment is received by the Commission unless the Commission decides otherwise.

Financial Regulation F 2.

From:

Financial Regulation F

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.

To:

Financial Regulation F

2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission *by the earliest of these dates:*

- *3 months following the due date; or*
- *the day before the first day of the next Annual or Special Meeting of the Commission if such a meeting is held within 3 months following the due date; or,*

- *in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date,*

the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.

The need for such provisions to appear in both the Rules of Procedure and the Financial Regulations was questioned and it was suggested that this should be reviewed at some later date. Noting this, the F&A Committee agreed with the proposed amendments and **recommends** to the Commission that they be adopted.

4. FORMULA FOR CALCULATING CONTRIBUTIONS

4.1 Introduction

4.1.1 Background

The Secretariat recalled that at IWC/59 in Anchorage, no proposals were made to resume the work of the Contributions Task Force to develop a new financial contributions scheme and that the Interim Measure adopted at IWC/54 for calculating financial contributions therefore remains in place. However, noting that the cut-off points defining the capacity-to-pay groups of the Interim Measure had not been reviewed or revised since their introduction in 2002, the Commission agreed last year that the Secretariat should undertake such a review and develop a proposal, as appropriate for consideration by the F&A Committee at IWC/60.

The Interim Measure was introduced to alleviate the financial burden of developing countries. In calculating contributions, the Interim Measure takes account of: (1) membership; (2) whaling activities; (3) the size of delegations to the Commission's Annual Meeting; and (4) a country's capacity to pay. With respect to capacity to pay, Contracting Governments are allocated into one of four groups depending on their Gross National Income (GNI) and their GNI per capita (GNIPC) as follows:

- **Group 1:** countries with GNI <US\$10,000,000,000 and GNIPC <US\$10,000;
- **Group 2:** countries with GNI >US\$10,000,000,000 and GNIPC <US\$10,000;
- **Group 3:** countries with GNI <US\$1,000,000,000,000 and GNIPC >US\$10,000;
- **Group 4:** countries with GNI >US\$1,000,000,000,000 and GNIPC >US\$10,000.

At IWC/56 in 2004, the Commission agreed to take into account the special position of Very Small Countries in calculating Financial Contributions (Resolution 2004-4). At IWC/57 in 2005 the Commission agreed that the criteria shown below are appropriate to define a 'very small country' and that they be applied in the calculation of Financial Contributions for the financial year 2005-06 onwards:

A 'very small country will have the following characteristics and as a 'very small country' will be placed in capacity-to-pay Group 2:

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

Countries placed in Group 1 pay the lowest financial contributions, while those in Group 4 pay the highest. World Bank data for GNI and GNIPC are used. These data are published around April each year but relate to earlier years e.g. the data published in April 2007 refers to 2005.

The practice up to IWC/59 was to use the most recent April data to allocate countries into capacity-to-pay groups in the process of calculating the Financial Contributions to be agreed at the Annual Meeting one or two months later. The cut-off points defining the capacity-to-pay groups have remained unchanged since IWC/54 in 2002.

During IWC/59, the then accepted procedure for implementing the Interim Measure resulted in the sudden promotion of three countries to higher capacity-to-pay groups and therefore exposed them to higher levels of Financial Contribution for which they had very little notice and consequently no time in which to make budgetary allowance. After some discussion the Commission therefore agreed:

- (a) that Contracting Governments be allocated to capacity-to-pay groups using the World Bank data on GNI and GNIPC available on 31 December of the previous year and that this take effect for the calculation of the 2007/08 financial contributions. This would provide more time for governments to make sufficient budgetary provision; and
- (b) noting that the cut-off points defining the capacity-to-pay groups had remained unchanged since 2002 and had not been revised to take account of inflation, that the Secretariat be asked to review the cut-off points and report back at IWC/60, including on how they could be reviewed on a periodic basis.

4.1.2 How to adjust for inflation

The Secretariat noted that to adjust the cut off-points for inflation requires application of an appropriate index. The World Bank uses an index for world inflation to adjust its GNIPC data. Following contact with the Bank, it advised that this index would also be suitable for the adjustment of its GNI data. The inflation index for 2007 will be released by the World Bank in July 2008. The latest index that is currently available is for 2006.

4.1.3 How often should the IWC review and update the cut-off points to take inflation into account?

The World Bank data available in December 2007 (to be used in the calculation of Financial Contributions for 2008/09) was published in April 2007 and refers to 2005. For the cut-off points be consistent with the published World Bank data (i.e. to 2005) then they should be adjusted from 2002 to 2005 levels.

Given that the GNI and GNIPC data and the inflation index are published by the World Bank on an annual basis, the Secretariat suggests that the cut-off points used in the Interim Measure also be reviewed and updated as appropriate on an annual basis. This is not an onerous task for the Secretariat and would be the fairest procedure for Contracting Governments.

4.1.4 Where should the cut-off points be set for calculating financial contributions for 2008/09?

Given that the most recent GNI and GNIPC data available are those for 2005 (published in April 2007), it would seem most appropriate to update the cut-off points defining capacity-to-pay groups set in 2002 to 2005 levels.

The application of the inflation index as used by the World Bank to bring the cut off values up to 2005 levels produces the following result (see Appendix 9 for details of the calculations):

- Group 1 - countries with GNI <US\$11,850,000,000 and GNIPC <US\$ 11,850
- Group 2 - countries with GNI >US\$11,850,000,000 and GNIPC <US\$ 11,850
- Group 3 - countries with GNI <US\$1,185,000,000,000 and GNIPC >US\$ 11,850
- Group 4 - countries with GNI >US\$1,185,000,000,000 and GNIPC >US\$ 11,850

Note that the Secretariat has applied the inflation index to both GNIPC and GNI data (and rounded to give sensible numbers).

The criteria used to define a 'very small country' would be adjusted for inflation as follows:

- (a) a population of less than 100,000, AND
- (b) a GNI of less than USD 5.925 billion, AND
- (c) a GNIPC of more than USD 11,850.

4.1.5 Effect of revising the cut-off points on allocation to capacity-to-pay group

Appendix 10 shows two tables. The left hand table shows the allocation to capacity-to-pay group when the existing 'cut-off points' are updated to 2005 levels are used together with the World Bank data available in December 2007, published in April 2007 and relating to 2005. The right hand table shows the allocation to capacity-to-pay group arising when the existing 'cut-off points' are applied to the World Bank data available in December 2006, published in April 2006 and relating to 2004, i.e. the situation used for the calculation of Financial Contributions for the year 2007/08.

The tables in Appendix 10 show no difference in allocation to capacity-to-pay groups.

4.1.6 Conclusion

The specific levels of GNI and GNIPC used to define the 'cut-off points' for the capacity-to-pay groups in the Interim Measure agreed at IWC/54 in 2002 have not been revised since that time to take account of inflation. The World Bank has provided the necessary index to adjust the 'cut-off points' which originated in 2002, to 2005 levels. The application of the inflation-adjusted 'cut-off points', together with World Bank data published in April 2007 (and available for use in December 2007 preceding IWC/60), produce an allocation to capacity-to-pay groups for 2008/09 unchanged from 2007/08. The Secretariat suggested that the 'cut-off points' could be reviewed and updated annually which would be the fairest procedure for Contracting Governments.

4.2 F&A Committee discussions and recommendations to the Commission

The observation was made by several countries that the suggested process was logical, had no effect on the allocations to capacity-to-pay groups and in line with other forums and specifically the World Bank. It was also noted however that using 2005 data in the context of calculating contributions for 2008-2009 was rather odd.

Never the less the F&A Committee **recommends** to the Commission that:

- (1) the existing 'cut-off points' used to define 'capacity-to-pay groups' be updated from 2002 to 2005 levels using the index provided by the World Bank; and
- (2) the updated 'cut-off points' be used in the calculation of Financial Contributions for 2008-2009; and

- (3) the Secretariat should update the 'cut-off points' annually using the index provided by the World Bank prior to the calculation of the next year's Financial Contributions.

5. FINANCIAL STATEMENTS, BUDGETS AND OTHER MATTERS ADDRESSED BY THE BUDGETARY SUB-COMMITTEE

5.1 Review of the Provisional Financial Statement, 2007-2008

5.1.1 Report of the Budgetary Sub-committee

The report of the Budgetary Sub-committee (IWC/60/F&A9) was introduced by its Chair Joji Morishita. The Provisional Financial Statement presented in IWC/60/5 was circulated to the Sub-committee in April 2008.

The Secretariat reported that fairly extensive notes and explanations accompanied the Provisional Financial Statement circulated in April 2008 and that no comments had been received prior to the meeting. It drew attention to the key points made in that statement as shown below.

INCOME AND EXPENDITURE ACCOUNT

Income: exceeds budget by £35k the chief factors being: (1) Financial Contributions from new members; (2) interest on late contributions; and (3) increase in interest receivable.

Expenditure: is projected to exceed budget by £13k. Increases in Other Meeting Costs of £20k, Small Cetacean costs of £3k and Publication costs of £1k were offset by savings in Secretariat Costs of £11k.

Provisions: are projected to be under budget by £7k.

Result for the year: a projected excess of expenditure over income of £-61k which, after transfers between funds, translates into a deficit of £-68k.

The balance on the General Fund is projected at about £1,309k at the end of the current financial year (31 August 2008). This represents about 143% of the target level (6 months expenditure: £1,829k x 50%).

The Secretariat then commented briefly on changes that had occurred since the Provisional Financial Statement was prepared. It reported that increases in income are anticipated from:

- Financial Contributions of New Members: £5.5k (Romania £3.5k, Republic of Congo £2k);
- Voluntary Contributions (amounts rounded):
- £9.3k from Italy towards ship-strike work arising from the Conservation Committee. This voluntary contribution and associated expenditure for Conservation Committee work will be regarded as part of the General Fund and as such will not be shown in the financial statements but will be reported as a note to the accounts.
- £6k from New Zealand as their Government's voluntary contribution to the costs of the experts involved in the intersessional meeting held in Heathrow earlier in 2008 regarding the future of the IWC. This will be regarded as part of the General Fund and as such will not be shown in the financial statements but will be offset against Other Meeting Costs.
- £2.5k from USA as a contribution to the Research Fund towards the Whalewatching Workshop.
- Contributions to the Small Cetacean Research Fund from Ireland (£1.5k received) and the Netherlands (£5k

committed) towards funding the attendance at the IWC/60 Scientific Committee of scientists from developing countries.

- A number of indications have been made that further voluntary contributions may be made but are still to be confirmed.

It further noted that there will be a release from the provision for doubtful debts of approximately £60k from Costa Rica and that a further release of £32k from Uruguay is possible if Uruguay clears all of its debt from its previous membership of IWC. However, the net change in provision may be reduced by additions to provision made at the financial year end for any current debts still outstanding.

The Secretariat noted that the increase in 'Other Meeting Costs' was due to higher than budgeted expenditure (£40k) for the March 2008 Intersessional Meeting on the Future of IWC owing mainly to the decision to invite three outside experts to that meeting. The Secretariat further noted that at the request of the March meeting, the three experts have been invited to participate in the discussions at IWC/60 on the future of the organisation and that these costs have been also included under 'other meetings' rather than adding them to the costs of the Annual Meeting. The Sub-committee welcomed this explanation and clarification.

The Sub-committee noted that the projected out-turn for 2007-2008 is a generally satisfactory situation as currently presented with no problems foreseen. It accordingly recommended to the Finance and Administration Committee that the Provisional Financial Statement (Appendix 5) is forwarded to the Commission with a recommendation that it be approved subject to audit.

5.1.2 Secretary's report on the collection of financial contributions

The Secretariat referred to document IWC/60/F&A10. Total financial contributions and interest outstanding amounted to £457.1k, of which £47.7k referred to former members and £409.4k referred to current members. The Secretary's report on the collection of financial contributions was noted.

