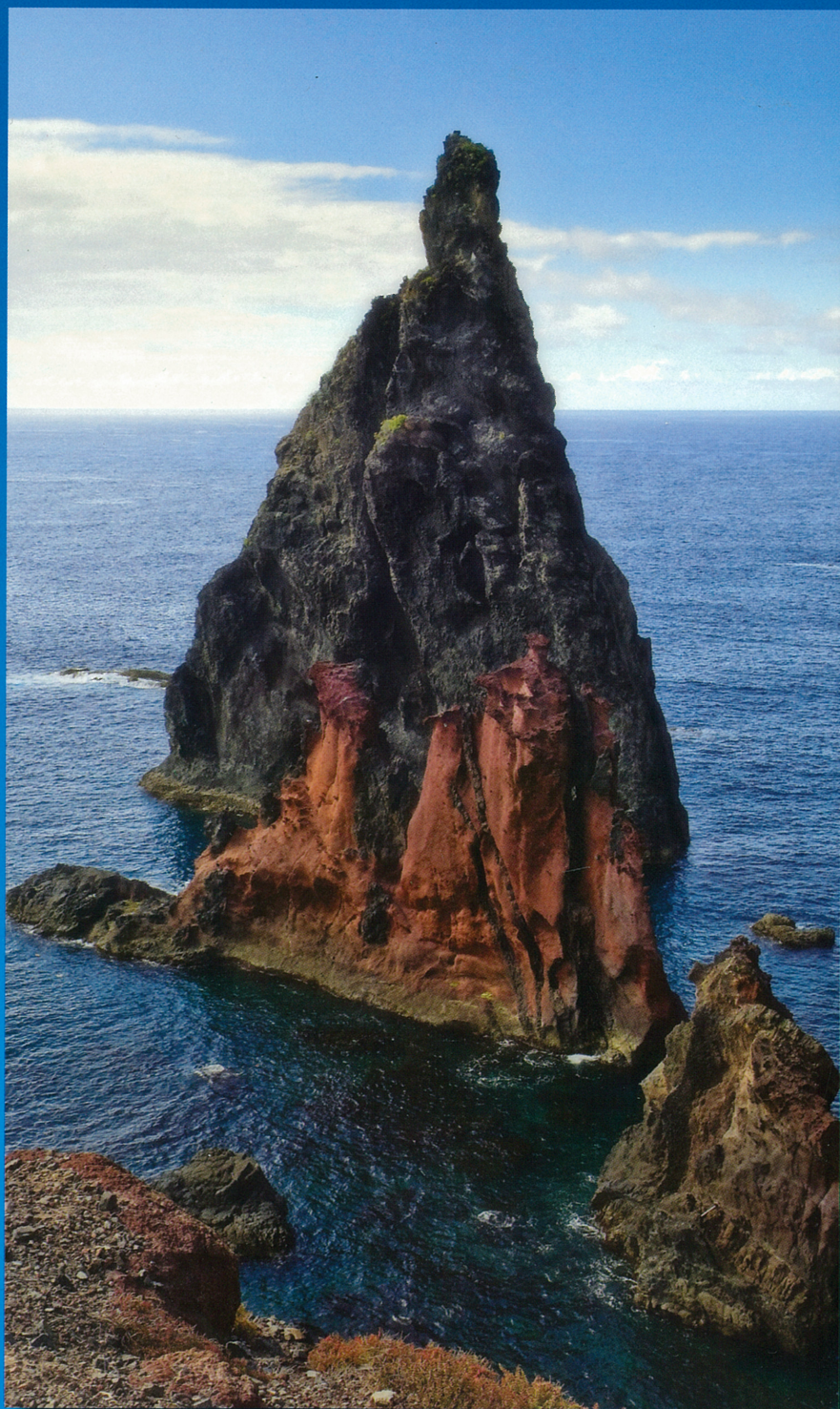


Annual Report of the International Whaling Commission 2009



Covering the
2008-2009
financial year
and the 61st
Annual Meeting
held in
Funchal, Madeira
in 2009



Annual Report of the International Whaling Commission 2009

**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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Cambridge 2010

ISSN: 1561-0721

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	Ambassador 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	Minister F.V. Pitaluga	12/08/09
Bulgaria	10/08/09	<i>Not notified</i>	
Cambodia	01/06/06	H.E.N. Thuok	14/09/09
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
Republic of the Congo	29/05/08	Mr. J.A. Kolelas-Ntoumi	21/07/08
Costa Rica	24/07/81	Dr. J.R. Quiros	18/05/09
Cote D'Ivoire	08/07/04	Dr. D.A. Jeanson	16/07/04
Croatia, Republic of	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
Dominican Republic	30/07/09	Mr. J.D.F. Mirabel	30/10/09
Ecuador	10/05/07	Mrs. V. Bustamente	23/04/10
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. Rerambyath	13/04/04
Gambia	17/05/05	Mr. J. Jabai	22/05/06
Germany	02/07/82	Mr. G. Lindemann	20/04/07
Republic of the Ghana	17/07/09	<i>Not notified</i>	
Greece	16/05/07	Ambassador E. Papadogiorgakis	25/11/09
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	Dr. C.M. Balde	01/04/09
Republic of Guinea	21/06/00	Mr. I. Sory Touré	29/07/03
Hungary	01/05/04	Dr. K. Rodics	06/06/04
Iceland	10/10/02	Mr. T. Heidar	01/04/09
India	09/03/81	Dr. M.B. Lal	16/04/10
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	<i>Not notified</i>	
Kiribati	28/12/04	Mrs. R. Nikuata Rimon	07/06/06
Republic of Korea	29/12/78	Mr. C-W Lee	19/04/10
Laos	22/05/07	Dr. B. Khambounheuang	01/10/07
Lithuania	25/11/08	Mr. Paltanavicius	25/05/09
Luxembourg	10/06/05	Mr C. Origer	27/05/05
Mali	17/08/04	Dr. H. Coulibaly	20/04/05
Republic of the Marshall Islands	01/06/06	Hon. 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	16/05/02
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

Cont.

<i>Contracting Government</i>	<i>Adherence</i>	<i>Commissioner</i>	<i>Appointment</i>
New Zealand	15/06/76	Rt. Hon Sir G. Palmer	02/12/02
Nicaragua	05/06/03	Mr. S.F. Müller	09/06/08
Norway	23/09/60	Ambassador K. Klepšvik	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	Mr. T.A. Guardia	26/02/10
Peru	18/06/79	Mrs. D. Sotomayor	26/10/06
Poland	17/04/09	Mrs. M. Lesz	14/05/09
Portugal	14/05/02	Prof. J.M.M.M. Palmeirim	06/02/06
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	Hon. Dr. T. Harris	10/02/10
St Lucia	29/06/81	Hon. J. Compton	18/02/10
St Vincent and The Grenadines	22/07/81	Senator E. Snagg	05/03/03
Senegal	15/07/82	Mme. Ndeye Ticke	01/01/06
Slovak Republic	22/03/05	Ms. D. Kmecová	26/05/10
Slovenia	20/09/06	Mr. A. Bibič	20/01/10
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. D. Dwarka	15/02/10
Sweden	15/06/79	Prof. B. Fernholm	15/02/96
Switzerland	29/05/80	Mr. B. Mainini	03/06/05
Tanzania	23/06/08	Mr. G.F. Nanyaro	22/06/09
Togo	15/06/05	Dr. A. Domtani	03/11/09
Tuvalu	30/06/04	Mr. P. Neleson	13/07/04
UK	10/11/48	Mr. N. Gooding	02/04/10
Uruguay	27/09/07	Ambassador J. Moreira	26/01/09
USA	10/11/48	Ms. M. Medina	17/02/10

Dr. N. Grandy, Secretary to the Commission, 31 May 2010

Preface

Welcome to the twelfth 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 Sixty-First meeting of the IWC, held in Madeira, Portugal in June 2009. 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: Volcanic rocks off Porta de São Lourenço, eastern Madeira (32°44'59"N, 16°42'47"W).

G.P. DONOVAN

Editor

Contents

CHAIR'S REPORT OF THE SIXTY-FIRST ANNUAL MEETING	5
FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 AUGUST 2009.....	147
INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING, 1946.....	155
Full text.....	157
Protocol.....	159
SCHEDULE OF THE INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING, 1946.....	161
RULES OF PROCEDURE AND FINANCIAL REGULATIONS.....	175
Rules of Procedure.....	177
Financial Regulations.....	182
Rules of Debate.....	185
Rules of Procedure of the Technical Committee.....	186
Rules of Procedure of the Scientific Committee.....	187

Chair's Report

Chair's Report: Contents

1. INTRODUCTORY ITEMS	5
1.1 Date and place.....	5
1.2 Welcome address.....	5
1.3 Opening statements.....	5
1.4 Credentials and voting rights.....	5
1.5 Meeting arrangements.....	5
2. ADOPTION OF AGENDA	6
3. THE IWC IN THE FUTURE	6
3.1 Background.....	6
3.2 Summary of intersessional discussions following IWC/61.....	7
3.3 Discussions at IWC/61.....	7
4. WHALE STOCKS	14
4.1 Antarctic minke whales.....	14
4.2 Western North Pacific common minke whales.....	15
4.3 Southern Hemisphere humpback whales.....	16
4.4 Southern Hemisphere blue whales.....	16
4.5 Other small stocks – gray, bowhead and right whales.....	16
5. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES	18
5.1 Report of the Working Group on Whale Killing Methods and Associated Welfare Issues.....	18
5.2 Commission discussions and action arising.....	19
6. ABORIGINAL SUBSISTENCE WHALING	19
6.1 Aboriginal Subsistence Whaling Management Procedure (AWMP).....	19
6.2 Aboriginal Whaling Scheme.....	20
6.3 Aboriginal subsistence whaling catch limits.....	20
7. REVISED MANAGEMENT SCHEME	24
7.1 Revised Management Procedure (RMP).....	24
7.2 Revised Management Scheme (RMS).....	25
8. SANCTUARIES	25
9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING	25
10. SCIENTIFIC PERMITS	26
10.1 Review of results from JARPN II.....	26
10.2 Review of results from other existing permits.....	28
10.3 Review of new or continuing proposals.....	28
10.4 Improving procedures for reviewing scientific permit proposals.....	28
11. SAFETY ISSUES AT SEA	29
12. ENVIRONMENTAL AND HEALTH ISSUES	29
12.1 Scientific Committee activities.....	29
12.2 Reports from Contracting Governments.....	30
12.3 Health issues.....	30
13. WHALEWATCHING	31
13.1 Scientific Committee activities.....	31
13.2 Conservation Committee activities.....	33
14. CO-OPERATION WITH OTHER ORGANISATIONS	34
14.1 Report of the Scientific Committee.....	34
14.2 Commission discussions and action arising.....	34
15. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT	34
15.1 Small cetaceans.....	34
15.2 Regional non-lethal research partnerships.....	35
15.3 Other activities.....	36
15.4 Scientific Committee future work plan.....	37
15.5 Adoption of the Report.....	39

16. CONSERVATION COMMITTEE	39
16.1 Report of the Conservation Committee.....	39
16.2 Commission discussions and action arising.....	41
17. CATCHES BY NON-MEMBER NATIONS	41
18. INFRACTIONS, 2008 SEASON	41
18.1 Report of the Infractions Sub-committee.....	41
18.2 Commission discussions and action arising.....	42
19. NGO SESSION	42
20. ADMINISTRATIVE MATTERS	42
20.1 Annual Meeting arrangements and procedures.....	42
20.3 IWC's website.....	42
20.3 Amendments to the Rules of Procedure and Financial Regulations.....	42
20.4 Carbon-neutral study.....	43
21. FINANCIAL ASSISTANT FOR DEVELOPING COUNTRY MEMBERS	43
22. FORMULA FOR CALCULATING CONTRIBUTIONS	44
22.1 Updating cut-off points defining capacity-to-pay groups.....	44
22.2 Due date for financial contributions.....	44
22.3 Other matters.....	44
23. FINANCIAL STATEMENTS AND BUDGETS	44
23.1 Review of the Provisional Financial Statement, 2007/2008.....	44
23.2 Secretariat offices.....	44
23.3 Consideration of estimated budgets, 2009/2010 and 2010/2011.....	45
23.4 Other matters.....	45
24. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE	45
25. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS	45
25.1 62 nd Annual Meeting, 2010.....	45
25.2 63 rd Annual Meeting, 2011.....	46
26. ELECTIONS AND ADVISORY COMMITTEE	46
27. SUMMARY OF DECISIONS AND REQUIRED ACTIONS	46
28. OTHER MATTERS	46
29. AMENDMENTS TO THE SCHEDULE	47
Annex A Delegates and Observers Attending the 61 st Annual Meeting.....	48
Annex B Agenda for the 61 st Annual Meeting.....	52
Annex C List of Documents.....	54
Annex D Chair's Report of the Intersessional Meeting on the Future of IWC.....	56
Annex E Report of the Small Working Group on the Future of the International Whaling Commission.....	84
Annex F Resolutions adopted at the 61 st Annual Meeting.....	95
Annex G Report of the Working Group on Whale Killing Methods and Associated Welfare Issues.....	97
Annex H Report of the Sub-Committee on Aboriginal Subsistence Whaling.....	102
Annex I Report of the Conservation Committee.....	110
Annex J Report of the Infractions Sub-Committee.....	119
Annex K Catches by IWC Member Nations in the 2008 and 2008/2009 Seasons.....	125
Annex L Summary of Presentations by Non-Governmental Organisations.....	126
Annex M Report of the Finance and Administration Committee.....	128
Annex N Approved Budget for 2009/2010 and Forecast Budget for 2010/2011.....	143
Annex O Approved Research Budget for 2009/10.....	144
Annex P Amendments to the Schedule Adopted at the 61 st Annual Meeting.....	145

**SUMMARY OF MAIN OUTCOMES, DECISIONS AND REQUIRED ACTIONS
FROM THE 61ST ANNUAL MEETING**

The main outcomes, decisions and required actions arising from the 61st Annual Meeting are summarised in the table below.

Issue	Main outcomes
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/62 in 2010. <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 Commission agreed that the Scientific Committee should complete the <i>Implementation Review</i> as soon as possible and to attempt to complete the <i>pre-Implementation Assessment</i> by the 2010 meeting. <p>Southern Hemisphere humpback whales</p> <ul style="list-style-type: none"> • The Scientific Committee recognises seven breeding stocks (A-G) connected to feeding grounds in the Antarctic. Comprehensive Assessments of stocks A (eastern South America), D (western Australia) and G (western South America) were completed in 2006. This year, the assessment of stock C (eastern Africa) was completed and it appears that humpback whales in this area have recovered to at least 65% of their pre-exploitation sizes. • The Scientific Committee reviewed new information on breeding stocks D, E (eastern Australia), F (Oceania) and G and agreed that the abundance estimate of 21,750 (95% CI 17,550-43,000) for northward-migrating D stock animals be used as the best estimate in any future assessments of this stock. • Support for the Antarctic humpback whale photo-identification catalogue was confirmed. It is of great importance to the assessment of humpback whales and has over 3,000 catalogued whales. <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. There are around 130 individuals and only about 23 breeding females. 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. • Considerable new information was available this year, in particular the report of the September 2008 IUCN Western Gray Whale Range Wide Workshop whose objective was to work towards a Conservation Plan to reduce anthropogenic mortality to zero. The Scientific Committee endorsed the workshop recommendations which formed the basis of its own conservation advice to the Commission. Recognising that a number of the threats to this stock occur outside the feeding area but that the migration routes and breeding area remain almost unknown, the Committee recommended a carefully designed satellite tagging programme in the Sakhalin feeding grounds to be undertaken in 2010. The Committee encouraged IUCN and IWC to assist relevant authorities in each of the range states to develop accurate and effective public awareness campaigns. <p>Small cetaceans</p> <ul style="list-style-type: none"> • The Scientific Committee reviewed the taxonomy, population structure and status of common dolphins. It agreed that in general, the uncertainty over taxonomy and population structure, allied to a paucity of abundance estimates, made it difficult to assess status in many areas. However concern was expressed for the status of common dolphins in the Mediterranean and support for a basin-wide synoptic survey re-iterated. Attention was drawn to the large and potentially unsustainable catches of common dolphins in Peru and concern was expressed about ongoing fishery bycatch in the northeastern Atlantic and some other areas. • Progress on previous recommendations was reviewed regarding the vaquita, harbour porpoise, white whales and narwhals. Regarding the vaquita, the Committee re-iterated its recommendation that, if extinction is to be avoided, all gillnets should be removed from the upper Gulf of California immediately.
Aboriginal subsistence whaling	<ul style="list-style-type: none"> • For the first time, and owing to new information being available, the Scientific Committee was able to provide advice on West Greenland common minke whales. That advice was that annual catches of 178 would not harm the stock. Regarding the other aboriginal subsistence catch limits, the Committee advised that the present limits will not harm the stocks. • As last year, the primary focus of discussions was the request by Denmark/Greenland for a catch of 10 humpback whales. The Committee had previously confirmed that such catches will not harm the stock. Discussions therefore focussed on whether Greenland had adequately shown that it 'needed' to catch these whales and on the conversion factors used to convert tonnes of edible product into numbers of whales. The Commission was again divided over the request for the taking of humpback whales and agreed to leave open the decision on catch limits for Greenland until an intersessional meeting. In the meantime a small scientific group was established to investigate the issue of conversion factors.

Issue	Main outcomes
The Revised Management Scheme (RMS)	<p>Revised Management Procedure (RMP)</p> <ul style="list-style-type: none"> The <i>Implementation</i> for North Atlantic fin whales and the <i>Implementation Review</i> for North Atlantic common minke whales were completed. For the latter, estimates of total abundance for the survey area during 2002-2007 of 108,000 (95% CI 69,200-168,500) and 81,000 (95% CI 51,900-126,400) for the <i>Eastern Medium Area</i> only were adopted. The estimates were in accordance with those from the previous survey period (i.e. 1996-2001) but had higher uncertainty. 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"> Discussions on the RMS are included as part of the discussions on the future of the IWC.
Sanctuaries	<ul style="list-style-type: none"> While the proposed South Atlantic Sanctuary, which has been on the Commission's agenda for some years was included on the Commission's agenda, the sponsors did not request the adoption of a Schedule amendment in view of the progress with work on the future of the IWC.
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 did not do so.
Scientific permits	<ul style="list-style-type: none"> Special permit whaling is one of the major divisive items within the Commission and consideration of it forms an important component of the discussions on the IWC's future. The major focus of discussions was the report of the specialist workshop to evaluate results from the first 6 years of the JARPN II research programme. This was the first time that the new process agreed last year had been used. Their primary tasks were to: (1) review the scientific work undertaken thus far against the stated objectives and to review future plans in the context of the likelihood of meeting those objectives; (2) evaluate the techniques used (lethal and non-lethal); (3) evaluate the appropriateness of sample size and design for the research; and (4) assess the effects of any catches on the relevant stocks. While a review of the new process for reviewing scientific permit proposals was initiated, a more thorough review was postponed to next year to allow more time for reflection. <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. Contracting Governments while continuing to support the right to legitimate and peaceful forms of protest expressed deep concern regarding the further escalation of the confrontations and hoped that the matter could be resolved. The responsibility of the relevant Flag and Port States in this regard was noted as was the role of the IMO in addressing safety issues at sea. The Secretariat was requested to write to the IMO to inform it of the serious concerns of all IWC Contracting Governments regarding the implications of protest activities conducted against Japanese whale research vessels in the Southern Ocean in recent years. The Commission also expressed serious concerns regarding the potential for environmental damage resulting from any confrontations and the limited search and rescue capability in such a remote area.
Environmental and health concerns	<ul style="list-style-type: none"> Recommendations from IWC's second workshop on climate change (the first was in 1996) were endorsed and the Commission adopted by consensus Resolution 2009-1 on Climate and Other Environmental Changes and Cetaceans. The Resolution <i>inter alia</i>: directs the Scientific Committee to continue its work in this area; requests Contracting Governments to incorporate climate change considerations into existing conservation and management plans and to take urgent action to reduce the rate and extent of climate change; calls on governments, intergovernmental organisations and NGOs to support expansion of the Committees' work; and requested the Secretariat to forward the Resolution and the workshop report to relevant bodies and meetings including the World Climate Conference, the UNFCCC and the IPCC. The Scientific Committee discussed the report of the 2008 IWC/CCAMLR workshop to review input data for Antarctic marine ecosystem models. It was noted that important ecosystem components, including squids, birds and salps, remain poorly described. However, the workshop outcome is expected to facilitate the understanding of ecological relationships between whales, their prey and predators. The Scientific Committee has been addressing issues related to pollutants and cetaceans for a number of years through POLLUTION 2000+. A workshop to finalise plans for Phase II will be held during the intersessional period. The Committee proposed that Phase II should develop an integrated modelling and risk assessment framework to assess cause-effect relationships between pollutants and cetaceans at the population level, extend the work to new species and pollutants as appropriate, and further validate biopsy sampling techniques to address issues related to pollution, including legacy and new contaminants of concern and associated indicators of exposure or effects. There was a discussion in the Commission regarding possible human health issues associated with the consumption of pollutant-contaminated cetaceans. The Scientific Committee recommended further research on the impact of renewable energy generators in the marine environment that are becoming increasingly widespread and established an intersessional correspondence group to prepare for a discussion of the effects on cetaceans of anthropogenic sound in 2010. This year the State of the Cetacean Environment Report focussed on the Pacific Ocean.

Issue	Main outcomes
Whale-watching	<ul style="list-style-type: none"> • A large-scale whalewatching experiment (LaWE) has been proposed to assist in describing effects of whalewatching, improve understanding of mechanisms and develop mitigation measures. The Scientific Committee made a number of recommendations for long-term impact assessment. The pursuit of long-term studies should not discourage short-term response studies. • The Committee reviewed whalewatching in Portugal (including the Azores and Madeira), the Canary Islands and the Strait of Gibraltar. It reiterated its recommendation that to be effective, codes of conduct for whalewatching should be supported by an appropriate legal framework. The development of an on-line database for tracking whalewatching operations and associated data collection programmes worldwide was welcomed. The compendium of whalewatching guidelines and regulations was updated. • With respect to management issues, the Conservation Committee agreed to establish a Standing Working Group on Whalewatching to prepare, in consultation with the Scientific Committee, a five-year strategic plan for consideration next year.
Other Scientific Committee issues	<ul style="list-style-type: none"> • The Scientific Committee welcomed an initiative taken by Australia to plan and conduct comprehensive non-lethal research in the Southern Ocean and endorsed the general approach developed for the Southern Ocean Research Partnership. • Noting that the 2009/10 cruise may be the last year of the Southern Ocean Whale and Ecosystem Research programme the Scientific Committee thanked Japan for providing the vessel and crew for this work. Since the IDCR/SOWER programme commenced in 1978/79 more than 4,000 ship days or more than 11 ship years have been provided and 43,000 sightings of cetacean have been made. It has led to groundbreaking developments in abundance survey techniques and has collected over 1,500 biopsy samples, photographs of some 3,000 animals and several thousand hours of acoustic recordings. Japan's initiative for a large-scale sightings survey based research programme in the North Pacific was welcomed. • Following the departure of Arne Bjorge (Norway) after four years as Chair of the Scientific Committee, Debi Palka (USA) became Chair and Toshihide Kitakado (Japan) was elected as Vice-Chair.
Conservation Committee	<ul style="list-style-type: none"> • The Committee reviewed progress with two ongoing areas of work: (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) agreed to establish a Standing Working Group on Whalewatching (see above); (2) considered the development of conservation management plans; and (3) considered a proposal for a small intersessional workshop to progress work on the consequences of climate change for small cetaceans. • With respect to ship strikes, progress was made in: (1) collaboration with IMO; (2) the ship strikes database; (3) awareness raising; and (4) preparation for the joint IWC/ACCOBAMS workshop to be held in September 2010. The workshop's objectives are to: (1) exchange, evaluate and analyse data on cetacean distribution and shipping traffic; (2) examine existing ship strike reduction methods; and (3) develop scientific and conservation recommendations and a two-year work plan. The geographical focus of the workshop will be the Mediterranean Sea and the Canary Islands. • The Conservation Committee endorsed the formation of a small, specialist group to construct a list of candidate management plans for review next year.
Future work of the Scientific Committee	<p>The Commission adopted the report from the Scientific Committee, including its proposed work plan for 2009/2010 that includes activities in the following areas:</p> <ul style="list-style-type: none"> • continued work on the RMP, particularly with respect to generic issues (e.g. MSYR) and completion of some outstanding issues with respect to <i>Implementations</i> and <i>Implementation Reviews</i>; • continued work on the estimation of bycatch and other human induced mortality for use in the RMP; • continued work on the development of an <i>SLA</i> or <i>SLAs</i> to provide long-term management advice for the Greenlandic fisheries; finalisation of the evaluation of the sex-ratio method to assess common minke whales off West Greenland; 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; • continued work on in-depth assessments, with particular emphasis on agreeing abundance estimates for Antarctic minke whales, completion of the assessments for Southern Hemisphere humpback whales Breeding Stock B and preparation for the assessment of Breeding Stocks D, E and F, further work on area specific assessment of Southern Hemisphere blue whales; • continued work on the conservation of endangered populations with emphasis on western gray whales and northern right whales; • review of progress on the TOSSM (Testing of Spatial Structure Models) project and the concept of 'stock' in a management context; • continued work on environmental concerns, with a focus on: (1) plans for Phase II of POLLUTION 2000+; (2) anthropogenic sound with a focus on shipping noise; (3) reviewing progress on Cetacean Emerging and Resurging Diseases; (4) reviewing progress with follow-up to the climate change workshop; and (5) the SOCER report (the focus will be Arctic polar seas); • continued work on ecosystem modelling including: (1) its role in the Scientific Committee; and (2) consideration of models relevant to the evaluation of special permit whaling, as well as other relevant ecosystem models; • with respect to whaling under scientific permit, consideration of the need to revise the procedure for reviewing scientific permit proposals and the mechanism to complete the Panel review of JARPN II; • continued work on issues related to whalewatching including: (1) reviewing whalewatching off North Africa; and (2) assessing the biological impacts of whalewatching on cetaceans and (3) reviewing risks to cetaceans from whalewatching vessel collisions; and • continued work on small cetaceans, including a review of the status of small cetaceans in the eastern tropical Atlantic.

Issue	Main outcomes
The future of the IWC	<ul style="list-style-type: none"> Recognising that the work on the future of the IWC was not complete, the Commission agreed by consensus to extend the time allocated to the Small Working Group (SWG) until next year's Annual Meeting (Resolution 2009-2). The SWG, now open to observers, was tasked with intensifying its efforts to conclude a package or packages by 2010 that should allow the Commission to reach a consensus solution to the major problems it faces, building upon the concept of a two-phase process and the progress reported by the SWG in its report to IWC/61. The Commission also agreed to establish a Support Group containing equitable geographic and socio-economic representation and range of views to assist the Chair in providing direction to the process and in the preparation of material for submission to the SWG. The Commission agreed to establish a small joint working group of the Scientific and Finance and Administration Committees to further consider issues raised during discussions of the report from the Intersessional Correspondence Group on Scientific Committee Matters and to develop recommendations for consideration at next year's meeting.
Admin-istration	<p>Translation of the website</p> <ul style="list-style-type: none"> The Secretariat reported that due to contributions from France and Spain, translations of the 15 most popular pages on the website and translations into Spanish of the Convention and the Schedule are now available as PDF documents on the website. The machine translation service has been improved and feedback on the quality of the translations produced was requested. <p>Amendments to the Rules of Procedure and Financial Regulations</p> <ul style="list-style-type: none"> The Commission adopted amendments to: (1) the footnote to Financial Regulations F, Arrears of Contribution to further clarify what is meant by 'received by the Commission' with respect to financial contributions; and (2) Scientific Committee Rule of Procedure A.5 regarding the participation of international organisations/NGOs as observers to bring it in line with revisions that were made to the Commission's rules at the 2007 Annual Meeting. The Secretariat was requested to draft an editorial footnote to Scientific Committee Rule of Procedure C.5 to clarify that the Commission's rule on voting rights (rule E.2) also applies to the Scientific Committee.
Financial assistance to developing country members	<ul style="list-style-type: none"> Given the Commission's decision to reconstitute the SWG for a further year and to appoint a Support Group (see above), it agreed that the interim procedure for providing financial assistance to developing countries agreed last year would remain while discussions on the future of the IWC continue and that this matter be addressed as part of the discussions on the future of the IWC.
Financial Contributions Formula	<ul style="list-style-type: none"> Several Contracting Governments, particularly those of developing countries, noted that because of conflicts between the 28 February due date for financial contributions and their own national budgetary cycles, penalty charges for late payment of contributions are often incurred. The Commission requested the Secretariat to explore the implications of changing the due date and to report to the intersessional meeting of the Commission. St. Vincent and The Grenadines announced that it will submit a proposal on how its contributions might be reduced for consideration by the Commission at either the intersessional meeting or at IWC/62. It noted although it falls into capacity to pay Group 1, because it has an aboriginal subsistence hunt its financial contributions assessed under the Interim Measure are higher than those in Group 2 and almost as high as some of those in Group 3. It considered this situation to be inequitable.
Financial Statements and Budget	<ul style="list-style-type: none"> The Commission approved: (1) the Provisional Financial Statement for 2008/09 subject to audit; (2) the budget for 2009/10, including the research budget, and (3) increases in the media fee from £55 to 60 for 2010. NGO fees will increase from £500 to £505 for the first observer per organisation and from £250 to £253 per additional observer.
Date and place of Annual Meetings	<ul style="list-style-type: none"> The 62nd Annual and associated meetings in 2009 will be held in Agadir, Morocco over a similar time frame to IWC/61.
Elections and Advisory Committee	<ul style="list-style-type: none"> Cristian Maquieira (Chile) and Anthony Liverpool (Antigua and Barbuda) were elected by consensus as the new Chair and Vice-Chair of the Commission respectively. Donna Petrachenko (Australia) was elected by consensus as the new Chair of the F&A Committee. The Commissioner for Portugal was elected onto the Advisory Committee to replace the Commissioner for Costa Rica. The Advisory Committee now comprises the Chair (Chile), the Vice-Chair (Antigua and Barbuda), the Chair of the F&A Committee (Australia), the Commissioner for Côte d'Ivoire and the Commissioner for Portugal.

Chair's Report of the 61st Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 61st Annual Meeting of the International Whaling Commission (IWC) took place at the Pestana Casino Park Hotel, Madeira from 22-25 June 2009. It was chaired by Dr Bill Hogarth (USA) and was attended by 71 of the 85 Contracting Governments¹. Observers from one non-member government, five intergovernmental organisations, and 56 non-governmental organisations (NGOs) were also present. A list of delegates and observers attending the meeting is given as Annex A. The associated meetings of the Scientific Committee and Commission sub-groups were held at the same venue in the period 31 May to 18 June.

1.2 Welcome address

Welcome addresses were given by Dr Alberto João Jardim, President of the Regional Government of Madeira, and Professor Francisco Nunes Correia, Minister of Environment, Spatial Planning and Regional Development. They were preceded by a short performance from the Mandolin Orchestra of Madeira.

On behalf of the Regional Government, Dr Alberto João Jardim was pleased to welcome the IWC to Madeira. As an island very dependent on the sea, the conservation and sustainable use of marine resources is very important. Noting the worldwide interest in the proceedings of IWC and the different views regarding whales and whaling, Dr Jardim hoped that consensus could be reached at IWC/61 on a way forward for the organisation. He stressed the need for decisions and regulations to be based on sound science, for a harmony to be developed between development and the protection of nature and that today, more than ever, there is a need for agreements to involve not only states but industry and civil society.

Professor Francisco Nunes Correia thanked the IWC for having chosen Madeira for its 61st Annual Meeting and the Regional Government of Madeira for its support in the meeting's organisation. Professor Correia noted the importance of the meeting to Portugal given its historical, cultural and geographic commitment to ocean issues and given its transition from a country that had whaling activities in the past to a country with whalewatching operations. He indicated that the latter contribute more to local economies than whaling and create employment for former whale hunters and boatmen. Portugal supported the commercial whaling moratorium which it considered had been successful in contributing to the significant recovery of several whale species. While Portugal's main goal was to find ways to reinforce the current international whale conservation regime, like others it believed the IWC is not as effective as it should be. For this reason it was open to discussions about ways in which the current stalemate could be resolved. Portugal was willing to listen, to promote understanding and trust, to reach a compromise so that the IWC could move into the 21st Century and address more effectively the contemporary issues affecting whales that have arisen since the IWC was established 60 years

ago (e.g. climate change, bycatch, chemical and noise pollution and ship strikes). While technical and scientific advice is required by the IWC, Professor Correia noted his conviction that discussions to resolve the stalemate will require an increased involvement of politicians, preferably at ministerial level. Finally he recognised the difficulties in achieving an agreement that will solve all remaining issues affecting the IWC, but he hoped that progress made during this meeting would be an important contribution towards the construction of a fair and balanced agreement at IWC/62 next year.

1.3 Opening statements

The Chair welcomed the following new Contracting Governments who had adhered to the Convention since the last Annual Meeting: Lithuania – adhered on 25 November 2008; Estonia – adhered on 7 January 2009; Poland – adhered on 17 April 2009.

Estonia and Poland both made opening statements. They both thanked the Government of Portugal and the Regional Government of Madeira for hosting the meeting.

Estonia was pleased to become a member of the IWC and looked forward to working with all Contracting Governments and the Secretariat. As a country on the Baltic Sea, it is fully aware of the importance of the sustainable use of marine ecosystems and resources and noted its intention to provide useful input into the work of the Commission.

Poland was honoured to become a member of the IWC. It believed that worldwide co-operation and effective implementation of international conventions and agreements can significantly help reduce global biodiversity loss. Poland considered that the IWC plays, and can continue to play, an important role in cetacean conservation – a role to which it will contribute. It was aware of the difficulties faced by IWC but had adhered to the Convention knowingly and willingly with the hope that IWC will overcome its problems. It believed that the 61st Annual Meeting and the subsequent work of the Small Working Group on the Future of the IWC will contribute towards this goal.

Lithuania did not attend the meeting.

1.4 Credentials and voting rights

The Secretary reported that the Credentials Committee (Japan, New Zealand and the Secretary) agreed that credentials were in order for most Contracting Governments present at the beginning of the meeting; there were a few outstanding issues to be resolved. She noted that voting rights were suspended for Cameroon, Gambia, Guatemala, Guinea Bissau, Kenya, Mali, Palau, Peru, Senegal, Tanzania and Togo. The voting rights of Guinea Bissau, Palau and Togo were restored during the meeting. The Secretary noted that if and when voting commenced, she would call on San Marino to vote first.

1.5 Meeting arrangements

The Chair expressed his pleasure with how the atmosphere of IWC meetings had improved in recent years, particularly since the Commission embarked seriously upon the process to address IWC's future. He hoped that discussions at

¹As of 19 May 2010, there were 88 Contracting Governments.

IWC/61 could continue in the same vein. 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. He urged the Commission to follow the new Rule of Procedure adopted last year on decision-making and to make every effort to reach its decisions by consensus.

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. He also indicated that Commissioners had again agreed to allow non-governmental organisations (NGOs) to address the meeting during a special session. His intention was allow up to six NGOs broadly representing the range of views to address the meeting for up to 5 minutes each. Only one individual per organisation would be allowed to speak.

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 2009. 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 meetings of the Small Working Group on the Future of IWC and the March 2009 intersessional meeting on the future of the organisation. It further noted that, as was the case for the 60th 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. While its position on a number of matters (e.g. whale killing methods and associated welfare issues; proposals for new sanctuaries; health issues; whalewatching; small cetaceans and the Conservation Committee) had not changed, in keeping with its attempt to *inter alia* reduce conflict within IWC, it would not propose the deletion of any of these items. It encouraged constructive discussions with a focus on the future of the organisation on which it hoped that as much time as possible could be spent.

Noting that the European Union (EU) had again adopted a common position for IWC/61 on a number of IWC matters, Denmark, in agreement with the Czech Republic who held the 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 the IWC in the future was item 18 on the Commission's agenda, it was addressed on the second day of the plenary session. The outcome of these discussions is included early in this report since they impacted on discussions under other items.

3.1 Background

At its 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. The intersessional meeting took place in London, Heathrow in March 2008². Rather than launching into negotiations on substantive issues where major differences among IWC members exist, it was considered that it would be more fruitful to take a process-orientated approach and to seek ways to improve how negotiations within the IWC are conducted. By doing this, it was hoped that negotiations on substantive matters would have a greater chance of succeeding. The intersessional meeting therefore focused on matters of process rather than on matters of substance. Outside experts with experience in dealing with difficult issues in other international fora were engaged to contribute to discussions.

At the March 2008 meeting, there was general agreement that the Commission needed to improve the way it conducts its business and a variety of suggestions were made. 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.

²Ann. Rep. Int. Whaling Comm 2008: 6-8; 56-78.

As a result of the productive discussions at the March 2008 meeting and during the 60th Annual Meeting in Santiago, Chile, in June 2008 the Commission agreed, by consensus, approaches to: (1) reforming its working procedures and practices; and (2) further discussions/negotiations on substantive issues³. With respect to further discussions/negotiations on substantive issues, the Commission established the Small Working Group (SWG) on the Future of the International Whaling Commission to 'make every effort to develop a package or packages for review by the Commission' in order to assist it 'to arrive at a consensus solution to the main issues it faces' (i.e. 33 elements/issues identified of importance to one or more Contracting Government). It was to report on its initial deliberations to the Commission at an intersessional meeting at which further directions would be given leading up to IWC/61. In Santiago, the Commission also established an Intersessional Correspondence Group (ICG) on Issues Related to the Scientific Committee to:

- (1) consider the advantages and disadvantages of separating the annual meeting of the Scientific Committee from that of the Commission;
- (2) consider ways to increase participation of scientists from developing countries in the work of the Scientific Committee;
- (3) consider 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; and
- (4) review the process for inviting participants to the Scientific Committee.

Given that the ICG's output would form part of the overall discussions future of the IWC, its Terms of Reference included that the discussion document to be produced by the ICG was 'to be forwarded to the Small Working Group on the Future of IWC at a time to be determined'.

3.2 Summary of intersessional discussions following IWC/61

3.2.1 Work of the SWG, June 2008 to March 2009 and the 'Chairs' Suggestions

Prior to the intersessional meeting which was held in Rome in March 2009, the SWG met twice: once in Florida, USA in September 2008 and once in Cambridge, UK in December 2008. The SWG was chaired by Alvaro de Soto, one of the experts involved in the earlier 2008 intersessional and annual meetings.

At its first meeting, the SWG recognised that the size of the group (26 countries) and the number of elements/issues that the Commission had identified as important for its future (i.e. 33 elements/issues) could hamper its ability to efficiently discharge its primary task of developing 'a package or packages for review by the Commission' in order to assist it 'to arrive at a consensus solution to the main issues it faces,' particularly having regard to the limited time available for the SWG to complete its work. To rationalise its work, the SWG had therefore agreed, on the understanding that 'nothing is agreed until everything

is agreed', to allocate the 33 elements/issues into the following two categories:

- (a) controversial issues that need to be addressed in the short term, i.e. those that if not addressed in the short term may fail to alter the *status quo* or even result in an irreparable break in the system via the withdrawal of governments from the Convention; and
- (b) issues which are non controversial or less controversial and which, if left unresolved, would not prevent a package being agreed concerning category (a), *provided* that a mechanism exists or can be established to address them.

These are primarily but not exclusively scientific and administrative issues.

This breakdown into Category (a) and (b) issues (see Table 1) did not imply that the SWG believed that some elements/issues were more important than others, nor that the breakdown be so rigidly interpreted as to mean that issues under one category could not be raised when considering the other. Rather that the division should be understood primarily as a methodological step without which the SWG's work might have proved quite unwieldy.

On the basis of the categorisation agreed and the identification of the main issues that should be addressed, views were put forward at the September 2008 Florida meeting on the elements that could be included (and how they might be combined) in a hypothetical core package or packages concerning the future of the IWC. This was discussed further during the SWG's second meeting in Cambridge in December 2008. The SWG had agreed that in developing packages for consideration, they must: provide for the long-term sustainability of stocks based on best available science; provide for the recovery of depleted or endangered stocks based on the best available science; be perceived as balanced by all parties; and provide procedures for reviewing and where necessary improving governance practices within the IWC.

As a result of subsequent consultations and comments from the group's members, the Chair of the Commission and the Chair of the SWG put forward 'Chairs' Suggestions on the Future of the International Whaling Commission' to the March 2009 intersessional meeting of the Commission for review and discussion (see Annex D, Appendix 4). In developing their suggestions, the Chairs stressed that this was done under their sole responsibility and did not represent a final proposal for action by the IWC but rather a snapshot of a work in progress, for consideration by the intersessional meeting.

Given the complexity of the numerous political, administrative and scientific issues to be addressed, the SWG had agreed that realistic solutions to the IWC's problems could not be achieved overnight. For this reason, the Chairs proposed a two-stage approach to their resolution. The first stage consisted of short-term solutions which, it was hoped, the Commission could agree on no later than June 2009, which would last for a 5-year 'interim' period and which would focus on four Category (a) issues, i.e.: Japanese small-type coastal whaling; research under special permit; sanctuaries; and whalewatching/non-lethal use. The Chairs noted that finding a way forward for the first three issues had proven difficult and that reaching agreement on them would be inter-related. In summary, for the 5-year period, the

³ Ann. Rep. Int. Whaling Comm 2008: 6-8; 86-88.

Table 1
Allocation of the 33 elements/issues into Category (a) and (b).

Element	Category (a) issues	Element	Category (b) issues
2.	Animal welfare	1.	Advisory/Standing Committee or Bureau – need for
3.	Bycatch and infractions	2.	Animal welfare
6.	Coastal whaling (i.e. within EEZ)	3.	Bycatch and infractions
7.	Commercial whaling moratorium	4.	Climate change
8. and 26	Compliance and monitoring + sanctions (element 26)	5.	Civil society (involvement of)
11.	Convention (purpose of)	9.	Conservation Committee
21.	Objections and reservations	10.	Conservation management plans
23.	Research under special permit	12.	Co-operative non-lethal research programmes
24.	Revised Management Procedure (RMP)	13.	Data provision
25.	Revised Management Scheme (RMS)	14.	Developments in ocean governance
27.	Sanctuaries	15.	Ecosystem-based approach to management
30.	Small cetaceans	16.	Environmental threats to cetaceans
33.	Whalewatching/non-lethal use	17.	Ethics
		18.	Financial contribution scheme
		19.	Frequency of meetings
		20.	Marine Protected Areas (MPAs)
		22.	Procedural issues – improvements to
		28.	Science – role of science and functioning of Scientific Committee
		29.	Secretariat – implications for role of/expertise
		30.	Socio-economic implications
		32.	Trade restrictions

'suggestions' provided for: (i) an interim quota for 'O' stock minke whales in Japanese coastal waters; (ii) two options with respect to research under special permit in the Antarctic and North Pacific oceans – the first providing for a phase-out of permit whaling in the Antarctic within the 5-year period – and a commitment to address all issues pertaining to Article VIII within the period; (iii) the establishment of a South Atlantic Sanctuary – on the understanding that a $\frac{3}{4}$ majority vote would be required to extend the sanctuary beyond the interim period; and (iv) the recognition by the IWC of the non-lethal use of whales as a management option for coastal States.

During the interim period, long-term solutions relating to the governance and future functioning of the IWC would be developed to be put in place at the end of the interim period, when the second stage would begin. Stage 2 items for action included: animal welfare; bycatch; the commercial whaling moratorium; compliance and monitoring; the purpose of the Convention; objections and reservations; and small cetaceans.

3.2.2 Elaboration of Category (b) issues

As a result of the SWG's discussions at its first two meetings, the Chair of the Commission requested that the Head of Science and the Chair of the Scientific Committee provide a report at the March 2009 intersessional meeting on progress made to date and any future plans to address the Category (b) issues assigned to the Scientific Committee. The paper submitted to the March meeting is provided in Annex D, Appendix 5. The paper shows that the scientific Category (b) issues are already included in the work plan of the Scientific Committee and in some cases have been so for many years. Other more recent ideas, for example the conservation plan concept, are expected to become an increasingly important mechanism to integrate the work of the sub-committees and working groups of the Scientific Committee into effective conservation and management advice. The authors noted that the complexity of many of the topics (especially those with an ecosystem component) makes it difficult for the Committee to provide precise timelines and that the changing nature of the environment and anthropogenic

activities mean that many topics will require the Committee's continued attention. However, the Committee will, to the extent possible, assign timelines for specific individual actions (be they research or mitigation and management). The development of detailed guidelines for the *Implementation* process for the Revised Management Procedure with an associated timeline has proved very effective and a proposal for similar guidelines (with a timetable) for in-depth assessments (an important component of and basis for conservation plans) was expected to be forthcoming at IWC/61⁴.

3.2.3 Work of the ICG, June 2008 to March 2009

At its organisational meeting in Santiago immediately after the close of IWC/60, the SWG agreed that the ICG's Terms of Reference should be circulated to all Contracting Governments with a request for comments/suggestions on any or all of the four areas identified in the Terms of Reference to be received by the Secretariat by mid August 2008. The SWG agreed that only those governments responding to the request for comments would continue to be included in subsequent correspondence (and would therefore comprise the intersessional correspondence group). A number of SWG members offered to be on a 'core group' to assist the Chair of the Scientific Committee and the IWC's Head of Science to compile an initial draft of the discussion document. Those offering to be on the 'core group' were Argentina, Australia, Brazil, Italy, Korea, Mexico, Netherlands, New Zealand, Norway, Mexico and the USA.

Progress and draft reports from the ICG were submitted to the September and December 2008 SWG meetings respectively, with a final report being made available to the March 2009 intersessional meeting (see Annex D, Appendix 6). In summary, 16 countries replied to the Secretariat's call for comments. From the responses received, there was general agreement that the Scientific Committee worked effectively and that its processes were sound, but that ways should be investigated to:

⁴This was not done at IWC/61 but is expected to be addressed at IWC/62.

- (a) further identify the advantages and disadvantages of separating the annual meeting of the Scientific Committee and make recommendations;
- (b) further identify ways to improve communication between the Scientific Committee and the Commission and make recommendations;
- (c) facilitate the participation of suitably qualified scientists from developing countries in the priority work of the Scientific Committee and to ensure that the priority work included issues relevant to a broad range of countries and make recommendations; and
- (d) facilitate capacity building for scientists in developing countries with respect to cetacean conservation and science and make recommendations.

The ICG noted that the primary components of this work were scientific and financial and identified two possible ways forward to further address these issues and consolidate the ICG's work: (1) asking the Scientific Committee and the Finance and Administration Committee to work on their relative aspects of issues (a)-(d) taking into account the ideas expressed in this ISG document; and (2) forming a small working group comprising members of the Scientific Committee and the Commission to develop a draft proposal for consideration by the Commission.

3.2.4 Intersessional Commission meeting, March 2009

The intersessional meeting of the Commission was held at the Headquarters of the Food and Agriculture Organisation of the United Nations (FAO) in Rome, Italy from 9-11 March 2009. The meeting reviewed the work of the SWG and in particular the 'Chairs' Suggestions', the report by the Head of Science and the Chair of the Scientific Committee on the elaboration of Category (b) issues, and the report from the ICG. The Chair's report of the Rome meeting is provided as Annex D.

The discussions on the 'Chairs' Suggestions' focused on whether the suggestions were 'on the right track' and are provided in some detail in the report. Many member governments welcomed the improved atmosphere of debate within the organisation. There was general support for a staged/phased approach to addressing the issues and the need for stable solutions not quick fixes was mentioned. Some members considered the Chairs' suggestions to be a reasonable basis for discussions, while others felt that they did not reflect their positions. A more general outlook on whaling was preferred by some rather than focusing on Japan's whaling activities and clarity was sought, particularly in relation to proposals regarding Japanese small-type coastal whaling. It was clear that whaling under special permit is a key issue for all and the importance of Category (b) issues and role of science was stressed by some.

The meeting noted the report on the elaboration of scientific Category (b) issues and welcomed the ICG report. The excellent work of the Scientific Committee was commented on by several delegations. The value of regional workshops and whether the IWC should have a role in such activities was discussed briefly and one member considered that the Commission should take stock of the science done within the organisation and examine how it might be enhanced to meet future demands. With respect to meetings there was support for the separation of the Scientific and Commission meetings. With respect to addressing the issues further, the meeting agreed that the

Scientific Committee and Finance and Administration Committee be requested separately to review the issues in Madeira and to forward their recommendations to the Commission. The Commission would then establish a small group at IWC/61 to continue the work.

With respect to the SWG, the Commission asked it to resume its work building on progress achieved so far and taking into account views expressed during the intersessional meeting. The SWG was authorised to request advice on issues, as required, from the Scientific Committee and the Scientific Committee was requested to make provision for urgent consideration of any such request from the SWG and to report to IWC/61. It was further agreed that the SWG should specifically strive to complete a package/packages of proposals including, as appropriate, draft Schedule changes and other decisions where required as well as guidance on category (b) issues including elaboration of how these issues will be advanced beyond IWC/61.

3.2.5 Meeting of the SWG, March 2009

The SWG met in Rome immediately following the intersessional meeting of the Commission. Its report, which was submitted to IWC/61, is provided as Annex E. The report focuses on what the SWG believed were its achievements and recommendations on a way forward.

Given the complexity and the sensitivity of the issues involved, the SWG had not been able to reach agreement on a core package as per the 'Chairs' suggestions'. However, the SWG did agree that the categorisation and narrowing down of issues were significant achievements, as was its agreement on the possible value of a two-stage approach. Considerable work was also done in other aspects of the SWG's mandate which included:

- (1) a work plan for consideration and action on the Category (a) issues that would be before the IWC during the interim period (Annex E, Appendix 5);
- (2) guidance on Category (b) issues including elaboration of how these issues will be advanced beyond IWC/61 (Annex E, Appendix 6); and
- (3) a request for the Scientific Committee to provide a draft, non-binding work plan and timeline to fully assess the Japanese small-type coastal whaling proposal (Annex E, Appendix 7 with background information in Appendix 4).

In relation to (3), the SWG noted that any advice that may be provided by the Scientific Committee would not be binding in accordance with the principle that nothing is agreed until everything is agreed. Furthermore, whalewatching was considered as an important element that would be included in the package in an appropriate way, and the ICG produced a valuable report on issues related to the Scientific Committee.

The proposed work plan on Category (a) issues in the interim period included: (1) making provision for continued work on small cetaceans, bycatch and animal welfare; and (2) that there should be a focus on the moratorium, compliance and monitoring, the purpose of the Convention, objections and reservations, the RMP and RMS – and that these should be dealt with in a small representative group to propose a package or packages to the Commission no later than one year before the end of the interim period.

With respect to furthering work on Category (b) issues, noting that those of a scientific nature were being dealt

with to a significant extent by the Scientific Committee, the SWG's proposals focused on issues of a more financial/administrative nature. To this effect the SWG proposed that a representative group be established to deal with the Conservation Committee, data provision, developments in ocean governance, and environmental threats and marine protected areas. Other recommendations in relation to Category (b) issues were:

- (1) a review of the Terms of Reference for the Advisory Committee and the Working Group on Whale Killing Methods and Associated Welfare Issues;
- (2) improved communication of IWC's work on the effects of climate change on cetaceans;
- (3) establishment of a mechanism to consider again the level of NGO participation;
- (4) the translation of scientific advice for Conservation Management Plans into appropriate mitigation measures; and
- (5) continued work to address the financial contributions scheme.

The SWG recognised that the outcome of discussions on IWC's future may have an impact on the role of, and expertise required within, the Secretariat but agreed it was premature for them to be discussed in any depth at this stage.

In considering the way ahead, the SWG, while falling short of its stated goal of agreeing on a package or packages by IWC/61, agreed that: (1) significant concrete results had emerged; (2) a sense of urgency in addressing the future of the IWC had developed; and (3) a greatly improved atmosphere and spirit of respectful dialogue had been achieved which must be maintained. Against this background and to maintain momentum, the SWG recommended that the Commission should direct that the efforts underway be continued for a further year and decisions taken at IWC/62.

3.3 Discussions at IWC/61

Discussions on the future of the IWC were held on Thursday 18 June in a session open to observers, on Sunday 21 June at a private meeting of Commissioners and during the Commission's plenary session.

3.3.1 Discussion session on Thursday 18 June

During the pre-plenary session on Thursday 18 June which was open to observers, the SWG and ICG reports were presented in some detail for the benefit of those Contracting Governments who were not SWG members and for the benefit of observers. The meeting also received a report from the Scientific Committee regarding the request for advice in relation to Japanese small-type coastal whaling and a paper from Japan (i.e. SC/61/O15 that had also been presented in detail to the Scientific Committee) regarding its proposed coastal whaling. The Scientific and F&A Committee's discussions on the ICG report were also reported. Australia introduced two documents, one in response to the ICG report and the other in relation to special permit whaling and the future of the IWC.

3.3.1.1 THE SWG REPORT

OPENING REMARKS FROM THE CHAIRS OF THE COMMISSION AND THE SWG

After presenting the SWG report (section 3.2.5 and Annex E), the Chair of the Commission urged member governments to engage in serious discussions. He expressed concern that if the discussions failed, the IWC

would also fail. He did not consider this a viable option and challenged the meeting to identify creative solutions toward agreeing a 1-5 year plan.

Alvaro de Soto, SWG Chair made some observations based on his experience over the last 15 months of working with the IWC. He reported that since his initial involvement at the March 2008 intersessional meeting, he had learned a lot and had received the co-operation of all, for which he was very grateful. He recalled that at the March 2008 meeting, he had raised the notion of 'ripeness' – a word often used in conflict resolution and meaning a point at which parties in conflict reach the conclusion that the cost involved in solving an issue is more bearable than the cost of not doing so. He noted the difficulty in identifying the precise moment when 'ripeness' has been reached and that it is hard to define objectively because a lot depends on perceptions. In relation to the 'future' process in the IWC, he believed there had been a clear improvement in the climate in which discussions have been conducted and in members' willingness to listen and to engage in dialogue. However, he also sensed at times that the anger that used to prevail within IWC was only just below the surface and that the lingering suspicion by some created reluctance in taking the leaps of faith required to overcome the current problems. This had therefore at times made the SWG's task less easy than it might have been, although he believed that this did not detract from the group's conclusions.

From his experiences with the IWC, Ambassador de Soto identified three points of process that he urged the Commission to consider as it considered the SWG's recommendations. The first of these was the imperative of 'miniaturisation', i.e. discussions/negotiations in small groups. He noted that the SWG was small in name only but expressed his thanks for the tolerance shown by the SWG when agreeing that he could work with a smaller subset of countries at particular times in the process. He stressed that further miniaturisation would be needed if the Commission decided to continue with discussions on its future and he urged the Commission to give the leader of those discussions plenty of latitude regarding the size of discussion/negotiating groups. Secondly, Ambassador de Soto stressed that if discussions were to continue, these should be on the understanding that delegations will be empowered by their governments to negotiate compromises and he suggested that it would be helpful if those delegations involved could declare that they had this empowerment at the opening of talks. He warned that if there was no such empowerment, it would be difficult to take advantage of existing opportunities to make progress and that the process could drag out excessively. Thirdly, Ambassador de Soto recommended that if discussions were to continue, then the Commission should plan for open-ended negotiating sessions thus opening up the possibility to have high-level delegations away from their capitals for 2-3 weeks. He did not believe that a way forward for IWC could be found in 2-3 day meetings.

DISCUSSIONS

The discussions focused on progress with the development of a 'core package'.

New Zealand valued the opportunity to discuss the work done since IWC/59 in Anchorage and recalled the steps and approach taken since then (see section 3.1). It believed that the March 2008 intersessional meeting in Heathrow had led to very concrete outcomes at IWC/60 with respect to

improving the atmosphere within the organisation, improving procedures and creating the SWG. But it likened the charting of the future of the IWC to climbing a high mountain, such as Mount Difficulty in New Zealand, and noted that the organisation had only arrived at base camp with much remaining to be done. New Zealand considered that the time-frame set out for the SWG had always been unrealistic, given that once discussions were launched on difficult substantive issues progress would proceed at a slower pace. It noted that it may yet be found that agreement may not be possible, but observed that real negotiations had not yet taken place. New Zealand viewed the Chairs' suggestions as work in progress and believed that if further progress was to be made, consideration needed to be given to a number of issues. For example, it felt that questions should be raised as to whether the Chairs' suggestions were too focused and whether the parameters included should be broadened. It supported continuing the SWG's work for a further year but stressed the importance of heeding the advice of the SWG Chair with respect to the way in which to proceed with negotiations. In particular it believed that it would be helpful to create a smaller 'steering group', such as the one used to plan the March 2008 intersessional meeting, to provide direction to the SWG. It stressed: the critical importance of the relationship between science and policy; the need for better, clearer and more transparent communication with governments less directly involved in discussions and also with civil society; and the importance of the political will for the process to succeed. Finally New Zealand believed that any agreement must be acceptable to all but cautioned that the room for manoeuvre by governments was not wide because of the nature of public opinion on the issues involved.

Australia noted its full commitment to the reform of the IWC but noted that unilateral special permit whaling was severely testing the Australian public who wished to see it brought to an end. It expressed disappointment that the SWG had not engaged seriously on resolving the special permit whaling issue which has been the most controversial issue within the IWC for many years. In this context it made reference to the paper it had tabled (IWC/61/9) in which it proposed that IWC members agree a principle-based approach to all scientific research under the authority of the Commission. In this approach, Governments should commit to activities only when authorised by the Commission. To implement such a process, Australia noted that three steps would be required: (1) a consensus-based approach to determining key knowledge gaps, priorities for research that address these gaps in a practical and outcome-focused manner, and mechanisms by which that research will be delivered; (2) a process for assessing all science activities against the approach outlined in (1); and (3) a mechanism for the Commission to reach a decision on outcomes and recommendations derived from (1) and (2), i.e. countries would agree not to undertake scientific activities without Commission approval. Australia indicated that the details of this process would need to be developed co-operatively by IWC members and agreed by consensus. It believed that such a process would ensure that any scientific activity would be collectively agreed, would have strong scientific underpinnings, would be outcome-focused against agreed priorities, would receive appropriate independent peer review and would support the conservation and management objectives which have been

agreed by the Commission. A number of countries, including the UK, Mexico, Chile, Brazil and Argentina, welcomed Australia's paper and agreed that the issue of whaling under special permit needed to be discussed in more depth. The UK considered that consensus in bringing special permit whaling under the IWC would help in finding a way forward. Portugal made a similar remark.

Japan thanked the Chairs of the Commission and the SWG for their work over the last year. While it considered it unfortunate that the initial goal had not been achieved, it believed that significant progress had been made. However, it expressed its concern over recent comments calling for the curtailing or cessation of special permit whaling, recalling the initial agreement when the 'future' process began on the need for compromise. It suggested that all parties needed to decide on where they can compromise. For Japan, it considered special permit whaling a right under the Convention. Nevertheless, it believed it had indicated willingness to compromise on these activities and would not obstruct the creation of a South Atlantic sanctuary. Japan supported the notion of a 5-year interim arrangement so as to be able to make progress, but believed that the insistence to phase out special permit whaling could destroy the process. Iceland, Norway and the Republic of Korea also expressed concerns regarding proposals put forward in relation to special permit whaling. Norway stressed the importance of those involved in discussions in having the political mandate to compromise.

The three points of process recommended by the SWG Chair in his opening remarks which included the need for further miniaturisation, were supported by many countries including the USA, Antigua and Barbuda, Portugal, Czech Republic, Cameroon, Mexico and Chile. However, noting that if there was to be further miniaturisation in the size of negotiating groups, a mechanism needed to be put in place to ensure transparency.

The Chair of the Commission noted the points raised and suggested that they be discussed further during the private meeting of Commissioners.

JAPANESE SMALL-TYPE COASTAL WHALING⁵ PAPER FROM JAPAN (SC/61/O15)

Japan presented a paper to the Scientific Committee on the scientific grounds for supporting its proposal for Japanese small-type coastal whaling. The outline of the proposal, which was essentially the same as previous proposals was as follows:

- (i) 150 common minke whales to be taken in Sub-area 7;
- (ii) 'O' stock minke whales to be targeted but some few 'J' stock animals would be expected to be by-caught;
- (iii) the operations of the small-type coastal catcher boats would be outside 10 nautical miles of the coast to minimise the possible takes of J-stock animals;
- (iv) after the interim period the small-type coastal catcher boats would return to the research activities under the coastal component of JARPN II⁶ unless otherwise determined;

⁵For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

⁶Japan's research programme in the North Pacific – see section 10 for further information.

- (v) the user objective was *'to fulfil the needs of small coastal whaling communities'*;
- (vi) the conservation objective for 'O' stock was that *'the population should be allowed to increase under the planned take by Japanese small-type coastal whaling'*; and
- (vii) the conservation objective for 'J' stock was that *'the population trajectories should not be significantly different from the scenario in which total catch is set at zero over a 30 years period'*, because the majority of the anthropogenic takes of 'J' stock are due to incidental catch by coastal fishing gear and because the status of the stock is not well known.

The paper evaluated the effect of the planned catches on 'O' and 'J' stocks of common minke whales in the context of the updated information on stock structure and abundance. Data used in this evaluation and assessments would be provided on request, under the Scientific Committee's Data Availability Agreement, Procedure A.

Japan explained that the stock structure scenario and the abundance estimates used in the assessments were based on updated analyses presented to the recent JARPN II review workshop (see section 10.1), and took into consideration the suggestions from the expert panel. The assessment was conducted for the 'best case' as well for 'sensitivity' tests that allowed different assignments of abundance of 'O' and 'J' stocks in the Okhotsk Sea. For comparative purposes the assessments were also conducted for the scenario of no catches. Regarding the 'O' stock, apart from the most conservative scenario (considerable amount of 'J' stock in Okhotsk Sea, $MSYR_{1+}=1\%$ and abundance for this stock at the 90% lower limit), the 'O' stock would increase over the forthcoming decades in all cases examined. Regarding the 'J' stock, results of the assessment suggested that the 'J' stock would increase in all scenarios except in those involving an $MSYR_{1+}=1\%$, which Japan considered of low plausibility. The population trajectories of 'J' stock did not differ between the catch and no catch scenarios in all cases examined. Japan noted that these results suggest that there would be no negative effect on the 'O' and 'J' stock of the combined small-type whaling and JARPN II catches under the established conservation objectives for these stocks.

In the pre-plenary discussions, Japan clarified that if an interim quota of 150 minke whales was allocated by the Commission, it would reduce the take of minke whales in its JARPN II programme by the same number. Thus the overall total would remain the same.

REPORT FROM THE SCIENTIFIC COMMITTEE

There was some discussion and disagreement within the Scientific Committee as to the correct interpretation of the request by the SWG for advice in relation to Japanese small-type coastal whaling (see section 3.2.5 and Annex E, Appendix 7). The Committee was not in a position to resolve this. The interpretations put forward involved three potential tasks referred to in the report of the March 2009 intersessional meeting, i.e. (1) review the Data Availability Agreement with respect to tissue samples, DNA and sequenced data; (2) develop plans to complete a full *Implementation Review* for western North Pacific common minke whales as soon as possible and certainly before the

end of any interim period; and (3) begin to assess and provide its advice on the Japanese proposal (see above) and the scientific analyses provided to support it, noting that scientific advice on the effects of proposed catches will be required by the 2010 Annual Meeting.

Task (3) was the task that involved disagreement as to whether it was appropriate to include it. There was consensus that the advice was clear that the Committee needed to provide a work plan and timeline to assess the Japanese proposal, but there was no consensus as to whether this had to be completed by IWC/62 (2010), nor was there agreement on whether or not the Committee should begin the process of reviewing the Japanese proposal during the 2009 Scientific Committee meeting. Nevertheless, despite the different interpretations, the Committee agreed to present its views for all three items to the Commission at IWC/61 recognising that the Commission would make a decision regarding the Committee's future work plan.

With respect to Japan's paper supporting its proposed take of 150 minke whales, the Scientific Committee agreed that while it contributed useful information for its review of the proposal, further work and an intersessional workshop would be needed if the Committee was to provide advice in 2010.

3.3.1.3 ICG REPORT

COMMENTS OF THE SCIENTIFIC COMMITTEE⁸

The Scientific Committee examined the summary of responses given in the ICG report (see section 3.2.3). With respect to consideration of the advantages and disadvantages of separating the Scientific Committee and Commission meetings, the Committee believed that some separation between the two meetings could have advantages in terms of extra time to finalise the report, and the ability to write an executive summary – both of which could improve communication with the Commission. However, it noted that a disadvantage would be that separation of the meetings would provide time in which additional analyses might be undertaken and presented directly to the Commission without the Committee's ability to comment on these – while a Rule of Procedure might be written to try to prevent such analyses being presented to the Commission this might prove difficult to enforce in practice. It also noted that should the Commission decide to separate the two meetings, careful consideration needed to be given to: (a) whether the Scientific Committee meeting is moved back or whether the Commission meeting is moved forward – the present meeting time (May-June) is generally feasible for scientists from both hemispheres but earlier dates may not be suitable for those from the Southern Hemisphere given their summer field season; and (b) giving the Scientific Committee advance warning of any change, particularly if the meeting is made earlier as this will affect its ability to complete proposed intersessional tasks on time. The Scientific Committee agreed that: (1) the iterative nature of its work would require Annual Meetings if its present workload remains; and (2) the rotation of venues assists its ability to widen participation, facilitate the attendance of different local scientists and include regional issues on its agenda. With respect to the applicability of other 'models' such as that of

⁷Maximum Sustainable Yield Rate.

⁸For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

the IPCC⁹, the Committee believed that its work is very different from that of the IPCC and that the present IWC model is suitable.

With respect to ways to increase participation of scientists from developing countries in the work of the Scientific Committee, the Committee noted that most of the primary issues relevant to the Scientific Committee had been included in the ICG report. However, the Committee noted that: (1) its primary function is as an advisory body rather than an educational body; (2) it supports increased participation of suitably qualified scientists from developing countries; (3) if the increased participation is through the invited participant process, then the current rules for selection should apply; and (4) the new 'Scientific Committee handbook' (section 15.3.1.4) would be a valuable tool for briefing new scientists. It believed that the fundamental issue with respect to increasing developing country participation is probably financial.

With respect to ways in which the Scientific Committee could assist in improving the knowledge and technical capability of scientists from countries where cetacean research is in its infancy, the Committee again noted that most of the primary issues of relevance had been included in the ICG report. It was, however, supportive of the idea of capacity building. It noted *inter alia* that many of its members already participate in such workshops around the world and commended that this may remain the most effective approach. Again, the Committee noted that the fundamental issue to resolve is probably financial.

Finally, with respect to a review of the process for inviting participants to the Scientific Committee, the Committee drew attention to the following: (1) that the Committee agrees that the primary purpose of invited participants is to assist it in providing advice to the Commission on key issues, i.e. such scientists should be able to contribute to the priority work of the Committee; (2) the last time the Committee undertook a major review of its process for inviting participants, in 2002, it also introduced the rule that enabled invited participants from developing countries to become national delegates; and (3) that funded invited participants play an irreplaceable role in the Committee's work and represent exceptional value for money as the payment they receive from the Commission only covers travel and subsistence. Notwithstanding these remarks, the Committee noted that it is sensitive to the need to improve the participation of scientists from developing countries as referred to above.

The meeting noted these remarks.

COMMENTS FROM THE F&A COMMITTEE

The F&A Committee's discussions focused on the Scientific Committee's remarks regarding separation of its meeting from that of the Commission (see Annex M). Several delegations had stressed that the current timing of the Scientific Committee works well for scientists from both Southern and Northern Hemispheres and the need for caution in changing the timing was therefore stressed. Noting: (1) the shortage of time to adequately consider the financial and administrative implications of the ICG report and the Scientific Committee's discussions; and (2) the decision at the intersessional Commission meeting in March 2009 to establish a small group at IWC/61, the F&A Committee requested the Secretariat to develop draft Terms

of Reference for the small group for review by the Commission in plenary.

The meeting noted these remarks.