5.1.3 Summary of recommendations to the Commission

The F&A Committee **recommends** that the Provisional Financial Statement is approved by the Commission subject to audit and further **recommends** that the Commission takes note of the 'Secretary's report on the collection of financial contributions.'

5.2 Secretariat offices

5.2.1 Report of the Budgetary Sub-committee

INTRODUCTION TO THE BSC BY THE SECRETARIAT

The Secretariat noted that after some discussion at last year's meeting, the Commission agreed with the F&A Committee recommendation that the matter of Secretariat relocation away from the Cambridge area is closed for the time being and that it should only be re-opened if a positive decision to do so was taken at some point in the future. It further noted that as the lease on the Secretariat's current offices (The Red House) expires on 17 March 2009 a decision will need to be made at IWC/60 on what to do about Secretariat accommodation at least in the short-term (e.g. negotiate a new lease for the Red House or rent alternative accommodation).

The options available to the Commission include:

- (1) the re-negotiation of the lease on the current property;
- (2) renting alternative property in the Cambridge area; and
- (3) purchase of a property.

With respect to **rental of the current property**, the Secretariat noted that at the time of the negotiation of the present lease, the only option available was a long lease with full maintenance required and rent reviews that only allowed for rent increases (not decreases). Current market conditions suggest that a shorter lease should be negotiable, e.g. for a period of 10 years with a 5-year option for the tenant to break the lease. A lease of this duration might provide a balance between continuity and flexibility in case the Commission wished to pursue alternatives in the not so distant future. A committed period of 5 years would limit the IWC's fixed obligation if the organisation was to be subject to significant change but would offer continuity for 10 years if that was required.

The Secretariat reported that it has asked a firm of consulting surveyors and a law firm to advise it on the law and tactics relating to the renewal of its current lease. Their advice is that should the IWC wish to retain its current offices, it should open negotiations as soon as is practicable to take advantage of current rental conditions and negotiate a more favourable rent.

With respect to **rental of alternative accommodation**, it should be noted that the Red House is an unusual property but well suited to the needs of the Secretariat. Alternative rented property may possibly be available at a lower rent but this apparent advantage might be offset by the cost of adapting that property to the needs of the Secretariat and relocation expenses.

With respect to **property purchase**, the Secretariat recalled that there is a precedent for an inter-governmental organisation to own property, i.e. the North Atlantic Salmon Conservation Organisation, based in Edinburgh, Scotland. The advantage of having property to sell after many years of ownership, rather than having no assets after a period of rental has been recognised previously by the Budgetary Sub-committee and the F&A Committee. However the Secretariat noted that short-term problems associated with funding a property purchase (i.e. large deposit needed), whether alternative host government funding might be available and questions about the future of the organisation have made discussions regarding the purchase of property too wide-ranging to allow any consensus to emerge.

The Secretariat therefore concluded that the lack of consensus within the Commission regarding property purchase and continuing concerns regarding the future of the organisation suggests that the continued rental of property for the Secretariat is appropriate at present. The Red House is well suited to the needs of the Secretariat and so the re-negotiation of the lease at an expected lower rent looks preferable to relocating to alternative premises in the Cambridge area.

With respect to re-negotiation of the current lease, there is currently £13k allocated in the proposed 2008-2009 budget for professional services and maintenance work that can arise when a lease finishes. The current proposed allocation of £13k may be sufficient to cover the variables mentioned, however the addition of £5k to the proposed budget as a contingency for additional legal fees would be prudent.

BUDGETARY SUB-COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

Confirmation of information given in the Secretariat's report was given where requested.

In response to questions about the availability of rental property in the Cambridge area at lower cost than the Red House, the Chair and Secretariat referred to earlier reviews on this matter prepared for the Budgetary Sub-committee which had demonstrated that the cost of the Red House was not excessive compared with rental rates in the area. A survey done in preparation for the Budgetary Sub-committee meeting at IWC/57 in 2005 noted that rates for office rent in the Cambridge area varied between £16.60 and £18.00 per square foot, compared with a rate at that time for the Red House of £12.60 per square foot (see *Rep. Int. Whaling Comm.* 2005:126-128). Rental rates for industrial property can be lower, but the Secretariat noted that costs converting such premises to office space would then be incurred.

The Secretariat noted that discussion on the topic of Secretariat offices has been going on for some time and that the number of alternatives available may now be very limited because of time constraints. The Secretariat further noted that UK law offered a window of opportunity for the landlord or the tenant to open negotiations for lease renewal. The Secretariat has been advised that advantage frequently goes to the party who initiates the proceedings. The window to initiate negotiations and secure the earliest reduction in rent will last until mid September 2008. If the Secretariat delays opening negotiations then the landlord may have time to find grounds not to renew the lease or at least to maintain the rent at the current higher than market level.

Following these discussions, the Budgetary Sub-committee agreed to recommend to the F&A Committee that the lease of the Red House should be re-negotiated and that the budget for doing so should be increased by £5k to allow for increased legal fees.

5.2.2 F&A Committee discussions and recommendations to the Commission

The F&A Committee noted the report from the Budgetary Sub-committee and **recommends** to the Commission that the lease of the current offices of the Secretariat (the Red House, Impington, Cambridge) be re-negotiated and that £5k be added to the proposed budget for 2008-2009 as a contingency for increased legal fees.

5.3 Consideration of estimated budgets, 2008/2009 and 2009/2010, including the budget for the Scientific Programme

5.3.1 Report of the Budgetary Sub-committee

REVIEW OF THE PROPOSED BUDGET FOR 2008-2009 AND THE FORECAST BUDGET (APPENDIX 6).

This aspect of the work done by the BSC was introduced by its Chair Joji Morishita. He highlighted the main factors affecting their formulation as follows:

Income: as presented in IWC/60/5, income is projected to increase overall by about 1.8% (from £1,732k in the 2007-2008 Approved Budget to £1,764k in the proposed budget for 2008-2009). This is due to increases in Financial Contributions, registration fees, staff assessments and a reduction in bank interest receivable.

Contracting Government Contributions (see Table 13 in IWC/60/5): the total contributions required from Contracting Governments is increased for 2008-2009 to

£1,442k (from £1,407k). This represents a total increase of 2.5%, but due to an increase in the number of member countries the majority of contribution changes per country will be less than this. (Note that Table 13 of IWC/60/5 shows two scenarios illustrating financial contributions of individual Contracting Governments depending on whether the cut-off points defining capacity-to-pay groups in the Interim Measure used to calculate financial contributions are updated to take account of inflation since they were established at IWC/54 in 2002 (see document IWC/60/F&A4).

The forecast budget for 2009-2010 is increased for by 2%.

Expenditure: 4.1% has generally been used to allow for cost increases for 2008-2009 (and for 2009-2010) except where there are positive indications that different levels are required. This reflects current levels of inflation in the UK. Expenses are generally expected to be much the same as last year.

The forecast budget is intended to show the general trend in reserve levels where budget deficits are shown in both years.

Projected result for the year(s)

	2008-2009	2009-2010
Balance of income and expenditure (deficit)	-169,100	-131,500
Surplus/(Deficit) after transfers between Funds	-177,550	-140,550

General Fund Reserves

	2008-2009	2009-2010
Projected balance on General Fund at year-end	1,131,700	991,300
Target level – approximately 6 months costs	966,500	968,100
% of Target level	117	102

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.

The forecast budget shows an increase in Financial Contributions of 2% and shows the cumulative effect on reserves of prudently moving towards the ‘target level’.

The projected levels of the reserves at 117% and 102% indicate that deficit budgets for 2008/09 and 2009/10 are feasible, but that higher levels of Financial Contributions may be needed in future years in order to maintain reserves at the target level of 50% of operating costs (the General Fund being projected to have reached 102% of this target by the end of 2009/10).

With respect to the **Research Budget for 2008-2009** (Appendix 7), the Chair of the Scientific Committee reported that the Committee had identified projects totalling £341,670 which it considered necessary to properly carry out the Commission’s requirements. However, recognising the financial constraints that applied, the Committee had prepared a reduced list of items to get as near as possible to the target, which had been set at £305,400. The Sub-committee accepted the request from the Scientific Committee for the reduced budget (which is in line with the provision in the proposed budget) and recommended this to the F&A Committee.

Regarding **fees for observers**, in 1992, the Commission decided that fees for observers from non-member Governments and intergovernmental organisations should be held constant at £800 while the fee for NGO observers

should increase annually. At IWC/59 last year, the Commission adopted changes to the procedure governing accreditation and participation of NGOs in IWC meetings (see section 3.2 for full explanation and level of fees set). On the basis of anticipated income from NGOs from their participation at IWC/60, the Secretariat had proposed that the level of fees set for IWC60 be used also for 2008-2009 since this would allow time to assess the level of income received under the new procedure. The Budgetary Sub-committee accepted the proposal to keep NGO fees for 2008-2009 at the same level as for 2007-2008.

Regarding press fees, the Sub-committee also accepted the increase proposed by the Secretariat from £50 to **£55**.

Having reviewed the proposed budget for 2008-2009, including the research budget and the level of fees for NGOs and press, the Budgetary Sub-committee recommended that this be adopted by the Commission, subject to consideration by the F&A Committee.

5.3.2 F&A Committee discussions and recommendations

The lack of a host government (to date) for the Annual Meeting in 2010 was noted. The provision in the 2009-2010 forecast budget of £377k, while notional at this stage, was nevertheless thought inadequate to fund a meeting in the UK should this prove to be necessary. The Committee noted the need for the budget for the Annual Meeting in 2010 to be considered in discussions about the future of the organisation.

The F&A Committee **recommends** that:

- the proposed budget for 2008-2009 (Appendix 6) be forward to the Commission for its adoption;
- that the Commission takes note of the Forecast Budget for 2009-2010; and
- that for 2008-2009, the NGO fee continue to be set at £500 for the first observer from an organisation and at £250 for each additional observer and the media fee be set at £55.

5.4 Other

5.4.1 Report of the Budgetary Sub-committee

COST IMPLICATIONS OF SEPARATING MEETINGS OF THE SCIENTIFIC COMMITTEE AND COMMISSION MEETINGS

The Budgetary Sub-committee Chair noted that given the interest expressed during the March 2008 intersessional meeting on the future of IWC for separating the meeting of the Scientific Committee from the Commission meeting, it was considered appropriate for the Budgetary Sub-committee to consider the cost implications of doing so.

The Secretariat noted that it believed that there would be some increase in cost associated with *inter alia* organising, setting up and servicing two such large meetings (thus increasing the workload of the Secretariat) and increased travel and subsistence costs for those individuals from both the Secretariat and Contracting Governments who attend both the Scientific Committee and Commission meetings. The Secretariat had not had the opportunity to go into this matter in much depth, but felt that increased costs may be in the order of 1.2 to 1.5 times current costs, but also noted that any additional costs might be offset by the Commission meeting on a less frequent basis than annually (an issue that is under discussion by the Commission). The Secretariat also noted that separating the meetings may increase the choice of suitable venues (e.g. some venues would be suitable for the Scientific Committee and not the

Commission and *vice versa*) with the possibility of reduced costs.

The Budgetary Sub-committee identified a number of other issues that would need to be addressed if the separation of the Scientific Committee and Commission meetings were to be seriously considered. These included: (1) how the current budgetary provision, already recognised as being insufficient to cover the costs of the current format of Annual Meetings, might be allocated between the sets of meetings; and (2) whether Contracting Governments would be interested in offering to host the Scientific Committee rather than the plenary, and if not whether it might be necessary to consider holding these meetings in the UK.

The Budgetary Sub-committee considered that it would be helpful if the Secretariat could develop a more detailed understanding of cost implications of separating the meetings and the Secretariat undertook to try to do so in time for the discussions on the future of the organisation.