AUSTRALIAN DOCUMENT

Australia introduced document IWC/61/8rev that expanded on its remarks at the March 2009 intersessional meeting (see Annex D) regarding the need for IWC to take stock of the science done within the organisation and to examine how the science might be enhanced to meet future demands. The document also identified a set of principles for a reformed approach to science in the IWC that included: the key scientific priorities of the IWC that require resolution should be agreed collaboratively by the Commission; these priorities should be focused towards outcomes that deliver effective conservation and management of whales; scientific activities should respond to these agreed priorities; scientific activities should be based upon a precautionary approach; in all cases the potential impact on whale populations should be assessed and minimised and where invasive techniques are proposed, research design should employ internationally recognised humane animal experimentation techniques (reduction, replacement and refinement); the proposed methods, scope and objectives of a research programme should require the approval of the Commission; research programmes should be transparent, inclusive and collaborative and encourage and enhance engagement from scientists from developing countries; research results should be public and the data made available to promote additional research and analysis; effective processes to ensure the communication of complicated technical issues to a non-science audience should be developed and maintained; scientific activities should be subject to a formalised, transparent and agreed process of periodic review and performance appraisal, including a requirement for research proponents to respond to review recommendations; approval and the review of research should not be conducted by the proponents of the research. The paper also gave some examples of key challenges facing the Scientific Committee that could be addressed by a review process: review and feedback processes between the Commission and the Scientific Committee; transition and accessibility of science from the Scientific Committee to the Commission; understanding of the Revised Management Procedure (RMP), Aboriginal Subsistence Whaling Management Procedure (AWMP) and other complex models; and Scientific Committee representativeness.

Australia considered that the creation of a joint Scientific and F&A Committee group was important and believed that its document would contribute to its discussions. Australia looked forward to participating in the group.

Several countries expressed concern regarding the principle proposed by Australia that the proposed methods, scope and objectives of a research programme should require the approval of the Commission, believing that this would require a change to the Convention.

3.3.2 Commission plenary discussions and action arising 3.3.2.1 CONSENSUS RESOLUTION ON THE EXTENSION OF THE SWG UNTIL IWC/62

Based on discussions in the open session on Thursday 18 June and during the private meeting of Commissioners on Sunday 21 June, the Commission agreed by consensus to

⁹Intergovernmental Panel on Climate Change.

extend the time allocated to the SWG until next year's Annual Meeting (Resolution 2009-2, see Annex F). The SWG, that would be open to observers, was tasked with intensifying its efforts to conclude a package or packages by 2010 that should allow the Commission to reach a consensus solution to the major problems it faces, building upon the concept of a two-phase process and the progress reported by the SWG in its report to IWC/61. The Commission also agreed that the Chair, in consultation with the Advisory Committee, should establish a Support Group containing equitable geographic and socio-economic representation and range of views to assist him in providing direction to the process and in the preparation of material for submission to the SWG. The Support Group, which was established at the end of the meeting, comprises Antigua and Barbuda, Australia, Brazil, Cameroon, Germany, Iceland, Japan, Mexico, New Zealand, St. Kitts and Nevis, Sweden and the USA. It was agreed that the Support Group would meet in Santiago, Chile from 5-16 October 2009. Many countries expressed their thanks to the Chairs of the Commission and the SWG and welcomed the agreement to continue work on the future of the IWC. Referring to its earlier analogy likening the charting of the future of the IWC to climbing a high mountain, New Zealand presented the Chair of the Commission with a bottle of Mount Difficulty wine in recognition of the courage he had shown in initiating this process.

Prior to adopting the Resolution, several countries stressed that the *status quo* is not acceptable for whales or for the IWC, some re-iterated their remarks made during the 18 June discussion session, and the need for compromise by all was again mentioned by others.

INSTRUCTIONS TO THE SCIENTIFIC COMMITTEE REGARDING WESTERN NORTH PACIFIC COMMON MINKE WHALES

In response to a request by the Scientific Committee for guidance on how best to further its work on western North Pacific common minke whales (see section 3.3.1.2), given its importance to the work on the future of the IWC, the Commission agreed that the Committee should proceed to completing a full *Implementation Review* as soon as possible, and attempt to complete the *pre-Implementation assessment* of this stock by the 2010 meeting, if possible.

FURTHER CONSIDERATION OF THE ICG REPORT

The Commission also agreed to establish a small joint working group of the Scientific and F&A Committees to further consider issues that were raised during discussions of the ICG's report and to develop recommendations for consideration at next year's meeting. Its specific terms of reference were agreed as follows:

The Commission agreed at its intersessional meeting in Rome that after initial consideration of the report of the ICG by the Scientific Committee and the Finance and Administration Committee at the 2009 Annual Meeting, it would establish a small joint working group to further consider the issues raised and develop recommendations for consideration at the 2010 Annual Meeting.

The Commission therefore establishes such a joint group (composition to be decided) with the following terms of reference:

- (1) To build upon the discussions and progress made by the ICG, the Scientific Committee and the Finance and Administration Committee;
- (2) To examine further the financial, logistical and other implications of the discussions of:
 - (a) Separating the annual meeting of the Scientific Committee and the Commission;

- (b) Ways to increase the participation of scientists from developing countries in the work of the Scientific Committee;
 - (c) Ways to improve knowledge and technical capability of scientists from developing countries to enable them to contribute to the work of the Scientific Committee and conservation and management issues within their region;
 - (d) A review of the process for inviting participants to the Scientific Committee;
 - (e) To consider other relevant documents from the 2009 Annual Meeting (e.g. IWC/61/8rev);
- (3) To provide a discussion document for the Commission at the 2010 Annual Meeting, including a full analysis of financial implications, and where appropriate making recommendations to the Commission.

The group was to work by correspondence. Its composition will be arranged by the Chair of the Commission.

4. WHALE STOCKS¹⁰

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. The primary data being used are those collected from the IWC-IDCR/SOWER¹¹ cruises (1978/79 to 2003/04) that have been divided into three circumpolar series known as CPI, II and III. Standard analyses of minke whale abundance estimates from these surveys have shown an appreciable decline between CPII and CPIII. For some years now the Scientific 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). This year the Committee received abundance estimates from two different methods, i.e. a standard hazard probability model and a spatial model. Although both showed an appreciable decline between CPII and CPIII, the absolute estimates for each method were very different; the Committee is investigating possible reasons for these differences. It expects to be able to provide its best estimate of abundance to the Commission at next year's meeting.

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 stressed the importance of being able to characterise any uncertainty in age readings and reported that an experiment designed to address this should be completed before the end of the year. The Chair reported that this year the Committee received information on errors in catch history due to underreporting in past Soviet catches and noted that alternative scenarios for catch-at-age modelling will be developed to assess the sensitivity of the results to such misreporting. There was no indication of misreporting in other fleets. The Chair further reported that the Committee also noted a lack of sensitivity in the statistical catch-at-age method applied to the JARPA¹² abundance estimates. This

¹⁰For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

¹¹International Decade of Cetacean Research/Southern Ocean Whale and Ecosystem Research Programme.

¹²Japan's research programme in the Antarctic.

was unexpected, and the Committee agreed that it warrants further investigation.

4.1.2 Commission discussion and action arising

Mexico noted the large differences in the abundance estimates for Antarctic minke whales generated by the two methods and that these differences occurred for both CPII and CPIII. It could not understand why the differences were so large and questioned whether sea ice played a part. Mexico also asked whether the Scientific Committee had identified other abundance estimates that showed similar complications and whether there is cause for concern with respect to abundance estimates for other species and stocks.

With respect to Mexico's first question, the Scientific Committee Chair noted that the reasons for the differences are primarily methodological in nature and that they will be explored intersessionally and discussed by the Committee again next year. With respect to whether there are implications for other stock assessments, Japan considered that ice has some effect on differences, especially in Area V where ice conditions differed between CPII and CPIII. It encouraged the Scientific Committee to continue to look at the ice issue, with a focus on Area V. However, Japan believed that the situation is particular to the Antarctic and that there should not be implications to other areas.

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 Scientific Committee began work on the in-depth assessment of western North Pacific common minke whales in 2004 in response to concerns about the conservation status of the 'J' stock arising from the RMP *Implementation* completed in 2003. This is a complex area to assess both in terms of stock structure (there are at least four plausible hypotheses) and estimating abundance in the context of direct and indirect catches (removals occur on migration rather than in the feeding grounds). The two principal issues for the Committee this year were: (1) integration of abundance estimates for minke whales in the East Sea/Sea of Japan and Yellow Sea, where Japan and the Republic of Korea have conducted sighting surveys since 2000; and (2) further investigation of stock structure for western North Pacific common minke whales including 'J' stock animals.

With respect to distribution and abundance, the Chair reported that the Committee reviewed information from a Korean sighting survey conducted in the Yellow Sea (i.e. on the west side of the Korean peninsula) in 2008. As in previous years, common minke whale sightings were concentrated in the northern part of the surveyed area suggesting that there may be more animals further north in North Korean and Chinese waters. Annual abundance estimates from previous Korean sighting surveys in the Yellow and East Seas were also reviewed; estimates for the surveyed areas of the Yellow Sea ranged from about 700 to 1,550 animals, while those in sub-area 6 in the East Sea ranged from about 500 to about 1,200 animals. An apparent lack of sightings in the eastern Korean Strait possibly indicates stock separation between the Yellow Sea and the East Sea. The Scientific Committee Chair noted that the Committee also reviewed progress on work to integrate abundance estimates from Korean and Japanese surveys, the primary areas for the 'J' stock, but that further work is

needed before abundance estimates can be accepted for the Yellow Sea and East Sea/Sea of Japan as a whole.

The Chair noted that clarifying issues of stock structure, particularly with respect to hypotheses to be used in *Implementation Simulation Trials* is one of the objectives of Japan's research programme in the North Pacific (JARPN II – see section 10.1) as well as an important component of the Committee's assessment work. He also noted that the review of the JARPN II stock structure analyses is an important component of the independent Panel review of JARPN II, and that a number of suggestions for additional studies to further clarify stock structure issues were made. Work to integrate the stock structure information from Japanese and Korean studies will form a major part of future work.

The Commission's decision on the way forward for work on the western North Pacific common minke whales is reported in section 3.3.2.2.

4.2.2 Commission discussion and action arising

The Republic of Korea noted the importance it gives to the Scientific Committee's work on western North Pacific minke whales. It was particularly pleased this year to have abundance estimates in Korean waters – the first time since the Committee's previous assessment in 1986 when the stock size was around 28-43% of its initial level estimated at around 14,000 in 1973. The 1986 assessment had led to the stock being classified as 'protected'. The Republic of Korea noted that the extrapolated abundance estimate for Areas 5, 6 and 10 is now around 13,700 (i.e. similar to the initial level) but it was mindful that the Scientific Committee has not yet agreed on a number of issues in relation to the assessment. It reported that it would continue to make efforts to respond to the Committee's requests for information on stock definition, distribution, migration and abundance and to continue to conduct sighting surveys. Given the nature of the stock, including its migration, the Republic of Korea believed its assessment to be a challenge but noted its willingness to strengthen co-operation with the other range states. Japan thanked the Republic of Korea and the Russian Federation for their co-operation with work on this stock, and like Korea, noted its intention to make its best effort to realise the planned research activity.

Mexico and Argentina stressed the importance of clarifying stock structure so that appropriate conservation measures could be taken. The UK and USA expressed concerns about the level of bycatch in Korean and Japanese waters, particularly with regard to the 'J' stock. The UK suggested that the high-level of bycatch and the additional takes due to whaling under special permit (i.e. JARPN II) could rapidly lead to extinction of the 'J' stock. It commended the excellent co-operative research activities and the work of the Scientific Committee, but stressed the continued need for work on bycatch mitigation and an enhanced understanding of the abundance and movements if the 'J' stock is to be preserved. Responding to the UK, Japan noted that the 'J' stock is currently depleted but is not facing extinction and cautioned against exaggerating the status of the stock in either direction. As previously, Japan reported that bycatch has increased in its waters despite no increase in the set-net fishery, which would suggest an increase in the stock. It noted, however, that this is a matter that would continue to be discussed in the Scientific Committee.

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

The Scientific Committee currently recognises seven breeding stocks (A-G) of humpback whales in the Southern Hemisphere connected to feeding grounds in the Antarctic. The Committee completed the Comprehensive Assessment¹³ of breeding stocks A (eastern South America), D (western Australia) and G (western South America) in 2006. Since then, priority has been given to completing the assessment of breeding stocks B and C off the western and eastern African coasts respectively. Information presented to the Scientific Committee suggests that the stock structure and mixing for both stocks is complex.

The Chair of the Scientific Committee reported that the assessment of breeding stock C was completed this year with the result that humpback whales in this area appear to have recovered well (to at least 65% of their pre-exploitation sizes). Limited time was available to consider breeding stock B, so work will continue on this next year.

The Scientific Committee had also reviewed new information on breeding stocks D, E, F and G. It agreed that the abundance estimate of 21,750 (95% CI 17,550-43,000) for northward-migrating D stock animals should be used as the best estimate in any future assessments of this stock.

The Chair noted that the Committee reconfirmed its support for the Antarctic humpback whale photo-identification catalogue which is of great importance to the assessment of humpback whales and has over 3,000 catalogued whales.

4.3.2 Commission discussions and action arising

New Zealand noted that the Scientific Committee's findings are in agreement with a report last year from the IUCN's¹⁴ Cetacean Specialist Group that in general humpback whales are recovering from the depletion caused by commercial whaling. The IUCN had recommended that the conservation status of humpbacks be changed from 'Vulnerable' to 'Least Concern' with the exception of humpback stocks in Oceania where evidence from long-term non-lethal studies suggest that recovery rates are much lower or in some cases showing no signs of recovery. The IUCN had therefore recommended that the conservation status of Oceania humpback stocks be changed from 'Vulnerable' to 'Endangered'. Given the poorer conservation status of these stocks and the difficulty of distinguishing among stocks once they are down on their feeding grounds in Antarctic waters, New Zealand respectfully urged Japan to remove humpback whales permanently from its JARPA programme. It further noted its strong support for the development of a conservation management plan for Oceania humpback whales. Australia endorsed these remarks.

While the UK was pleased to see the recovery of some humpback whale stocks, it noted the long periods required

for recovery, believing that this demonstrates the vulnerability of some stocks.

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

Last year the Scientific Committee completed a circumpolar assessment of Antarctic blue whales and recommended: (1) that area-specific analyses be examined to evaluate whether separate assessments can be made for each IWC Management Area; and (2) the gathering of data relevant for assessment of non-Antarctic blue whales. This work is ongoing.

The Chair of the Scientific Committee noted that the Committee was pleased to receive information on blue whale photo-identification data held by Japan's Institute of Cetacean Research which will be provided to the IWC catalogue derived from photographs taken during the IDCR/SOWER cruises. Japan's dataset contains information on 476 individual animals. The Committee had also received papers on: progress with archiving and analysis of blue whale photographs from the IDCR/SOWER cruises; progress with the Southern Hemisphere blue whale catalogue; the use of passive acoustic monitoring to evaluate whale occurrence in the Southern Indian Ocean; and various studies of blue whales off Chile.

4.4.2 Commission discussion and action arising

Brazil commended Chile for its work on blue whales off its coast, believing this to highlight the importance of incorporating the work of developing country scientists into the Commission.

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

4.5 Other small stocks – gray, bowhead and right whales

4.5.1 Western North Pacific gray whales

4.5.1.1 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 Chair of the Scientific Committee reported that a considerable amount of new information was available to the Committee this year, in particular the report of the IUCN Western Gray Whale Range Wide Workshop held in September 2008 in Tokyo, Japan (which was a follow-up to a 2002 IWC workshop). The primary objective of the workshop was to work towards a Conservation Plan to reduce anthropogenic mortality to zero. A number of research and conservation recommendations were made over three broad areas: status and monitoring; threats and improved mitigation; and improved knowledge outside the

¹³The Scientific 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'.

¹⁴International Union for the Conservation of Nature.

feeding grounds. These will be developed into actions for the Conservation Plan.

The Scientific Committee endorsed the IUCN workshop recommendations which formed the basis of its own conservation advice to the Commission. Recognising that a number of the threats to this stock occur outside the feeding area but that the migration routes and breeding area remain almost unknown and that such information is essential if effective mitigation measures are to be developed for this stock throughout its range, the Committee recommended a carefully designed satellite tagging programme in the Sakhalin feeding grounds to be undertaken in 2010. This will be under the control of a Committee steering group to ensure recommendations on best practice are met. Finally, the Committee encouraged the IUCN and the IWC to assist relevant authorities in each of the range states to develop accurate and effective public awareness campaigns.

4.5.1.2 COMMISSION DISCUSSION AND ACTION ARISING

The range states (Japan, the Republic of Korea and the Russian Federation) made interventions. Japan shared the concern over the status of the western North Pacific gray whale stock. In response to a question from Mexico, it reported that no bycatch or strandings from this stock had been recorded since January 2007 and that since the beginning of 2008, it has been taking a series of measures to protect the stock including strengthening its Fisheries Protection Act so that harvesting includes bycatch and the possession and marketing of any gray whale product is strictly prohibited. Japan noted that it has also held meetings involving all coastal government municipalities and coastal fisheries associations to explain the new regulations and to provide contact points for bycatch and strandings reporting. It undertook to continue to take these measures and to co-operate with other range states so as to protect this stock. The Republic of Korea noted that since 2007 it has been working to educate fishermen so as to reduce bycatch and that its scientists have been active participants in a number of meetings. The Russian Federation recalled that last year, during the Conservation Committee meeting, it had questioned what effect the high intensity of the research being conducted on the western gray whales might have and what rules apply for such research¹⁵. It was disappointed that the Scientific Committee had not addressed this matter. The Russian Federation believed it important that research on this stock be continued, including the genetic studies, and that any research should be done in a manner that should not endanger the whales further. In this respect it stressed the need for co-operation and information sharing among the groups of scientists involved. It stressed its interest in receiving all data on female gray whales and expressed concern that there was a danger that females may be tagged in the proposed telemetry study. In response, the Chair of the Scientific Committee noted that only identified males would be tagged.

The UK thanked Japan for its report on bycatch and actions being taken to protect the gray whales. It was also pleased that Sakhalin Energy had followed the advice of the IUCN Western Gray Whale Advisory Panel to suspend seismic surveys. The UK hoped this action would set an

example for all other oil and gas companies operating in the area.

The USA stressed its view that it is appropriate to manage western and eastern gray whales as two distinct populations in the North Pacific from a precautionary and weight of evidence approach.

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

4.5.2 *Right whales*

4.5.2.1 REPORT OF THE SCIENTIFIC COMMITTEE SOUTHERN HEMISPHERE RIGHT WHALES

The Scientific Committee recommended the continuation of long-term studies off eastern South America, South Africa, and Australia and New Zealand. The recent mass mortality events (strandings) of right whales (mostly calves) in eastern South America revealed that the continuation of long-term studies is of particular importance.

NORTH ATLANTIC RIGHT WHALES

This small stock (around 400 individuals) is critically endangered and is vulnerable to ship strikes and entanglements. The 39 calves seen in 2009 represents the largest annual calf count on record. This information and positive growth rates in recent years are encouraging but the Committee remains concerned over continued anthropogenic mortality. It commended the recent actions taken to lower the possibility for ship strikes in the USA and Canada and urged continuation of the management efforts, in particular in relation to entanglement in fishing gear. The 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 RIGHT WHALES

Little information is available on North Pacific right whales other than that the population is probably less than 100 individuals. The Committee expressed concern about the small size of this population and encouraged mark-recapture estimates based on genetic and photographic material to be made available at the next annual meeting.

4.5.2.2 COMMISSION DISCUSSION AND ACTION ARISING

Noting the endangered status of Southern Hemisphere right whales in the eastern South Pacific and the serious mortality events affecting right whales in the south-west Atlantic, Australia suggested that these stocks may be ideal subjects for the development of conservation management plans. Referring to the Southern Ocean Research Partnership (SORP) (see section 15.2), Australia noted that work under this programme would directly inform the work of the Scientific Committee on Southern Hemisphere whale stocks. Chile noted that right whales in the south-east Pacific were addressed by the Conservation Committee (see section 16.1.3).

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

4.5.3 *Bowhead whales*

4.5.3.1 REPORT OF THE SCIENTIFIC COMMITTEE

The Committee received two papers on the poorly known but very small populations of bowhead whales in the Okhotsk Sea and in the Svalbard area.

4.5.3.2 COMMISSION DISCUSSION AND ACTION ARISING

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

¹⁵Ann. Rep. Int. Whaling Comm. 2008: 38.

5. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

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

The Working Group met on Tuesday 16 June 2009. It was chaired by Esko Jaakkola (Finland) and attended by delegates from 26 Contracting Governments. A summary of the Working Group's discussions is included below. The full report is available as Annex G.

5.1.1 Data provided on whales killed and improvements to the humaneness of whaling operations

Data on whales killed had been provided on a voluntary basis by New Zealand, the Russian Federation, Denmark/Greenland, Norway and the USA.

New Zealand reported on the euthanasia of sixteen distressed whales believed to be beyond hope of recovery that stranded on its coastline between March 2008 and February 2009. It noted that for these whales (seven pygmy sperm, one Gray's beaked whale, and eight pilot whales), the chosen method of dispatch was a rifle, and that death was instantaneous for all but three whales.

The Russian Federation provided information on time to death and killing methods for all 127 gray whales and 2 bowhead whales taken in its 2008 hunt. 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. The average time to death for the two bowhead whales was one hour and five minutes. Ten of the gray whales were reported as 'stinky' and three gray whales had been struck and lost. The Russian Federation noted its continued co-operation with Norwegian scientists and that it hoped to continue to improve its hunting methods.

Denmark/Greenland provided summary information for the 2008 subsistence hunt that involved the taking of 152 minke whales (including five struck and lost) and 14 fin whales (including three struck and lost). For the West Greenland minke whale hunt, the penthrite grenade and rifle were used as the primary and secondary killing methods respectively. Compared with previous years, an increase in the mean time to death was reported. Denmark/Greenland explained that this was due to an increase in the use of rifles over harpoons because of severe weather conditions during the hunting season. In response to the UK who asked about the efforts Denmark/Greenland is making to ensure their new bowhead hunt is as humane as possible, bearing in mind the size of the animal, Denmark/Greenland responded that 3 bowheads had been taken under the new hunt in 2009, observations by wildlife officers had been instituted and that it would use the same method as in the fin whale hunt. New regulations had already been made and would be further evaluated in accordance with what was learned from the observations.

Norway presented summary information for its 2008 hunt that involved the take of 535 whales by 27 vessels. Four whales (0.7%) were reported lost after they were dead. No whales were reported to have escaped wounded. During the season one inspector from the Directorate of Fisheries was present at sea and on land and no violations of national regulations for hunting methods were reported. Norway also noted that it has been carrying out research and development on hunting and killing methods for

whales for nearly 25 years. It has continued co-operative work with hunters, scientists, authorities and whale hunters' organisations in Norway, the USA (Alaska), the Russian Federation, Greenland, Canada and Iceland and assisted in the teaching and training of hunters and transfer of knowledge, developments and technology derived from the above mentioned research in order to improve the hunting methods and hunting gears used for marine mammals. Norway indicated that it plans to continue these cooperative efforts when requested.

The USA presented information on the 2008 Alaskan aboriginal whaling hunt during which 38 bowheads were landed and 12 bowheads were struck and lost, resulting in an efficiency rate of 76%. The USA explained that weather and ice conditions play a significant role in determining the efficiency of the spring aboriginal bowhead hunt and noted that the efficiency is in line with the 79% average over the last ten years and is an improvement over the 65% rate in 2007. Eugene Brower, Chairman of the Alaska Eskimo Whaling Commission (AEWC) Weapons Improvement Committee, provided a description of the AEWC hunt in the USA.

The UK expressed disappointment that a number of countries did not provide data, but thanked Norway for its report and commended Norway on previous efforts to improve the humaneness of whaling operations, as well as its ongoing co-operative work with other whaling nations to facilitate improvements in hunt welfare. It re-iterated its regret that Norway had replaced on-board inspectors with the 'blue box' and requested that inspectors be re-introduced. Australia and New Zealand made similar remarks. Norway reiterated its view that animal welfare is outside the mandate of the IWC. As it had on previous occasions, Norway *inter alia* stated that since the killing methods used for minke whales in the Norwegian hunt were well documented, continuous monitoring of the killing of each whale is no longer needed such that periodic checks would suffice.

5.1.2 Welfare issues associated with the entanglement of large whales

A plan from the organising committee for the workshop on entanglement issues that had been proposed by Norway in 2007 was reviewed. Three interlinked aspects on the issue were identified: (1) prevention and mitigation methods; (2) a decision matrix for dealing with entangled animals; and (3) if euthanasia is decided to be appropriate, how best it can be achieved. It was agreed that the workshop would be held from 13-15 April 2010 in Maui, Hawai'i, that 25-30 experts would be invited, and that the major items on the proposed Agenda would be topics 2 and 3. It was also agreed that prevention (topic 1) was a long term item that should be addressed later.

5.1.3 Other matters

The UK noted the rapidly developing science of animal welfare and that the World Organisation for Animal Health (OIE) had agreed guiding principles for animal welfare that may be relevant to the commercial killing of whales at sea. It recommended that the Working Group review the existing welfare principles and slaughter guidelines from the OIE to ascertain where these are relevant and applicable to the killing of whales. It also encouraged the Secretariat to maintain a watching brief on the OIE's deliberations and to establish contact with the OIE Secretariat to make them aware of the Commission's

discussions. As there was no consensus on this recommendation, the Working Group agreed to bring the exchange of views to the attention of Commission.

Germany noted that several countries provided reports that far exceeded the requirements under Section 6, paragraph 25 of the Schedule, but that reports had not been provided by Iceland and Japan. Japan stated that it shared the same position as Norway and the Russian Federation that animal welfare is outside the mandate of the IWC, and that the reports are provided on a voluntary basis. Japan noted that there were more productive discussions on data NAMMCO¹⁶ and reiterated its position that Article VIII was not subject to any other provision of the Convention, so there was no obligation on its part to provide reports. Iceland noted the importance of continued improvement of hunting methods and indicated that it uses the same methods as Norway for minke whales, and that trial methods for fin whales would be developed in Norway this season. Iceland agreed that there were more constructive discussions in NAMMCO, and for the time being, Iceland was considering continuing using NAMMCO for this purpose.

5.2 Commission discussions and action arising

Noting that animal welfare is one of the issues identified during the 'future' process as being of importance to one or more Contracting Governments in the Commission, the UK re-iterated the high priority it gives to this issue and drew attention to its proposals made during the Working Group meeting in relation to the OIE. It stressed that its intention was not to undermine the IWC's role in this area, but rather to consider those aspects of the OIE's advice that may be relevant and applicable to the hunting of whales. The UK felt it important to bridge the divide between members' views on animal welfare and considered that a useful starting point would be to review the OIE's expert scientific opinion on animal welfare, noting that it presents a culturally neutral opinion and baseline for the humane treatment of animals used in commercial meat production. Looking outside of the IWC would ensure that the IWC's approach to animal welfare is at least consistent with that of other international bodies. The UK therefore proposed that the IWC review the OIE's guiding principles on welfare and guidelines for the slaughter of animals with a view to producing an analysis for discussion by the Working Group at IWC/62 as well as to inform the Commission's discussions on animal welfare as part of the 'future' process. A number of governments including Australia and Belgium welcomed the UK's initiative. Norway while not opposed to the initiative, considered the work of the OIE to be of more relevance to the killing of animals in a slaughter house situation rather than the hunting of whales at sea. If in the future, the OIE looked into welfare issues of hunting situations, this would be of more interest to IWC. In the meantime Norway noted the increasing industry of commercial hunting in Europe in which, for example, thousands of deer and boar and hundreds of thousands of birds are shot for sport without many countries paying much attention to the animal welfare aspects, the weapons used and the training of hunters. Norway believed such hunting to be of greater concern from an animal welfare perspective than the

hunting of a fewer number of whales that are well-documented.

The UK believed that there had been a useful airing of views but was disappointed that there was no consensus to its proposal which it still believed had merit. However, noting the Chair's desire for the Commission to reach decisions by consensus, the UK indicated that it would withdraw its proposal for the moment but that it may return to it at a later date.

Germany re-iterated its invitation to Japan and Iceland to provide animal welfare data from its hunts and to Norway to provide its information in a more detailed manner. Australia, Monaco and Costa Rica supported these remarks. Japan and Iceland indicated that the Working Group's report accurately reflects their positions on this matter. However, Japan re-iterated that it had felt forced to submit data to NAMMCO because of the acrimonious discussions within IWC. It considered the Working Group on Whale Killing Methods and Associated Welfare Issues to be symbolic of the difficulties that exist within IWC and expressed the hope that these difficulties could be resolved such that all members could feel comfortable about providing information.

The Commission noted the Working Group's report.

6. ABORIGINAL SUBSISTENCE WHALING¹⁷

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on Wednesday 17 June 2009. It was chaired by Jorge Palmeirim (Portugal) and was attended by delegates from 28 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 available 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 expected review did not occur this year as the required abundance estimates were not available. The review will therefore now take place next year. The best manner in

¹⁶North Atlantic Marine Mammal Commission.

¹⁷For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

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 2010) and the Committee will be informed immediately. The Sub-Committee noted the report of the Scientific Committee and its recommendations.

6.1.2 Commission discussions and action arising

In the Commission, the discussions focused on the preparation of the *Implementation Review* for gray whales.

Noting the absence of an agreed abundance estimate for eastern North Pacific gray whales, Austria suggested that a cautious approach be taken when making decisions. The Head of Science clarified that it is not that there is no reliable agreed abundance estimate (one does exist), but that the Scientific Committee is in the process of reviewing all estimates to make sure that they are all developed in the same manner. He also indicated that the Scientific Committee has confidence in the *Gray Whale SLA* and the advice being given to the Commission.

The Russian Federation hoped that the *Implementation Review* would be completed on time together with a definition of 'stinky' whale.

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

6.2 Aboriginal Whaling Scheme

The Commission noted that the StWG will review this further next year.

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 a number of interesting scientific papers had been received relevant to this stock of bowhead whales this year. The Committee was pleased to agree an abundance estimate of 11,800 (95% CI 7,200-19,300) for 2004 from the photo-identification data that is suitable for use in the *Bowhead Whale SLA*.

Catch and efficiency data for the USA 2008 hunt were presented. A total of 50 whales were struck with 38 being landed. An autumn calf was taken in error but it was noted that from the *SLA* perspective this is not a conservation concern. Two bowhead whales were taken off Chukotka in 2008. The results from the *SLA* show that the present strike limits are acceptable and will not harm the stock.

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

6.3.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

The Chair of the Alaska Eskimo Whaling Commission made a short statement on its 2008 hunt similar to that made during the meeting of the Working Group on Whale Killing Methods and Animal Welfare (see section 5.1.1).

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

As noted previously the *Implementation Review* will occur next year. The StWG Chair reported that the Committee received information on a new marine port to be developed in Baja California by 2014 and drew this to the attention of the Commission. The Scientific Committee is concerned at

the possible effects this development may have on gray whales and stressed the need to implement an ongoing research and monitoring programme as well as the collection of information on proposed shipping routes to allow the design of effective mitigation measures. The Committee also urged the Commission to request national governments to ensure that appropriate resource agencies pay additional attention to the changing role and habitat use of gray whales in the Arctic with respect to oil and gas activities. In the Sub-committee, Mexico thanked the Scientific Committee for drawing attention to the proposed port development and noted that it would take heed of the recommendations and work to implement them in due course.

The StWG Chair reported that a total of 127 gray whales (63 males, 64 females) were taken in the aboriginal hunt in Chukotka waters in 2008 and that three were struck and lost. He noted that the Committee reaffirmed its advice from last year that the *Bowhead Whale 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.

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

6.3.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Mexico re-iterated its thanks to the Scientific Committee. It reported that it has been monitoring this gray whale stock for several years and will continue to do so. Given that this stock is shared with the USA, it is working with USA scientists on a monitoring programme.

The Russian Federation noted that samples were taken from eight of the 10 'stinky' whales landed in 2008 and that they will be analysed using new methods by scientists in Moscow, Japan and the USA. It hoped that these analyses will elucidate the origin of this problem. The issue of 'stinky' whales was also discussed by the Conservation Committee (see section 16.1.1).

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

One common minke whale was caught off East Greenland in 2008. In 2007, the Commission agreed to an annual quota of 12 strikes for 2008-12. The Scientific Committee agreed that the present catch limit will not harm the stock.

WEST GREENLAND

The StWG reported that the Scientific Committee had agreed a new abundance estimate of 17,307 (95% CI 7,628-39,270) for this stock. During 2008, 148 common minke whales were landed in West Greenland (86 females; 55 males; 7 unidentified sex) and 5 were struck and lost. Information on the number of genetic samples was not yet available. The Scientific Committee recommended that this information, along with any updated information on sex of the animals caught, be provided to the Secretariat.

In 2007, the Commission agreed that the number of common minke whales struck from this stock shall not exceed 200 in each of the years 2008-2012, except that up to 15 strikes can be carried forward. The StWG Chair noted that the Committee has an agreed method for providing interim management advice for up to two five-year blocks whilst *SLAs* are being developed. Using this, the

Committee agreed that an annual strike limit of 178 will not harm the stock. He drew attention to the fact that this is the first time that the Committee has been able to provide unequivocal advice.

OTHER

The Chair of the StWG reported on the examination of conversion factors (tonnes of edible products to whales). This applied to all species in the Greenland hunt not just common minke whales. He noted that the Greenlandic need statement is expressed in terms of tonnes, not in numbers of animals. At last year's Commission meeting, the Chair of the Commission asked the Scientific Committee to take note of a request from Argentina seeking clarification of factors used to convert whales to tonnes (e.g. whether, and if so, how this included edible products in addition to meat). Discussion within the Committee focussed on whether it was possible to estimate a conversion factor per strike per species from the available data and if not, how it should be done, rather than the way that it had been done within the Commission in the past. It noted that it had not been requested to review the conversion factors used when they had been accepted by the Commission previously.

The Committee had received two analyses addressing this question but agreed that neither provided sufficient information to allow it to answer the question referred to it by the Chair. The Committee considered that one approach had methodological and data problems for example in that it had treated the formula to convert lengths to weights given in a 1976 paper as precise while some estimate of uncertainty should be incorporated. In addition, the 1976 analyses for some species (e.g. humpback whales) included a large proportion of Southern Hemisphere animals which are larger than their northern counterparts. Finally no allowance was made for the actual conditions in Greenlandic operations that would affect yield. The primary difficulty with the approach in the second paper was that although a considerable amount of data from the Greenlandic hunt itself was used to calculate a yield per strike to examine the strike limit that would be needed to meet the need request from Greenland, the reliability and representativeness of the data from the Greenlandic hunt obtained from the hunters' reports was unknown (e.g. whether weights are measured or estimated).