MONEY OWING FROM ST. KITTS AND NEVIS IN RELATION TO IWC/58 IN 2006

The Secretariat had reported that since IWC/58, St. Kitts and Nevis has had a debt outstanding with the IWC of £14.5k. During IWC/58 the IWC incurred expenditure on behalf of St. Kitts and Nevis to facilitate the smooth running of the Annual Meeting. While St. Kitts and Nevis received voluntary contributions from other IWC members to try to make good the short-fall in the running costs of the meeting, unfortunately the assistance received was not sufficient to pay the balance owed to the IWC. The Chair of the Budgetary Sub-committee noted that prior to the F&A Committee meeting he had been advised that St. Kitts and Nevis had agreed to enter into a repayment schedule with the IWC to clear their debt.

POSSIBLE COSTS OF MEETINGS DURING 2008-2009 ASSOCIATED WITH DISCUSSIONS ON THE FUTURE OF THE ORGANISATION

While recognising that provision had been included in the proposed budget for 2008-2009 for an intersessional meeting similar to that held in March 2008, it was noted that the Chair of the Commission's recommendations for an approach to future negotiations included the establishment of a smaller group that may also meet on one

or more occasions in the intersessional period. When asked if it had estimates of what such meetings might cost, the Secretariat indicated that the preparation of these is in hand and should be available later in the week for discussions on the future of the organisation.

BUDGETARY SUB-COMMITTEE OPERATIONS

Andrea Nouak (Austria) and Walter Duebner (Germany) were elected by consensus as Chair and Vice-Chair respectively of the Budgetary Sub-committee.

Attention was drawn to the provisional membership of the Budgetary Sub-committee (see Appendix 8). It was agreed that the Secretariat will confirm the willingness of the Governments listed to serve on the Sub-committee during the Annual Meeting (or shortly thereafter). Noting that the two open seats on the Sub-committee are vacant, the Secretariat undertook to invite expressions of interest after the Annual Meeting via Circular Communication to all Contracting Governments.

The Chair of the Budgetary Sub-committee concluded the presentation of the Sub-committee report by thanking members and the Secretariat for their support over the four years that he had held the post.

5.4.2 F&A Committee discussions and recommendations

The Committee noted the report on these items.

The Chair of the F&A Committee thanked Joji Morishita for undertaking the important role of BSC Chair over the past four years, and further thanked Andrea Nouak for agreeing to assume the role of BSC Chair for the next three years.

6. OTHER MATTERS

The Committee agreed that the Secretariat shall undertake a study to be presented to the next Annual Meeting on the feasibility and associated costs of off-setting the carbon emissions of the operation of the Secretariat and the meetings of the IWC and thus to become carbon neutral.

7. ADOPTION OF REPORT

The Report was adopted 'by post' on 22 June 2008.

Appendix 1

LIST OF PARTICIPANTS

Antigua and Barbuda
Anthony Liverpool

Argentina
Miguel Iñiguez

Australia
Lesley Gidding
Clare Derrington

Austria
Andrea Nouak

Belgium
Alexandre de Lichtevelde

Benin
Joseph Ouake

Brazil
José Palazzo

Chile
Francisco Berguño

Czech Republic
Pavla Hýčová

Denmark
Ole Samsing

Finland
Esko Jaakkola
Penina Blankett

France
Stephane Louhaur
Martine Bigan

Germany

Walter Duebner

Iceland

Stefán Ásmundsson

Gísli Víkingsson

Italy

Caterina Fortuna

Chessa Agostina

Japan

Minoru Morimoto

Joji Morishita

Dan Goodman

Hideaki Okada

Takashi Koya

Republic of Korea

Yeon Suk Lee

Hyun-Jin Park

Zang Geun Kim

Luxembourg

Pierre Gallego

Mali

Seydou Coulibaly

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer

Alexander Gillespie

Norway

Halvard Johansen

Einar Tallaksen

Portugal

Jorge Palmerin

St. Lucia

Vaughn Charles

St. Vincent and the Grenadines

Raymond Ryan

Slovak Republic

Katarina Slabeyova

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

Sweden

Bo Fernholm

Switzerland

Martin Krebs

UK

Richard Cowan

Luke Warwick

Jennifer Lonsdale

USA

John Field

Ryan Wulff

Roger Eckert

Heather Rockwell

Secretariat

Nicky Grandy

Sean Moran

Sandra Holdsworth

Mark Tandy

Appendix 2
LIST OF DOCUMENTS**F&A Committee documents**

IWC/60/F&A

- 1rev Revised Draft Agenda
- 2 List of documents
- 3 Exploration of possible approaches to the translation of IWC's website
- 4 The Interim Measure for calculating financial contributions: review of cut-off points defining capacity-to-pay groups
- 5 Secretariat proposal to amend Rule of Procedure E.2.(a) and Financial Regulation F.2
- 6 Scientific Committee Invited Participants 2008
- 7 Feedback and request for clarification on new accreditation and participation procedures for NGOs
- 8 Proposal from France to amend Rule of Procedure N.1 regarding working languages of the Commission (also available in French and Spanish)
- 9 Report of the Budgetary Sub-committee
- 10 Secretary's report on the collection of financial contributions for 2007-2008

Commission Documents

IWC/60/Rep 1 (Extract from the) Report of the Scientific Committee (as submitted to the Budgetary Sub-Committee)

IWC/60/5 Financial Statements

Appendix 3

AGENDA

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Appointment of Chair 1.2 Appointment of rapporteurs 1.3 Review of documents 2. Adoption of the Agenda 3. Administrative matters <ol style="list-style-type: none"> 3.1 Annual Meeting arrangements and procedures <ol style="list-style-type: none"> 3.1.1 Need for a Technical Committee 3.1.2 Frequency of meetings 3.1.3 Other 3.2 NGO accreditation and participation 3.3 Website <ol style="list-style-type: none"> 3.3.1 Linking IWC's website to those of Contracting Governments 3.3.2 Translation of IWC's website 3.4 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate 4. Formula for calculating contributions 5. Financial statements, budgets and other matters addressed by the budgetary sub-committee | <ol style="list-style-type: none"> 5.1 Review of the provisional financial statement, 2007/2008 <ol style="list-style-type: none"> 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 Secretariat offices <ol style="list-style-type: none"> 5.2.1 Report of the Budgetary Sub-committee 5.2.2 F&A Committee discussions and recommendations 5.3 Consideration of estimated budgets, 2008/2009 and 2009/2010, including the budget for the Scientific Programme <ol style="list-style-type: none"> 5.3.1 Report of the Budgetary Sub-committee 5.3.2 F&A Committee discussions and recommendations 5.4 Other 6. Other matters 7. Adoption of the report |
|---|--|

Appendix 4

SIZE AND COST OF CURRENT IWC WEBSITE AND OPTIONS TO BE CONSIDERED WITH RESPECT TO TRANSLATION

SIZE AND COST

The IWC website at www.iwcoffice.org has a total of 201 working pages¹ comprising some 196,000 words. The total site is currently 640Mbytes in size and costs £240 per year to host. The workload to maintain the website is equivalent to one full time staff member (cost of around £30,000/year including salary and benefits).

OPTIONS REGARDING TRANSLATION OF THE WEBSITE

Option 1: Fully tri-lingual website

It would seem sensible to continue to use the English version of the website as the 'primary' version and then to translate into French and Spanish from this.

To move to a fully tri-lingual website it would first be necessary to translate the current pages. At this stage it is assumed that only the actual web pages (HTML), web-based forms (ASP) and other interactive content would be translated. PDF documents available on the website would remain in English only as the majority of these are Scientific Committee documents. The estimated cost of the translation of the existing website is shown in the Table.

The rate for translation is taken from a mean calculated last year by the Secretariat with regards to the translation of documents (see IWC/59/F&A5).

The text from the pages would have to be extracted and provided to the translation company/translator in a portable

form (PDF, text file etc.), who would, in turn, return the translated text to the Secretariat to insert into the appropriate place on the site. One translation company contacted estimated that it would take one translator per language approximately 4 months to complete the entire site. Further time would then be needed for the Secretariat to create, check and publish the pages (approx. 1 month).

Estimated translation costs for IWC website.				
Total working pages	Words	Rate	Amount per language	Amount for two languages (French and Spanish)
201	196,172	£93.00 per 1,000 words	£18,244	£36,488

The translations would only be accurate up to the date of completion. As indicated above, any updates to pages would then need notifying to the translators to translate the text, return it and so forth.

The costs involved include the translation of the site plus a doubling (approx.) of the current web hosting-related overheads. This equates to approximately £37,000 in total (i.e. £36,488 + (2 x £240)). In addition to this would be the cost of updates. This is very difficult to estimate but could be in the region of 10% of the site per year (i.e. around £4,000 per year translation costs plus Secretariat staff time).

If this option were to be taken it would be advisable for it to coincide with or follow the planned website overhaul/rebuild to avoid replication of work.

¹Actual HTML or equivalent pages, not including static documents such as PDFs or Word documents.

Option 2: Partially-translated website

Rather than move to a fully tri-lingual website, the Commission may wish to consider:

- making part of the website available in French and Spanish in a similar way as already done by some other IGOs who have more than one working language, e.g. by focusing on the most popular pages viewed by the website's audience; and
- improving machine translation for those parts of the website that are not translated.

Partial translation could be considered as either a long-term option or a shorter-term option as part of a phased-in introduction of a fully tri-lingual website.

Translating the most popular pages

The Table below lists the 20 most popular pages from the IWC website based upon discrete page views (hits) over a 12 month period (01/01/07 to 01/01/08). This list does not include menu and sub-menu pages which, for obvious reasons, tend to have high hit counts. A definitive list of pages would need to be agreed, based on importance, but these pages provide a good starting point. These translated pages could be available on the website as:

- PDFs as is the practice for some of the IGOs listed above (e.g. ICATT); or
- As web pages that directly mirror those already available in English.

The advantage of making them available as PDFs is that this approach removes any website design implications and therefore reduces costs. Although the functionality of the documents would be reduced (i.e. no menus, reduced image sizes etc.) this is the approach that would be recommended by the Secretariat. The timescale for providing such translated material is dependent only on the receipt of the material itself.

The cost to translate all of the pages listed above would amount to approx £9,800 for two languages, i.e. 2 x (52,583 words at £93.00 per 1,000 words). Recognising that the Commission may wish to translate fewer or more

pages, this figure is simply provided as a guide. There would be a smaller increase in web hosting-related overheads than for Option 1. The level of updates and notification for these pages would be also be significantly smaller and hence so would the increase in workload compared with Option 1.

There would also be the cost of keeping the translated pages up-to-date. Rather than notifying the translator of updates to these pages as they occur, a periodic list of updates could be communicated on a regular basis (e.g. monthly). This would allow the Secretariat to adjust its workflow accordingly to accommodate any busy periods. The onus would be on the Secretariat to keep accurate records of all website updates made during that period. Obviously this approach would result in some of the translations being out of date for a short period of time.

Translations provided by Contracting Governments could continue to be made available as at present (e.g. as has been done for texts of the Convention and Schedule) which would have no cost implications for the Commission.

Improving machine translation

The rest of the site would continue to have the possibility for machine translation, but the level of accuracy could be increased. Some translation companies offer bespoke software that provides the same level of translation as the current service initially, but in collaboration with the Secretariat, the dictionary database could be customised and machine translations made more accurate. One company quoted an increase in accuracy from 75% to 95% using this technology. The necessity of this could be decided once the accuracy of the current translator has been verified. There would be a cost involved with using this service (approx £15-30 per month for both languages) and the design implications mentioned earlier may persist. Further time would be required to create and tailor the custom dictionary and input from scientists may be required to help build a portfolio of appropriate technical terms.

Twenty most popular IWC website pages based on discrete page views (hits).

Description	URL	Words	Hits*	Rank
Commission information				
Commission background	http://www.iwcoffice.org/commission/iwcmmain.htm	2,225	53,403	1
The Convention	http://www.iwcoffice.org/commission/convention.htm	3,045	20,870	4
The Schedule	http://www.iwcoffice.org/commission/schedule.htm	8,717	10,222	8
Rules of Procedure	http://www.iwcoffice.org/commission/procedure.htm	10,494	4,151	19
Whale information				
Whale taxonomy	http://www.iwcoffice.org/conservation/cetacea.htm	783	7,236	11
Lives of whales	http://www.iwcoffice.org/conservation/lives.htm	2,493	13,715	5
Population estimates	http://www.iwcoffice.org/conservation/estimate.htm	811	30,521	3
Annual Meetings				
2008 Meeting	http://www.iwcoffice.org/meetings/meeting2008.htm	642	4,666	17
2007 Meeting	http://www.iwcoffice.org/meetings/meeting2007.htm	2,157	32,024	2
2006 Meeting	http://www.iwcoffice.org/meetings/meeting2006.htm	2,044	11,092	6
2005 Meeting	http://www.iwcoffice.org/meetings/meeting2005.htm	2,723	3,743	20
Conservation and management				
Environment	http://www.iwcoffice.org/conservation/environment.htm	1,254	10,302	7
RMS	http://www.iwcoffice.org/conservation/rms.htm	3,431	4,279	18
RMP	http://www.iwcoffice.org/conservation/rmp.htm	1,301	4,781	16
Catch limits and catches taken	http://www.iwcoffice.org/conservation/catches.htm	950	9,894	9
Sanctuaries	http://www.iwcoffice.org/conservation/sanctuaries.htm	549	6,822	12
Welfare	http://www.iwcoffice.org/conservation/welfare.htm	1,020	6,183	13
Whalewatching	http://www.iwcoffice.org/conservation/whalewatching.htm	862	5,154	14
Scientific permits	http://www.iwcoffice.org/conservation/permits.htm	6,622	7,445	10
Aboriginal Subsistence Whaling	http://www.iwcoffice.org/conservation/aboriginal.htm	460	4,838	15
Total		52,583	251,341	

*01/01/07 to 01/01/08.

Option 3: Phased-in approach to fully tri-lingual website

This option would begin with Option 2 with a move to fully-translated pages (as in Option 1) at the decision of the Commission. As with Option 1, it would be advisable to wait until the website overhaul/rebuild to do this. The costs initially would therefore be the same as those for Option 2, but would obviously increase as more of the website was translated and made available as proper web pages.

TIMESCALE**Option 1: Fully tri-lingual website**

Website overhaul/rebuild = six months (would be slightly longer if three rather than one language is involved).

Translation (if two translators used) = four months.

Creation/checking/publishing of pages = one month.

Total = 11 months from when the work is started.

The timing of the overhaul/rebuild has not yet been fixed, but it is hoped that it would start within the next 12 months.

Option 2: Partially-translated website (assuming use of PDFs)

The first task here would be to agree on which pages should be translated. This could be done at IWC/60 in Santiago. The translated PDFs could then be made available on the website as and when they are ready.

Option 3: Phased in approach to fully tri-lingual website

This would begin as for Option 2, but the timing of any transition to a fully tri-lingual website would need to be determined by the Commission.

Appendix 5**PROVISIONAL FINANCIAL STATEMENT 2007-2008****Income and Expenditure Account**

	Approved Budget		Projected Out-turn	
	£	£	£	£
Income				
Contracting Government contributions		1,407,000		1,414,080
Recovery of Arrears		0		0
Interest on overdue financial contributions		0		20,300
Voluntary contributions		2,000		2,000
Sales of publications		17,500		18,000
Sales of sponsored publications		1,500		1,000
Observers' registration fees		48,400		47,900
UK taxes recoverable		24,700		21,920
Staff assessments		162,800		162,800
Interest receivable		67,600		78,500
Sundry income		1,000		1,000
		<u>1,732,500</u>		<u>1,767,500</u>
Expenditure				
Secretariat	1,041,900		1,030,560	
Publications	37,700		38,750	
Annual meetings	347,900		347,900	
Other meetings	79,800		99,840	
Research expenditure	293,350		293,350	
Small cetaceans	1,000		4,280	
Sundry	0		0	
	<u>1,801,650</u>		<u>1,814,680</u>	
Provisions				
Unpaid interest on overdue contributions	0		0	
Severance Pay Provision	21,300		14,000	
Provision for other doubtful debts	0		0	
		<u>1,822,950</u>		<u>1,828,680</u>
Excess of expenditure over income		<u>-90,450</u>		<u>-61,180</u>
Net Transfers from or to (-):				
Sponsored Publications Fund		-2,800		-2,000
Research Fund		-5,300		-8,050
Small Cetaceans Fund		-600		2,770
Surplus/Deficit (-) for the year after transfers		<u>-99,150</u>		<u>-68,460</u>

Appendix 6

PROPOSED BUDGET 2008-2009; FORECAST 2009-2010

The Proposed Budget 2008-2009 was approved in Commission Plenary with no changes. See Annex M of the Chair's Report.

Appendix 7

SCIENTIFIC COMMITTEE FUNDING REQUIREMENTS FOR 2008-2009

The Approved Research Budget as agreed in Commission Plenary is given as Annex N of the Chair's Report.

Appendix 8

CURRENT AND FUTURE MEMBERSHIP OF BUDGETARY SUB-COMMITTEE BASED ON CONTRACTING GOVERNMENTS AS OF 1 JUNE 2008

	Term of membership (years)	Current membership*		Future membership assuming no country declines to serve	
		2007-2008	2008-2009	2009-2010	2010-2011
Group 1	3	Benin (3) Gabon (3)	The Gambia Grenada	The Gambia Grenada	The Gambia Grenada
Group 2	3	Morocco (1) Monaco (resigned)	Morocco Oman	Morocco Oman	Panama Oman
Group 3	3	Belgium (2) Denmark (2)	Belgium Denmark	Cyprus Greece	Cyprus Greece
Group 4	3	Germany (3) Japan USA	Italy Japan USA	Italy Japan USA	Italy Japan USA
Open seats	2	<i>Vacant</i>	<i>Vacant</i>	<i>Vacant</i>	<i>Vacant</i>
Chair		Joji Morishita (Japan)		Andrea Nouak (Austria)	
Vice-Chair		Andrea Nouak (Austria)		Walter Duebner (Germany)	

*Number in brackets indicates how many years a country has already been a member.

Appendix 9

CALCULATION OF UPDATED 'CUT-OFF POINTS'

The application of the index as used by the World Bank to bring the 2002 cut off values up to 2005 levels is achieved as follows:

Standard Table

Cut-off point (COP) 2002 levels	2002 Index	2005 Index	Actual (COP) 2005 level	Rounded (COP) 2005 level	Rnd/Act %
A	B	C	$A \times (C/B) = D$	E = D (rounded)	E/D (%)
10,000,000,000 (GNI)	241.5	285.6	11,826,086,957	11,850,000,000	100.20%
1,000,000,000,000 (GNI)	241.5	285.6	1,182,608,695,652	1,185,000,000,000	100.20%
10,000 (GNIPC)	241.5	285.6	11,826	11,850	100.20%

Very Small Country Table

Cut-off point (COP) 2002 levels	2002 Index	2005 Index	Actual 2005 level	Rounded 2005 level	Rnd/Act %
A	B	C	$A \times (C/B) = D$	E = D (rounded)	E/D (%)
5,000,000,000 (GNI)	241.5	285.6	5,913,043,478	5,925,000,000	100.20%
10,000 (GNIPC)	241.5	285.6	11,826	11,850	100.20%

Appendix 10

Allocation to capacity-to-pay group arising from the use of updated 'cut-off points' to 2005 levels and WB data available as at 31 December 2007 (2005 data)**
(alternative to calculate Financial Contributions for 2008/09)
World Bank – World Development Indicators Database
(extract)

Allocation to capacity-to-pay group arising from the use of 'cut-off points' at 2002 levels and WB data available as at 31 December 2006 (2004 data)**
(as used to calculate Financial Contributions for 2007/08)
IWC.CCG.640 - extract from Table 5

Contracting Governments May 08	World Bank data (pub Apr. 07)		Capacity-to-pay Group	Contracting Governments Aug. 07	World Bank data (pub Apr. 06)		Capacity-to-pay Group	
	GNI US\$ billion	GNI/capita US\$			GNI US\$ billion	GNI/capita US\$		
1	Antigua & Barbuda	0.7592	9,480	1	Antigua & Barbuda	0.7592	9,480	1
2	Argentina	173.1	4,470	2	Argentina	137.3	3,580	2
3	Australia	673.2	33,120	3	Australia	544.3	27,070	3
4	Austria	306.2	37,190	3	Austria	263.9	32,280	3
5	Belgium	378.7	36,140	3	Belgium	326	31,280	3
6	Belize	1	3,570	1	Belize	1.1	3,940	1
7	Benin	4.3	510	1	Benin	3.7	450	1
8	Brazil	662	3,550	2	Brazil	551.6	3,000	2
9	Cambodia	6.1	430	1	Cambodia	4.8	350	1
10	Cameroon	16.4	1,000	2	Cameroon	13	810	2
11	Chile	95.7	5,870	2	Chile	84.2	5,220	2
12	China, P.R of	2300	1,740	2	China, P.R of	1900	1,500	2
13	Costa Rica	20.3	4,700	2	Costa Rica	19	4,470	2
14	Côte d'Ivoire	15.7	870	2	Côte d'Ivoire	13.6	760	2
15	Croatia	36.9	8,290	2	Croatia	30.3	6,820	2
16	Cyprus	13.6	16,510	3	Cyprus	13.6	16,510	3
17	Czech Republic	114.8	11,220	2	Czech Republic	93.3	9,130	2
18	Denmark	261.8	48,330	3	Denmark	220.2	40,750	3
19	Dominica	0.2621	3,670	1	Dominica	0.2621	3,670	1
20	Ecuador	34.7	2,620	2	Ecuador	28.9	2,210	2
21	Finland	196.9	37,530	3	Finland	171.9	32,880	3
22	France	2200	34,600	4	France	1900	30,370	4
23	Gabon	6.9	5,010	1	Gabon	5.6	4,080	1
24	Gambia, The	0.442	290	1	Gambia, The	0.4137	280	1
25	Germany	2900	34,870	4	Germany	2500	30,690	4
26	Greece	220.3	19,840	3	Greece	185	16,730	3
27	Grenada	0.3965	3,750	1	Grenada	0.3965	3,750	1
28	Guatemala	30.3	2,400	2	Guatemala	26.9	2,190	2
29	Guinea	3.9	420	1	Guinea	3.8	410	1
30	Guinea-Bissau	0.2824	180	1	Guinea-Bissau	0.2502	160	1
31	Hungary	101.6	10,070	2	Hungary	84.6	8,370	2
32	Iceland	14.4	48,570	3	Iceland	11.1	37,920	3
33	India	804.1	730	2	India	673.2	620	2
34	Ireland	171.1	41,140	3	Ireland	139.6	34,310	3
35	Israel	128.7	18,580	3	Israel	118	17,360	3
36	Italy	1800	30,250	4	Italy	1500	26,280	4
37	Japan	5000	38,950	4	Japan	4700	37,050	4
38	Kenya	18.4	540	2	Kenya	16.1	480	2
39	Kiribati	0.095	970	1	Kiribati	0.095	970	1
40	Korea, Rep of	765	15,840	3	Korea, Rep of	673.1	14,000	3
41	Lao PDR	2.6	430	1	Lao PDR	2.3	390	1
42	Luxembourg	25.6	56,380	3	Luxembourg	25.6	56,380	3
43	Mali	5.2	380	1	Mali	4.3	330	1
44	Marshall Islands	0.1851	2,930	1	Marshall Islands	0.1421	2,320	1
45	Mauritania	1.8	580	1	Mauritania	1.6	530	1
46	Mexico	753.4	7,310	2	Mexico	704.9	6,790	2
47	Monaco ^{#1 *1 *3}	11.86	11,849	2	Monaco ^{#1 *1 *3}	10.1	9,999	2
48	Mongolia	1.8	690	1	Mongolia	1.5	600	1
49	Morocco	52.6	1,740	2	Morocco	46.9	1,570	2
50	Nauru ^{*1*2}	0.1	7,270	1	Nauru ^{*1*2}	0.1	7,270	1
51	Netherlands	642	39,340	3	Netherlands	523.1	32,130	3
52	New Zealand	106.3	25,920	3	New Zealand	81.2	19,990	3
53	Nicaragua	4.9	950	1	Nicaragua	4.5	830	1
54	Norway	281.5	60,890	3	Norway	237.8	51,810	3
55	Oman	23	9,070	2	Oman	23	9,070	2
56	Palau	0.1542	7,670	1	Palau	0.1373	6,870	1
57	Panama	15	4,630	2	Panama	13.4	4,210	2
58	Peru	74	2,650	2	Peru	65	2,360	2
59	Portugal	181.3	17,190	3	Portugal	149.3	14,220	3
60	Romania	84.6	3,910	2				
61	Russian Federation	638.1	4,460	2	Russian Federation	488.5	3,400	2
62	San Marino ^{#2 *1 *3}	11.86	11,849	2	San Marino ^{#2 *1 *3}	10.1	9,999	2
63	Senegal	8.2	700	1	Senegal	7.2	630	1
64	Slovak Republic	42.8	7,950	2	Slovak Republic	34.9	6,480	2

Cont.