The Committee agreed that for it to be able to adequately address the question and to determine a conversion rate per strike, it would require reliable, representative data from the Greenlandic hunt. This would involve data on the measured weight of obtained edible products (meat, ventral grooves, blubber and skin) from an adequate sample of animals of each species and associated information on the individuals (sex, length, date of capture, position of capture). The Committee requested that Greenland collect such information and provide it, along with sampling and validation protocols and information on factors that may affect yield, to the Committee for its consideration.

There was considerable discussion in the Sub-committee under this item, primarily in relation to conversion factors. Different views were expressed (see Annex H). The Sub-Committee noted the report of the Scientific Committee and its recommendations.

6.3.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Mexico called for the development of an *SLA* for minke whales off West Greenland instead of having to rely on

interim advice. 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 StWG Chair reported that the Scientific Committee had agreed a new estimate of 4,359 fin whales (95% CI 1,879-10,114) for this stock. A total of 11 (8 males; 3 females) fin whales were landed, and 3 struck and lost in West Greenland during 2008. No information was available on the number of genetic samples taken from the harvested whales. The Committee recommended that this information be provided to the Secretariat when it becomes available.

In 2007, the Commission agreed to a quota (for the years 2008-12) of 19 fin whales struck off West Greenland. Last year the Committee agreed an approach for providing interim management advice and this was confirmed by the Commission. Such advice can be used for up to two five-year blocks whilst *SLAs* are being developed. Based on the application of the agreed approach, as last year, the Committee agreed that an annual strike limit of 19 whales 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 SWG noted that the Committee has agreed at the previous two Annual Meetings to consider a single stock of bowhead whales in this region as the 'working hypothesis' while acknowledging that there is still some uncertainty about the population structure of bowhead whales in eastern Canada and Western Greenland. Expected new analyses did not appear this year and the Committee strongly encouraged provision of genetic analysis to evaluate the appropriateness of the hypotheses considered.

The agreed abundance estimate for management advice is 6,344 (95% CI=3,119-12,906).

In 2007, the Commission agreed to a quota (for the years 2008-12) 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. Greenland noted that three bowhead whales were taken in 2009 using the 2008 carryover (no bowhead whales were harvested by Greenlandic whalers in 2008). In 2008, the Committee developed an agreed approach for determining interim management advice. The Committee again 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, Canada¹⁸. It noted that should Canadian catches continue at a similar level as in recent

¹⁸The Committee was informed by one of its members that three bowhead whales were harvested under licence in the eastern Canadian Arctic in 2008, two in Nunavut and one in Nunavik, northern Quebec.

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

There was a short discussion in the Sub-committee about increases in Canadian catches. It was noted that the Scientific Committee can take this into account when providing advice. The Sub-committee noted the report of the Scientific Committee and its recommendations.

6.3.5.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Austria noted its disappointment that the hunt continues despite several IWC Resolutions to protect this stock. With respect to Canadian catches, it sought clarification as to what was meant by 'recent years'. The Head of Science explained that in its advice, the Scientific Committee had taken account of the three whales taken by Canada this year. He noted however that if the takes by Canada increased above this level, the Committee would have to re-evaluate its advice.

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 Chair of the StWG noted that no catch report had been provided to the Scientific Committee by St. Vincent and The Grenadines but that it had been advised by one of the Committee scientists that one whale had been taken in April 2009. It was noted that St. Vincent and The Grenadines has submitted detailed catch information directly to the Secretariat during the Commission meeting over the past few years but St. Vincent and The Grenadines was encouraged to also submit as much information as possible about any catches to the Committee via an annual progress report. The collection of genetic samples for any harvested animals as well as fluke photographs and submission of these to appropriate catalogues and collections was encouraged.

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 has 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

St. Vincent and The Grenadines noted that it would submit its report in advance of next year's meeting and took note of the requirement for genetic samples. 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 noted that the Committee was first asked to provide management advice for humpback whales off West Greenland in 2007. He further noted that humpback whales found off West Greenland belong to a separate feeding aggregation whose members mix on the breeding grounds in the West Indies, with individuals from other similar feeding aggregations. Given this, the Committee has agreed that the West Greenland feeding aggregation is the appropriate management unit to consider when formulating management advice. Last year it had

agreed a fully corrected abundance estimate for 2007 of 3,040 (95% CI 1,310-7,050) for use in assessments and a rate of increase for humpback whales off West Greenland of around 9% per year.

No new information was available for this stock since the thorough review that occurred last year. Last year, the Committee agreed an approach for providing interim management advice and this was confirmed by the Commission. It had agreed that such advice could be used for up to two five-year blocks whilst *SLAs* were being developed. Using this approach, as last year, the Committee agreed that an annual strike limit of 10 humpback whales will not harm the stock. Denmark informed the Sub-committee that it would request from the Commission a quota of 10 humpback whales per year off West Greenland.

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

Noting that its view that the Greenlandic hunt should be based on scientific findings, Denmark reported to the Commission that this had led this year to a proposed new annual quota of 10 humpback whales for the period 2010-2012 inclusive and a reduction in the proposed take for minke whales in West Greenland from an annual quota of 200 to 178 animals. It further noted that the proposed changes fall within the IWC-recognised need of whale meat in West Greenland for 670 tonnes per year. This need was based on the average catch between 1965 and 1985 of 232 minke whales, 9 fin whales and 14 humpback whales. The need has never been met by the IWC quotas.

Before opening the proposed Schedule amendment to discussions, a representative from the Greenland Home Rule Government wished to address a number of issues raised by the Commission at recent meetings, in particular in relation to the distribution of whale meat in Greenland and the perceived commercialisation of this distribution.

By way of background, Greenland reported that whale hunting is part of its modern life while at the same time Greenland is also a traditional hunting society, where food is gathered by those who are able to take it. Opportunities for employment in Greenland are limited and for many of its people, the hunting and sharing of food resources offers the only opportunity for obtaining food. Greenland hunting is opportunistic, given the resources available, as different species migrate around its settlements. These resources are shared throughout Greenland and are not exported. The use of its own natural resources is reducing the importation of food from industrialised countries. Greenland believed that whale meat therefore provides a fresh and healthy supply of food within minimum carbon dioxide emissions and is reducing the risk of western diseases which has been increasing over the last 10 years.

The Greenland whale hunt, relevant to the IWC, consists of two forms – the rifle hunt conducted from small boats and the harpoon hunt conducted from fishing vessels mounted with harpoon cannon. The rifle hunt (requiring a licence and other conditions) is aimed only at minke whales and can take place from the smallest of the

communities stretching along the coast. The hunt is a local affair as transport opportunities away from the area are normally not available. The proceeds are distributed to the hunters involved who are also allowed to barter or sell parts of the proceeds in the local open air markets of nearby communities, thereby securing that the wider local community has a supply of meat. The harpoon hunt (also requiring a licence and other commitments) is directed at minke, fin and now also bowhead whales. Not all local communities have a vessel with harpoon cannon. The proceeds from this hunt are partly distributed to the crew of the vessel and partly sold at the open air market of the community in question to cover the costs of the hunt (grenades – which cost around 1,400 US dollars - with some hunts requiring 2 grenades, vessel costs and crew remuneration). A smaller part of the hunt is processed, according to EU veterinary standards, in one locality in Greenland, to meet the needs of those local communities not having access to their own whaling or those communities having a meat deficit.

Greenland has some 18 towns and 60 settlements spread along a coastline measuring 44,000 kilometres, many of which are accessible only by boat or air, and many accessible for only part of the year. Fourteen out of 18 whale hunting villages are able to take a combination of minke, fin, and until 1985, humpback whales, and from the 2009 season, also bowhead whales in the Disko Bay area. In these villages, a substantial portion of the whale meat is consumed locally through direct sharing. In addition, some of the whale is shared more broadly through local markets, and some is transported to other towns and settlements. One supermarket chain is a co-operative and two distribution companies are partially owned by the Greenland Home Rule Government, with operations subsidised by the government in one of them.

Greenland believed that the distinction, by some, between subsistence and commercial harvests is artificial. It recalled that in previous discussions, some have maintained that a hunt cannot be considered to be for subsistence if any money enters the distribution system. It did not agree and stressed that its strategy for marine mammal hunting is not that of a commercial enterprise aimed at profit maximisation. In commercial hunting proper, investments not only call for more efficient hunting methods, they also necessitate new investments and create a need for still more income. This is not the case in aboriginal subsistence hunting, even if distribution of the prey secured requires money. There is no profit maximising mechanism, thus ensuring no growth in the pressure on the resource in question. When the hunters share their catch through the local markets or the larger distribution network, they receive cash for the meat they provide. With this cash, they are able to buy meat and other products from the other towns, and they are able to replenish their hunting equipment so that they can continue to take and provide whale meat and product. This has been the way in Greenland for many generations.

Greenland went on to address previous concerns expressed regarding the conversion factors it has used to derive tonnage of meat and other products that will be obtained from individual whales of different species (as is necessary with its traditional multi-species hunt). Some have questioned the efficiency of its flensing operations. Greenland explained that the opportunistic nature of the hunt in combination with the practical difficulties of

flensing operations in subsistence hunts explains why the yield is not and could never be as efficient as from commercial hunts. Nevertheless Greenland undertook to improve this situation where possible. In this regard, and referring to the recommendations in the Scientific Committee report, Greenland recognised that it needed to provide verifiable measurement equipment to its hunters and standardised protocols for measurement together with the already reported data on sex, length, date and position of capture. It reported that it planned to develop a programme for updating and standardising the measurement techniques used by its hunters and would report back to the Commission, probably in 2010 on the structure of that programme and on progress in working toward the goal of improved measurement. Greenland noted that this programme would be in addition to the work already undertaken, in co-operation with the AEWG, as well as Dr. Egil Ole Øen (Norway), to upgrade its hunters' equipment and renew their skills for taking and flensing bowhead whales.

Finally, returning to its quota request, Greenland explained that in asking for a quota of 10 humpback whales per year, it was seeking to return to the multi-species harvest and balance of resources available to its people prior to 1987, when concerns over the status of the humpback whale population led to the need to abandon that hunt. It further stressed that by returning the humpback whales to its mix of resources, it would be able to reduce the overall number of whales taken because of the greater yield provided by humpback whales. It observed that this year, for the first time, the Scientific Committee had been able to give interim advice on all whale species relevant to Greenland, valid for two quota blocks (i.e. 10 years). This advice was that catches of 178 minke whales and 10 humpback whales per year would not harm the stocks. Greenland expressed the hope that its proposed Schedule amendment could be adopted by consensus.

6.3.8.2 COMMISSION DISCUSSIONS AND ACTION ARISING

This item was addressed on three occasions: on 23, 24 and 25 June.

23 JUNE 2010

Argentina, Mexico, Australia and Costa Rica thanked Greenland for its presentation but indicated that they would like to see more work on conversion factors, as recommended by the Scientific Committee, so as to be able to verify those that have been used by Greenland to date. The conversion factors are important in determining how many whales should be taken to meet the identified need. Argentina noted that depending on the outcome of such work, it may be necessary to revise the conversion factors used. Mexico fully recognised the aspirations of indigenous peoples to assume control over their own institutions and ways of living. It was not opposed to aboriginal subsistence whaling and supported the rational use of natural resources. However, Mexico recalled that the document prepared in 1991 by Greenland on conversion factors had not been examined by the Scientific Committee. It recognised the logistical and practical difficulties of Greenland's whale hunt but nevertheless considered that further work is needed to resolve the issue of conversion factors and gain a better understanding of Greenland's need. Costa Rica commented on the issue of shared resources and noted that given that the humpback whales migrate from Greenland to the Caribbean, the addition of humpback whales to

Greenland's hunt may have impacts on the non-lethal use of this stock by others.

St. Lucia noted that in one of the papers on conversion factors reviewed by the Scientific Committee, no allowance had been made for the actual conditions in Greenlandic operations that would affect yield and believed this to be a serious short-coming. Referring to the criticism by some of the commercial aspects of Greenland's hunt, St. Lucia questioned how Greenland hunters were expected to improve the efficiency and animal welfare aspects of the hunt through improved technology if they do not have the capital to do so. It believed that Greenland was being asked to meet conditions that were too high for a subsistence hunt. St. Lucia noted that on the basis of the Scientific Committee's advice, Greenland was proposing a reduction in its minke whale quota from 200 per year to 178 and that its request for 10 humpback whales, per year, which the Scientific Committee had indicated would not harm the stock, would help to supplement their diet. St. Lucia urged all Contracting Governments to consider this matter carefully and expressed the hope that all members could agree, at least in the short-term, that acceptance of the proposed Schedule amendment would be beneficial to Greenland.

Japan suggested that while member governments indicate that they support science, there is a tendency for some to choose the scientific advice they like and ignore that which they do not like. Like St. Lucia, it noted that Greenland is following the Scientific Committee's advice to reduce the minke whale quota and that they are commended for doing so. However, even though the Scientific Committee's advice is that a take of 10 humpbacks per year will not harm the stock, some members do not support Greenland's request. It called for consistency in approach. It believed that the decision at last year's meeting to deny Greenland's request for 10 humpback whales per year had been a mistake and urged the Commission not to make the same mistake again particularly when it had just agreed by consensus a way forward for work on the future of the organisation. Iceland, St. Vincent and The Grenadines, St. Kitts and Nevis, Cambodia, Senegal, Republic of Korea, Norway, Cameroon, Republic of Guinea, Benin and Antigua and Barbuda all spoke in support of Greenland's request, noting the Scientific Committee's advice.

Given that there was clearly no agreement among the Commission regarding the proposed Schedule amendment and noting the importance of the issue, the Chair proposed that discussions continue in the margins of the meeting to strive to reach a consensus decision.

24 JUNE 2010

The Chair reported that extensive consultations had been taking place and that he was aware that Denmark/Greenland has a revised proposal which he invited them to introduce.

Greenland informed the Commission that based on consultations, it was reducing its request for humpback whales to one year only (i.e. 10 humpbacks for 2010) but that the provision would be reviewed if new scientific data became available and if necessary amended on the basis of advice from the Scientific Committee.

Recognising that further consultation was still required, the Chair postponed further discussion and decision-making until the following day.

25 JUNE 2010

The Chair reported to the meeting that despite further consultations, it had not been possible to reach consensus on Greenland's request. He noted that there were some scientific issues related to conversion factors that need to be addressed and proposed that a small scientific group (which would include representatives from Greenland) be established to address these. The Chair requested the Head of Science to begin to make arrangements for the small scientific group. Further noting that the Commission had agreed to strive to reach decisions by consensus, the Chair proposed to leave the issue open to a date to be determined (but taking into account the timing of the 2010 hunting season in Greenland) to allow the necessary scientific work to be done. He recognised that this would mean that an intersessional meeting of the Commission would therefore be required. The Chair believed that his proposal was procedurally within the IWC's rules and asked that the Commission honour his request. He did not wish to open the floor for general discussion, but asked if his proposal would be acceptable to Denmark/Greenland.

Denmark noted that the intersessional meeting of the Commission should take place before the end of the year as there are a number of administrative decisions that have to be made each year prior to the hunt. Greenland expressed its disappointment that it had not been possible for the Commission to reach consensus but thanked the Chair for his efforts. It could agree to his proposed approach.

7. REVISED MANAGEMENT SCHEME

7.1 Revised Management Procedure (RMP)¹⁹

The RMP was designed to set safe catch limits for commercial whaling for baleen whales according to the Commission's user and conservation objectives. It was adopted by the Commission in 1994. At the core of the RMP is the *Catch Limit Algorithm (CLA)* which is used to determine catch limits. The RMP in effect comprises the rules to use the *CLA* in a multi-stock world. In addition to rules on how to set catch limits it includes requirement guidelines for conducting surveys and guidelines for collecting and analysing data required for assessing population status. Undertaking an *Implementation* of the RMP for a particular species and region is how the Committee ensures that a generically tested approach can be used safely in a particular case.

7.1.1 Report of the Scientific Committee

7.1.1.1 GENERAL RMP ISSUES

A major task for the Scientific Committee has been to re-evaluate the range of values used for the Maximum Sustainable Yield Rate (MSYR). MSYR relates to the productivity of stocks and the values for productivity used to test the robustness of the RMP to uncertainty. Three main issues emerged from an intersessional meeting, i.e. the use of population models incorporating environmental variation; a meta-analysis of information available related to MSYR for baleen whales; and how the information may affect the range of plausible values of MSYR in the context of the RMP. The Committee plans to finalise its discussions on these issues by the 2010 annual meeting. The Committee noted that the discussion of amendments to

¹⁹For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

the *CLA* cannot be completed until the range of MSYR is finalised.

7.1.1.2 THE IMPLEMENTATION PROCESS

The Commission was reminded that an *Implementation* is the process the Committee follows for a given species and region to ensure that the key uncertainties related to *inter alia* stock structure, abundance and catches are adequately addressed. 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. After an *Implementation* is completed the Committee conducts regular *Implementation Reviews* to see if new information requires revision of the simulation trials.

At this year's meeting the *Implementation* for North Atlantic fin whales and the *Implementation Review* for North Atlantic common minke whales were completed.

The *Implementation Review* of North Atlantic common minke whales focused on two issues: (1) management boundaries; and (2) abundance estimates. No changes to the boundaries used in the 2003 *Implementation Review* were necessary. Estimates of total abundance for the survey area during 2002-07 of 108,000 (95% CI 69,200-168,500) and 81,000 (95% CI 51,900-126,400) for the *Eastern Medium Area* only were adopted. The Committee recommended that the latter is used in the *CLA*. The estimates were in accordance with the estimates from the previous survey period (i.e. 1996-2001) although had higher uncertainty.

Completion of the outstanding aspects for *Implementation* for the western North Pacific Bryde's whale, namely the development of a proposed research programme by Japan in relation to stock structure, is ongoing.

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. The Scientific Committee's work in this area has focused on: (1) estimating bycatch using fisheries data and observer programmes (which involves co-operation with FAO²⁰) and genetic data from market sampling; and (2) estimating mortality from ship strikes. With respect to the former, discussions this year focused on genetic analyses of market samples of whale meat from Japan. It was noted that access to data in national DNA registries could *inter alia* assist in improving bycatch estimates and the Committee recommended that such access is granted under the Data Availability Agreement.

With respect to ship strikes, work is continuing on the further development and maintenance of the ship strikes database. Work to clarify policies for access and interchange with national databases will be done intersessionally. The issue of ship strikes is also dealt with by the Conservation Committee (see section 16.1.2).

The Committee noted plans for a workshop on the cumulative impacts of underwater noise, including relevance to estimating mortality due to noise; a report of the workshop will be available at the 2010 meeting.

7.1.2 Commission discussions and action arising

There was no discussion. 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/61, rather the RMS was included as part of the discussions on the future of the organisation (see section 3).

8. SANCTUARIES

No new sanctuary proposals were submitted to the Scientific Committee this year. However, the Committee reviewed a report from the first International Conference on Marine Mammal Protected Areas held in Hawaii in April 2009.

The Conservation Committee received a report on the long-term acoustic monitoring of baleen whales in the Southern and Indian Ocean Sanctuaries (see Annex I). A year-long acoustic data set recorded from a permanent hydro-acoustic station near the Crozet Islands was analysed to examine the annual cycle of occurrence of baleen whales in the area by using species specific calls. The results suggest that this sub-Antarctic area is an important feeding ground for blue whales.

While the proposed South Atlantic Whale Sanctuary (SAWS), which has been on the table for a number of years, was included on the Commission's agenda, the co-sponsors indicated that because of the progress with discussions on the future of the organisation (which have included the SAWS) they would not request the adoption of a Schedule amendment at this meeting.

9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

As in previous years, Japan 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 has requested a vote on its proposal to relieve this hardship, as last year, it decided not to do so since Japanese small-type coastal whaling is included as part of the discussions related to the future of the IWC. The President of Taiji Town Council addressed the meeting, stressing *inter alia* the long tradition and cultural and nutritional importance of community-based coastal whaling in Taiji and the need for the sustainable use of marine living resources based on sound science. He respectfully requested that Japan's coastal whaling be allowed to resume and its research under special permit respected.

The Republic of Korea believed that discussions on the future of the IWC should be focused on achieving a balance between the conservation and sustainable use of whale resources and be conducted with regard to the interests of all members. It stressed that since it had adhered to the Convention in 1978, it had complied with

²⁰Food and Agriculture Organization of the United Nations.

the spirit, principles, procedures and decisions of the Commission, including the commercial whaling moratorium. However, it wished to bring to the attention of the IWC member governments the traditional and cultural importance of whaling to the Ulsan area through a presentation from the Chief Administrator of the municipal Southern District of Ulsan who gave a summary of the country's whaling history that goes back some 6,000 years, and the implications of the commercial whaling moratorium. He noted that between 1946 and 1985, over 500 minke whales were taken each year, with whale meat being a staple part of the diet of the local people. However, since the implementation of the moratorium in 1986, whale meat has only been available through bycaught animals, although Ulsan has endeavoured to retain its history and culture. Noting that paragraph 10(e) of the Schedule identifies a 1990 deadline for a comprehensive assessment of the effects of the moratorium on whale stocks and the consideration of the establishment of other catch limits (i.e. other than zero), the Republic of Korea highlighted that this had not yet been achieved and believed a review of the moratorium was overdue. The Ulsan representative informed the Commission of his region's interest in resuming sustainable whaling and his hope that at IWC/61 the Commission could achieve the Convention's objective of the conservation of whale stocks to make possible to orderly development of the whaling industry.

10. SCIENTIFIC PERMITS²¹

10.1 Review of results from JARPN II²²

10.1.1 Report of the Scientific Committee

The major focus of discussions on scientific permits this year was the report of the specialist workshop to evaluate results from JARPN II. This was the first time that the new process agreed last year (referred to as the 'Annex P' process²³) had been used. A key component of the new review process is the greatly reduced role of the proponents of the research. The Panel of 14 independent scientists met in Japan in January 2009 to review the first six years of the JARPN II research programme. Their primary tasks were to: (1) review the scientific work undertaken thus far against the stated objectives of the programme and to review future plans in the context of the likelihood of meeting those objectives; (2) evaluate the techniques used (lethal and non-lethal); (3) evaluate the appropriateness of sample size and design for the research; and (4) assess the effects of any catches on the relevant stocks.

10.1.1.1 THE PANEL'S REPORT

The Panel recognised that an enormous amount of scientific work had been undertaken during the first six years of the programme. However, it also noted the difficulty it had in assessing this initial progress against the programme's expressed, broad long-term objectives. It recommended that long-term programmes should identify

and quantify specific, short-term objectives against which progress can be judged.

The work on feeding ecology research and ecosystem modelling has the ambitious goal of providing multispecies management advice. The Panel noted that obtaining ecosystem modelling results sufficiently reliable to inform management advice should not be expected within at least the next few years and could require considerably more time. The Panel concluded that while progress had been made, considerably more work is required, particularly on parameter estimates for non-cetacean components of the ecosystem as well as analytical and modelling techniques.

With respect to prey consumption and prey preferences, the Panel recognised the high quality of the field and laboratory work undertaken; the data have the potential to be of great value to ecosystem modelling in both a generic and quantitative manner. However, concerns regarding the analyses conducted meant that the Panel did not believe that the presented estimates of cetacean consumption rates can be considered reliable yet; several recommendations were made to improve this element of the work. The Panel welcomed the ecosystem modelling work, noting that it is still in the exploratory stage. However, it believed that more emphasis should be placed on the modelling work if the stated aim of the programme is to be reached in a reasonable timeframe. It noted that the data obtained from sperm whales provided no meaningful input to ecosystem models.

Regarding work on monitoring environmental pollutants in cetaceans and the marine ecosystem, the Panel concluded that the JARPN II pollutant studies represented a valuable contribution to knowledge in this area and that the ongoing programme has been addressing its objectives; further work was recommended.

Regarding stock structure issues, the Panel concluded that the programme had produced a uniquely large data set for testing stock structure hypotheses in the target species. Analyses were methodologically sound and comparable to other work within and outside the IWC Scientific Committee framework. The Panel acknowledged the general difficulties in examining questions of stock structure, particularly for weakly-differentiated populations such as those in the JARPN II area. However, it identified a number of limitations to the analyses presented and made detailed suggestions for addressing these. The Panel agreed that these genetic and other analyses would assist in the formulation/narrowing of hypotheses for use in RMP *Implementation Simulation Trials*.

The Panel welcomed other aspects of the programme including the simultaneous collection of *in situ* sea surface and water column characteristics during whale and prey surveys, the collection of sightings data for non-target species and the analyses of their distribution, along with photo-identification studies and a number of other published research papers on reproductive biology, physiology, and cetacean phylogeny.

The Panel also discussed the relationship of the programme to the IWC and Commission Resolutions. With respect to ecosystem and environmental change research, the Panel agreed that many of the objectives of JARPN II are relevant to Commission Resolutions and that, as requested in several of these Resolutions, scientific results have been submitted to the Scientific Committee on a number of relevant issues.

²¹For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

²²JARPN 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.

²³*J. Cetacean Res. Manage. (Suppl.)* 11: 64; 398-401.

The Panel noted that the issue of lethal versus non-lethal research remains controversial within and outside the IWC. A major contributory factor to this is that the issue is not only a scientific question. The appropriate quantitative data to allow a full comparison of various lethal and non-lethal techniques do not exist. Given these information gaps and other difficulties, the Panel could not complete this item on its Agenda. However, it did recognise that at present, certain data, primarily stomach content data, are only available via lethal sampling. The Panel also made a number of recommendations, including that a full evaluation of the relative merits of lethal and non-lethal techniques be conducted as soon as possible after other recommended work has been completed. It specified how such a full evaluation might take place.

With respect to sample size and design, the Panel concluded that a full evaluation requires better specified objectives and examination of whether identified sources of uncertainty are sampling-related or not. The brief analysis provided by the proponents was not sufficient and the Panel agreed that until a full analysis is done it will not be possible to provide appropriate advice on sampling design and sample sizes. A thorough review is a major undertaking and the Panel provided guidance to the Proponents to assist in this process.

Regarding assessing the effects of JARPN II on the status of the stocks, there is no specific guidance from the IWC on how this should be done. The Panel concluded that: (1) the information available did provide sufficient basis to provide advice on the effect of planned JARPN II catches on common minke whale stocks (the need to complete the in-depth assessment of 'J' stock as soon as possible, along with a full *Implementation Review* for western North Pacific minke whales was emphasised); (2) the level of take does not pose a problem to the stocks of Bryde's whales; (3) the information available did provide sufficient basis to provide advice on the effect of planned JARPN II catches on sei whales (further work was recommended). With respect to sperm whales, although the Panel agreed that the effect on the stock of the small JARPN II takes is negligible, it questioned the scientific value of the programme's small and unrepresentative takes of this species.

Finally the Panel noted that it had not been able to complete its review and would not be able to do so until a number of its recommendations had been addressed. These revolved around: (1) sample size/sampling design (including the need to have clearly stated quantitative objectives and sub-objectives and the need to have further quantitative information on both lethal and non-lethal techniques); and (2) effects of catches on stocks for common North Pacific minke whales and sei whales.

10.1.1.2 DISCUSSION OF THE REPORT WITHIN THE SCIENTIFIC COMMITTEE

The proponents (Japan) concluded that while they believed that overall the Panel report was balanced and fair and contained useful recommendations, several of which were already being addressed, they did not agree with all comments or recommendations. In some cases this was due to cost and logistics while in other cases it was more to do with objections in principle e.g. with respect to how to examine effects of catches.

The Scientific Committee commended the Panel on having undertaken its review in a critical but constructive manner. However, it also expressed concern that the Panel

was not always provided with the information and guidance necessary to review programme progress, to draw conclusions regarding the appropriateness of programme sample sizes and to assess the effects on two of the stocks (common North Pacific minke whales and sei whales). The Panel's concerns regarding slow progress on ecosystem modelling and its severe questioning of the scientific value of the programme's small and unrepresentative catches of sperm whales were highlighted by some members. There was considerable discussion over the need for more quantified objectives and sub-objectives for the programme.

10.1.2 Commission discussions and action arising

A number of Contracting Governments thanked the Panel and the Scientific Committee for their hard work on the JARPN II review. The ensuing discussion addressed both the JARPN II review and the issue of special permit whaling in general. Some of the remarks reported below were made under the item addressing the process used in the review ('Annex P') but are included here as they referred more to the outcome of the review rather than to the process itself (see section 10.4).

Monaco noted that reference had been made to the issue of lethal versus non-lethal work remaining controversial within and outside the IWC and indicated that it would have liked to see some further explanation of what 'controversial' meant in this context. Monaco also expressed the hope that the controversy would decrease in the near future. It joined the Panel's questioning of the scientific value of taking sperm whales and noted its well-known opposition to whaling under special permit in general. Responding to Monaco's question on the meaning of 'controversial' in this context, the Chair of the Scientific Committee noted that the main reason for the controversy concerns the appropriate use of Article VIII of the Convention which he believed is a matter for the Commission, not the Scientific Committee. Monaco did not believe that this is only a political matter and noted that there have been recent workshops and conferences that have addressed how non-lethal techniques can be used to study large whales.

Australia noted the great deal of technical detail in the discussions of the Panel and the Scientific Committee but identified what it believed to be a few core conclusions. It noted that in common with the results of the JARPA²⁴ review, the Panel was critical of the level of scientific analysis devoted to JARPN II and, for example, suggested that after six years the modelling work should be more developed rather than still being in the exploratory stage. Like Monaco, Australia drew attention to the criticism of the need for any take of sperm whales and suggested that any continuation of this take, along with the continued annual sampling of vast numbers of stomach contents from other species, suggests a lack of commitment to addressing the real scientific needs of this Commission. In addition, Australia also observed that in requesting a review of special permit whaling, the Commission is seeking objective advice on three core issues: (1) can the scientific objectives of the program be answered with non-lethal techniques; (2) can the numbers of whales being killed each year be justified on a scientific basis; and (3) will the

²⁴Japan's 16-year research programme in the Antarctic that finished in 2004/05.

number of whales being killed have an effect on the populations? It noted that the Panel was unable to reach any conclusion on these issues such that the Commission is left without advice on the issues of most serious concern. It stressed the need for the Commission to find a way forward on the issue of whaling under special permit since it is an issue that is fundamental to many member governments. The UK expressed similar concerns.

India shared the concerns of Monaco and Australia and stressed the need to develop and further refine non-lethal research techniques. A number of other governments, including Israel and the USA believed that non-lethal methods should be used. Portugal highlighted the need to apply the current standards on the use of animals in research to special permit whaling.

New Zealand believed that it was clear from the Panel review and the Scientific Committee's discussions that JARPN II has a number of problems. It reported the depth of feeling in New Zealand regarding Japan's whaling under special permit and expressed its opposition to such programmes. It agreed with Australia on the need to find a resolution to this issue. New Zealand acknowledged that humpback whales had not been taken so far under JARPA II and looked to Japan to provide leadership in future. Mexico, USA, Switzerland, Ireland, South Africa, Luxembourg, Germany, Portugal, Finland, Spain and France associated themselves with the remarks of New Zealand and others.

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

10.2 Review of results from other existing permits

10.2.1 Report of the Scientific Committee

Although results from other programmes were provided to the Scientific Committee (i.e. JARPA II²⁵ and Iceland's programme in the North Atlantic²⁶) they were not discussed. The Committee did agree, however, that a full review of the completed Icelandic programme would take place in 2011 or 2012.

10.2.2 Commission discussions and action arising

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

²⁵JARPA II is 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. No humpback whales have yet been taken.

²⁶A 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. This programme has finished its sampling phase.

10.3 Review of new or continuing proposals

10.3.1 Report of the Scientific Committee

The Committee did not receive any new information on either JARPA II or JARPN II for review.

10.3.2 Commission discussions and action arising

The Commission noted this part of the Scientific Committee report.

10.4 Improving procedures for reviewing scientific permit proposals

10.4.1 Report of the Scientific Committee

With respect to improving the 'Annex P' process (see 10.1.1), the Scientific Committee's discussions focused on issues relating to selection of Panel members, the need for 'conflict of interest' statements and the question of observers being present. Some Committee members were in favour of modifying the language of 'Annex P' to more clearly specify who may participate and observe. Others recognised the difficulty in obtaining a Panel that all would consider fair and balanced, noting that adding specificity to the Annex would not necessarily be an improvement as Panel composition depends on the scientific objectives of the research being considered. The Committee recognised that a number of important considerations had been raised with respect to whether 'Annex P' required revision. Given that there is no need to establish a review panel in the forthcoming intersessional period, the Committee agreed to discuss the issue of possible revisions at its 2010 meeting to allow time for further reflection.

10.4.2 Commission discussions and action arising

Australia noted the debate by the Committee on two particular aspects of Annex P, i.e. (1) the degree to which the members of the expert panel were independent of the programme they reviewed; and (2) the issue of transparent oversight and the capacity of the member countries to observe the first implementation of the Annex. Noting that its intention was not to criticise any of the people involved in the process, nor to discuss the details of these issues, Australia made several general points. It noted its belief that in any review process, the 'independence' of the reviewers is a fundamental requirement and suggested that a lack of clear language about this in Annex P led to different views on the composition of the Panel. It was also of the opinion that the implementation of any new procedure should include the maximum amount of transparency and that the ability of member countries to send observers is a core part of building confidence in any new and important process. Noting that the topic of a possible revision of Annex P is on the Committee's proposed agenda for IWC/62, Australia urged the Committee to consider these issues and to ensure that agreed language is developed in order that the Annex P procedure can deliver outcomes to the Commission that satisfy its mandate of objectivity and transparency.

In response to a number of critical remarks about JARPN II (and reported in section 10.1.2), Norway considered that a highly competent review had been conducted and that the Panel members had been chosen by very competent members of the Scientific Committee. It noted that the Panel's conclusion had been regarded as balanced by most members of the Scientific Committee and that the Commission should thank the Committee and note its report. Continuing in this vein, Iceland found the Panel's report to be generally positive, while identifying a

number of areas where improvements are necessary. It believed the 'cherry-picking' of certain criticisms by some to be unfair. Iceland believed the new review process to be a positive step forward away from the polarised discussions of the past.