Contracting Governments May 08		World Bank data (pub Apr. 07)		Capacity-to- pay Group	Contracting Governments Aug. 07		World Bank data (pub Apr. 06)		Capacity-to- pay Group
		GNI US\$ billion	GNI/capita US\$				GNI US\$ billion	GNI/capita US\$	
65	Slovenia	34.9	17,440	3	64	Slovenia	29.5	14,770	3
66	Solomon Islands	0.2967	620	1	65	Solomon Islands	0.2625	560	1
67	South Africa	223.5	4,770	2	66	South Africa	165.3	3,630	2
68	Spain	1100	25,250	3	67	Spain	919.1	21,530	3
69	St. Kitts and Nevis	0.3259	6,980	1	68	St. Kitts and Nevis	0.3259	6,980	1
70	St. Vincent & The G.	0.4207	3,530	1	69	St. Vincent & The G.	0.4026	3,400	1
71	St. Lucia	0.6844	4,180	1	70	St. Lucia	0.6844	4,180	1
72	Suriname	1.1	2,540	1	71	Suriname	0.9967	2,230	1
73	Sweden	369.1	40,910	3	72	Sweden	322.3	35,840	3
74	Switzerland	411.4	55,320	3	73	Switzerland	366.5	49,600	3
75	Togo	2.2	350	1	74	Togo	1.9	310	1
76	Tuvalu ^{*1*}	0.003	825	1	75	Tuvalu ^{*1*}	0.003	825	1
77	United Kingdom	2,300	37,740	4	76	United Kingdom	2,000	33,630	4
78	Uruguay	15.1	4,360	2					
79	USA	12,900	43,560	4	77	USA	12,200	41,440	4

[#]Very Small Country Status (^{#1}Population: (July 2006 est.): 32,543 ^{#2}Population at September 2006: 30,002 - Data from US State Dept. ^{#3}No World Bank data. ^{#4}Data (if any) provided by *Lonely Planet Travel Guide*. ^{#5}Data shown is arbitrary to fit into Group 2. Source (unless indicated otherwise): World Development Indicators database, published April 2006 and April 2007. ^{**}Data from earlier years may be used where necessary.

Annex M

Approved Budget for 2008/2009 and Forecast Budget for 2009/2010

Income and Expenditure Account

	Proposed Budget 2008-2009		<i>Forecast Budget 2009-2010</i>	
Income	£	£	£	£
Contracting Government contributions		1,442,400		1,471,300
Recovery of Arrears		0		0
Interest on late financial contributions		0		0
Voluntary contributions		2,000		2,000
Sales of publications		18,750		19,500
Sales of sponsored publications		1,050		1,100
Observers' registration fees		49,800		51,750
UK taxes recoverable		22,800		23,750
Staff assessments		169,000		178,900
Interest receivable		56,950		55,400
Sundry income		1,000		1,000
		1,763,750		1,804,700
Expenditure				
Secretariat	1,092,100		1,121,900	
Publications	38,000		35,500	
Annual meetings	362,100		376,950	
Other meetings	100,600		42,250	
Research expenditure	305,400		317,900	
Small cetaceans	1,050		1,050	
Sundry	0		0	
	1,899,250		1,895,550	
Provisions				
Unpaid interest on overdue contributions	0		0	
Severance Pay Provision	33,600		40,650	
Provision for other doubtful debts	0		0	
	0		0	
Excess of expenditure over income		1,932,850		1,936,200
		-169,100		-131,500
Net Transfers from or to (-):				
Sponsored Publications Fund		-2,050		-2,100
Research Fund		-6,350		-6,900
Small Cetaceans Fund		-50		-50
		-177,550		-140,550
Surplus/Deficit (-) for the year after transfers		-177,550		-140,550

Annex N

Approved Research Budget for 2008/2009

		Approved budget (£)
RMP		
1	RMP MSYR intersessional meeting	3,000
2	Second Intersessional Workshop for the North Atlantic fin whale <i>Implementation</i>	8,000
3	Continue augmentation of the Committee's computing capabilities with respect to RMP and AWMP <i>Implementations</i>	20,000
4	Investigate the apparent anomalies between the results of allozyme analyses and DNA-based analyses	14,500
AWMP		
5	Workshop on Greenland Fisheries	8,000
IA		
6	Continue development of statistical catch-at-age estimators for Antarctic minke whales	2,000
7	Independent reading of Antarctic minke whale earplugs	10,000
8	Workshop to complete abundance estimates for Antarctic minke whales using the IWC/SOWER data	8,000
9	Import and analysis of 2007/08 SOWER data	10,000
10	SOWER 2008/09 cruise and planning meeting	67,700
SH		
11	Workshop on modelling methodologies for mixing and substructure of humpback whale populations	10,000
12	Development of additional humpback whale assessment models	2,000
13	Antarctic humpback whale catalogue	6,600
14	SH blue whale photo-ID catalogue	7,800
SD		
15	Progress on the TOSSM project	17,000
BC		
16	Develop web based system for data entry into IWC global ship strike database	2,000
E		
17	Workshop on Climate Change Implications for Cetaceans	22,500
18	Pollution Modelling Workshop: Development of Phase II of Pollution 2000+	1,000
19	State of the Cetacean Environment Report (SOCER)	2,000
SP		
20	JARPN II review Workshop	15,000
WW		
21	LaWE Steering Group meeting	3,000
DNA		
22	Sequence assessment for species assignment for sequences deposited in GenBank in 2007	2,500
OTHER		
23	Participation in conference on marine mammal protected areas	10,000
ALL		
24	Invited Participants to the 2009 Annual Meeting	52,800
TOTAL		305,400

Annex O

Amendments to the Schedule Adopted at the 60th Annual Meeting

At the 60th Annual Meeting of the International Whaling Commission held in Santiago, Chile, from 23-27 June 2008, 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.

The following amendments to the Schedule of the International Convention for the Regulation of Whaling are therefore necessary (changes in *bold italic* type).

Paragraphs 11 and 12, and Tables 1, 2 and 3:

Substitute the dates **2008/2009** pelagic season, **2009** coastal season, **2009** season, or **2009** as appropriate.

Financial Statements
for the
Year ended 31 August 2008

Financial Statement for the year ended 31 August 2008

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 2008.

D.A. Green & Sons, Chartered Certified Accountants, St Ives, 28 February 2009

Accounting Policies - Year Ended 31 August 2008

The accounting policies adopted by the Commission in the preparation of these financial statements are as set out below. The departures from generally accepted accounting practice are considered not to be significant for the reasons stated.

Convention

These accounts are prepared under the historical cost convention (i.e. assets and liabilities are stated at cost and not re-valued).

Fixed Assets

The full cost of furniture and equipment is written off in the income and expenditure account in the year in which it is incurred. The total cost of equipment owned by the Commission is some £171,000 and its realisable value is not significant. Proposed expenditure on new items is included in budgets and raised by contributions for the year.

Publications

The full cost of printing publications is written off in the year. No account is taken of stocks which remain unsold at the balance sheet date.

Most sales occur shortly after publication and so stocks held are unlikely to result in many sales, consequently their net realisable value is not significant.

Severance Pay Provision

The Commission provides for an indemnity to members of staff in the event of their appointment being terminated on the abolition of their posts.

The indemnity varies according to length of service and therefore an annual provision is made to bring the total provision up to the maximum liability. This liability is calculated after adjusting for staff assessments since they would not form part of the Commission's liability.

Interest on Overdue Contributions

Interest is included in the income and expenditure account on the accruals basis and provision is made where its recoverability is in doubt.

Leases

The costs of operating leases are charged to the income and expenditure account as they accrue.

Foreign Exchange

Transactions dominated in foreign currencies are translated into sterling at rates ruling at the date of the transactions. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated at the rates ruling at that date. These translation differences are dealt with in the income and expenditure account.

Retirement Benefits Scheme

The Commission operates a defined contribution retirement benefits scheme. The costs represent the amount of the Commission's contributions payable to the scheme in respect of the accounting period.

Income and Expenditure Account (Year Ended 31 August 2008)

	[Note]	2008 £	£	2007 £	£
Income: continuing operations					
Contributions from member governments			1,416,046		1,402,937
Interest on overdue financial contributions			34,273		29,256
Voluntary contributions for research, small cetaceans work and publications			24,919		19,771
Sales of publications			19,069		15,860
Sales of sponsored publications	[1]		651		661
Observers' registration fees			59,332		56,642
UK taxes recoverable			22,862		16,691
Staff assessments			157,954		153,387
Interest receivable			106,919		92,782
Sundry income			219		127
			<u>1,842,244</u>		<u>1,788,114</u>
Expenditure					
Secretariat		1,009,681		999,561	
Publications		35,567		35,495	
Annual meetings		347,900		333,850	
Other meetings		133,330		10,514	
Research expenditure	[2]	260,410		282,136	
Small cetaceans	[3]	10,179		16,882	
Sundry		6,308		4,849	
		<u>1,803,375</u>		<u>1,683,287</u>	
Provisions made for:					
Unpaid contributions		20,955		(34,822)	
Unpaid interest on overdue contributions		(64,932)		6,553	
Severance pay	[5]	20,300		27,400	
Other doubtful debts		4,880	<u>1,784,578</u>	<u>753</u>	<u>1,683,171</u>
Surplus of income:					
Continuing operations	[7]		57,666		104,943
Net transfers from /(to) funds:					
Publications fund	[1]	(1,511)		(1,321)	
Research Fund	[2]	(57,975)		(9,483)	
Small cetaceans fund	[3]	(716)	<u>(60,202)</u>	<u>7,919</u>	<u>2,885</u>
(Deficit)/surplus for the year after transfers	[4]		<u>(2,536)</u>		<u>102,058</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 2007-08 the Commission was pledged Voluntary Contributions to the General Fund totalling £120.3k (£9.2k in support of investigative work into ship-strike activity and £111.1k in support of meetings to determine the future of the IWC). Voluntary Contributions to the General Fund and associated expenditure are not shown in the income and expenditure account. Voluntary Contributions are offset against matching expenditure and therefore have no effect on the surplus or deficit for the year.