Japan thanked the Panel and the Scientific Committee for their work. It noted the surprise of its scientists when seeing the Panel's report since it was balanced and neutral. This led Japan to believe that the new process is working well. Noting Iceland's comment regarding negative 'cherry-picking', Japan identified some positive remarks from the panel concerning JARPN II. It noted that the Panel had recognised: the quality of the field and laboratory work conducted; the substantial and laudable effort and encouraging start towards synthesising the data collected for its ecosystem modelling work; the valuable contribution of the pollution studies; and that the programme had produced a uniquely large data set for testing stock hypotheses for the target species. While being critical of some of the data analyses, the Panel had also recognised the ambitious nature of the research programme that required time for further analyses. With respect to criticisms regarding the take of sperm whales, Japan believed that these could not be excluded from the study because of their huge biomass and maintained that data collected from the few animals taken had provided useful qualitative information regarding their relationship to the surface ecosystem. Regarding criticisms over timelines, Japan reported that it had compiled responses to the major questions and recommendations made by the Panel – these being contained in a single document made available to the Scientific Committee. Japan acknowledged that research under special permit is one of the important items to be addressed as part of the ongoing discussions on the future of the IWC.

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

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 a number of consensus Resolutions and statements²⁷ had again been launched against JARPA II research activities in the Southern Ocean during the austral summer of 2008/09.

Contracting Governments while continuing to support the right to legitimate and peaceful forms of protest expressed deep concern regarding the further escalation of the confrontations and hoped that the matter could be resolved. The responsibility of the relevant port and flag states in this regard was noted (and the governments involved reported on the actions they are taking) as was the role of the International Maritime Organisation (IMO) in addressing safety issues at sea. The Commission requested the Secretariat to write to the IMO to inform it of the serious concerns of all IWC Contracting Governments regarding the implications of protest activities conducted against Japanese whale research vessels in the Southern Ocean in recent years. In addition to concerns over safety and the order of maritime navigation, the Commission has

serious concerns regarding the potential for environmental damage resulting from any confrontations and the limited search and rescue capability in such a remote area (i.e. the Ross Sea).

12. ENVIRONMENTAL AND HEALTH ISSUES

12.1 Scientific Committee activities²⁸

12.1.1 Report of the Scientific Committee

12.1.1.1 CLIMATE CHANGE

The Scientific Committee endorsed the recommendations from the second IWC workshop on climate change (the first being in 1996) which was held in Siena, Italy in February 2009. The primary goal of the workshop was 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. The Commission's attention was drawn to those recommendations of immediate concern to the Commission and Contracting Governments, i.e.: (1) that the IWC member countries and relevant organisations take potential effects of climate change on cetaceans seriously and include these considerations in relevant conservation management initiatives, including implementation of emission control; (2) that funding be provided to ensure the continuation of long-term datasets given their great value; and (3) that emphasis be given to studies which allow comparison between contrasting regions where data on a wide range of ecosystem components are available. The Scientific Committee also requested that the Commission urges policy makers, regulators and others involved in cetacean management to consider tertiary effects of climate change via appropriate risk assessment approaches. It therefore also recommended that management plans are devised to address these impacts in addition to primary and secondary impacts. The February 2009 workshop also made recommendations with respect to climate change and small cetaceans (see section 15.1).

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 Scientific Committee focused its discussions on the report of the August 2008 joint IWC/CCAMLR²⁹ workshop to review input data for Antarctic marine ecosystem models. It was noted that important ecosystem components, including squids, birds and salps, remain poorly described. However, the workshop outcome is expected to facilitate the understanding of ecological relationships between whales, their prey and predators. Progress with the development of ecosystem models, in particular dealing with the Caribbean, Northwest Africa and Northeast Atlantic, was reviewed and the comparison of lethal and non-lethal methods to provide input data for ecosystem modelling was discussed briefly.

²⁷Resolution 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; the statement issued by the Commission at its intersessional meeting in March 2008.

²⁸For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

²⁹Convention for the Conservation of Antarctic Marine Living Resources.

12.1.1.3 OTHER HABITAT RELATED MATTERS**PLANNING OF PHASE II OF POLLUTION 2000+³⁰**

The Committee has been addressing issues related to pollutants and cetaceans for a number of years. Phase I of POLLUTION 2000+³¹ was completed two years ago. Initial work on developing Phase II has been underway and a workshop to finalise plans for Phase II will be held during the intersessional period. The Committee proposed that Phase II should develop an integrated modelling and risk assessment framework to assess cause-effect relationships between pollutants and cetaceans at the population level, extend the work to new species and pollutants as appropriate, and further validate biopsy sampling techniques to address issues related to pollution, including legacy and new contaminants of concern and associated indicators of exposure or effects.

SOCER

This year the State of the Cetacean Environment Report focussed on the Pacific Ocean, and is based on literature analyses. Based on a thorough search of the scientific literature from 2007-present, the 2009 report consists of succinct entries on: (1) the Pacific; (2) global events; (3) a glossary of terms used in the report (species names, ecological terms, pollutant types); and (4) a set of tables providing an overview of specific pollutant levels in cetaceans. Next year the focus will be the Arctic region.

OTHER

The Scientific Committee *inter alia* reviewed the plans of the Cetacean Emerging and Resurging Disease (CERD) Working Group, recommended further research on the impact of renewable energy generators in the marine environment that are becoming increasingly widespread and established an intersessional correspondence group to prepare for a discussion of the effects on cetaceans of anthropogenic sound in 2010.

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.

12.1.2.1 CLIMATE CHANGE, INCLUDING A CONSENSUS RESOLUTION

Costa Rica reported briefly on a workshop on cetaceans and climate change it hosted in November 2008. It was one of the first efforts in the region on this topic. Costa Rica thanked the workshop sponsors for their support.

The Netherlands, UK, Brazil, Austria, Italy, Mexico, Luxembourg, Sweden, Australia, Spain, Belgium,

³⁰POLLUTION 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.

³¹The IWC-Pollution 2000+ programme was initiated to investigate pollutant cause-effect relationships in cetaceans. Phase I had two objectives: (1) to select and examine biomarkers for exposure to and/or effects of PCBs, and (2) to validate/calibrate sampling and analytical techniques. The results of Phase I were reviewed at the POLLUTION 2000+ Phase II Workshop in Barcelona in April 2007, where a general framework for POLLUTION 2000+ Phase II was outlined. Discussion for Phase II studies since that time has determined the need to: (1) produce a framework for modelling the effect of pollutants on cetacean populations; (2) identify cetacean populations to be studied under Phase II; and (3) develop a protocol for validating biopsy samples and applying this protocol to any large whale species selected.

Argentina, USA and Monaco all welcomed the Committee's work on cetaceans and climate change and supported the recommendations regarding work in relation to small cetaceans (see section 15.1). They also congratulated Costa Rica on its own workshop, noting the important contribution that such regional workshops make to this issue.

Noting *inter alia* previous decisions of the Commission relating to the impact of environmental change on cetaceans, the recent workshops and concerns regarding the negative impacts of climate-related changes on at least some cetacean species and populations, the Commission adopted by consensus Resolution 2009-1 on Climate and Other Environmental Changes and Cetaceans (see Annex F). In this Resolution the Commission:

- (1) endorses the outcome of the climate change workshop and associated recommendations of the Scientific Committee given in its report, including the need to expand the current international multi-disciplinary efforts and collaborative work with other relevant bodies;
- (2) requests Contracting Governments to incorporate climate change considerations into existing conservation and management plans;
- (3) directs the Scientific Committee to continue its work on studies of climate change and the impacts of other environmental changes on cetaceans, as appropriate;
- (4) calls on Contracting Governments, IGOs and NGOs to support the expansion of this important work;
- (5) requests the Secretariat to forward this resolution and the workshop report to relevant bodies and meetings including *inter alia* the World Climate Conference, the UNFCCC and the IPCC in time for upcoming meetings; and
- (6) appeals to all Contracting Governments to take urgent action to reduce the rate and extent of climate change.

12.1.2.2 ECOSYSTEM MODELLING

Sweden welcomed the outcome of the joint CCAMLR/IWC workshop which it considered to be valuable not only for ecosystem models but also in relation to work on bioregionalisation and the development of Marine Protected Areas.

12.1.2.3 POLLUTION 2000+

Mexico endorsed this work and the plans for an intersessional meeting. In view of the work being done in JARPN II on chemical contaminants and noting that there is some evidence of a relationship between chemical contamination and cetacean health, Mexico hoped that Japan could become involved with POLLUTION 2000+.

Sweden informed the Commission that its Environmental Protection Agency had provided funding for a two-year study on chemical contamination of harbour porpoise, including health effects.

12.2 Reports from Contracting Governments

Cambodia reported that it is working with WWF on pollution in and conservation of the freshwater Irrawaddy dolphin in the Mekong River. It hoped that this species could be conserved for future generations.

12.3 Health issues

Monaco recalled Resolution 1998-1 on IWC Concern about Human Health Effects from the Consumption of Cetaceans³². It noted that the suspicion at that time that some pollutants that could be concentrated up the food chain may give rise to human health effects had now been confirmed. It referred to a recent report from the Arctic Council who performs a periodic assessment of Arctic pollution. This report had shown that while levels of PCBs have tended to decline in the Arctic environment, this is not the case for the blood of human consumers of whale meat. With respect to the Faroe Islands, a recent report on levels of mercury and PCBs in pilot whales had also given rise to human health concerns in consumers. It noted that the Chief Medical Officer of the Faroe Islands had recommended that pilot whales no longer be used for human consumption. Given these concerns, Monaco suggested that in the future, the Commission should, when setting quotas, also consider seeking medical advice regarding possible health effects and stressed the need to keep the item of health effects on the Commission's agenda. The UK shared Monaco's concerns.

Norway noted that while it is true that some whales contain high levels of mercury and/or PCBs, levels are very variable between species and geographic areas. It noted that while pilot whales may be the worst in this respect, minke, fin and humpback whales were probably the best and that baleen whales in the Southern Hemisphere have lower contaminant levels than similar species in the Northern Hemisphere. Norway also reported that many long-lived fish species, such as halibut, tuna and scabbard fish, may have higher levels than minke whales. With respect to intergovernmental organisations, Norway noted that it is the Joint FAO/WHO Expert Committee on Food Additives and Contaminants that has competency in this area and that it publishes guidelines on maximum weekly intakes of different pollutants. It reported that meat from minke whales caught by Norwegian whalers contain low contaminant levels such that Norwegian consumers can, if they so wish, enjoy many whale meat dishes per week. Norway further noted the well-documented positive health benefits of fat from marine mammals and referred to a 2007 NAMMCO workshop on this matter.

Japan reported that it takes food safety very seriously but stressed the importance of having good information. It believed that contaminant information is often badly reported, misused or ignored. In Japan, 80-90% of whale meat is from its research activities and that chemical analyses have shown that chemical contaminant is very low. Nevertheless it recognised the importance of monitoring and noted that its work on chemical contamination as part of its JARPA II and JARPN II programmes is reported to the Scientific Committee. Like Norway, Japan referred to the positive health effects of whale meat and noted that people from Iceland, Norway and Japan are the top three for longevity. It called for a balanced discussion on this matter. Iceland associated itself with the remarks of Norway and Japan.

Denmark noted that the longevity of Faroe Islanders is also high. Unlike Monaco, it did not believe that an increased debate on public health was appropriate at the IWC. Rather it urged Contracting Governments to engage fully in other fora working to reduce pollution and in

particular it encouraged the establishment under UNEP of a globally-binding agreement to reduce levels of mercury.

The Chair noted the importance of this issue and that in addition to action by national and local governments (for example in issuing health advisories) discussion in international fora responsible for human health is also appropriate.

13. WHALEWATCHING

13.1 Scientific Committee activities

13.1.1 Report of the Scientific Committee³³

Over recent years there has been emerging evidence that disturbance from some whalewatching activities may have population-level effects in cetaceans. To address this issue a large-scale whalewatching experiment (LaWE) has been proposed to assist in describing effects of whalewatching, to improve understanding of mechanisms and to develop mitigation measures. The Committee made a number of recommendations for long-term impact assessment including the need for: financial commitment; base-line data to allow comparison after the implementation of closures; and commitment to an adaptive management framework to promote the translation of research findings into management plans. The pursuit of long-term studies should not discourage short-term response studies.

The Committee reviewed whalewatching in Portugal (including the Azores and Madeira), the Canary Islands and the Strait of Gibraltar. It commended the Madeira Regional Government for its recent management measures and encouraged the Madeira Parliament to approve and implement proposed whalewatching regulations. The Committee reiterated its recommendation that to be effective, codes of conduct for whalewatching should be supported by an appropriate legal framework. A number of other recommendations relating to whalewatching were made including that governments issuing whalewatching permits allocate a percentage of fees to research/enforcement programmes and that a review of the nature and extent of aerial platforms be presented next year. The Scientific Committee welcomed the development of an on-line database for tracking whalewatching operations and associated data collection programmes worldwide.

An update to the compendium of whalewatching guidelines and regulations around the world will be made available on IWC's website.

13.1.2 Commission discussions and action arising

The Scientific Committee's progress with work on whalewatching was commended and welcomed by many delegations. Several delegations noted the importance of assessing the impacts of whalewatching activities on cetaceans and in this regard, the proposed LaWE was particularly supported. The USA noted that it considers whalewatching to fall within the mandate of the IWC and recognised the increasing economic benefits being derived around the world from such activities. It believed that whalewatching can serve two objectives of the Convention, i.e. contributing to the conservation of whale stocks and developing a sustainable industry to utilise whale

³²Ann. Rep. Int. Whaling Comm. 1998: 47.

³³For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl 2.)* 11 [2010].

stocks. New Zealand associated itself with the remarks of the USA.

The UK drew attention to the thorough paper presented to the Scientific Committee on whalewatching in Madeira, noting that some 58,000 visitors take part in this activity each year, generating some 1.5 million Euros for the local economy. It noted that Madeira's whalewatching guidelines will soon be underpinned by legislation and commended the Government of Madeira for its actions in this regard.

A number of delegations took the opportunity to report on their own national whalewatching activities. For Latin America, Argentina stressed the great socio-economic importance of its own whalewatching activities, particularly in Patagonia. It also described the process, initiated in 2006 to put whalewatching legislation in place. Uruguay reported that its own whalewatching activities, from both boats and land platforms, are contributing to the further development of its coastal communities and that whalewatching has also proven to be a valuable educational instrument. It noted that specific regulations were put in place in 2002 and that a new 'qualification seal' for whalewatching vessels is being launched this year. Like Uruguay, Ecuador stressed the socio-economic importance of whalewatching which supplies an important source of jobs. Panama reported that it put whalewatching regulations in place in 2007 and that it has an ongoing programme to map whalewatching activities and whale sightings. It invited other countries of the Americas to join this activity. Chile reported that its whalewatching industry is showing the second-fastest growth in South America. It is now implementing projects and measures to regulate the industry to ensure best practices are followed. Noting the problems of its coastal fisheries, Costa Rica reported that whalewatching provides one of the main alternatives to the fishing industry thus delivering socio-economic benefits. It has had whalewatching regulations in place since 2005 and is committed to revising and reforming them as necessary to ensure good practice is followed. Costa Rica welcomed the IFAW report 'Whale Watching Worldwide — Tourism numbers, expenditures and expanding economic benefits', the Executive Summary of which had been submitted to the meeting by Australia, that provided an update on tourism numbers, expenditures and expanding economic benefits of whalewatching. Costa Rica encouraged bilateral and multilateral exchanges among countries to foster the development of whalewatching and noted its willingness to do what it could to help others. While its own conditions did not have the potential to create a whalewatching industry, Germany supported the initiatives of many Latin American countries and stressed the importance of regulating the activity in a careful manner.

France also welcomed the IFAW report and noted the strong economic potential of whalewatching, although like others it stressed the need for proper regulation. It referred to work being done in ACCOBAMS³⁴ regarding the development of a label for whalewatching in the Pelagos Sanctuary. Spain noted that a summary of whalewatching activities in the Canary Islands and their implications had been included in the compilation document discussed by the Scientific Committee. Regarding the Committee's

suggestion to allocate a percentage of fees from whalewatching permits to research/enforcement programmes, Spain believed that this would be difficult for it to do in practice as its legislation currently does not allow for this. Nevertheless it considered that the idea merited further consideration.

New Zealand described how, when faced with severe economic hardship in the financial turmoil of the 1980s, the Kāti Kuri tribe from Kaikōura began development of its whalewatching activities. It noted that since starting with just one inflatable boat in 1987, the fleet of Whale Watch Kaikōura now numbers five purpose-built catamarans, with the activity contributing more than US\$80 million to the New Zealand economy. While the company in Kaikōura had built a modern and highly successful economic base for the tribe that owns it, it had also stimulated investment in new tourist and residential accommodation, hospitality and the arts, benefiting all residents of the town. New Zealand reported that whalewatching is now also an important economic activity in its wider Pacific region. It reported that in April 2008, New Zealand hosted the first workshop for whalewatch operators and managers in the South Pacific. Participants agreed on voluntary guidelines that meet best international practice in whalewatching. New Zealand believed that, when carried out carefully, whalewatching can be a high-return activity for local communities. It welcomed the opportunity to share information on its experiences in whalewatching with other interested parties.

Norway noted that it was pleased that whalewatching no longer seems to be controversial in the IWC and that there is agreement that it must be properly regulated. As in previous years, it noted that whalewatching and whaling can co-exist. Iceland made similar remarks and reported that in Iceland, its whalewatching industry is increasing despite its whaling operations.

Poland drew the Commission's attention to a recent paper from Aarhus University in Denmark and the Greenland Institute of Natural Resources regarding whalewatching on humpback whales in Greenland. The paper reflects the concern of the local communities from Nuuk regarding the potentially negative effects on the whalewatching industry if Greenland is awarded a quota to take humpback whales for subsistence purposes. Whalewatching is apparently a rapidly growing activity in Greenland, which depends largely on humpback whales. Poland noted that the paper suggests that the humpback whales in the vicinity of Nuuk display a strong degree of small-scale fidelity such that if individuals are killed there is a strong chance that they will not be replaced by new individuals in a short timeframe which may therefore have an effect on Nuuk's whalewatching activities. Poland urged Denmark to take these concerns into account in relation to its request for the take of humpback whales.

Reacting to the comments made by Poland, St. Kitts and Nevis drew attention to potential problems of property rights when two users are competing for the same resource and who should have priority over that resource – new entrants (like the whalewatchers) or traditional users (like the whalers)? It considered that this is a matter of debate. St. Kitts and Nevis, while not disputing the potential revenue that can result from whalewatching, expressed concerns as to whether it is the coastal communities who receive the benefits. It therefore believed that the actual economic impact of whalewatching on coastal

³⁴Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area.

communities should be investigated as well as consideration being given to benefit sharing. The Republic of Guinea associated itself with these remarks. Monaco believed that increasing attention should be given to the vast potential economic returns from whalewatching and noted that live whales can generate profit for years to come. It encouraged the transfer of knowledge of the whalewatching industry to developing countries to help them establish their own activities. Cameroon noted that it is not aware of how much it would need to invest to establish a whalewatching industry and did not know if it would be worthwhile. The Republic of Korea reported that as yet no whalewatching industry has evolved in its country despite some feasibility studies.

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

13.2 Conservation Committee activities

13.2.1 Report of the Conservation Committee

Whalewatching, with a focus on management issues, was also addressed by the Conservation Committee. A summary is provided below. The full report of the Committee's discussions on whalewatching is provided in Annex I.

Last year an intersessional correspondence group was established to look at all aspects of whalewatching and make recommendations for any potential future workshop. The group identified three key areas of activity/themes of interest to the IWC and its members, i.e. research and assessment, management and capacity building and development. The group suggested that these areas of activity could be described as objectives that the Commission could seek to promote as part of an integrated body of work over time. The focus of the objectives would be to: (1) develop tools to assess and understand the opportunities for whalewatching while also evaluating any risks; (2) support and promote effective management of sustainable whalewatching activities, based on science; and (3) realise the social and economic potential of whalewatching for the global community.

The group made a number of recommendations that were endorsed by the Conservation Committee. This included *inter alia*: that a Standing Working Group on Whalewatching be established to prepare, in consultation with the Scientific Committee, a five-year strategic plan for consideration at IWC/62 next year; that support be given to an intersessional workshop to be held in late 2010 to initiate the strategic plan; and that a small Steering Committee be established to oversee workshop preparations. Australia indicated that it would be able to provide a voluntary contribution of 25,000 AUD to support the intersessional workshop and Argentina offered to host it.

13.2.2 Commission discussions and action arising

Australia noted its strong support of the recommendations made by the whalewatching intersessional correspondence group and thanked South Africa, Argentina, Brazil and Mexico for their work on this group. It also welcomed the useful and constructive consideration of whalewatching issues in both the Conservation and Scientific Committees. It noted that whalewatching is a growing and increasingly significant eco-tourism activity and profit-making enterprise, with opportunities for continued expansion. It referred to a recent Australian Government report (Global

Cetacean Summary Report) that *inter alia* details the potential for growth in all sectors of the whale and dolphin watching industries, and touches on the concept of the value which people have simply for the existence of cetaceans. Australia noted that its own report has been complemented by the newly-released IFAW report which indicates that more than 13 million people took whalewatching tours last year in 119 countries worldwide, generating ticket fees and tourism expenditures of more than US\$2.1 billion during 2008 meaning that its value has more than doubled in the last decade. In addition, an estimated 3,300 operators offer whale watching trips around the world employing an estimated 13,200 people in the industry. Australia had submitted the Executive Summary of this report to the IWC as a meeting document. Australia believed this information shows that the whalewatching industry provides a valuable model for the use of natural resources - an industry that relies on whales in a non-extractive way; an industry that, when well managed, can be truly sustainable, in sharp contrast to the days when whales were seen solely as a resource to be hunted and consumed. However, while it believed this industry must be encouraged, it stressed that it should not put cetacean populations at risk through increased human interactions which is why the work of the IWC and the proposed new Working Group is not only timely but critical in ensuring that communities can maximise benefits, and minimise risks to cetacean populations.

South Africa associated itself with the remarks of Australia and thanked it for its contribution of 25,000 AUD towards the workshop. It explained that it places so much emphasis on whalewatching for socio-economic reasons given that many in South Africa live below the breadline. One of the avenues that it is exploring to improve the situation in South Africa is the development of tourism. It noted that whalewatching alone will not solve its problems but that it is a good part of an overall development strategy, for example by creating national parks where the 'big seven' (elephants, rhinoceros, buffalo, lions, leopards, whales and white sharks) can all be seen in one day. Whalewatching is therefore very important to South Africa as it could be for many other IWC member countries. It therefore indicated its wish to join the Standing Working Group and the small Steering Committee. Finally, in responding to earlier remarks from developing countries regarding the development of whalewatching activities, South Africa noted that it is difficult to do but that this is exactly why the work being proposed is needed.

Brazil, New Zealand, Argentina, Chile, Mexico, Uruguay, Panama, Costa Rica, Ecuador and India associated themselves with the remarks of Australia and South Africa and supported the recommendations of the intersessional correspondence group. Brazil suggested that the Contracting Governments who were involved in the correspondence group should form the core of the steering group for the workshop Steering Committee, while other interested parties would also be welcome.

St. Lucia reported that, like Iceland, Norway, Greenland and Japan, it has both whaling and whalewatching activities that take place in harmony, and that both are important to the island. It agreed that whalewatching is a growing industry but like others believed that it must be carefully regulated to ensure that no undue pressure is placed on these animals as they recover from the overexploitation of the past. However, St. Lucia expressed concerns regarding

a number of inaccuracies in the information on its own whalewatching activities contained in the IFAW report. These included errors in the number of whalewatching operations documented for St. Lucia (which had been underestimated) and the attribution of whalewatching guidelines as being developed by IFAW whereas they had been developed by a scientist from St. Lucia. St. Lucia therefore wished it to go on record that it could not support the IFAW document principally because the information on its own activities was incorrect. Furthermore, it stressed that if Contracting Governments submit documents written by others to the IWC, they should ensure that the information being presented is correct.

The Chair noted that whalewatching is also a growing activity in the USA and stressed the need for good communication and enforcement to ensure that it is done without negatively impacting the animals being watched. He therefore believed that the IWC did need to address the issue in a holistic manner.

14. CO-OPERATION WITH OTHER ORGANISATIONS

14.1 Report of the Scientific Committee³⁵

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, Southern Ocean GLOBEC, NAMMCO, FAO (Committee on Fisheries), PICES (North Pacific Marine Science Organisation), IUCN 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 reminded the Commission that the Agreement of Co-operation between IMO and IWC that was approved by IMO's Council in June 2008 will be submitted to the IMO Assembly for final approval at its session in November 2009³⁶. She noted that the Secretariat now attends, as an observer, meetings of IMO's Marine Environment Protection Committee. The Secretary also reported that it had attended the CMS 9th Conference of Parties in Rome in December 2008 and that it had established contact with the OSPAR (Oslo and Paris Commissions) Secretariat.

Several countries welcomed the increased co-operation between the IWC and other international organisations and commended the Secretariat for its efforts in outreach to organisations with whom there has been little previous interaction. The Agreement of Co-operation with the IMO

was welcomed in particular, and the hope expressed that this would facilitate IWC's work on ship strikes.

Austria, noted that at a recent UN meeting on persistent organic pollutants (POPs), several indigenous groups had expressed concern regarding the high levels of POPs in some whale meat leading, they believed, to increased risk of cancer and miscarriage. Austria recalled that the Commission had adopted several recommendations in the past encouraging co-operation between the IWC and the World Health Organisation and asked whether there is any current collaboration with the Scientific Committee. The Scientific Committee Chair noted that the Committee does not deal with health effects associated with the consumption of whale meat. This matter is also addressed in section 12.3.

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

The priority topic for the Scientific Committee this year was the review of the taxonomy, population structure and status of common dolphins. Currently, the genus *Delphinus* comprises two species and four subspecies: the short-beaked common dolphin *Delphinus delphis delphis*, distributed in continental shelf and pelagic waters of the Atlantic and Pacific Oceans, the Black Sea short-beaked common dolphin, *D. delphis ponticus*, Gray's common dolphin (long-beaked form), *D. capensis capensis*, distributed in nearshore tropical and temperate waters of the Pacific and South Atlantic Oceans, and the Indian long-beaked common dolphin, *D. capensis tropicalis*, which occurs in the Indian Ocean. The Committee agreed that in general, the uncertainty over taxonomy and population structure, allied to a paucity of abundance estimates, made it difficult for the Committee to assess status in many areas. However, the Committee expressed concern for the status of common dolphins in the Mediterranean and reiterated its previous support for a basin-wide synoptic survey. It drew attention to the large and potentially unsustainable catches of common dolphins in Peru, first noted last year and expressed concern about ongoing fishery bycatch in the Northeastern Atlantic and some other areas. The Committee recommended that effort be continued to improve understanding of stock structure and to obtain better estimates of bycatch.

The Scientific Committee also reviewed progress on previous recommendations.

Actions taken by the Government of Mexico to eliminate/reduce bycatch of the critically endangered vaquita were welcomed and the continuation of efforts to monitor relative abundance and trends were encouraged. However, until it is demonstrated that the recent rapid decline has been stopped and reversed, the Committee reiterated its extreme concern about the status of the vaquita and strongly recommended that if extinction is to be avoided, all gillnets should be removed from the upper Gulf of California immediately. It encouraged the international community, including IWC member countries and NGOs, to assist the Government of Mexico in this task.

³⁵For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl. 2)* 11 [2010].

³⁶The Agreement was approved in November 2009.

Concern about the conservation status of harbour porpoises in inner Danish waters and the Baltic proper due to high levels of bycatch was stressed. The collection of more detailed bycatch estimates and the continuation of abundance surveys were encouraged. With respect to white whales and narwhals, concern has been expressed in the past about quotas set for some narwhal stocks and the levels of removals from the West Greenland stocks of white whales. This year the Committee welcomed new information from NAMMCO and the Joint Commission on Conservation and Management of Narwhal and Beluga, including news of a reduction of catches of white whales off West Greenland.

The Scientific Committee expressed concern that information on takes of small cetaceans appearing in national progress reports is incomplete and made some suggestions for improvement. It also expressed concern regarding: (1) the sustainability of live captures of bottlenose dolphins in the Solomon Islands; (2) the illegal catches of small cetaceans (e.g. humpback, spinner and bottlenose dolphins) off Madagascar; and (3) a reported take of 340 finless porpoises in the Korean Strait.

The February 2009 climate change workshop (see also section 11.1.1.1) recommended that the Standing Subcommittee on Small Cetaceans consider a series of hypotheses that link climate to the population trajectories of small cetaceans with the aim of identifying species, areas and research situations that could be informative. It was acknowledged that the ongoing rapid change in global climate has major implications for many species of small cetaceans and therefore that improved understanding of how populations are likely to respond is important. In Madeira, an intersessional working group was established to pursue this further and to report back next year; this may involve an intersessional workshop.

15.1.2 Commission discussions and action arising

Many delegations spoke in support of the Scientific Committee's work on small cetaceans. In recognition of the amount of work facing the Scientific Committee in relation to small cetaceans, Australia reported that it had made a voluntary contribution of 500,000 AUD to the Voluntary Fund for Small Cetaceans. The Chair and a number of other governments thanked Australia for this generous contribution.

Sweden supported the taxonomic work of the Scientific Committee using modern methods. It considered this work absolutely essential and of basic importance to the Commission's work.

Mexico thanked the Scientific Committee for its support and recommendations regarding the vaquita, without which the conservation measures taken would not have been possible. It also thanked the US Government and WWF for their assistance in various programmes. Mexico reported that despite the economic difficulties faced, its government had given instructions to continue to reduce fishing levels so as to eliminate bycatch of vaquita. Around 500 vessels that had been fishing illegally had been removed from the refuge area. Some were bought out under a re-purchase scheme, others have changed to different fishing gear and a shrimp farm is being rebuilt that will result in further boats being retired.

A number of delegations including Finland, the UK, Ireland, France and Luxembourg expressed concern regarding the take by Japan of Dall's porpoise. Finland

recalled that last year Japan had indicated that it was 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. It sought information from Japan regarding progress with implementation of the new method. Ireland requested similar information and in addition asked what progress had been made since last year with respect to reducing direct takes of the boto in Brazil, Colombia, Peru and Venezuela. On a more general note, Switzerland expressed concern that targeted takes of small cetaceans combined with other human-induced mortalities, may affect the survival of species. It urged those involved in such takes to take a precautionary approach in setting quotas and encouraged the use of modern fishing technologies to limit bycatch. Costa Rica noted the value of applying regionally appropriate conservation measures.

St. Vincent and The Grenadines, Japan and the Republic of Korea noted their views that small cetaceans fall outside the IWC's mandate. St. Vincent and The Grenadines believed that discussions on small cetaceans were increasing at each meeting and expressed the hope that such discussions would be restricted to scientific research and not extend to limits on quotas. Japan indicated that it would provide information on small cetaceans on a bilateral basis and noted that the issue of small cetaceans falls within the topics being discussed as part of the work on the future of the IWC. The Republic of Korea clarified that the 340 finless porpoises referred to in the Scientific Committee report were the result of bycatch and not direct take and that it will provide data from its current research on finless porpoise in the Korean Strait to the Scientific Committee in due course.

With respect to climate change and small cetaceans, the UK reported that since the Scientific Committee met and owing to the generosity of Austria, Australia, the USA, WWF and WDCS, it would be possible to hold a small workshop in Vienna in November 2009.

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

15.2 Regional non-lethal research partnerships

15.2.1 Presentation by Australia

Australia gave a presentation to the Commission of the Southern Ocean Research Partnership (SORP) initiative that had also been discussed by the Scientific Committee (see below). It explained that the SORP was established in March 2009 to enhance cetacean conservation and the delivery of non-lethal whale research to the IWC. The SORP's objectives, research plan, and procedural framework for the partnership – to be assessed by the IWC Scientific Committee – were developed through a workshop attended by 50 participants representing 12 countries (Australia, Argentina, Brazil, Chile, Costa Rica, France, Italy, Mexico, New Zealand, South Africa, Uruguay and USA) and several research and environment consortiums.

The SORP is an integrated, collaborative, non-lethal whale research consortium that aims to maximise conservation outcomes of Southern Ocean whales through an understanding of the status, health, dynamics and environmental linkages of their populations and the threats they face. Australia explained that the partners will achieve this objective by: committing to the development of novel, powerful non-lethal technologies, important ecological

theory, and analyses; focusing their collective research and funding efforts on projects that link most directly to priority conservation needs, and for which a collaborative approach maximises research outcomes and funding efficiencies; maintaining an integrated and responsive relationship with the IWC Scientific Committee and its priorities; establishing strategic linkages with other relevant international research efforts; and communicating the rationale and outcomes of the research, and threats to the conservation status of Southern Ocean whales.

The primary focus of the SORP is the large whale species managed by the IWC, including the humpback whale, blue whale (both Antarctic and pygmy forms), fin whale, Antarctic minke whale, sei whale, southern right whale, and sperm whale. Killer whales will also be considered as an important component of the Southern Ocean ecosystem. The Southern Ocean will be the regional focus of the partnership, but relevant research efforts will also include associated migratory corridors and breeding grounds.

The March 2009 workshop agreed two overarching themes under which research proposals will be assessed, i.e.: (1) post-exploitation whale population structure, health and status; and (2) changing atmosphere and oceans – Southern Ocean whales and their ecosystems. A two-tiered SORP research framework was also developed and agreed (i.e. core projects and associated projects) and specific criteria for these two types of project will be developed and agreed by the SORP Scientific Steering Committee (SSC).

The SORP SSC will assess where existing and newly proposed research efforts fit within the research framework (core or associated status) and facilitate external peer review of proposed research projects for scientific merit. The committee will then assess the relevance of the proposal to SORP objectives and the degree to which it benefits from the partnership framework. Qualifying projects will be centrally registered as 'core' or 'associated' SORP projects. The registry will be maintained and updated by the SSC. The SORP research plan is expected to develop over the course of the collaboration, particularly in response to IWC and other input.

The SORP SSC will oversee the work and direction of the partnership. Membership of the steering committee will, at least, include regional representation from the participating governments although representative membership from other relevant multidisciplinary programmes would be considered and membership of the IWC (e.g. via the Chair of the Southern Hemisphere whale Sub-committee) would be advantageous. The Australian Marine Mammal Centre, based at the Australian Antarctic Division in Hobart, will coordinate the overall work of the SORP and manage the reporting responsibilities. An annual progress report and a report of activities proposed for each forthcoming year will be provided to the IWC Scientific Committee. The IWC Scientific Committee will be asked for annual input into the SORP research plan, and to evaluate progress. An independent review process will also be established to assess the progress of the SORP against stated objectives and to determine if improvements in direction or process can be achieved.