Analysis of Expenditure (Year Ended 31 August 2008)

	2008	2007
	£	£
SECRETARIAT		
Salaries, national insurance and allowances	664,112	651,993
Retirement and Other Benefit Schemes	145,878	139,673
Travelling expenses	5,355	3,357
Office rent, heating and maintenance	104,400	121,521
Insurance	5,292	5,101
Postage and telecommunications	17,106	16,763
Office equipment and consumables	46,939	50,549
Professional fees	9,354	8,748
Training and recruitment	794	1,159
Photocopying	10,451	697
Sundries	0	0
	<u>1,009,681</u>	<u>999,561</u>
PUBLICATIONS		
Annual Report	6,089	6,542
Journal of Cetacean Research and Management	29,478	28,953
	<u>35,567</u>	<u>35,495</u>
RESEARCH		
Invited Participants	38,846	45,530
2005/2006 SOWER cruise	0	1,887
2006/2007 SOWER cruise	12,867	65,814
2007/2008 SOWER cruise	53,152	0
IA SOWER abundance	3,111	4,000
CCAMLR joint cruise	0	253
Contract 16 Antarctic Humpback Catalogue	4,400	6,600
Finalise assessment of Southern Hemisphere humpback whale breeding stocks	1,000	2,000
SO-GLOBEC	0	30,198
Pollution 2000+	360	6,661
AWMP fund for developers	12,366	3,609
AWMP intersessional workshop	0	20,513
AWMP Greenland fisheries workshop	6,416	0
FAO fisheries workshop	0	459
AS Greenland Research Programme	0	0
IA development support	7,352	17,452
Habitat degregation workshop and cetacean environmental projects	0	3,276
RMP (SC) intersessional workshop (Bryde's whales)	0	5,126
RMP North Atlantic fin whales workshop	16,924	0
RMP workshop to review MSY rates	4,783	0
RMP computing workshop for <i>Implementations</i>	17,260	0
Southern Hemisphere blue whales data analysis	3,300	7,500
Meeting to obtain SH humpback catch data	0	1,319
SD intersessional workshop on TOSSM	1,251	564
Blue Whale Catalogue	0	8,532
Arctic sea ice	0	2,008
Diseases workshop (VC)	0	15,674
JARPA review workshop	1,132	15,673
TOSSM project	9,113	16,000
E scoping meeting for climate change workshop	4,268	0
E workshop to review skin diseases in cetaceans in South America	14,364	0
BRG western North Pacific gray whale telemetry	1,339	0
Krill distribution	1,000	0
EM CCAMLR/IWC workshop July 2008	28,088	0
DNA validate mtDNA control region	2,726	0
WW workshop for strategic planning	10,360	0
Other (including exchange differences)	4,632	1,488
	<u>260,410</u>	<u>282,136</u>
SMALL CETACEANS		
Invited participants	6,922	10,336
Bycatch reduction	3,168	6,356
Other (including exchange losses)	89	190
	<u>10,179</u>	<u>16,882</u>

Balance Sheet 31 August 2008

		2008		2007	
	[note]	£	£	£	£
CURRENT ASSETS					
Cash on short term deposit					
General fund		1,760,324		1,828,164	
Research fund		232,497		137,662	
Publications fund		28,117		27,097	
Small Cetaceans fund		910	2,021,848	4,980	1,997,903
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		146	3,146	293	3,293
			2,024,994		2,001,196
Outstanding contributions from members, including interest					
Less provision for doubtful debts		387,287		436,969	
		(375,295)	11,992	(419,272)	17,697
Other debtors and prepayments					
			107,823		128,959
			2,144,809		2,147,851
CREDITORS:					
Amounts falling due within one year	[6]		(107,963)		(188,973)
			2,036,846		1,958,879
NET CURRENT ASSETS					
PROVISION FOR SEVERANCE PAY					
	[5]		(412,000)		(391,700)
			1,624,846		1,567,179
<i>Financed by</i>					
Publications fund	[1]		38,220		36,709
Research fund	[2]		201,373		143,397
Small cetaceans fund	[3]		10,016		9,300
General fund	[4]		1,375,237		1,377,773
	[7]		1,624,846		1,567,179

Approved on behalf of the Commission

Nicola J Grandy (Secretary)
28 February 2009

Notes to the Accounts (Year Ended 31 August 2008)

	2008 £	2007 £
1. Publications fund		
Interest receivable	860	660
Receipts from sales of sponsored publications	651	661
Net transfers to income and expenditure account	1,511	1,321
Opening balances at 1 September 2007	36,709	35,388
Closing balances at 31 August 2008	<u>38,220</u>	<u>36,709</u>
2. Research fund		
Allocation for research	293,350	274,000
UK taxes recoverable	0	450
Voluntary contributions received	14,076	11,036
Interest receivable	10,960	6,133
Expenditure	(260,410)	(282,136)
Net transfers (to) income and expenditure account	57,976	9,483
Opening balances at 1 September 2007	143,397	133,914
Closing balances at 31 August 2008	<u>201,373</u>	<u>143,397</u>
3. Small cetaceans fund		
Voluntary contributions received	10,843	8,735
Interest receivable	52	229
Expenditure	(10,179)	(16,882)
Net transfer from/(to) income and expenditure account	716	(7,918)
Opening balances at 1 September 2007	9,300	17,218
Closing balances at 31 August 2008	<u>10,016</u>	<u>9,300</u>
4. General fund		
Opening balances at 1 September 2007	1,377,773	1,275,715
Surplus (deficit) transferred from income and expenditure account	(2,536)	102,058
Closing balances at 31 August 2008	<u>1,375,237</u>	<u>1,377,773</u>
5. Provision for severance pay		
Opening balances at 1 September 2007	391,700	364,300
Transfer from (to) income and expenditure account, being:		
Allocation	3,311	1,517
Interest received	16,989	25,883
Closing balances at 31 August 2008	<u>412,000</u>	<u>391,700</u>
6. Creditors:		
Amounts falling due within one year		
Deferred contributions income	59,295	101,007
Other creditors and accruals	48,668	87,966
	<u>107,963</u>	<u>188,973</u>
7. Reconciliation of movement in funds		
Surplus of income over expenditure	57,667	104,944
Opening Funds	1,567,179	1,462,235
	<u>1,624,846</u>	<u>1,567,179</u>
8. Financial commitments		
The Commission had annual commitments at 31 August 2008 under non-cancellable operating leases as set out below and which expire:		

	2008		2007	
	Land and Buildings £	Office Equipment £	Land and Buildings £	Office Equipment £
Within one year	40,890	-	-	-
Within 2 to 5 years	<u>-</u>	<u>25,400</u>	<u>75,000</u>	<u>24,300</u>

The lease on the IWC Secretariat Offices is due for renewal on 18 March 2009. The Financial Commitment shown for Land and Buildings represents the rent chargeable up to 17 March 2009.

**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.157 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 and paid 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 60th Annual Meeting
Santiago, Chile, 23-27 June 2008**



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 60th Annual Meeting in June 2008. The amendments, which are shown in *italic bold* type, came into effect on 06 January 2009.

In Tables 1, 2 and 3 unclassified stocks are indicated by a dash. Other positions in the Tables have been filled with a dot to aid legibility.

Numbered footnotes are integral parts of the Schedule formally adopted by the Commission. Other footnotes are editorial.

The Commission was informed in June 1992 by the ambassador in London that the membership of the Union of Soviet Socialist Republics in the International Convention for the Regulation of Whaling from 1948 is continued by the Russian Federation.

The Commission recorded at its 39th (1987) meeting the fact that references to names of native inhabitants in Schedule paragraph 13(b)(4) would be for geographical purposes alone, so as not to be in contravention of Article V.2(c) of the Convention (*Rep. int. Whal. Commn* 38:21).

I. INTERPRETATION

- The following expressions have the meanings respectively assigned to them, that is to say:

A. Baleen whales

“baleen whale” means any whale which has baleen or whale bone in the mouth, i.e. any whale other than a toothed whale.

“blue whale” (*Balaenoptera musculus*) means any whale known as blue whale, Sibbald’s rorqual, or sulphur bottom, and including pygmy blue whale.

“bowhead whale” (*Balaena mysticetus*) means any whale known as bowhead, Arctic right whale, great polar whale, Greenland right whale, Greenland whale.

“Bryde’s whale” (*Balaenoptera edeni*, *B. brydei*) means any whale known as Bryde’s whale.

“fin whale” (*Balaenoptera physalus*) means any whale known as common finback, common rorqual, fin whale, herring whale, or true fin whale.

“gray whale” (*Eschrichtius robustus*) means any whale known as gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

“humpback whale” (*Megaptera novaeangliae*) means any whale known as bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale.

“minke whale” (*Balaenoptera acutorostrata*, *B. bonaerensis*) means any whale known as lesser rorqual, little piked whale, minke whale, pike-headed whale or sharp headed finner.

“pygmy right whale” (*Caperea marginata*) means any whale known as southern pygmy right whale or pygmy right whale.

“right whale” (*Eubalaena glacialis*, *E. australis*) means any whale known as Atlantic right whale, Arctic right whale, Biscayan right whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, or southern right whale.

“sei whale” (*Balaenoptera borealis*) means any whale known as sei whale, Rudolphi’s rorqual, pollack whale, or coalfish whale.

B. Toothed whales

“toothed whale” means any whale which has teeth in the jaws.

“beaked whale” means any whale belonging to the genus Mesoplodon, or any whale known as Cuvier’s beaked whale (*Ziphius cavirostris*), or Shepherd’s beaked whale (*Tasmacetus shepherdi*).

“bottlenose whale” means any whale known as Baird’s beaked whale (*Berardius bairdii*), Arnoux’s whale (*Berardius arnuxii*), southern bottlenose whale (*Hyperoodon planifrons*), or northern bottlenose whale (*Hyperoodon ampullatus*).

“killer whale” (*Orcinus orca*) means any whale known as killer whale or orca.

“pilot whale” means any whale known as long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*G. macrorhynchus*).

“sperm whale” (*Physeter macrocephalus*) means any whale known as sperm whale, spermacet whale, cachalot or pot whale.

C. General

“strike” means to penetrate with a weapon used for whaling.

“land” means to retrieve to a factory ship, land station, or other place where a whale can be treated.

“take” means to flag, buoy or make fast to a whale catcher.

“lose” means to either strike or take but not to land.

“dauhval” means any unclaimed dead whale found floating.

“lactating whale” means (a) with respect to baleen whales - a female which has any milk present in a mammary gland, (b) with respect to sperm whales - a female which has milk present in a mammary gland the maximum thickness (depth) of which is 10cm or more. This measurement shall be at the mid ventral point of the mammary gland perpendicular to the body axis, and shall be logged to the nearest centimetre; that is to say, any gland between 9.5cm and 10.5cm shall be logged as 10cm. The measurement of any gland which falls on an exact 0.5 centimetre shall be logged at the next 0.5 centimetre, e.g.

10.5cm shall be logged as 11.0cm. However, notwithstanding these criteria, a whale shall not be considered a lactating whale if scientific (histological or other biological) evidence is presented to the appropriate national authority establishing that the whale could not at that point in its physical cycle have had a calf dependent on it for milk.

“small-type whaling” means catching operations using powered vessels with mounted harpoon guns hunting exclusively for minke, bottlenose, beaked, pilot or killer whales.

II. SEASONS

Factory Ship Operations

2. (a) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating baleen whales except minke whales, in any waters south of 40° South Latitude except during the period from 12th December to 7th April following, both days inclusive.
- (b) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating sperm or minke whales, except as permitted by the Contracting Governments in accordance with sub-paragraphs (c) and (d) of this paragraph, and paragraph 5.
- (c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, an open season or seasons not to exceed eight months out of any period of twelve months during which the taking or killing of sperm whales by whale catchers may be permitted; provided that a separate open season may be declared for each factory ship and the whale catchers attached thereto.
- (d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by the whale catchers may be permitted provided that:
 - (1) a separate open season may be declared for each factory ship and the whale catchers attached thereto;
 - (2) the open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to sub-paragraph (a) of this paragraph.
3. It is forbidden to use a factory ship which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, except minke whales, in any other area except the North Pacific Ocean and its dependent waters north of the Equator for the same purpose within a period of one year from the termination of that season; provided that catch limits in the North Pacific Ocean and dependent waters are established as provided in paragraphs 12 and 16 of this Schedule and provided that this paragraph shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

Land Station Operations

4. (a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with sub-paragraphs (b), (c) and (d) of this paragraph.
- (b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen whales, except minke whales, by the whale catchers shall be permitted. Such open season shall be for a period of not more than six consecutive months in any period of twelve months and shall apply to all land stations under the jurisdiction of the Contracting Government: provided that a separate open season may be declared for any land station used for the taking or treating of baleen whales, except minke whales, which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen whales, except minke whales, under the jurisdiction of the same Contracting Government.
- (c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed eight continuous months in any one period of twelve months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, provided that a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000 miles from the nearest land station used for the taking or treating of sperm whales under the jurisdiction of the same Contracting Government.
- (d) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations one open season not to exceed six continuous months in any period of twelve months during which the taking or killing of minke whales by the whale catchers shall be permitted (such period not being necessarily concurrent with the period declared for other baleen whales, as provided for in sub-paragraph (b) of this paragraph); provided that a separate open season may be declared for any land station used for the taking or treating of minke whales which is more than 1,000 miles from the nearest land station used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government.

Except that a separate open season may be declared for any land station used for the taking or treating of minke whales which is located in an area having oceanographic conditions clearly distinguishable from those of the area in which are located the other land stations used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government; but the declaration of a separate open season by virtue of the provisions of this sub-paragraph shall not cause thereby the period of time covering the open seasons declared by the same Contracting Government to exceed nine continuous months of any twelve months.

- (e) The prohibitions contained in this paragraph shall apply to all land stations as defined in Article II of the Whaling Convention of 1946.

Other Operations

5. Each Contracting Government shall declare for all whale catchers under its jurisdiction not operating in conjunction with a factory ship or land station one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by such whale catchers may be permitted. Notwithstanding this paragraph one continuous open season not to exceed nine months may be implemented so far as Greenland is concerned.

III. CAPTURE

6. The killing for commercial purposes of whales, except minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1980/81 pelagic and 1981 coastal seasons. The killing for commercial purposes of minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1982/83 pelagic and the 1983 coastal seasons.*
7. (a) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Indian Ocean Sanctuary. This comprises the waters of the Northern Hemisphere from the coast of Africa to 100°E, including the Red and Arabian Seas and the Gulf of Oman; and the waters of the Southern Hemisphere in the sector from 20°E to 130°E, with the Southern boundary set at 55°S. This prohibition applies irrespective of such catch limits for baleen or toothed whales as may from time to time be determined by the Commission. This prohibition shall be reviewed by the Commission at its Annual Meeting in 2002.☼
- (b) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Southern Ocean Sanctuary. This Sanctuary comprises the waters of the Southern Hemisphere southwards of the following line: starting from 40 degrees S, 50 degrees W; thence due east to 20 degrees E; thence due south to 55 degrees S; thence due east to 130 degrees E; thence due north to 40 degrees S; thence due east to 130 degrees W; thence due south to 60 degrees S; thence due east to 50 degrees W; thence due north to the point of beginning. This prohibition applies irrespective of the conservation status of

baleen and toothed whale stocks in this Sanctuary, as may from time to time be determined by the Commission. However, this prohibition shall be reviewed ten years after its initial adoption and at succeeding ten year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph is intended to prejudice the special legal and political status of Antarctica.**+

Area Limits for Factory Ships

8. It is forbidden to use a factory ship or whale catcher attached thereto, for the purpose of taking or treating baleen whales, except minke whales, in any of the following areas:
- (a) in the waters north of 66°N, except that from 150°E eastwards as far as 140°W, the taking or killing of baleen whales by a factory ship or whale catcher shall be permitted between 66°N and 72°N;
- (b) in the Atlantic Ocean and its dependent waters north of 40°S;
- (c) in the Pacific Ocean and its dependent waters east of 150°W between 40°S and 35°N;
- (d) in the Pacific Ocean and its dependent waters west of 150°W between 40°S and 20°N;
- (e) in the Indian Ocean and its dependent waters north of 40°S.

Classification of Areas and Divisions

9. (a) *Classification of Areas*
Areas relating to Southern Hemisphere baleen whales except Bryde's whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 1.
- (b) *Classification of Divisions*
Divisions relating to Southern Hemisphere sperm whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 3.
- (c) *Geographical boundaries in the North Atlantic*
The geographical boundaries for the fin, minke and sei whale stocks in the North Atlantic are:

FIN WHALE STOCKS

NOVA SCOTIA

South and West of a line through:
47°N 54°W, 46°N 54°30'W,
46°N 42°W, 20°N 42°W.

NEWFOUNDLAND-LABRADOR

West of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W,
52°20'N 42°W, 46°N 42°W and
North of a line through:
46°N 42°W, 46°N 54°30'W, 47°N 54°W.

*The Governments of Brazil, Iceland, Japan, Norway and the Union of Soviet Socialist Republics lodged objections to the second sentence of paragraph 6 within the prescribed period. For all other Contracting Governments this sentence came into force on 8 March 1982. Norway withdrew its objection on 9 July 1985 and Brazil on 8 January 1992. Iceland withdrew from the Convention with effect from 30 June 1992. The objections of Japan and the Russian Federation not having been withdrawn, this sentence is not binding upon these governments.

☼At its 54th Annual Meeting in 2002, the Commission agreed to continue this prohibition but did not discuss whether or not it should set a time when it should be reviewed again.

** The Government of Japan lodged an objection within the prescribed period to paragraph 7(b) to the extent that it applies to the Antarctic minke whale stocks. The Government of the Russian Federation also lodged an objection to paragraph 7(b) within the prescribed period but withdrew it on 26 October 1994. For all Contracting Governments except Japan paragraph 7(b) came into force on 6 December 1994.

+ Paragraph 7(b) contains a provision for review of the Southern Ocean Sanctuary "ten years after its initial adoption". Paragraph 7(b) was adopted at the 46th (1994) Annual Meeting. Therefore, the first review is due in 2004.

WEST GREENLAND

East of a line through:
75°N 73°30'W, 69°N 59°W,
61°N 59°W, 52°20'N 42°W,
and West of a line through
52°20'N 42°W, 59°N 42°W,
59°N 44°W, Kap Farvel.

EAST GREENLAND-ICELAND

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

NORTH NORWAY

North and East of a line through:
74°N 22°W, 74°N 3°E, 68°N 3°E,
67°N 0°, 67°N 14°E.

WEST NORWAY-FAROE ISLANDS

South of a line through:
67°N 14°E, 67°N 0°, 60°N 18°W,
and North of a line through:
61°N 16°W, 61°N 0°, Thyborøn
(Western entrance to Limfjorden, Denmark).

SPAIN-PORTUGAL-BRITISH ISLES

South of a line through:
Thyborøn (Denmark), 61°N 0°, 61°N 16°W,
and East of a line through:
63°N 11°W, 60°N 18°W, 22°N 18°W.

MINKE WHALE STOCKS**CANADIAN EAST COAST**

West of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W,
52°20'N 42°W, 20°N 42°W.

CENTRAL

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

WEST GREENLAND

East of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W,
52°20'N 42°W, and
West of a line through:
52°20'N 42°W, 59°N 42°W,
59°N 44°W, Kap Farvel.

NORTHEASTERN

East of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,
and North of a line through:
74°N 3°E, 74°N 22°W.

SEI WHALE STOCKS**NOVA SCOTIA**

South and West of a line through:
47°N 54°W, 46°N 54°30'W, 46°N 42°W,
20°N 42°W.

ICELAND-DENMARK STRAIT

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

EASTERN

East of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,
and North of a line through:
74°N 3°E, 74°N 22°W.

(d) Geographical boundaries in the North Pacific

The geographical boundaries for the sperm, Bryde's and minke whale stocks in the North Pacific are:

SPERM WHALE STOCKS**WESTERN DIVISION**

West of a line from the ice-edge south along the 180° meridian of longitude to 180°, 50°N, then east along the 50°N parallel of latitude to 160°W, 50°N, then south along the 160°W meridian of longitude to 160°W, 40°N, then east along the 40°N parallel of latitude to 150°W, 40°N, then south along the 150°W meridian of longitude to the Equator.

EASTERN DIVISION

East of the line described above.

BRYDE'S WHALE STOCKS**EAST CHINA SEA**

West of the Ryukyu Island chain.

EASTERN

East of 160°W (excluding the Peruvian stock area).

WESTERN

West of 160°W (excluding the East China Sea stock area).

MINKE WHALE STOCKS**SEA OF JAPAN-YELLOW SEA-EAST CHINA SEA**

West of a line through the Philippine Islands, Taiwan, Ryukyu Islands, Kyushu, Honshu, Hokkaido and Sakhalin Island, north of the Equator.

OKHOTSK SEA-WEST PACIFIC

East of the Sea of Japan-Yellow Sea- East China Sea stock and west of 180°, north of the Equator.

REMAINDER

East of the Okhotsk Sea-West Pacific stock, north of the Equator.

(e) Geographical boundaries for Bryde's whale stocks in the Southern Hemisphere**SOUTHERN INDIAN OCEAN**

20°E to 130°E,
South of the Equator.

SOLOMON ISLANDS

150°E to 170°E,
20°S to the Equator.

PERUVIAN

110°W to the South American coast,
10°S to 10°N.

EASTERN SOUTH PACIFIC

150°W to 70°W,
South of the Equator (excluding the Peruvian stock area).

WESTERN SOUTH PACIFIC

130°E to 150°W,
South of the Equator (excluding the Solomon Islands stock area).

SOUTH ATLANTIC

70°W to 20°E,
South of the Equator (excluding the South African inshore stock area).

SOUTH AFRICAN INSHORE

South African coast west of 27°E and out to the 200 metre isobath.

Table 1
 BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH 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-2009 pelagic season and 2009 coastal season [▲]														
I	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
II	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
III	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
IV	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
V	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
VI	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
Total catch not to exceed:														
NORTHERN HEMISPHERE-2009 season [▲]														
ARCTIC														
NORTH PACIFIC														
Whole region	PS	0	-	0	PS	0	PS	0	PS	0	PS	0	.	.
Okhotsk Sea-West Pacific Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Sea of Japan-Yellow Sea-East	.	.	.	.	.	.	.	.	.	.	.	.	.	.
China Sea Stock	.	.	PS	0	.	.	.	.	.	.	.	.	.	.
Remainder	.	.	IMS	0	.	.	.	.	.	.	.	.	SMS	1
Eastern Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	PS
Western Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	0
NORTH ATLANTIC														
Whole region	.	.	.	.	.	.	.	PS	0	PS	0	PS	0	.
West Greenland Stock	.	.	PS	0	.	19 ²	.	.	.	.	.	.	.	.
Newfoundland-Labrador Stock	.	.	.	0	.	0	.	.	.	.	.	.	.	.
Canadian East Coast Stock	.	.	.	0	.	.	.	.	.	.	.	.	.	.
Nova Scotia Stock	PS	0	.	.	PS	0	.	.	.	.	.	.	.	.
Central Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
East Greenland-Iceland Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
Iceland-Denmark Strait Stock	.	0	.	.	.	.	SMS	.	.	.	.	.	.	.
Spain-Portugal-British Isles Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Northeastern Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
West Norway-Faroe Islands Stock	.	.	PS*	0	.	.	.	.	.	.	.	.	.	.
North Norway Stock	.	.	.	.	PS	0	.	.	.	.	.	.	.	.
Eastern Stock	.	0	.	.	.	0	.	.	.	.	.	.	.	.
NORTHERN INDIAN OCEAN														
.	.	.	IMS	0	.	.	PS	0	PS	0	PS	0	.	.