A Steering Committee will be established to plan and conduct a symposium and workshop to review and update developments in non-lethal research techniques for whales in 2011. Furthermore, recognising that many of the

research programmes developed within the SORP 'themes' would benefit from a single season, multi-platform, integrated and coordinated research effort around the Southern Ocean and *inter alia* that planning for such events takes many years, a Steering Committee to plan and conduct this initiative will be established within the SORP.

Australia hoped that the model it had developed for research in the Southern Ocean would be followed in other regions and that this approach would become a new and efficient manner by which the research needs of IWC and its members are appropriately provided. It reported that it had made a voluntary contribution of 500,000 AUD to IWC to support initiatives under the SORP.

15.2.2 Report of the Scientific Committee

The Scientific Committee received a report from Australia of the SORP initiative. It made a number of comments including the need for short- and long-term objectives and the value of a co-ordinated multi-vessel synoptic survey. The Committee welcomed this initiative and the ongoing commitment of Australia to the programme. It endorsed the general approach developed for the SORP and looked forward to receiving further reports on progress.

15.2.3 Commission discussions and action arising

Australia's initiative and voluntary contribution of significant funding was applauded and warmly welcomed by France, Brazil, New Zealand, the USA, Argentina, Chile, India, Italy, Costa Rica, Mexico, Spain, Monaco, Germany and the Czech Republic, many of whom indicated their intention of participating in research activities. The USA noted its intention to also provide financial support. The Commission and Scientific Committee were encouraged to find a way to have real involvement in the SORP, including involvement by developing countries. Several delegations expressed the hope that the initiative would demonstrate that lethal research is not necessary.

15.3 Other activities

15.3.1 Report of the Scientific Committee

15.3.1.1 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 again focused on: (1) statistical and genetic issues related to stock definition; and (2) review of progress with the TOSSM project (Testing of Spatial Structure Models) 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 agreed that a clear understanding of the reliability of each genetic dataset is essential for correct interpretation in terms of stock structure and re-emphasised the importance of developing

suitable quality protocols for genetic data used in providing management advice. Last year, the Committee endorsed a general set of guidelines and recommended adherence to them for studies done to provide stock structure advice in a management context. The guidelines are expected to evolve in future and the Committee expects to update them at the 2010 meeting.

15.3.1.2 DNA TESTING

This item is discussed in response to Commission Resolution 1999-8³⁷. The DNA working group first addressed questions related to genetic methods for species, stock and individual identification. Genetic samples were collected from Norwegian and Icelandic commercial catches in 2008 and from Japanese scientific whaling in 2008/2009.

15.3.1.3 IDCR/SOWER CRUISES

The Committee Chair reported that the 2009/10 cruise may be the last year of this programme and thanked the Government of Japan for once again providing the vessel and crew for this work. The Committee noted that since the IDCR/SOWER programme commenced in 1978/79 more than 4,000 ship days or more than 11 ship years have been provided and 43,000 sightings of cetacean have been made. It has led to groundbreaking developments in abundance survey techniques and has collected over 1,500 biopsy samples, photographs of some 3,000 animals and several thousand hours of acoustic recordings. Noting that 2009/10 may be the last year of the SOWER surveys, Japan's initiative for a large-scale, sightings survey based research programme in the North Pacific was welcomed.

15.3.1.4 WORKING METHODS

A draft Scientific Committee Handbook was welcomed. It was considered that this will become a valuable tool for new Scientific Committee members and for participants of the Commission. It can be found on the Commission's website (http://www.iwcoffice.org/sci_com/handbook.htm).

15.3.1.5 ELECTION OF OFFICERS

According to the Rules of Procedure for the Scientific Committee, at the end of the term of the Scientific Committee Chair, the Vice-Chair becomes the new Chair. Last year, Arne Bjørge (Norway) completed his three-year term as Chair of the Scientific Committee. However, because of extra commitments, the Vice-Chair, Debbie Palka (USA) was not able to take up the position of Chair and the Heads of Delegation agreed that the best way forward would be for the Chair and Vice-Chair to continue in their positions for another year and to elect a new Vice-Chair at the 2009 meeting when Debbie Palka would become Chair after the closure of the Commission meeting. This year, Toshihide Kitakado (Japan) was elected as the new Vice-Chair by secret ballot.

15.3.1.6 FUTURE OF THE ORGANISATION – ISSUES RELATED TO THE SCIENTIFIC COMMITTEE

These are reported under section 3 of this report.

15.3.2 Commission discussions and action arising

The Commission noted this part of the report and endorsed its recommendations. The Commission also thanked Arne Bjørge for the excellent manner in which he had conducted himself as Chair of the Scientific Committee and for his willingness at IWC/60 to serve for a further year. His fairness, wisdom, humour and leadership had been

appreciated by all. The Commission welcomed the new Chair and Vice-Chair of the Committee.

France recalled that last year it had reported to the Commission that it is developing a document, in French, that collates information on whale populations as a contribution towards improving communication within the IWC. It reported that the work is progressing and that it will continue to keep the Commission informed of this activity.

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 the sub-committee Convenors, with the agreement of the Scientific Committee, after the close of the Committee meeting. The work plan takes account of: (1) priority items agreed by the Committee last year and endorsed by the Commission and, within them the highest priority items agreed by the Committee on the basis of sub-committee discussions; (2) general discussions in the full Committee on this item and in particular the need to reduce the Committee's workload; and (3) budget discussions in the full Committee.

15.4.1.1 RMP

The following issues are high priority topics:

- (1) conduct a workshop to estimate the parameters of the environmental model and finalise the Bayesian meta-analysis so that a final decision can be made on the range for MSYR in the RMP at the 2010 meeting;
- (2) complete the review of the range of MSYR values for use in the RMP;
- (3) finalise the approach for evaluating proposal amendments to the *CLA*;
- (4) finalise the audit of the Bryde's whale survey data;
- (5) use the Bryde's whale *Implementation Simulation Trials* to evaluate the effect of size (and power) for current and historical age-composition data;
- (6) review of previous (and any new) genetic power analyses for the western North Pacific Bryde's whales;
- (7) evaluate the trade-off between the cost of finding Bryde's whales and successfully attaching satellite tags and the value of this information to address questions of stock structure;
- (8) review the research proposal for the North Atlantic fin whale 'variant with research' to be submitted to the 2010 meeting; and
- (9) review the North Atlantic fin whale abundance estimates for use in the *CLA*.

15.4.1.2 AWMP

The following issues are high priority topics:

- (1) code (and hence validate) the sex-ratio method and the associated robustness tests;
- (2) hold, if needed, an intersessional workshop to refine the specifications and implementation of the sex-ratio methods and the associated robustness tests so that a decision can be taken at the 2010 Annual Meeting on whether the sex-ratio method can be used to provide management advice;
- (3) develop a short working paper on appropriate operating models for West Greenland fin whales;
- (4) conduct an *Implementation Review* for the Eastern North Pacific gray whales; and

³⁷Ann. Rep. Int. Whaling Comm. 1999: 55.

- (5) review the progress on any new analyses and make a decision on the need for a pre-meeting to facilitate completion of the Gray Whale *Implementation Review* at the 2010 Annual Meeting.

15.4.1.3 BYCATCH AND OTHER ANTHROPOGENIC REMOVALS (BC)

The following issues are high priority topics:

- (1) collaborate with FAO on collation of relevant fisheries data and joining FIRMS;
- (2) estimation of rates of entanglement and entanglement mortality;
- (3) progress in including information in national Progress Reports;
- (4) review of methods to estimate mortality from ship strikes;
- (5) continue development of the international database of ship strike incidents; and
- (6) review 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 the stock structure and abundance of the Eastern Canada and West Greenland bowhead whales in order to advise the Commission as requested in Schedule 13(b)(3)(iv);
- (2) perform the annual review of catch information and new scientific information for the B-C-B Seas stock of bowhead and Eastern North Pacific gray whales in order to advise the Commission as requested in Schedule 13(b)(1) and (2);
- (3) review new information on all stocks of right whales, Western North Pacific gray whales, and the small stocks of bowhead whales; and
- (4) review the report of the intersessional Steering Group on the assessment of southern right whales.

15.4.1.5 IN-DEPTH ASSESSMENT

The following issues are high priority topics:

- (1) produce agreed abundance estimates of Antarctic minke whales;
- (2) conduct an analysis of ageing errors that could be used in catch-at-age analyses of Antarctic minke whales and review the results;
- (3) continue development of the catch-at-age models of the Antarctic minke whales; and
- (4) continue the examination of the differences between minke abundance estimated from CPII and CPIII, particularly the impact of sea ice on the abundance estimates.

Highest priority next year will be given to obtaining the abundance estimates of Antarctic minke whales using the IDCR/SOWER survey data.

15.4.1.6 WESTERN NORTH PACIFIC COMMON MINKE WHALES WITH A FOCUS ON J-STOCK

The following issues are high priority topics:

- (1) continue work on integration of available abundance estimates from Japanese and Korean surveys with consideration of migration as well as correction of $g(0)$;
- (2) continue work on investigation of stock structure for western North Pacific common minke whales including stocks in the Sea of Japan and the Yellow Sea; and

- (3) continue work for drawing information on the trend and/or relative abundance index.

15.4.1.7 SOUTHERN HEMISPHERE WHALES OTHER THAN ANTARCTIC MINKE WHALES

The following issues are high priority topics:

- (1) complete assessment of breeding stock B humpbacks;
- (2) blue whales (Antarctic and pygmy); and
- (3) prepare for assessment of humpback breeding stocks D, E and F.

15.4.1.8 ENVIRONMENTAL CONCERNS

The following issues are high priority topics:

- (1) SOCER – the focus of the SOCER for SC/62 will be Arctic polar seas;
- (2) POLLUTION 2000+ phase II planning (carried over from last year);
- (3) anthropogenic sound (focus on shipping noise);
- (4) review progress on work from the three sub-groups of the 2nd climate change workshop;
- (5) review progress of the cetacean emerging and resurging disease (CERD); and
- (6) other habitat-related issues.

15.4.1.9 ECOSYSTEM MODELING (EM)

The following issues are high priority topics:

- (1) discussion of EM's role in the SC;
- (2) consider models that are relevant to the Committee's evaluation of special permit whaling, as well as other relevant ecosystem models; and
- (3) discuss the issues surrounding functional responses at next year's meeting.

15.4.1.10 STOCK DEFINITION

The following issues are high priority topics:

- (1) progress on TOSSM (new tests of methods new reference datasets);
- (2) update guidelines on DNA Data Quality;
- (3) review proposed guidelines on analysis of genetic data for use in management;
- (4) other statistical and genetic issues related to stock definition; and
- (5) consideration of possible definitions of 'unit to conserve'.

15.4.1.11 WHALEWATCHING

The following issues are high priority topics:

- (1) review whalewatching off North Africa;
- (2) assess the impacts of whalewatching on cetaceans (methods and results of changes in behaviour and movement patterns; methods and results of physiological changes to individuals; and methods and results of demographic and distributional changes);
- (3) review reports from intersessional working groups;
- (4) evaluate data from platforms of opportunity;
- (5) review of whalewatching guidelines and regulations; and
- (6) review of risks to cetaceans from whalewatching vessel collisions.

15.4.1.12 SMALL CETACEANS

The following issues are high priority topics:

- (1) the status of small cetaceans in the eastern tropical Atlantic;
- (2) consider report from the intersessional working group on climate change;
- (3) takes of small cetaceans; and

- (4) review progress on previous recommendations.

15.4.1.13 DNA

The following issues are high priority topics:

- (1) review genetic methods for species, stock and individual identification;
- (2) review of results of the 'amendments' work on sequences deposited in GenBank;
- (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) consider need to revise 'Annex P'; and
- (2) mechanism to complete Panel Review.

15.4.2 Commission discussions and action arising

The Commission endorsed the programme recommended by the Scientific Committee.

15.5 Adoption of the Report

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

16. CONSERVATION COMMITTEE

The Conservation Committee met on 16 June and was chaired by Hyun-Jin Park (Republic of Korea). Delegates from 27 Contracting Governments participated. Its report is given in Annex I. The Conservation Committee's discussions on whale sanctuaries and whalewatching have been included in sections 8 and 13 of this report. The discussions on other items are summarised below.

16.1 Report of the Conservation Committee

16.1.1 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 and Russian Federation reported that during the last ten years, the number of stinky whales appears to have risen and in 2008 ten stinky whales were reported, compared with two in 2007. Fifteen samples were collected from eight of the 2008 stinky whales. Each sample was divided into three parts and analyses will be conducted in Russia, USA and Japan. Blubber samples from the 1994 and 2001 hunts are currently being analysed by the USA for polybrominated diphenyl ether, flame retardants and other classes of persistent organic pollutants. The full results will be available for IWC/62.

16.1.2 Ship strikes

In 2005 the Conservation Committee agreed to initiate work to make progress on the issue of whales being killed or seriously injured by ship strikes, recognising that this is also a matter being addressed by the Scientific Committee. Ship strikes are on the Scientific Committee agenda because as part of the Revised Management Procedure, recommended catch limits must take into account estimates of mortality due to *inter alia* bycatch, ship strikes and other human factors. The Ship Strikes Working Group (SSWG) was established to develop more detailed proposals and to coordinate any work initiated.

16.1.2.1 WORK OF THE SHIP STRIKES WORKING GROUP AND SCIENTIFIC COMMITTEE

This year, the Fourth Progress Report of the Ship Strikes Working Group (SSWG) was reviewed. The SSWG Chair, Alexandre de Lichtervelde (Belgium), informed the Committee that progress was made in four main areas since last year, i.e.: (1) collaboration with IMO; (2) the ship strikes database; (3) awareness raising; and (4) preparation for a joint IWC/ACCOBAMS workshop.

With respect to the IMO, ship strikes had been placed on the IMO's agenda by a core group of IWC members at the 57th Marine Environment Protection Committee (MEPC) in March/April 2008 and a guidance document was presented by the USA at the 58th MEPC meeting. This proposed *inter alia* a number of ship strike reduction measures including amendments to traffic separation schemes, creation of areas to be avoided, speed reduction, mandatory ship reporting systems, onboard observers, notices to mariners and detection systems.

In 2007, the format and structure of an international ship strike database was agreed by the Scientific Committee in collaboration with the Conservation Committee. The web-based data entry system is now available on the IWC website for data entry and by May 2009 the database had 763 records. A further 150 new records were in the process of being reviewed and validated. Work remains to further develop and maintain the database, clarify policies for access and interchange with national databases and develop tools and procedures for data review and validation. The SSWG Chair noted that the reporting of ship strikes by member countries is key in progressing the database and stressed the importance of publicising the database. A number of suggestions were made as to how this could be done.

With regard to raising awareness of the issue of ship strikes, a folder on ship strikes had been developed by Belgium and was made available to the meeting. It contains advice to help mariners avoid collisions and details of the online IWC ship strikes database. The folder can be personalised with the contact details for the ship strikes contact point or local stranding network coordinator. The SSWG Chair emphasised the importance of establishing links between such networks and those familiar with collision issues.

The proposed joint IWC/ACCOBAMS workshop on ship strike reduction to be held in September 2010 was supported by the Scientific and Conservation Committees. The Scientific Committee is concerned by the high rate of ship strikes involving fin and sperm whales in the Mediterranean Sea and other areas. The workshop's objectives will be to: (1) exchange, evaluate and analyse data on cetacean distribution and shipping traffic; (2) examine existing ship strike reduction methods; and (3) develop scientific and conservation recommendations and a two-year work plan. The geographical focus of the workshop will be the Mediterranean Sea and the Canary Islands.

New voluntary contributions from Belgium and France towards the SSWG's work were acknowledged. The Committee thanked the SSWG for its report and noted the importance and relevance of its work.

16.1.2.2 CONTRACTING GOVERNMENT REPORTS

New Zealand, Australia, the USA, Argentina, Brazil, Chile and Spain reported on their national activities regarding ship strikes on cetaceans.

New Zealand reported that Bryde's whale ship strikes are a serious problem in the Hauraki Gulf, near Auckland. IWC engagement has aided in bringing the issue to the attention of Maritime New Zealand. As a consequence, stakeholders have sought to improve knowledge of Bryde's whales in the Gulf by funding aerial surveys to estimate abundance and deployment of D-tags to study underwater behaviour and surfacing, as well as responses to ship noise.

Australia reported ten incidences of ship strikes in Australian waters during 2008 and is now using the IMO draft guidelines to improve management of ship strikes.

The USA summarised its domestic regulations, research, monitoring, reporting and outreach efforts. In December 2008 speed restrictions of 10 knots or less were implemented for certain vessels along the US Atlantic Seaboard, which corresponds to an area of right whale occurrence. Two vessel routing proposals became effective in June 2009.

New legislation has been implemented by the Argentine Coast Guard to reduce ship strikes with southern right whales in Peninsula Valdes. Vessels must use navigation corridors, reduce their speed to less than 10 knots and use the minimum speed possible while manoeuvring at harbour. Collisions must be reported. Further legislation from the Ministry of Defence instructs the Argentine Navy to minimise activity in certain areas.

Chile reported that a cruise liner docked in Chile with a dead female sei whale on its bow and this is believed to be the first confirmed vessel strike of a large whale in Chilean waters.

Spain provided a summary of activities on cetaceans carried out by the Canary Islands Government and a review of historic data records of cetaceans and ship strikes in the Canary Islands. An average of almost five cetaceans are struck by ships each year, approximately half being sperm whales. Spain intends to fund new sperm whale abundance research in the area. Progress on mitigation measures relating to high-speed ferries will be presented to the joint IWC/ACCOBAMS workshop.

16.1.3 Southern Right Whale Population of Chile-Peru

Chile introduced a 'Report of Measures Taken in Chile to Protect Southern Right Whales'. In March 2009 the population was classified as 'endangered' under Chilean legislation and in 2008 the Chile-Peru sub-population was classified as 'critically endangered' by the IUCN. Chile has taken a number of measures to protect the population. Last year all whaling operations were permanently banned and a decree declaring 43 cetacean species to be a national monument was granted. Two national sightings networks have been implemented along the Chilean coast. In July 2008 a southern right cow-calf pair was sighted and protective measures were deployed by the Chilean navy until they left the bay in mid-August.

New Zealand commented that it is funding a research expedition to study southern right whales in the sub-Antarctic in July 2009 and is willing to share its expertise in this area with other countries.

16.1.4 Conservation Management Plans

16.1.4.1 REPORT FROM THE SCIENTIFIC COMMITTEE

The Chair of the Scientific Committee reported that last year the Scientific Committee had agreed to introduce the concept of conservation plans. A discussion paper related to this matter will be submitted to the 2010 Annual Meeting.

This year the Scientific Committee focused on western North Pacific gray whales. The Committee received and endorsed a report from the IUCN range wide workshop. In particular it endorsed the development of a 'Conservation Plan for Western North Pacific Gray Whales'. The core of the plan is to reduce anthropogenic mortality towards zero as soon as possible. This reiterates the view expressed by the Scientific Committee for a number of years (see section 4.5.1). The recommendations of the report cover three broad areas: (1) status and monitoring; (2) threats and improved mitigation; and (3) improved information outside the feeding grounds.

16.1.4.2 CONSERVATION COMMITTEE DISCUSSIONS

Australia introduced its proposal for a process for advancing Conservation Management Plans within the IWC. Conservation Management Plans are intended to provide the Commission with management tools that can be applied to improve conservation outcomes through management of human activities. A three-part approach was suggested: immediate actions for critically threatened populations; development of plans for key species; and establishment of a mechanism for on-going evaluation of development needs for Conservation Management Plans.

Regarding (1), Australia noted the high priority the Scientific Committee has given to preventing the extinction of western North Pacific gray whales and proposed that the Committee should seek recommendations from the IUCN as to how resources should be targeted. Regarding (2), scientific advice could be distilled by the Scientific Committee from the IUCN species review programmes. Information on human activities and geo-political issues could then be sought on the highly ranked candidates for a Conservation Management Plan, before a final recommendation is made to the Commission. Regarding (3), a multi-disciplinary Steering Committee, including IWC scientists and conservation managers could span the technical requirements; input from national programmes, IUCN and other sources would be needed for a strategic evaluation process.

Australia announced that it would make a voluntary contribution of AU\$0.5M to support the development and implementation of Conservation Management Plans. This will be part of an overall voluntary contribution of AU\$1.5M towards the IWC's conservation work.

The Committee endorsed the formation of a small, specialist group to construct a list of candidate management plans. The group will include Argentina, Australia, Belgium, Brazil, Chile, Mexico, New Zealand, South Africa, UK and USA as well as representatives from the Scientific Committee. It will report back to the Committee before priorities are addressed.

16.1.5 National reports on cetacean conservation

The Committee welcomed the National Cetacean Conservation reports which were submitted by Australia, New Zealand, Panama, UK, USA, Argentina, Brazil, Mexico, France and Chile. Brazil highlighted that in late 2008 it declared all waters under its jurisdiction as a whale and dolphin sanctuary. The UK noted that information on a mass stranding event mentioned in its report has recently been published and is available from <http://www.defra.gov.uk>.

16.1.6 Other

The UK noted that an intersessional workshop took place earlier this year in Siena to study the effects of climate change on cetaceans. It noted a request from the workshop on the need to progress work on the consequences of climate change for small cetaceans and supported the proposal for a small intersessional workshop to be held to progress this work.

The USA hosted the first International Conference on Marine Mammal Protected Areas earlier this year March/April 2009. Over 200 managers, scientists and educators engaged in sessions on approaches to marine mammal management and conservation.

16.2 Commission discussions and action arising

16.2.1 Investigation of inedible 'stinky' gray whales

There were no comments made.

16.2.2 Ship strikes

Italy, Spain, France, Belgium and Monaco spoke in support of the proposed joint IWC/ACCOBAMS workshop and endorsed co-operation between the IWC and others on this important topic. Italy believed the outcome of the workshop would have relevance to both the Scientific and Conservation Committees and Spain suggested that it could be extrapolated to other areas. France congratulated the Chair of the SSWG for his work on what it considered to be a priority issue and noted that it has been reporting its activities in this area to the Conservation Committee and would continue to do so. Monaco noted that maritime traffic is increasing and expected it to double in the next 30 years.

The Chair of the SSWG was pleased to note that so many member governments are now participating in the work on ship strikes. It *inter alia* encouraged the use of the database to report ship strikes and suggested that it would be useful to organise a demonstration of the database next year.

The Republic of Guinea and Côte d'Ivoire reported cases of stranded whales and hoped that work could be done to assess the causes.

16.2.3 Southern Right Whale Population of Chile-Peru

Chile thanked the Commission, the Conservation Committee and various countries for their support with work on this population of southern right whales and undertook to continue to work hard on its conservation.

16.2.4 Conservation Management Plans, national conservation reports and other matters

The Russian Federation noted its appreciation of the IUCN's Western Gray Whale Action Plan panel in which it participates. However, it believed that the term 'control' is unacceptable in the context of the document discussed. Its views were that the mission of the IUCN is to develop recommendations rather than imposing control.

France, the UK and Luxembourg expressed their strong support for the work of the Conservation Committee. France noted that it submits a national progress report to the Committee and encouraged others to do so. It hoped to see wider participation in the Committee in the future. Luxembourg thanked Australia for its generous voluntary contribution.

17. CATCHES BY NON-MEMBER NATIONS

There were no contributions or discussions under this item.

18. INFRACTIONS, 2008 SEASON

The Infractions Sub-committee, chaired by Bruno Mainini (Switzerland), met on 17 June. Delegates from 22 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 2008 and 2008/2009 seasons is available as Annex K.

18.1 Report of the Infractions Sub-committee

18.1.1 Infractions reports from Contracting Governments

18.1.1.1 REPORTS FOR 2008

The USA provided information on infraction number 2008.3 (see Annex J) which had appeared to be a small independent animal that was not associated with a large whale. After being harvested, the whale was determined to be a calf, based on standard criteria. The AEWC Board of Commissioners met on 2 March 2009 and after receiving testimony from the crew in question and other nearby crews, determined that the crew had taken all possible precautions and the incident was an honest mistake.

The Republic of Korea regretted the fourteen infractions it reported this year. In the past, eating whale meat has been part of the cultural tradition in Korea, and since the commercial whaling moratorium, bycatch has been the only legal source of the meat. The Ministry for Food, Agriculture, Forestry and Fisheries has been striving to reduce the illegal trade and has made the issue a top priority. This year new legislation is planned which will include the strict regulation of bycatch and which should enable the government to block illegal sources of whale meat.

In response to a question as to why further investigation of infraction number 2008.1 (see Annex J) was impossible, Denmark (Greenland) explained that the extensive coastline of Greenland made policing very difficult. When a whale is found dead it may be impossible for the police to discover more unless someone gives information on the matter.

No infractions were reported by St. Vincent and The Grenadines or the Russian Federation this year.

18.1.1.2 FOLLOW-UP ON EARLIER REPORTS

Greenland/Denmark provided information on its five unresolved infractions from previous seasons. Investigations for three of the infractions are ongoing while the other two have been stopped.

18.1.2 Surveillance of whaling operations

The Infractions Reports submitted by the USA and the Russian Federation stated that 100% of their catches are under direct national inspection. Denmark (Greenland) reported that their catches were subjected to a random check. In response to a question concerning the frequency of its random checks, Denmark (Greenland) informed the Committee that 13 wildlife officers, including assistants, were responsible for ensuring compliance with regulations but it had no information on the frequency of the checks. The wildlife officers are based in eight different cities or settlements and cover all areas of Greenland.

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 66% 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 is 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 97-100% of the catch. Biological samples are collected from at least 71% 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. Biological sampling was conducted on 44 gray whales.

St. Vincent and The Grenadines: Information on date, time, species, length, sex, whether the whale is pregnant and/or lactating and numbers struck and lost is collected for 100% of the catch. Biological samples are collected.

Norway and Iceland: the required information had been submitted to the Secretariat as noted in the Scientific Committee report³⁸.

18.1.4 Submission of national laws and regulations

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

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

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

19. NGO SESSION

As at last year's Annual Meeting and the March 2009 Intersessional Meeting of the Commission on the Future of IWC, the Commission allowed NGOs to address the plenary session. Six organisations broadly representing the range of views on whales and whaling were given five minutes each to speak. The organisations selected by their peers were: the International Transport Workers Federation of Japan; Association of Traditional Marine Mammal Hunters of Chukotka; Te Ohu Kaimoana; Whale and Dolphin Conservation Society; Humane Society International; and the Antarctic and Southern Ocean Coalition. A number of these NGOs were also speaking on behalf of other organisations. A summary of their presentations, in the order they spoke, is given in Annex L.

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 17 June under the chairmanship of Anthony Liverpool (Antigua and Barbuda). Delegates from 26 Contracting Governments attended the meeting. The F&A Committee report is included as Annex M.

20.1 Annual Meeting arrangements and procedures

20.1.1 Need for a Technical Committee

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

The Commission agreed.

20.1.2 Other

The item discussed under 'other' was in relation to the follow-up to the Report of the Intersessional Correspondence Group (ICG) on Issues Related to the Scientific Committee that had been established at last year's meeting as part of the work on the future of IWC. The discussions and their outcome are reported in sections 3.3.1.3 and 3.3.2.3.

20.2 IWC's website

The Secretariat reported on three issues: (1) progress with the partial translation of the website as agreed by the Commission last year; (2) options for addressing the proposal made by Belgium when commenting on an earlier draft F&A Committee agenda to include the contact details of Commissioners on the IWC website; and (3) recent problems with the website being compromised.

The 15 most popular pages on the website have been translated into French by France (as an in-kind contribution) and are available as PDF documents on the website. Spain had provided translations of the Convention and the Schedule. The machine translation service has been replaced, at no extra cost, with an improved version that allows the reader to choose which translation service to use and provides a default choice of 38 languages. Feedback from speakers of those languages on the quality of the translations produced was requested. France reported that its contribution was a one-off contribution and that, if agreed by the Commission, the future updating of these pages should be arranged for by the Secretariat. It further noted that while the availability of the translated pages in PDF format is useful it looked forward to them being converted into HTML format, recognising that this would require more work from the Secretariat.

With respect to the placing of Commissioners' contact details on the website, concern was expressed by a number of Commissioners regarding posting them on the public site even though this is the practice for some other intergovernmental organisations (e.g. the Antarctic Treaty and CCAMLR). After a short discussion the F&A Committee agreed to continue the *status quo* but requested the Secretariat to circulate details of all Commissioners and Contracting Governments more frequently through the year (e.g. every 3-4 months).

The Commission noted this part of the F&A Committee report and endorsed its recommendations.

20.3 Amendments to the Rules of Procedure and Financial Regulations

20.3.1 Proposal to amend the footnote to Financial Regulations F, Arrears of Contributions

The Commission agreed to the F&A Committee's recommendation to clarify what is meant by the phrase 'as received by the Commission' as used in Financial Regulation F.1, by amending the footnote to Financial Regulation F as follows (changes in bold italic):

³⁸J. Cetacean Res. Manage. (Suppl. 2) 11 [2010].

From:

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.

To:

For the purposes of the Financial Regulations the expression 'received by the Commission' means // (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account via bank transfer, **(2) that a cheque, banker's draft or international money order of the correct value has been paid into the Commission's bank and cleared, or (3) that the Secretariat has in its possession cash of the correct value.**

20.3.2 Proposal to amend the Scientific Committee Rule of Procedure A.5

At IWC/59 in Anchorage in 2007, the Commission adopted the changes to its Rules of Procedure with respect to the participation of international organisations/NGOs as observers. This change required a corresponding change to the first sentence of Scientific Committee's Rule of Procedure A.5 which, due to an oversight, was not done. To bring the Scientific Committee rules into compatibility with those of the Commission, the Commission endorsed the F&A Committee's recommendation to amend the first sentence of rule A.5 as follows (amendments in **bold italic**):

From:

A5. 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. etc

To:

A.5. Any **non-governmental** 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. etc

20.3.3 Clarification of rules applying to the election of the Scientific Committee Chair and Vice-Chair

While the Scientific Committee has clear rules on how to conduct the vote for the Vice-Chair (Scientific Committee Rule of Procedure C.5), its own rules do not address voting rights and suspension of voting rights if financial contributions have not been received from Contracting Governments. This was an issue during the election this year of a new Scientific Committee Vice-Chair which is conducted by the Heads of Delegation to the Scientific Committee.

The Secretary's interpretation provided to the Heads of Delegation was that the rules used by the Commission apply (Rule of Procedure E.2) in the absence of a specific Scientific Committee rule. Not all Heads of Delegation to

the Scientific Committee agreed with this interpretation and the Secretary was requested to consult with the Chair of the Commission for his view. The outcome of this consultation was that it was the view of the Chair of the Commission that a country whose voting rights have been suspended cannot vote in the Scientific Committee in the absence of a specific Scientific Committee rule stating otherwise. The election of the new Vice-Chair of the Scientific Committee therefore proceeded on this basis.

The Chair did however recommend that the procedure be clarified either by: (1) amending the Scientific Committee rules, or (2) adding an editorial note to Scientific Committee Rule of Procedure C.5 referencing back to Rule of Procedure E.2. In the F&A Committee, the interpretation of the Commission Chair was upheld and the Secretariat was requested to draft an editorial footnote to Scientific Committee Rule of Procedure C.5. This interpretation and request was endorsed by the Commission.

20.3.4 Confirmation of when changes to Rules of Procedure agreed at IWC/60 come into effect

At IWC/60 in Chile last year, a number of amendments to the Commission's Rules of Procedure were agreed, although only that on introducing French and Spanish as working languages came into effect after IWC/60 (i.e. Rule of Procedure N.1). This was the only one for which the required 60-days notice had been given. The Commission agreed that the others would come into effect at the next meeting.

During the private meeting of Commissioners at the March 2009 intersessional meeting to discuss the future of the organisation there had been a discussion of exactly when the other Rules of Procedure would come into effect. At that meeting, the Commission agreed: (1) that it would be useful for the amendments relating to handling of a meeting (e.g. the new chapeau to Rule of Procedure E and new Rule of Debate 3) be put in place at the beginning of the plenary at IWC/61; and (2) that the other amendments referring to content and deadlines for submission of Schedule amendments, Resolutions etc. and voting rights of new countries will apply after IWC/61, i.e. these would be the rules applying at the next Commission meeting. The F&A Committee noted the outcome of the Commission's agreement in Rome.

20.4 Carbon-neutral study

Last year the Commission agreed that the Secretariat should undertake a study to be presented at IWC/61 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. While it had done some preliminary work the Secretariat had not done the study itself due to other commitments. It undertook to complete the feasibility study in time for next year's meeting. The Commission noted this part of the F&A Committee report.

21. FINANCIAL ASSISTANCE FOR DEVELOPING COUNTRY MEMBERS

This item had been included on the agenda because of the high level of intersessional activity created by discussions on the future of the organisation and the financial burden this had created for developing country members of the Small Working Group on the Future of the IWC in

particular. Recognising these difficulties, the importance of discussions on the future of the IWC and the need to maintain a balanced SWG participation with continuity between meetings, several Contracting Governments had made voluntary contributions to help defray costs of the participation of developing countries in the SWG. An interim procedure for how such funds would be distributed was developed following IWC/60 by the Secretariat in consultation with the Chair and Vice-Chair of the Commission and the Chair of the F&A Committee.

This year, the F&A Committee noted that financial assistance could come in the form of: changes to the financial contributions scheme that would reduce contributions due from developing countries; and/or providing financial assistance for attendance at meetings. It further noted that there are two different aspects to consider in providing support to developing countries: one being legal and procedural (e.g. the requirements of Article III.5 of the Convention) the other being that additional sources of finance would need to be found. Given that few developing country members were present, it was recommended that this item be discussed during the private meeting of Commissioners on 21 June to provide the opportunity for further debate.

Given the Commission's decision to reconstitute the SWG for a further year and to appoint a Support Group (see section 3), it agreed that the interim procedure for providing financial assistance to developing countries would remain while discussions on the future of the IWC continue and that this matter be further addressed as part of the discussions on the future of the IWC.

22. FORMULA FOR CALCULATING CONTRIBUTIONS

22.1 Updating 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.

Last year the Commission agreed to update the cut-off points defining the capacity to pay groups and to do this in future on an annual basis. The Secretariat reported on the updates made and the effects on the allocation of Contracting Governments to the capacity to pay groups. Estonia and the Czech Republic moved from Group 2 to Group 3 and Spain from Group 3 to Group 4. Given that these moves result in a significant increase to their financial contributions, the Commission confirmed that the facility in Financial Regulations (Rule E.2) to delay the payment of any increased portion of Financial Contribution to 31 August following the standard 'due date' of 28 February does apply.

22.2 Due date for financial contributions

The due date for financial contributions is 28 February (Financial Regulation E.2). If dues are not received by the Commission by this date, a 10% penalty charge is added (Financial Regulation F.1). Last year Cameroon noted that because of a conflict between the 28 February deadline and its own national budgetary cycle it usually has to make late payments which attract a penalty charge. It asked whether it would be possible for the Commission to change the deadline. The Chair of the Commission indicated that this should be considered at the 2009 Annual Meeting. While some sympathy was expressed, it was thought impractical to change the due date because of the widespread effects this might have. However the F&A Committee recommended that the Secretariat explore the implications of changing the date on which penalty interest is charged for late payment of Financial Contributions from the current 'due date' and to report back in time for IWC/62.

The Commission endorsed this recommendation but noted that if the intersessional meeting of the Commission to deal with Greenland's request for humpback whales (see section 6.3.7) is held before 28 February 2010 and if adequate notice is given of proposed changes to the Commission's Rules of Procedure (i.e. 60 days), then any changes agreed by the Commission could take effect for the 2009/2010 financial contributions.

22.3 Other matters

St. Vincent and The Grenadines noted that although it falls into capacity to pay Group 1, because it has an aboriginal subsistence hunt its financial contributions assessed under the Interim Measure are higher than those in Group 2 and almost as high as some of those in Group 3. It considered this situation to be inequitable and reported that it will submit a proposal on how its contributions might be reduced for consideration by the Commission at either the intersessional meeting or at IWC/62. It noted that any changes adopted by the Commission would not take effect until 2010/2011. The Commission agreed to this approach for submitting a proposal.

23. 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/61 with Andrea Nouak (Austria) as Chair. The Budgetary Sub-committee had reviewed the provisional financial statement for 2008/2009 and the proposed budgets for 2009/2010 and 2010/2011.

23.1 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.

23.2 Secretariat offices

The Secretariat reported on progress with the re-negotiation of the lease for its offices that expired on 17 March 2009. Negotiations were not complete but interim arrangements are allowed by UK law to permit the continued occupancy of the Red House by the Secretariat while a new lease is negotiated. Discussions with the owner of the property are therefore on-going regarding the terms of the renewal. The Commission noted this part of the F&A Committee report.

23.3 Consideration of estimated budgets, 2009/2010 and 2010/2011

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

- (1) adopted the proposed budget for 2009/2010 (Annex N) and the provision for research expenditure (Annex O);
- (2) agreed that for 2009-2010, the NGO fee be set at £505 for the first observer from an organisation and at £253 for each additional observer and the media fee be set at £60; and
- (3) noted the Forecast Budget for 2010/2011.

23.4 Other matters

23.4.1 Debt owing to IWC following the 2006 Annual Meeting

Since IWC/58, St. Kitts and Nevis has had a debt outstanding with the IWC of £14.5k. This was because during IWC58, the IWC incurred expenditure on behalf of St. Kitts and Nevis to facilitate the smooth running of the Annual Meeting. St. Kitts and Nevis received voluntary contributions from other IWC members to make good the short-fall in the running costs of the meeting but these were insufficient to cover the balance owed to the IWC. The F&A Committee Chair noted that while the effect on reserves if the debt was written off would be small the Committee had agreed that this might set a bad precedent and that St. Kitts and Nevis should be approached by the Secretariat with the aim of setting up a repayment plan.

The Chair of the Commission informed the meeting that discussions regarding this debt had been taking place and he was confident that it would be repaid before the next Annual Meeting.

The Commission noted this part of the F&A Committee report.

23.4.2 Budgetary Sub-committee operations

Walter Deubner had resigned in the interim period as Vice-Chair of the Budgetary Sub-committee, having been assigned to a new role by his government. Thomas Schmidt (Germany) was elected by consensus to serve as Vice-Chair for the next two years. The Commission noted this part of the report.

23.4.3 Australian voluntary contribution

23.4.3.1 REPORT OF THE F&A COMMITTEE

Australia informed the F&A Committee that it intended to make a voluntary contribution to IWC of AUD\$1.5 million to be divided equally to support activities in three areas: (1) Conservation Management Plans; (2) The Southern Ocean Research Partnership; and (3) small cetacean conservation research. It believed that the issue germane to the F&A Committee was the way in which to best handle the funds within the Commission's rules.

Australia noted that the money to support small cetacean conservation research would be donated to the existing Voluntary Fund for Small Cetaceans. For the remainder of the voluntary contribution, it saw two possibilities, i.e. amending the Commission's Financial Regulations to create two trust funds, or transferring the money to the General or Research Funds and ear-marking them for work in the appropriate areas. While Australia's preference was for the former, as it hoped to see these items as on-going work for the Commission to which other governments may also wish to contribute, it welcomed the views of others. If the two fund route was to be followed, Australia indicated that it would develop specific proposals for review by the

Commission. It further noted that if there were strong feelings against this option, it was willing to pursue the second possibility identified.

Delegations welcomed the generous contribution from Australia. However, different views were expressed regarding how the money should be handled. Noting that there was no consensus, at the suggestion of the chair of the F&A Committee, the Committee recommends that the matter be forwarded to plenary for further discussion. The F&A Committee Chair urged consultation among Contracting Governments prior to plenary.

23.4.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

The Commission noted this part of the F&A Committee report.

Australia reported that since the F&A Committee meeting it had decided that it would be easiest to allocate its voluntary contribution to existing funds rather than to create new ones. This would mean that the AUD \$500K for small cetaceans would be allocated to the Voluntary Fund for Small Cetaceans, while the remaining contributions would be allocated to the General Fund. The Commission agreed.

23.4.4 Availability of documents

Noting that some of the documents for the meeting had only just been made available, one member requested that to the extent possible, documents be made available to delegates at least 12 hours in advance of the session in which they will be discussed. The Commission noted this part of the F&A Committee report.

23.4.5 Cost of the intersessional Commission meeting to address Greenland's request for humpback whales

Noting that the Commission had agreed to hold an intersessional Commission meeting to address Greenland's request for humpback whales and that no budgetary provision had been made, it requested information on potential costs of such a meeting. In responding, the Secretary suggested that costs, for both the Commission and Contracting Governments, could be minimised if the meeting be held back-to-back with the meeting of the Small Working Group on the Future of the IWC (see section 3) for which a budgetary provision had been made. As an indication of potential costs, she noted that the 2008 intersessional meeting of the Commission had cost in the order of £60,000.

24. 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.

25. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

25.1 62nd Annual Meeting, 2010

The Commission gratefully accepted the offer from the Government of Morocco to host the 62nd Annual Meeting in Agadir in the period end of May to end of June. Morocco indicated that it would work with the Secretariat regarding detailed timing. As a fishing nation that is deeply concerned with all issues related to the sustainable management and use of marine resources, and recognising the need for the international community to work together

on these issues, Morocco hoped that a breakthrough for the IWC with regards to its future could be agreed in Agadir

25.2 63rd Annual Meeting, 2011

No offers to host an Annual Meeting in 2011 were received. This will be discussed next year.

26. ELECTIONS AND ADVISORY COMMITTEE

Cristian Maquieira (Chile) and Anthony Liverpool (Antigua and Barbuda) were elected by consensus as the new Chair and Vice-Chair of the Commission respectively. The Commissioner for Portugal was elected onto the Advisory Committee for two years to replace the Commissioner for Costa Rica. The Advisory Committee now comprises the Chair (Chile), the Vice-Chair (Antigua and Barbuda), the Chair of the F&A Committee (Australia), the Commissioner for Côte d'Ivoire and the Commissioner for Portugal.

Ambassador Maquieira thanked the Commissioners for the great honour of being appointed as the new Chair. He considered the decision to be in recognition of the input by the Latin American region in the work of the IWC. He expressed his gratitude and appreciation to Bill Hogarth for his outstanding leadership. He noted that it was Bill Hogarth who told the Commission that it could not continue with the *status quo* - that it was not good for the IWC but particularly not good for whales. Bill Hogarth had also seen a way forward and with courage and determination he had put the Commission on the path to being an organisation that reflects the best of all its members on the basis of growing trust. He requested a round of applause for the outgoing Chair.

Ambassador Maquieira noted that the Commissioners not only represent their governments but also the hopes and aspirations of their respective populations regarding whale conservation and that the international community observes what the IWC does and how it protects whales. He suggested that while in the past, the IWC has been the cause of disappointment and regret he believed that the organisation had taken its first steps in a long journey towards bringing all its members together around a common vision. He considered that the task was enormous and the outcome by no means evident or certain. He stressed the need for trust among members, which he considered to be improving, and the conviction that while no-one will get all they want, the collective gain will make any resolution more palatable for all. Cristian Maquieira referred to the mandate he had been given regarding work on the future of the IWC and committed himself to work hard towards delivering an outcome. Finally, he reported his intention to review the practices and procedures of the Commission and to consult with others on how they might be improved and updated.

On behalf of his government and as the outgoing Vice-Chair of the Commission, Akira Nakamae thanked Bill Hogarth for his enormous contribution over the last three years, during which the 'normalisation' of the IWC had become more evident. He had been proud to assist as the Vice-Chair. Mr Nakamae noted that under Bill Hogarth's chairmanship, the atmosphere of the IWC's meetings had become much more pleasant and characterised by a will to reach decisions by consensus. Although agreement on IWC's future had not yet been reached, he believed that Bill Hogarth had established a way forward and he had

confidence that the new officers of the organisation would do their utmost to make progress. However, this would require the strong determination of all members. Finally, referring to the bottle of 'Mount Difficulty' wine given earlier to Bill Hogarth by the Commissioner for New Zealand, Japan wished to present a wine called 'Mount Compromise'.

27. 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.

28. OTHER MATTERS

Portugal noted that it was a great honour and privilege to have hosted the 61st Annual Meeting of the IWC. It had great respect for the IWC which despite its problems can claim a great success in its work. Portugal believed that if not for the IWC, the world would probably have fewer whale species in its oceans. It thanked all those involved in the organisation of the meeting and those who participated. Regardless of people's views on whaling, they would always be welcome in Portugal.

The USA echoed Portugal's thanks to those who organised the meeting. It also wished to formally thank the outgoing Chair for his service to the USA as its Commissioner to the IWC and for his role as Chair of the organisation. It believed that Bill Hogarth had been tireless in his efforts to secure the future and effectiveness of the IWC. The USA was indebted to him for his service through a number of different Presidents. It recognised his will to make a difference and his dedication to good governance and conservation which continued after he left the service of the USA Government. He had worked as USA Commissioner and the IWC Chair for three years giving his time, his intelligence, his goodwill and his unique dialect! The USA, under its new Administration, confirmed its continued support to working on the future of the organisation.

Bill Hogarth began his last address to the Commission with a series of thanks. He thanked the host government for providing a perfect venue and atmosphere for the meeting, which facilitated discussions, for excellent arrangements and a wonderful reception. He thanked Japan, who in its role as Vice-Chair had always been there to consult and give open opinions. They had worked well together on the Commission's business, particularly in relation to discussions on the IWC's future. He thanked the USA 'whale team', giving particular mention to Cheri McCarty who had provided great assistance to him in his role as Chair and to Doug Demaster, who stepped in as Acting Commissioner during his period as Chair. He thanked the US NGOs and expressed his respect for what they do and hoped that they would continue to play a constructive role in discussions. He thanked the interpreters, noting the challenge his Virginian accent gave them. And he thanked the staff of the Secretariat who he considered provide excellent support to all member governments despite their small number in relation to the size of the organisation.

Recalling the various comments and analogies made by others at times during the meeting, Bill Hogarth likened his experience in the IWC and work on its future to a train

ride, which, although rather bumpy was still moving forward. He believed there was a great opportunity for the train to pick up speed and reach its destination but cautioned that this will take deep soul-searching from everyone. He felt that hard decisions that were long overdue, had to be made. He noted that everyone will have to lose a little but that in the end it would be the whales that will win, which is as it should be. Bill Hogarth believed that no-one should lose their way of life and that a future for the IWC could be found so that in 2012, when the aboriginal subsistence quotas were up for renewal, the

Alaskan Eskimo hunters would not be held hostage as had been the case on a number of occasions in the past. Finally, and very importantly, he called for the development of a package that could be agreed next year of which everyone could be proud.

The meeting was closed at 16.40 on Thursday 26 June 2009.

29. AMENDMENTS TO THE SCHEDULE

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

Annex A

Delegates and Observers Attending the 61st Annual Meeting

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

Antigua and Barbuda

Anthony Liverpool (C)

Argentina

Javier Figueroa (C)

Miguel Iñiguez (AC)

Australia

Donna Petrachenko (C)

Peter Garrett (AC)

Andrew McNee (AC)

David Dutton (AC)

Nick Gales (AC)

Lesley Gidding (AC)

Pam Eiser

Nicola Beynon

Matt Levey

Ben Pratt (S)

Luke Williams (S)

Carmen Costa (S)

Austria

Andrea Nouak (C)

Ewald Jaeger (AC)

Michael Stachowitsch (AC)

Antje Helms (S)

Belgium

Alexandre de Lichtervelde (C)

Fábian Ritter (AC)

Judith Wouters

Benin

Joseph Ouake (C)

Catherine Hounkpe (AC)

Brazil

André Tenório Mourão (C)

José Truda Palazzo Jr. (AC)

Fabia de Oliveira Luna (AC)

Cambodia

Nao Thuok (AC)

Poum Sotha

Cameroon

Baba Malloum Ousman (C)

Etoga Galax Yves Landry

Chile

Cristian Maquieira (C)

José Fernández (AC)

Francisco Ponce

Antonio Barros

Barbara Galletti

Congo, Rep. of

Juste Kolelas (C)

Costa Rica

Jorge Rodriguez (C)

Eugenia Arguedas (AC)

Javier Rodríguez

Côte d'Ivoire

Djobo Anvra Jeanson (C)

Croatia

Ida Partl (C)

Željko Vukosav

Cyprus

Myroula Hadjichristophorou (C)

Czech Republic

Pavla Hýčová (C)

Lukáš Pokorný (AC)

Jan Kučera (AC)

Magdaléna Kalousová

Maria Marotta

Aikaterini-Zoi Varfis

Denmark

Øle Samsing (C)

Amalie Jessen (AC)

Maj Friis Munk (AC)

Kate Sanderson (AC)

Christen Krogh

Helga Jakobsen

Nette Levermann

Ecuador

Federico Meneses (C)

Estonia

Kadri Alasi (AC)

Finland

Esko Jaakkola (C)

Penina Blankett

France

Stéphane Louhaur (C)

Laurent Stefanini (AC)

Martine Bigan (AC)

Vincent Ridoux (S)

Gabon

Guy Anicet Rerambyath (C)

Gambia

Surwareh Jabai (C)

Yankuba Touray

Germany

Gert Lindemann (C)

Thomas Schmidt (AC)

Monika Roemerscheidt

Kora Betz

Andreas Von Gadow

Petra Deimer-Schütte

Grenada

Justin Rennie (AC)

Guinea, Republic of

Ibrahima Sory Toure (C)

Amadou Telivel Diallo (AC)

Raymond Ounouted

Abdellah Regragui (I)

Guinea-Bissau

Augusto Mamajam Jalo (AC)

Hungary

Zoltan Czirak (AC)

Iceland

Tomas H. Heidar (C)

Gisli Víkingsson

Kristjan Loftsson

India

Anmol Kumar (C)

Primrose Sharma

Ireland

John Fitzgerald (C)

Israel

Esther Efrat-Smilg (C)

Italy

Sabrina Di Nicola (AC)

Patrizia De Angelis (AC)

Caterina Fortuna (AC)

Riccardo Rigillo (AC)

Plinio Conte

Michele Alessi

Japan

Akira Nakamae (C)
 Jun Yamashita (AC)
 Joji Morishita (AC)
 Yutaka Aoki (AC)
 Tokuichiro Tamazawa
 Yoshimasa Hayashi
 Yousuke Tsuruho
 Akira Miwa
 Isao Tashiro
 Kazutaka Sangen
 Katsutoshi Mihara
 Takeshi Kamiyama
 Hiromi Isa
 Takashi Koya
 Toshinori Uoya
 Hideaki Okada
 Daisuke Kiryu
 Yoshihiro Fujise
 Yasuo Iino
 Kayo Ohmagari
 Gabriel Gomez Diaz
 Dan Goodman
 Mutsuo Goto
 Masato Hayashi
 Kazuhiko Kawano (S)
 Kanako Nozawa (S)
 Rei Kawagishi (I)
 Saemi Baba (I)
 Midori Ota (I)

Kiribati

Reteta Nikuata Rimon (C)

Republic of Korea

Chong-Guk Park (C)
 Il-Jeong Jeong (AC)
 Zang-Geun Kim (AC)
 Sang-Yoon Jung (AC)
 Jeongseok Park (AC)
 Hyun-Jin Park
 Doo-Gium Kim
 Young-Goan Kim
 Dong-Soo Kim
 Wan-Sig Shim
 Jong-Mu Kim
 Jin-Ah Noh (I)

Laos

Somphanh Chanphengxay (AC)

Luxembourg

Claude Origer (C)
 Pierre Gallego (AC)

Mali

Seydou Coulibaly (C)

Mauritania

Mamoudou Aliou Dia (C)

Mexico

Lorenzo Rojas-Bracho (C)
 Frizia Ortiz
 Yolanda Alaniz

Monaco

Frederic Briand (C)

Mongolia

Tserendash Damdin (C)
 Chimgee Tseyennyam (I)

Morocco

Abdelouahed Benabou (C)
 Med. Yassine Elaroussi (AC)

Nauru

Jarden Kephass (C)

Netherlands

Marie-Josée Jenniskens (C)
 Maaïke Moolhuijsen (AC)
 Peter Bos (AC)
 Mirko de Ponti (AC)
 Marianne Wuite (AC)
 Meike Scheidat (AC)
 Peter Reijnders (AC)

New Zealand

Geoffrey Palmer (C)
 Jan Henderson (AC)
 Gerard van Bohemen (AC)
 Michael Donoghue
 Ara Tai Rākena

Norway

Karsten Klepssvik (C)
 Einar Tallaksen (AC)
 Øle-David Stenseth (AC)
 Hild Ynnesdal
 Lars Walløe
 Egil Øen
 Jan Skjærvø (S)

Republic of Palau

Vic Uherbelau (C)
 Sandra Sumannng Pierantozzi (AC)

Panama

Gisela Rodriguez (C)
 Orlando Bernal (AC)

Peru

Doris Sotomayor (C)

Poland

Andrzej Kepel (C)

Portugal

Jorge Palmeirim (C)
 Edgar Afonso (AC)
 Frederico Cardigos
 Marina Sequeira
 Branca Martins da Cruz
 Luís Freitas
 Sara Santos (I)

Russian Federation

Valentin Ilyashenko (C)
 Igor Mikhno (AC)
 Rudolf Borodin
 Alexander Borodin (I)
 Vladimir Etylin (I)
 Gennady Zelenskiy (I)
 Valery Fedorov (S)

Saint Kitts and Nevis

Cedric Liburd (C)
 Daven Joseph (AC)

Saint Lucia

Jeannine Compton (C)

Saint Vincent and The Grenadines

Edwin Snagg (C)
 Raymond Ryan (AC)

San Marino

Dario Galassi (C)

Senegal

Moustapha Thiam (AC)

Slovenia

Janez Kastelic (C)

South Africa

Herman Oosthuizen (C)

Spain

Carmen Asencio (C)
 Javier Pantoja (AC)

Suriname

Jaswant Sahtoe (C)
 Dayanand Dwarka (AC)

Sweden

Bo Fernholm (C)
 Stellan F. Hamrin
 Ingela Sundelin
 Anna Roos

Switzerland

Bruno Mainini (C)
 Martin Krebs (AC)

Tanzania

Fatma Sobu

Togo

Kombiagou Kinam (AC)

Tuvalu

Panapasi Nelesone (C)
 Teniku Talesi

UK

Trevor Perfect (C)
 Huw Irranca-Davies (AC)
 Panayiota Apostolaki (AC)

James Gray (AC)
 Luke Warwick (AC)
 Douglas Kerr
 Sarah Archer
 Claire Bass
 Mark Simmonds
 Douglas Wilson
 Sarah Wardle (S)

USA

William Hogarth (C)
 Douglas DeMaster (AC)
 Roger Eckert (AC)
 Monica Medina (AC)
 Ryan Wulff
 Lisa Phelps
 Shannon Dionne
 Robert Brownell Jr.
 Keith Benes
 Cheri McCarty
 Allison Reed
 Harry Brower Jr.
 Keith Johnson
 DJ Schubert
 Rollie Schmitt (S)
 Michael Tillman (S)
 Scott Smullen (S)
 Amanda Hallberg (S)
 Eugene Brower (S)
 Edward Itta (S)
 Mike Gosliner (S)
 Doug Tedrick (S)
 Dave Whaley (S)
 Julia Hathaway (S)
 Anne Cooper (S)

Uruguay

Gastón Lasarte Burghi

INTERPRETERS

Youssef Benabdeljalil
 Mohammed Bennis
 Cynthia Diez Menk
 Schéhérazade Matallah-Salah
 Leticia Saenz

SCIENTIFIC COMMITTEE

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

NON-MEMBER GOVERNMENT OBSERVERS

Canada

Susan Waters

INTERGOVERNMENTAL ORGANISATION OBSERVERS

ACCOBAMS

Marie-Christine Grillo-Compulsione

CCAMLR

Evan Bloom

Permanent Commission for the South Pacific

Fernando Félix

European Community

Soledad Blanco
 Julius Langendorff
 Irene Plank

UNEP/CMS

Heidrun Frisch

NON-GOVERNMENTAL ORGANISATION OBSERVERS

Alaska Eskimo Whaling Commission

George Noongwook
 Eugene Brower
 Elsie Itta
 Flora Brower
 Dave Harding
 Jessica Lefevre
 Earl Comstock
 Karla Kolash
 Cheryl Rosa
 Robert Suydam
 Al Adams
 Janice Meadows

All Japan Seamen's Union

Kenji Takahashi
 Nagaoki Okamoto
 Hideo Kon (I)

American Cetacean Society

Katherine Sardi

Animal Welfare Institute

Susan Millward
 Laura Rojas (I)

Antarctic and Southern Ocean Coalition

Sidney Holt

Association of Traditional Marine Mammal Hunters of Chukotka

Gennady Inankeuyas
 Eduard Zdor

Beneficiaries of the Sea Coalition

Naoya Tanikawa
 Michiko Ichizaki

Biodiversity Action Network East Asia (BANEAS)

Ayako Okubo
 Atsushi Ishii

BlueVoice.org

Hardy Jones
 Deborah Cutting
 Sakae-Hemme-Fujiwara (I)

Campaign Whale

Andy Ottaway

Canadian Marine Environment Protection Society

Ericka Ceballos

Centro de Conservacion Cetacea

Elsa Cabrera
 Rodrigo García (I)

Cetacean Society International

Heather Rockwell
 Barbara Kilpatrick
 Jessica Dickens

Club de Jovenes Ambientalistas

Rafael Estrada Reyes

Comite Ballena Azul

Yanina Luna

Concepesca

Miguel Marengo

Cousteau Society

Clark Lee S. Merriam
 Noemie Stroh

Dolphin and Whale Action Network

Nanami Kurasawa

Earth Island Institute

Mark Palmer

Eastern Caribbean Coalition for Environmental Awareness (ECCEA)

Lesley Suttly
 Mona George Dill

Environmental Investigation Agency

Jennifer Lonsdale
 Clare Perry
 Samuel LeBudde
 Caroline Pott

European Bureau for Conservation & Development

Despina Symons

Exxon Mobil Corporation

Bruce Tackett
 Gary Isaksen

Fundacion Cethus

Vanessa Tossenburger

Global Guardian Trust

Toshikazu Miyamoto

Global Ocean

Melanie Salmon

Greenpeace InternationalSara Holden
John Frizell
Milko Schwartzman
Karen Sack
Reece Turner
Phil Kline
Junichi Sato**Guatemalan Association of Marine Biology (ABIMA)**

Lucia Gutiérrez

Humane Society InternationalPatricia Forkan
Kitty Block
Bernard Unti**Instituto de Conservacion de Ballenas**

Roxana Aida Schateinbarg

International Fund for Animal WelfarePatrick Ramage
Naoko Funahashi
Francisco Gonçalves
Vassili Papastavrou
Arni Finnson**International Transport Workers' Federation**

Akihiro Kitajima

IWMC World Conservation TrustEugene Lapointe
Helene Lapointe (I)**Irish Seal Sanctuary**

Brendan Price

Japan Fisheries Association

Jay Hastings

Japan Small-Type Whaling Association

Chikao Kimura

Japan Whaling AssociationMakoto Ito
Ichiro Wada
Konomu Kubo
Hirohiko Shimizu
Yoshihiro Tagaki
Glenn Inwood
Seiji Ohsumi
Shinichiro Yamamoto
Matsushi Seto
Hayato Sakurai
Kiyoshi Ejima
Yukihiro Hamada**Natural Resources Defense Council**

Taryn Kiekow

NOAHSiri Martinsen
Permillie Lund Hoel**Norwegian Society for Protection of Animals**Linda Rognli
Tanya Schumacher (I)**OceanCare**

Sigrid Lueber

Pew Environment GroupLeslie Busby
Sue Miller Taei
Tiare Holm**Pro Wildlife**

Sandra Altherr

Society for the Conservation of Marine Mammals, Danish Section

Birgith Sloth

Species Management SpecialistsRobert Jenkins
Michael Iliff**Te Ohu Kaimoana**Peter Douglas
Ngahiwi Tomoana
Mere Tomoana**Uruguayan Cetacean Conservation Organisation (OCC)**

Rodrigo García Pingaro

Varda GroupRemi Parmentier
Duncan Currie
Kelly Rigg**Werkgroep Zeehond**

Geert Drieman

Whale and Dolphin Conservation SocietySue Fisher
Niki Entrup
Laura Doehring
Tommy Schweiger (I)**Whaleman International Ltd**Jeff Pantukhoff
Anne Luskey**Whales Alive**

Mick McIntyre

Windstar

Nancy Azzam

Women's Forum for FishHyojung Choi
Yasuko Shimomichi**World Society for the Protection of Animals**Emily Reeves
Liesel Jones
Joanna Toole
Marcela Vargas
Brigitte Scheffer (I)**WWF International**Sue Lieberman
Wendy Elliott
Birim Fall
Mamadou Diallo (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 60th Annual Meeting, Section 4*)
 - 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 - bowhead, right and gray 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 60th Annual Meeting, Section 5*)
 - 4.1 Report of the Working Group on Whale Killing Methods and Associated Welfare Issues
 - 4.2 Commission discussion and action arising
5. ABORIGINAL SUBSISTENCE WHALING
(*Chair's Report of the 60th Annual Meeting, Section 6*)
 - 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 a proposal to amend the Schedule
 - 5.4 Other
6. REVISED MANAGEMENT SCHEME (RMS)
(*Chair's Report of the 60th Annual Meeting, Section 7*)
 - 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 Other
7. SANCTUARIES
(*Chair's Report of the 60th Annual Meeting, Section 8*)
 - 7.1 Issues raised in the Scientific and Conservation Committees
 - 7.1.1 Report of the Scientific Committee
 - 7.1.2 Report of the Conservation Committee
 - 7.1.3 Commission discussion and action arising
 - 7.2 South Atlantic Whale Sanctuary
8. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING
(*Chair's Report of the 60th Annual Meeting, Section 9*)
 - 8.1 Commission discussion and action arising
9. SCIENTIFIC PERMITS
(*Chair's Report of the 60th Annual Meeting, Section 10*)
 - 9.1 Report of the Scientific Committee
 - 9.1.1 Review of results from existing permits
 - 9.1.2 Review of new or continuing proposals
 - 9.1.3 Improving procedures for reviewing scientific permit proposals
 - 9.1.4 Other
 - 9.2 Commission discussion and action arising
10. SAFETY ISSUES AT SEA
(*Chair's Report of the 60th 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 60th Annual Meeting, Section 12*)
 - 11.1 Workshop on Climate Change
 - 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 issues
 - 11.3.1 Report of the Scientific Committee
 - Report from the POLLUTION 2000+ Phase II Planning Workshop
 - State of the Cetacean Environment (SOCER)

- Cetacean Emerging and Resurging Disease (CERD)
 - Marine renewable energy
 - 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 60th Annual Meeting, Section 13*)
- 12.1 Report of the Scientific Committee
- 12.2 Report of the Conservation Committee
- 12.3 Commission discussion and action arising
13. CO-OPERATION WITH OTHER ORGANISATIONS
(*Chair's Report of the 60th 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 60th 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 Regional non-lethal research partnerships
- 14.2.1 Report of the Scientific Committee
- 14.2.2 Commission discussion and action arising
- 14.3 Other activities
- 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
15. CONSERVATION COMMITTEE
(*Chair's Report of the 60th Annual Meeting, Section 16*)
- 15.1 Report of the Conservation Committee
- 15.2 Commission discussion and action arising
16. CATCHES BY NON-MEMBER NATIONS
(*Chair's Report of the 60th Annual Meeting, Section 17*)
- 16.1 Commission discussion and action arising
17. INFRACTIONS, 2008 SEASON
(*Chair's Report of the 60th Annual Meeting, Section 18*)
- 17.1 Report of the Infractions Sub-committee
- 17.2 Commission discussion and action arising
18. THE IWC IN THE FUTURE
(*Chair's Report of the 60th Annual Meeting, Section 3*)
19. ADMINISTRATIVE MATTERS
(*Chair's Report of the 60th Annual Meeting, Section 20*)
- 19.1 Annual Meeting arrangements and procedures
- 19.1.1 Report of the Finance and Administration Committee
- 19.1.2 Commission discussion and action arising
- 19.2 Website
- 19.2.1 Report of the Finance and Administration Committee
- 19.2.2 Commission discussion and action arising
- 19.3 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
- 19.3.1 Report of the Finance and Administration Committee
- 19.3.2 Commission discussion and action arising
- 19.4 Carbon-neutral study
- 19.4.1 Report of the Finance and Administration Committee
- 19.4.2 Commission discussion and action arising
20. FINANCIAL ASSISTANCE FOR DEVELOPING COUNTRY MEMBERS
- 20.1 Report of the Finance and Administration Committee
- 20.2 Commission discussion and action arising
21. FORMULA FOR CALCULATING CONTRIBUTIONS AND RELATED MATTERS
(*Chair's Report of the 60th Annual Meeting, Section 21*)
- 21.1 Report of the Finance and Administration Committee
- 21.2 Commission discussion and action arising
22. FINANCIAL STATEMENTS AND BUDGETS AND OTHER MATTERS CONSIDERED BY THE BUDGETARY SUB-COMMITTEE
(*Chair's Report of the 60th Annual Meeting, Section 22*)
- 22.1 Review of the provisional financial statement, 2008/2009
- 22.1.1 Report of the Finance and Administration Committee
- 22.1.2 Commission discussion and action arising
- 22.2 Secretariat offices
- 22.2.1 Report of the Finance and Administration Committee
- 22.2.2 Commission discussion and action arising
- 22.3 Consideration of estimated budgets, 2009/2010 and 2010/2011
- 22.3.1 Report of the Finance and Administration Committee
- 22.3.2 Commission discussion and action arising
23. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE
24. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS
25. ELECTION OF CHAIR AND VICE CHAIR
26. ADVISORY COMMITTEE
27. SUMMARY OF DECISIONS AND REQUIRED ACTIONS
28. OTHER MATTERS

Annex C

List of Documents

IWC/61/		Agenda item
1	List of documents	
2	Annotated Provisional Agenda ¹	
3	List of delegates	
4 rev	Co-operation with other organisations	13
5 rev	Financial statements	22
6	Report of the Small Working Group (SWG) on the Future of the International Whaling Commission	18
7 rev	Chair's Report of the Intersessional Meeting of the Commission on the Future of IWC	18
8 rev	Australian comment on the Intersessional Correspondence Group on Issues Relating to the Scientific Committee	18
9	Addressing Special Permit Whaling and the Future of the IWC (submitted by Australia)	18
10 rev	Consensus resolution on the extension of Small Working Group on the Future of the IWC until the 62 nd Annual Meeting of the Commission ¹	18
11 rev	Proposed Schedule Amendment (Greenland catch limits) submitted by Denmark ¹	5.3.2
12	Background information in relation to the schedule amendment IWC/61/11 on the request of 10 humpback whales off West Greenland (submitted by Denmark)	5.3.2
13	The Southern Ocean Research Partnership Workshop: summary of outcomes (submitted by Australia)	14.2
14	Whale Watching Worldwide. Executive Summary (submitted by Australia)	12
15	Catches by IWC member nations in the 2008 and 2008/9 seasons (prepared by the Secretariat)	-
16	Consensus Resolution on Climate and Other Environmental Changes and Cetaceans (submitted by the USA and Norway)	11.1.2
17	Draft Terms of Reference for the joint Scientific and Finance and Administration working group on Scientific Committee matters	19.2
18	Cetaceans and Other Marine Biodiversity of the Eastern Tropical Pacific: Options for Adapting to Climate Change (submitted by the Government of Costa Rica)	11.1.2
19	Greenpeace letter regarding <i>Rainbow Warrior</i> (submitted by New Zealand)	10

Documents submitted to earlier meetings

IWC/M09/		Agenda item
5	Report of the Intersessional Correspondence Group on Scientific Committee Issues	18

Reports from Commission sub-groups

IWC/61/Rep		Agenda item
1	Report of the Scientific Committee	-
2	Report of the Finance and Administration Committee	19-23
3	Report of the Aboriginal Subsistence Whaling Sub-Committee	5
4	Report of the Infractions Sub-committee	17
5	Report of the Conservation Committee	15
6	Report of the Working Group on Whale Killing Methods and Associated Welfare Issues	4

Summary documents available in French and Spanish

IWC/61/Rep		Agenda item
1-FR; 1-SP	Unofficial summary of IWC/61/Rep 1 (Report of the Scientific Committee)	-
2-FR; 2-SP	Unofficial Chair's summary of IWC/61/Rep 2 (Report of the Finance and Administration Committee)	19-23
3-FR; 3-SP	Unofficial Chair's summary of IWC/61/Rep 3 (Report of the Aboriginal Subsistence Whaling Sub-Committee)	5
4-FR; 4-SP	Unofficial Chair's summary of IWC/61/Rep 4 (Report of the Infractions Sub-committee)	17
5-FR; 5-SP	Unofficial Chair's summary of IWC/61/Rep 5 (Report of the Conservation Committee)	15
6-FR; 6-SP	Unofficial Chair's summary of IWC/59/Rep 6 (Report of the Working Group on Whale Killing Methods and Associated Welfare Issues)	4

¹ Available in French and Spanish.