*Available to be taken by aborigines or a Contracting Government on behalf of aborigines pursuant to paragraph 13(b)2.

²Available to be struck by aborigines pursuant to paragraph 13(b)3. Catch limit for each of the years 2008, 2009, 2010, 2011 and 2012.

+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.

[▲]The Government of the Czech Republic lodged an objection within the prescribed period to the amendments to the Schedule arising from the 60th Annual Meeting of the Commission, i.e. changes to the dates of the pelagic and coastal whaling seasons given in paragraphs 11 and 12 and Tables 1, 2 and 3. For all other Contracting Governments, these dates came into force on 6 January 2009.

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-2008/2009 pelagic season and 2009 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-2009 season [▲]		
Eastern Stock	IMS	0
Western Stock	IMS	0
East China Sea Stock	PS	0
NORTH ATLANTIC-2009 season [▲]	IMS	0
NORTHERN INDIAN OCEAN-2009 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 Government of the Czech Republic lodged an objection within the prescribed period to the amendments to the Schedule arising from the 60th Annual Meeting of the Commission, i.e. changes to the dates of the pelagic and coastal whaling seasons given in paragraphs 11 and 12 and Tables 1, 2 and 3. For all other Contracting Governments, these dates came into force on 6 January 2009.

*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-2008/2009 pelagic season and 2009 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-2009 season [▲]				
NORTH PACIFIC				
Western Division		PS		0 ¹
Eastern Division		-		0
NORTH ATLANTIC				
		-		0
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.

[▲]The Government of the Czech Republic lodged an objection within the prescribed period to the amendments to the Schedule arising from the 60th Annual Meeting of the Commission, i.e. changes to the dates of the pelagic and coastal whaling seasons given in paragraphs 11 and 12 and Tables 1, 2 and 3. For all other Contracting Governments, these dates came into force on 6 January 2009.

Baleen Whale Catch Limits

11. The number of baleen whales taken in the Southern Hemisphere in the 2008/2009 pelagic season and the 2009 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 2009 and in the North Atlantic Ocean in 2009 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 2008, 2009, 2010, 2011 and 2012, 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 2003-2007 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.

[▲]The Government of the Czech Republic lodged an objection within the prescribed period to the amendments to the Schedule arising from the 60th Annual Meeting of the Commission, i.e. changes to the dates of the pelagic and coastal whaling seasons given in paragraphs 11 and 12 and Tables 1, 2 and 3. For all other Contracting Governments, these dates came into force on 6 January 2009.

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.

- (ii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.
- (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 2008, 2009, 2010, 2011 and 2012, 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 2008, 2009, 2010, 2011 and 2012 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 and bowhead whales from the West Greenland feeding aggregation is permitted and then only when the meat and products are to be used exclusively for local consumption.
 - (i) The number of fin whales struck from the West Greenland stock in accordance with this sub-paragraph shall not exceed 19 in each of the years 2008, 2009, 2010, 2011 and 2012.
 - (ii) The number of minke whales struck from the Central stock in accordance with this sub-paragraph shall not exceed 12 in each of the years 2008, 2009, 2010, 2011 and 2012, 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 200 in each of the years 2008, 2009, 2010, 2011 and 2012, except that any unused portion of the quota for each year shall be carried forward from that year and added to the strike quota of any of the 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 annually by the Commission, according to the findings and recommendations by the Scientific Committee, which shall be binding.
 - (iv) The number of bowhead whales struck off West Greenland in accordance with this sub-paragraph shall not exceed 2 in each of the years 2008, 2009, 2010, 2011 and 2012, 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 2 shall be added to the quota for any one year. Furthermore, the quota for each year shall only become operative when the Commission has received advice from the Scientific Committee that the strikes are unlikely to endanger the stock.

- (4) For the seasons 2008-2012 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.

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

SCHEDULE APPENDIX A
SCHOOLING REPORT

TABLE 2

To be completed by pelagic expedition or coastal station for each sperm whale school chased. A separate form to be used each day.

Name of expedition or coastal station

Date Noon position of factory ship

Time School Found

Total Number of Whales in School

Number of Takeable Whales in School

Number of Whales Caught from School by each Catcher

Name of Catcher

Name of Catcher

Name of Catcher

Name of Catcher

Total Number Caught from School

Remarks:

Explanatory Notes

- A. Fill in one column for each school chased with number of whales caught by each catcher taking part in the chase; if catchers chase the school but do not catch from it, enter 0; for catchers in fleet which do not chase that school enter X.
- B. A school on this form means a group of whales which are sufficiently close together that a catcher having completed handling one whale can start chasing another whale almost immediately without spending time searching. A solitary whale should be entered as a school of 1 whale.
- C. A takeable whale is a whale of a size or kind which the catchers would take if possible. It does not necessarily include all whales above legal size, e.g. if catchers are concentrating on large whales only these would be counted as takeable.
- D. Information about catchers from other expeditions or companies operating on the same school should be recorded under Remarks.

INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING, 1946
DAILY RECORD SHEET

TABLE 1

Date Catcher name Sheet No.

Searching: Time started (or resumed)

*Time whales seen or reported to catcher

Whale species

Number seen and no. of groups

Position found

Name of catcher that found whales

Chasing: Time started chasing (or confirmed whales)

Time whale shot or chasing discontinued

Handling: Asdic used (Yes/No)

Time whale flagged or alongside for towing

Towing: Serial No. of catch

Time started picking up

Time finished picking up or started towing

Resting: Date and time delivered to factory

Time stopped (for drifting or resting)

Time finished drifting/resting

Time ceased operations

WEATHER CONDITIONS

Total searching time..... Wind force and direction

Total chasing time

A) with asdic Time Sea state Visibility

B) without asdic

Total handling time

Total towing time

Total resting time

Other time (e.g. bunkering, in port)

Whales Seen (No. and No. of schools)

Blue..... Bryde's

Fin..... Minke

Humpback..... Sperm

Right..... Others (specify)

Sei.....

Signed.....

*Time whales reported to catcher means the time when the catcher is told of the position of a school and starts to move towards it to chase it.

Rules of Procedure and Financial Regulations

As amended by the Commission at the 60th Annual Meeting, June 2008
(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 non-governmental organisation which expresses an interest in matters covered by the Convention, may be accredited as an observer. Requests for accreditation must be submitted in writing to the Commission 60 days prior to the start of the meeting and the Commission may issue an invitation with respect to such request. Such submissions shall include the standard application form for non-governmental organisations which will be provided by the Secretariat. These applications shall remain available for review by Contracting Governments.

Once a non-governmental organisation has been accredited through the application process

above, it will remain accredited until the Commission decides otherwise.

Observers from each non-governmental organisation will be allowed seating in the meeting. However, seating limitations may require that the number of observers from each non-governmental organisation be limited. The Secretariat will notify accredited non-governmental organisations of any seating limitations in advance of the meeting.

- (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 ***shall be suspended automatically when the annual payment of a Contracting Government including any interest due has not been received by the Commission by the earliest of these dates:***
 - *3 months following the due date prescribed in Regulation E.2 of the Financial Regulations; or*
 - *the day before the first day of the next Annual or Special Meeting of the Commission if such a meeting is held within 3 months following the due date; or*
 - *in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date.*

This suspension of voting rights applies 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;
- (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. Languages of the Commission

1. English shall be the official *[[* language of the Commission. ***English, French and Spanish shall be the working languages of the Commission. [[*** 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. ***Agreed publications shall be available in English, French and Spanish¹.***

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 interessional 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 restricted². Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.

¹As agreed at IWC/59 in Anchorage in 2007: i.e. simultaneous interpretation in French and Spanish in IWC Plenary and private meetings of Commissioners, and translation into French and Spanish of: (1) Resolutions and Schedule amendments; (2) the Chair's summary reports of Annual Meetings; (3) Annotated Provisional Agendas; and (4) summaries of the Scientific Committee and working group reports. Ann. Rep. Int. Whaling Comm. 2007: 56-57.

²This does not prevent Contracting Governments from consulting as they see fit on such documents providing confidentiality is maintained as described in Rule of Procedure Q.1.

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 Governments³.

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.

³ [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 Contributions⁴

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 by the earliest of these dates:*
 - *3 months following the due date; or*
 - *the day before the first day of the next Annual or Special Meeting of the Commission if such a meeting is held within 3 months following the due date; or,*
 - *in the case of a vote by postal or other means, the date upon which votes must be received if this falls within 3 months following the due date,*

⁴ For the purposes of the Financial Regulations the expression 'received by the Commission' means either (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account or (2) that the Secretariat has in its possession cash, or bankers draft/international money order of the correct value.

- the 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.

Acceptance of contributions from entities other than Governments will be subject to the Commission's procedures for voluntary contributions. Where funds or support in kind are to be made available through the Voluntary Fund, the donation will be registered and administered by the Secretariat in accordance with Commission procedures.

The Secretariat will notify all members of the Commission on receipt of such voluntary contributions.

Where expenditure is incurred using these voluntary funds the Secretariat will inform the donors of their utilisation.

Distribution of Funds

1. Recognising that there are differences of view on the legal competence of the Commission in relation to small cetaceans, but aware of the need to promote the development of increased participation by developing countries, the following primary forms of disbursement will be supported in accordance with the purpose of the Voluntary Fund:
 - (a) provision of support for attendance of invited participants at meetings of the Scientific Committee;
 - (b) provision of support for research in areas, species or populations or research methodology in small cetacean work identified as of direct interest or

priority in the advice provided by the Scientific Committee to the Commission;

- (c) other small cetacean work in developing countries that may be identified from time to time by the Commission and in consultation with inter-governmental agencies as requiring, or likely to benefit from support through the Fund.
2. Where expenditure is proposed in support of invited participants, the following will apply:
 - (a) invited participants will be selected through consultation between the Chair of the Scientific Committee, the Convenor of the appropriate sub-committee and the Secretary;
 - (b) the government of the country where the scientists work will be advised of the invitation and asked if it can provide financial support.
3. Where expenditure involves research activity, the following will apply:
 - (a) the normal procedures for review of proposals and recommendations by the Scientific Committee will be followed;
 - (b) appropriate procedures for reporting of progress and outcomes will be applied and the work reviewed;
 - (c) the Secretariat shall solicit the involvement, as appropriate, of governments in the regions where the research activity is undertaken.

Rules of Debate

A. Right to Speak

1. The Chair shall call upon speakers in the order in which they signify their desire to speak.
2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion.
3. A speaker shall not be interrupted except on a point of order. He/she may, however, with the permission of the Chair, give way during his/her speech to allow any other Commissioner to request elucidation on a particular point in that speech.
4. The Chair of a committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by his/her committee or group.

B. Submission of Motions

1. Proposals and amendments shall normally be introduced in writing in the working language of the meeting and shall be submitted to the Secretariat which shall circulate copies to all delegations in the session. As a general rule, no proposal shall be discussed at any plenary session unless copies of it have been circulated to all delegations normally no later than 6pm, or earlier if so determined by the Chair in consultation with the Commissioners, on the day preceding the plenary session. The presiding officer may, however, permit the discussion and consideration of amendments, or motions, as to procedure, even though such amendments, or motions have not been circulated previously.

C. Procedural Motions

1. During the discussion of any matter, a Commissioner may rise to a point of order, and the point of order shall be immediately decided by the Chair in accordance with these Rules of Procedure. A Commissioner may appeal against any ruling of the Chair. The appeal shall be immediately put to the vote and the 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 Chair⁵, 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.

⁵[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 Convention⁶.

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.

⁶[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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