Opening statements - Member Governments

IWC/61/OS
Argentina, Brazil, Chile, Costa Rica, Ecuador, Mexico, Panama, Peru and Uruguay
Australia
Austria
Cambodia
Czech Republic
Denmark
Ecuador
India
Japan
New Zealand
Poland
Republic of Korea
UK
USA

Opening statements - Intergovernmental organisations

IWC/61/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
NAMMCO	North Atlantic Marine Mammal Commission

Opening statements - Non-governmental organisations

IWC/61/OS	
ACS	American Cetacean Society
AWI	Animal Welfare Institute
CCC	Centro De Conservación Cetacea
CMEPS	Canadian Marine Environment Protection Society
CS	Cousteau Society
CSI	Cetacean Society International
CW	Campaign Whale
GGT	Global Guardian Trust
GP	Greenpeace
HSI	Humane Society International
ICB	Instituto de Conservación de Ballenas
ISS	Irish Seal Sanctuary
IWMC	IWMC World Conservation Trust
JFA	Japan Fisheries Association
JSTWA	Japan Small-Type Whaling Association
JSU	All Japan Seamen's Union
NRDC	Natural Resources Defense Council
OC	Ocean Care
PEG	Pew Environment Group
SMS	Species Management Specialists Inc.
WWF	WWF International

Annex D

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

FAO Headquarters, Rome, 9-11 March 2009

1. INTRODUCTORY ITEMS

The meeting was held at the Headquarters of the Food and Agriculture Organisation of the United Nations (FAO) in Rome, Italy from 9-11 March 2009. A list of participants is given as Appendix 1. 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 thanked the Government of Italy for hosting the meeting and FAO for making its facilities available.

The Chair was encouraged to see so many Contracting Governments in attendance and believed this illustrated how seriously members are taking the process to address the future of the IWC and the conservation and management of whales. He recalled that this process began in earnest at the Annual Meeting in 2007 when the Commission agreed to hold an intersessional meeting in March 2008. The Chair believed that considerable progress had been made since that meeting – progress that would not have been possible a few years ago.

The Chair noted that the March 2008 intersessional meeting in Heathrow, London had focused on procedural issues and on ways to improve negotiations within the IWC. By doing this, it was hoped that negotiations on substantive matters would have a greater chance of succeeding. The Chair believed that the Heathrow meeting was successful, both in recommending ways to improve procedures - quite a few of which were agreed by consensus at the 2008 Annual Meeting in Santiago, Chile - and in changing the atmosphere in which discussions are conducted.

Having tackled some of the most pressing procedural issues in Santiago, the Chair noted that the Commission then turned its attention to the substantive issues that have polarised the organisation. It identified 33 elements/issues of importance to the future of IWC and established the Small Working Group (SWG) to assist the Commission *'to arrive at a consensus solution to these issues to enable it to best fulfil its role with respect to the conservation of whale stocks and the management of whaling'*. He further noted that it has been recognised for some time that the solution to IWC's problems lay in the development of a package of measures involving compromises on all sides and that the SWG's primary task has been to make every effort to develop a package or packages for review by the Commission. The Chair was pleased that Ambassador Alvaro de Soto, one of the outside experts invited to the 2008 intersessional and annual meetings, had been prepared to chair the SWG and thanked him and the SWG members for their hard work and commitment over the past

months. Noting that tackling the procedural issues is easy compared with the substantive issues, given the strongly-held views held on both sides of the whaling debate, the Chair expressed his hope that even with these difficulties, the Commission's discussions would continue in a positive and cordial manner.

The Chair stressed the need to consider what is at stake if IWC failed to resolve its problems and drew attention to the Preamble to the 'suggestions' that he had put forward, together with Ambassador de Soto, in document IWC/M09/4 on the future of IWC, i.e. *'The future course of the IWC needs to be defined by broad agreement; failure to do so could compromise not only the conservation status of whale populations but also the continued relevance and credibility of the Commission as an effective global conservation and management body at a time when there is a growing need for enhanced international cooperation'*. He referred to the negative reactions reported in the press of some to these 'suggestions'. He had not been surprised by such reports given the strength of feeling on this issue and noted the importance of communicating clearly to the public about what the Commission is trying to do. He suggested that perhaps more attention should be given to this matter in future.

Finally, the Chair ended his introductory remarks by noting that the meeting's primary objective is to review the outcome of the SWG's work so far and the 'Chairs' suggestions on the future of IWC', and on the basis of discussions to direct the SWG's further work prior to the Annual Meeting in Madeira in June 2009.

1.2 Management and reporting

The Chair reported that Ambassador Alvaro de Soto, Chair of the SWG, would have speaking rights during the meeting in a similar manner to the Chair of the Scientific Committee. He noted that in the same way as was done at last year's Annual Meeting, there would be a NGO session on the second day during which up to six NGOs broadly representing the range of views could address the meeting for up to five minutes each. 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 requested IGOs to let him know in advance if they wished to speak and under which item.

With respect to reporting, the Chair noted that he would prepare a Chair's report summarising the main discussions and outcomes of the meeting that would be circulated to all Contracting Governments and made publicly available as soon as possible after the meeting. He noted that a press release would be released immediately after the meeting

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

With respect to confidentiality, the Chair initially gave instructions that discussions at the meeting should be treated as confidential by both delegates and observers until the report of the meeting had been sent to all members of the Commission. This was later modified to maintaining confidentiality until the end of the meeting.

1.3 Review of documents

The list of documents available to the meeting is given as Appendix 2.

2. ADOPTION OF AGENDA

The Chair drew attention to the draft agenda. Japan requested that it be allowed, under 'Other Matters' to give a short presentation regarding the harassment of its research vessels by the Sea Shepherd Conservation Society during its research activities this austral Summer. The Commission agreed.

The adopted agenda is given as Appendix 3.

3. REPORT OF THE SMALL WORKING GROUP ON THE FUTURE OF IWC

3.1 Presentation of the SWG Chair's Report

The SWG Chair presented his report on the SWG (Document IWC/M09/4) which included suggestions on the future of IWC that he had developed together with the IWC Chair, i.e. the 'Chairs' suggestions'. (These suggestions have been extracted from the report and are included in this document as Appendix 4).

The SWG Chair reported that the group had met twice, once in Florida, USA in September 2008 and again in Cambridge, UK in December 2008. He reported that at its first meeting, the SWG recognised that the size of the group (26 countries) and the number of elements/issues that the Commission had identified as important for its future (i.e. 33 elements/issues) could hamper its ability to efficiently discharge its primary task of developing 'a package or packages for review by the Commission' in order to assist it 'to arrive at a consensus solution to the main issues it faces,' particularly having regard to the limited time available for the SWG to complete its work. To rationalise its work, the SWG had therefore agreed, on the understanding that 'nothing is agreed until everything is agreed', to allocate the 33 elements/issues into the following two categories:

- (a) controversial issues that need to be addressed in the short term, i.e. those that if not addressed in the short term may fail to alter the *status quo* or even result in an irreparable break in the system via the withdrawal of governments from the Convention; and
- (b) issues which are non controversial or less controversial and which, if left unresolved, would not prevent a package being agreed concerning category (a), *provided* that a mechanism exists or can be established to address them. These are primarily but not exclusively scientific and administrative issues.

The SWG Chair stressed that the breakdown into Category (a) and (b) issues (see Table 1) does not imply that the

SWG believed that some elements/issues are more important than others, nor that the breakdown be so rigidly interpreted as to mean that issues under one category could be raised when considering the other. Rather that the division should be understood primarily as a methodological step without which the SWG's work might have proved quite unwieldy.

On the basis of the categorisation agreed and the identification of the main issues that should be addressed, views were put forward at the Florida meeting on the elements that could be included (and how they might be combined) in a hypothetical core package or packages concerning the future of the IWC. This was discussed further during the SWG's second meeting in Cambridge, when a first attempt was made to reflect in writing the outlines of a package for consideration by the Commission as a whole. The SWG Chair reported that as a result of subsequent consultations and comments from the group's members, the 'Chairs' Suggestions on the Future of the International Whaling Commission' had been developed (see Appendix 4). He stressed that the suggestions are the sole responsibility of himself and the Chair of the Commission. He also stressed that they are not a final proposal for action by IWC but rather a snapshot of a work in progress, for consideration by the intersessional meeting, which he and Bill Hogarth believe pointed in the direction of what might be an overall solution to the core issues. The SWG Chair indicated that both he and the Chair of the Commission were aware of the many concerns that had arisen following the release of their 'suggestions' and that they recognised the need to provide more clarity prior to the Annual Meeting in Madeira. Of the issues allocated to Category (a), the SWG Chair reported that it has proven particularly difficult to identify a single way forward regarding three issues (i.e. Japanese small-type coastal whaling¹, special permit whaling and sanctuaries), that it is recognised that agreement on these issues is inter-related and that it will not be possible to reach agreement on coastal whaling without agreement on research whaling under special permit and *vice versa*. He further noted that the question of where regulations would apply – i.e. sanctuaries – cuts across both. He therefore believed that the only possibility is to consider these three issues as a 'core' or 'micro' package.

The SWG Chair believed that the SWG agreed that realistic solutions to IWC's problems, given the complexity of the numerous political, administrative and scientific issues to be addressed, cannot be achieved overnight. For this reason a two-stage approach to their resolution was being proposed. The first stage consists of short-term solutions which, it is hoped, the Commission could agree on no later than June 2009, which would last for a 5-year 'interim' period. The SWG Chair explained that during the interim period, long-term solutions relating to the governance and future functioning of the IWC are to be developed to be put in place at the end of the interim period, when the second stage begins. These would

¹The SWG clarified that in the Chairs' suggestions, Japanese Small Type Coastal Whaling refers to whaling activities that would be carried out within Japan's EEZ (this is implied by the fact that only day-trips would be allowed) and is consistent with how the phrase 'small-type coastal whaling' has been used in Commission discussions in recent years. It is not intended to be confused with the term 'small type whaling' introduced into the Schedule some time ago (where it refers to catching operations of small cetaceans, i.e. minke, bottlenose, beaked, pilot or killer whales).

Table 1
Allocation of the 33 elements/issues into Category (a) and (b).

Element	Category (a) issues	Element	Category (b) issues
2.	Animal welfare	1.	Advisory/Standing Committee or Bureau – need for
3.	Bycatch and infractions	2.	Animal welfare
6.	Coastal whaling (i.e. within EEZ)	3.	Bycatch and infractions
7.	Commercial whaling moratorium	4.	Climate change
8. and 26	Compliance and monitoring + sanctions (element 26)	5.	Civil society (involvement of)
11.	Convention (purpose of)	9.	Conservation Committee
21.	Objections and reservations	10.	Conservation management plans
23.	Research under special permit	12.	Co-operative non-lethal research programmes
24.	Revised Management Procedure (RMP)	13.	Data provision
25.	Revised Management Scheme (RMS)	14.	Developments in ocean governance
27.	Sanctuaries	15.	Ecosystem-based approach to management
30.	Small cetaceans	16.	Environmental threats to cetaceans
33.	Whalewatching/non-lethal use	17.	Ethics
		18.	Financial contribution scheme
		19.	Frequency of meetings
		20.	Marine Protected Areas (MPAs)
		22.	Procedural issues – improvements to
		28.	Science – role of science and functioning of Scientific Committee
		29.	Secretariat – implications for role of/expertise
		31.	Socio-economic implications
		32.	Trade restrictions

incorporate well-developed policies as well as full testing of management protocols using computer simulations following approaches pioneered by the Scientific Committee.

3.2 Discussion

3.2.1 The Chairs' Suggestions on the Future of the IWC

The Chair indicated that he intended to structure the discussions by first taking questions for clarification, then taking comments regarding whether the 'Chairs' suggestions' are 'on the right track' and then allowing discussion on the elements/issues themselves within the 'suggestions'.

POINTS OF CLARIFICATION

Spain drew attention to the suggestions under element 23 on Research Under Special Permit. It noted that two options were proposed and that while Japan's research programme in the North Pacific (JARPN II) is mentioned in Option 2, there is no mention of it in Option 1. It sought clarification on whether this was intended. The Chair confirmed that this was the case.

WHETHER THE SUGGESTIONS ARE 'ON THE RIGHT TRACK'

Australia welcomed the constructive spirit of discussions on IWC's future in both the SWG and the Commission. While noting the long-held positions of principle, experience and practice among members, it wanted to work with others to find a way forward. Australia thanked the IWC and SWG Chairs' for their suggestions, commenting that for the first time in many years, it appeared that progress might be possible. It saw this as a very welcome development. It identified four elements that it believed were key to underpinning progress.

Firstly, Australia believed that the principle in the Chairs' Suggestions for the Commission to first agree an initial package of measures, while launching further discussions to resolve other issues in that period was a good one, but called for flexibility on the length of the initial period. In particular, it saw no clarity regarding how special permit whaling would be treated in such an arrangement and that as yet, there had not been any discussion on the specific mechanism that would be

established in an interim period or the commitments that members would need to make. Australia believed that these matters needed to be elaborated in detail as a basis for discussions at the 2009 Annual Meeting.

Secondly, Australia re-iterated the need for any package to set the direction for modernisation of the Commission's work to bring it into the 21st century. It believed that the Category (b) issues and the role of science in the Commission are fundamental in this respect. It noted that many important conservation issues were included in Category (b) because they could conceivably be addressed in the Commission's normal work. However, Australia stressed its view that any package must contain a genuine commitment to resolve Category (b) matters and an agreement to reform the role of science in the Commission.

Thirdly, Australia believed that a package could only be achieved when a solution is found to unilateral special permit whaling. It was disappointed that the Chairs' Suggestions indicate that a reduction might be sufficient in an interim package and that discussions on real solutions could be left to an interim period. While Australia would welcome any reduction in the scale of special permit whaling, it considered that such measures do nothing to resolve the fundamental difference in views about the legitimacy of such activities under the banner of Article VIII of the Convention. For Australia to join any package, it stressed that such a package would need to contain hard commitments for unilateral special permit programmes to be brought to an end. It noted that while several proposals on how the Commission might better regulate the use of Article VIII, including by Australia, had been made, the SWG had yet to explore them.

Fourthly Australia indicated that it had sought to understand the Chairs' Suggestions regarding Japanese Small-Type Whaling in a spirit of trying to find a way forward and in recognition of its importance to other parties. It noted that important questions, still to be addressed, had been raised in the SWG regarding the justification for the proposed activity, its potential commerciality, its relationship to the moratorium, its potential to set a precedent and the rules under which it would be conducted.

Finally Australia noted that considerable further work remains over the following two months if there is to be a final report that contains a concrete package or packages that the Commission might be able to endorse in Madeira at IWC/61. However, it re-iterated its commitment to making progress and hoped that it would be possible to achieve consensus in Madeira.

Brazil acknowledged the strenuous efforts of the IWC and SWG Chairs in trying to develop a suite of options that could move IWC forward, offering actual gains for conservation and recognising specific needs of coastal communities without compromising basic principles of Contracting Governments in relation to the Convention or to the rights of individual States. It therefore welcomed the Chairs' Suggestions as a timely attempt to begin to codify and resolve some of the basic issues with which the Commission has struggled over the last few years. Brazil noted that like other participants in the process, it has strived to be flexible towards achieving an outcome that would be acceptable to most members. It therefore welcomed the possibility of fully accepting whalewatching as a legitimate management option and to be treated as regular business of the Commission. Brazil was also willing to accept, pending the opinion of other co-sponsors, the establishment of the South Atlantic Whale Sanctuary for an initial five-year period. Although it recognised that the need for a re-authorisation of the Sanctuary after that period is unusual and charged with political risk, it was willing to accept this in the spirit of compromise.

Brazil expressed concern regarding how an agreeable solution to whaling under Special Permit, perhaps the most contentious issue, could be found. It understood that Japan, and possibly other Contracting Governments, intends to retain its treaty rights regarding Article VIII but expressed a willingness to continue to work with Japan and others to find a solution that, while retaining such rights, at least in the short-term, would have enough negotiated elements to compel them to refrain from the use of such rights at their own will. Recognising that this would entail a great deal of mutual trust, but a potentially viable avenue to explore, Brazil indicated that for it to agree to such an arrangement, ways must be found to phase-out pelagic whaling in international waters, or at the very least in the Southern Ocean, under any name or category of whaling.

Noting that the process underway is based on mutual trust, Brazil believed that for the process to work, there must be certainty that Contracting Governments will strive to find solutions that are of great interest to their own people while not infringing upon, or being seen to infringe upon, other nations' management systems or resource uses, either realised or potential. It considered that the Southern Hemisphere holds the greatest potential for the non-lethal management of cetaceans that directly benefit, in a much-needed way, coastal communities in developing countries. Brazil considered that the continuation of large-scale whaling by countries far detached from its region sends the wrong message regarding the accommodation of interests and the respect for its different views and means of appropriating whale resources sustainably. It therefore looked forward to working with Japan and others to find a way to end whaling in the Southern Hemisphere and to bring all other remaining whaling under the control of IWC.

Finally Brazil suggested that for the process underway to succeed, IWC must address and remove the current

reasons for tension and distrust. It believed that the escalation of unregulated whaling and the recent resumption of international trade in whale products badly damage the process. Brazil urged those governments concerned to rethink their options and to work with all members towards achieving common ground.

The Czech Republic reported that a new Council Decision had been adopted on 2 March 2009 establishing the position to be adopted on behalf of the European Community at the next three annual meetings and related intersessional meetings of IWC with regard to proposals for amendments to the International Convention on the Regulation of Whaling and its Schedule. It informed the meeting that, as current holder of the Presidency to the Council of the European Union (EU), it would be speaking on behalf of EU countries according to the common position given below.

- (1) The overarching objective of the European Community in relation to the IWC is to ensure an effective international regulatory framework for the conservation and management of whales guaranteeing a significant improvement in the conservation status of whales in the long term and bringing all whaling operations under IWC control.
- (2) The Member States acting jointly in the interest of the Community shall take the following position on proposals for decisions by the IWC at its next three annual meetings and the related inter-sessional meetings:
 - (a) support the maintenance of the moratorium on commercial whaling in the Schedule;
 - (b) oppose any proposals regarding new types of whaling, currently not envisaged in the Convention, unless such proposals involve only local consumption and foresee a role for scientific advice by the IWC, while at the same time guaranteeing a significant improvement in the conservation status of whales in the long term and bringing all whaling operations by IWC members under IWC control;
 - (c) support proposals for the creation of whale sanctuaries according to the IWC rules;
 - (d) support proposals for the management of aboriginal subsistence whaling, on the condition that the conservation of the 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 all whaling catches remain sustainable within the scope of subsistence needs for local use; and
 - (e) support proposals aimed to end the conduct of 'scientific whaling' outside IWC control.

Noting the remarks of the Czech Republic, Denmark clarified its situation in relation to that common position. It indicated 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 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.

New Zealand noted that its position on whaling is well known and has not changed. Regarding the process to resolve IWC's future, New Zealand celebrated the progress made under the IWC and SWG Chairs, noting like others that these meetings now have a better tone and better atmosphere than in the past. It considered that IWC had embarked on settling disputes by diplomacy, but suggested that while negotiations are being conducted openly, in good faith, and without rancour, it should be borne in mind that failure is a possibility. New Zealand reported that the Chairs' Suggestions do not reflect its position. It further reported that its Government had not yet taken a position on individual elements of the paper and would not do so until negotiations are complete and until there is clarity on the proposals. It was not committed to the view that the issues highlighted in Chairs' Suggestions are the only ones deserving of attention. New Zealand believed that the salvation of IWC will lie in finding solutions to the longer-term issues, and in particular to a successful conclusion to a process that will address and resolve issues around: the long term purpose of the IWC; Special Permit whaling (i.e. preferably the removal of Article VIII from the Convention or at the very least being brought under international control); whaling under reservation or objection (which it considers to be inconsistent with sound resource management objectives); and methods of dispute settlement. New Zealand recognised that these issues are difficult and that they may require some years of negotiation to resolve. However it believed that a start must be made at Madeira or soon thereafter.

New Zealand went on to comment on the four issues identified in the Chairs' Suggestions for immediate attention. It noted that it is not persuaded that there is a case for recognition by the Commission of Small Type Coastal Whaling and it remained concerned about the sustainability of such an activity in the coastal waters of Japan given the uncertainties surrounding stock structures in those waters, the state of 'J' stock minke whales and the degree of mixing with 'O' stock animals off the coast of Japan, and the levels of bycatch. However, it was aware that many of the whales that would be caught by small type coastal whaling are already being caught under Japan's North Pacific Research programme (JARPN II) and it was prepared to continue to explore this option as part of the continuation of the SWG's work, although it called for greater clarity around the science that relates to this form of whaling. New Zealand indicated that Special Permit whaling is the key issue and that without progress on this issue, there could be no successful outcome to the SWG process. It sought an end to all Special Permit whaling as soon as possible, especially in the Southern Ocean but accepted that a phased approach may be needed to achieve this end. However, it could not accept a capping of numbers with no commitment to a process for further reductions.

New Zealand strongly supported the establishment of the South Atlantic Whale Sanctuary and applauded the Latin American countries for the forbearance they have shown in being willing to see this established for an initial period of five years. It noted that it has long been a supporter of the non-lethal uses of whales and in particular of whalewatching and was pleased that part of the initial package proposed by the Chairs includes recognition of these important activities. Finally New Zealand noted that while the SWG has made good progress to date, it was

clear that it has more to do if a successful outcome is to be achieved at Madeira.

Mexico noted its commitment to developing a package of measures that would modernise IWC and indicated that in its view, whaling under Special Permit is the most important issue around which the others revolve. It believed strongly that research whaling should be under IWC control and only done in exceptional cases. Mexico expressed concern over the proposals on Japanese Small-Type Coastal Whaling, particularly with respect to potential risks to 'J' stock minke whales and noted that for this issue and whaling under Special Permit, more clarity is needed on what is being requested of the Scientific Committee in terms of the provision of advice. It questioned whether five years will be sufficient time to develop long-term solutions relating to the governance and future functioning of the IWC.

Like Mexico, Costa Rica also called for modernisation of the IWC and supported the creation of the South Atlantic Sanctuary and formal recognition of IWC's role in whalewatching/non-lethal use. It did not support the lethal use of whales, including whaling under Special Permit or trade in whale products but did agree that any package(s) must: provide for the long-term sustainability of stocks based on best available science; provide for the recovery of depleted or endangered stocks based on the best available science; be balanced; and provide procedures for reviewing and where necessary improving governance practices within the IWC. Costa Rica believed that more detail needed to be developed on the proposals and noted its willingness to continue as an SWG member.

The UK believed that the Commission's discussions had moved some distance since the 2007 and 2008 meetings and expressed satisfaction that discussions are moving in a not un-sensible direction. However, it felt that the package of measures proposed by the Chairs' raised fundamental questions and that considerably more work is required on them. The UK noted its commitment to finding a way forward while recognising the inherent pain in making compromise. It expressed a number of concerns regarding the proposal on Japanese Small Type Coastal Whaling, including that it represented a potential breach of Schedule paragraph 10(e), that it was potentially commercial in nature and that it may have potential adverse effects on 'J' stock minke whales. It was also concerned as to how and when appropriate catch limits could be determined and sought clarification from either the Chair of the Scientific Committee and/or the IWC Head of Science on this matter. With respect to whaling under Special Permit, the UK believed that the control and ending of such activities, although it was not clear how this could be achieved, is vital in guaranteeing the future of IWC. The UK also recognised the large number of both category (a) and (b) issues on which resolution needed to be found within the five-year interim period. Nevertheless it reiterated its commitment to trying to find a solution to IWC's problems.

Responding to the UK's question on catch limits, the Head of Science noted that the Scientific Committee's work on 'O' and 'J' stock animals is in progress and that the Committee has not begun its *Implementation Review* of western North Pacific minke whales. In terms of progress he reported that the Committee expected to receive further genetic information at the Annual Meeting in Madeira with respect to 'O' and 'J' stock animals and to have agreed new

abundance estimates. He noted that the Committee may be able to provide interim advice regarding catch limits within a simulation framework given sufficient guidance from the Commission on *inter alia* management and conservation objectives; an *Implementation Review* will take at least two years. The Chair of the Scientific Committee endorsed these remarks and further noted that for the Committee to be able to provide advice it requires additional information, e.g. whether it is to be provided on an annual basis or in a block, for example, of five years.

Iceland believed that substantial progress had been made, that members of the SWG had shown a willingness to work together and that this had been a generally positive experience. It appreciated the Chairs' Suggestions as an attempt to move forward. It indicated that it was prepared to move forward in a phased way but stressed the need to look at the issues themselves. Iceland noted that it would have preferred a more general outlook on whaling in the Chairs' Suggestions, rather than simply limiting them to whaling in Japan's coastal waters. For Iceland, the issue is not a question of whether whaling will continue but whether it will continue under IWC control. Iceland therefore believed that it would be important to identify which lines could not be crossed and where common ground among members did and did not exist so as to identify any basis for compromise. For example, it felt it important to know whether, for some members, a commercial element to whaling is out of the question, although it suggested that such a position may not be useful for the future of IWC itself. Iceland stressed its own view that trade in whale products is not an IWC issue.

Noting that its position is well known, Argentina stressed the importance of determining a clear way of dealing with the issues it considered of most importance, i.e. whaling under Special Permit and whaling under objection/reservation. It also believed that trust among members must not be undermined by unilateral actions that may endanger the process addressing IWC's future.

Monaco, clarifying that although geographically part of Europe it is not part of the EU, believed that discussions and decisions should be based on sound science and that emotional positions should be avoided. It viewed the elimination of whaling under Special Permit as a fundamental part of any package while recognising that compromises must be made. Monaco believed that solutions to IWC's problems do exist but that finding them requires imagination and courage.

Portugal considered the Chairs' Suggestions to be a reasonable matrix. It urged members to keep an open mind and stressed the importance of finding stable solutions rather than quick fixes.

The USA reported that its new Administration is fully committed to furthering discussions of critical issues within the IWC, including the organisation's future. It believed that the IWC is and must continue to be the premiere international forum to resolve current conservation issues, co-ordinate critical research, and develop international agreement on whale conservation. The USA noted that it continues to view the commercial whaling moratorium as a necessary conservation measure and that lethal scientific whaling is unnecessary in modern whale conservation management. It thanked the IWC and SWG Chairs for their efforts in developing a proposal for review by the Commission at its intersessional meeting. It noted that the USA has participated actively in the SWG and that it has

been encouraged by the frank and collegial dialogue that has prevailed during the meetings. The USA recognised that much work remains to be done and indicated that it will continue to reserve judgment on any package until the SWG completes its task. It was the view of the USA that any package, to be acceptable, must result in a significant improvement in the conservation status of whales. It recognised that some issues may require a longer view toward resolution than others, but that failure to resolve these issues is not an acceptable outcome. It looked forward to open discussion of the SWG report, including hearing the views of the NGOs, and to future opportunities for open and transparent discussions.

Japan noted that while the Chairs' Suggestions include issues which it finds difficult, it believed that they provided a reasonable basis for further discussions. It did, however, express disappointment at the tone of some responses reported in the media to the 'suggestions' (e.g. that whaling is criminal and evil) which are not conducive to finding a compromise. Japan accepted that different countries have different views on whaling, but believed that the only way forward for IWC is to agree a package of measures based on the spirit of give and take while respecting IWC's original mandate. With respect to the two options on whaling under Special Permit described in the Chairs' Suggestions, Japan considered that Option 1 is against the spirit of IWC and that under Option 2, the number of whales taken should be at a level required for meaningful scientific research. As it has done in the past, Japan highlighted the problems created for its coastal whaling communities by the imposition of the commercial whaling moratorium and the rejection of its past requests for a relief allocation of whales. It believed these communities had suffered enough. It recalled that in response to the IWC Chair's initiative at the 2007 Annual Meeting to establish a process to resolve IWC's problems, it had co-operated by suspending its planned takes of humpback whales as part of the JARPA II programme. It stressed that it would continue to co-operate as long as it perceived the process to be fair and that realistic goals are set. Finally, Japan believed the Chairs' suggestions regarding interim arrangements is wise and noted that it will participate in discussions in good faith.

The Republic of Guinea urged that members recognise each others' views. It hoped that consensus could be reached and noted the importance it places on science.

The Republic of Korea applauded the work in progress of the SWG of which it has been a member. It supported the ongoing process to resolve IWC's problems and stressed the need to accommodate and harmonise the polarised positions within the Commission as a matter of urgency. It believed it important in this reform process, to pursue a balanced approach to the objective of conservation and sustainable utilisation of cetacean resources. With respect to the three key issues outstanding and identified in the SWG report, the Republic of Korea noted that it shares the SWG recommendations that immediate action is required to help secure the relevance and credibility of the IWC as the global organisation mandated to effectively manage whale resources. From this perspective, it supported, in principle, Japanese coastal whaling suggested by the IWC and SWG Chairs, because it is consistent with the sustainable use of whale resources based on best scientific advice and with the long cultural, economic and dietary tradition of its coastal communities.

The Republic of Korea believed that this sustainable use is also compatible with the idea of maintaining cultural diversity. However, it noted that its own coastal communities in and around Ulsan have faced similar socio-economic problems since the imposition of the moratorium. It reported that during this critical period of reform and change within the IWC, its Government is under mounting pressure from local communities and politicians to address these problems. The Republic of Korea indicated that it is well-known that whale resources had been an indispensable part of people's in the Ulsan region prior to the implementation of the moratorium and that whale meat from bycaught animals is still consumed. It reported that its government is therefore taking great interest in the lawful use of cetacean resources. With respect to whaling under Special Permit, the Republic of Korea considered that the provisions of the Convention under Article VIII should be honoured but that research should be conducted under a code of conduct developed by the Scientific Committee, a Committee recognised as the world's foremost authority on cetacean management science. Regarding the proposal for a South Atlantic Sanctuary, the Republic of Korea reminded the Commission that it maintains that such a sanctuary should have a sound scientific basis and reserved its position on this issue. However, it was prepared to accept its creation as part of a package of measures in recognition of regional interests and in the spirit of compromise. The Republic of Korea hoped that the outcome of discussions will enable IWC to function as a global body for the conservation and management of whales.

The representative of IUCN² welcomed the efforts by the IWC and SWG Chairs to achieve a resolution of the issues which have divided the Commission for many years, but expressed concern about the direction the negotiations appeared to be taking. IUCN emphasised its commitment to finding scientifically-based solutions to conservation problems with the involvement of stakeholders, and expressed its high regard for the scientific progress made by the IWC's Scientific Committee on the difficult issue of determining sustainable catch levels. It warned against a return to the practise of horse-trading in catch allowances, that characterised the Commission's past. The Committee's work over the years has shown that it is not safe simply to set an arbitrary catch level, but that a procedure is required for regularly adjusting catch limits in the light of new data, such as the RMP and its variants. Rather than try to reinvent such approaches from scratch, the Commission should use the machinery already developed and extensively tested by the Scientific Committee.

DISCUSSION OF THE ELEMENTS/ISSUES

Mexico suggested that going through the Chairs' Suggestions element by element may be too complicated and stressed again the need for clarity regarding the advice that will be requested from the Scientific Committee. The meeting agreed. On Mexico's latter point, the Chair of the Commission indicated that it may be useful to establish a small group to develop this clarity for discussion under item 6 (Directions for further work of the SWG).

3.2.2 Handling of category (b) elements/issues

CATEGORY (B) ITEMS REFERRED TO THE SCIENTIFIC COMMITTEE

IWC's Head of Science introduced document IWC/M09/6 'Further elaboration on the work of the Scientific Committee with respect to Category (b) items'. He explained that the document had been developed in co-operation with the Chair of the Scientific Committee in response to a request from the Chair of the Commission for *inter alia* a report on progress made to date and any future plans to address the issues assigned to the Scientific Committee developed from the 33 items identified by the Commission. The Commission Chair had also indicated that information on the expected time for completion of work on a given issue would also be helpful. The document is attached as Appendix 5.

The Head of Science indicated that the paper shows that the scientific Category (b) issues are already included in the work plan of the Scientific Committee and in some cases have been so for many years. Other more recent ideas, for example the conservation plan concept, are expected to become an increasingly important mechanism to integrate the work of the sub-committees and working groups into effective conservation and management advice. He noted that the complexity of many of the topics (especially those with an ecosystem component) makes it difficult for the Committee to provide precise timelines and that the changing nature of the environment and anthropogenic activities mean that many topics will require the Committee's continued attention. However, he reported that the Committee will, to the extent possible, assign timelines for specific individual actions (be they research or mitigation and management). The Head of Science further noted that the development of detailed guidelines for the *Implementation* process for the Revised Management Procedure with an associated timeline has proved very effective and that a proposal for similar guidelines (with a timetable) for in-depth assessments (an important component of and basis for conservation plans) is expected to be forthcoming at the Madeira meeting.

Australia thanked the authors for their report and highlighted the importance, for Australia of the following Category (b) elements: 9 (Conservation Committee); 10 (Conservation Management Plans); 14 (Developments in ocean governance); 15 (Ecosystem-based approach to management); and 16 (Environmental threats to cetaceans). It stressed the need to continue to focus on these elements, noting that this will involve other sub-groups of the Commission, not just the Scientific Committee, and to develop plans (e.g. in the SWG) for discussion and decision at IWC/61.

OTHER CATEGORY (B) ISSUES

The Chair noted that the non-scientific Category (b) issues were mainly of an administrative or financial nature and that he intended to develop some proposals for consideration by the meeting under agenda item 6. There were no further comments.

4. REPORT OF THE INTERSESSIONAL CORRESPONDENCE GROUP (ICG) ON ISSUES RELATED TO THE SCIENTIFIC COMMITTEE

4.1 Presentation of the Discussion Document

The Head of Science introduced Document IWC/M09/5, the Report of the Intersessional Correspondence Group

²International Union for the Conservation of Nature.

(ICG) on issues related to the Scientific Committee. The main body of the report (i.e. excluding its Annexes) is provided in Appendix 6.

In introducing the document, the Head of Science noted that the Commission's discussions last year on the future of IWC led to consensus documents on both improved practices and a path towards resolution of substantive issues. With respect to the role of science and the Scientific Committee, the Commission agreed that there are aspects of the Committee's work and functioning that would benefit from careful review. It had therefore decided to establish an ICG to address the following issues (see IWC/M09/5 for full Terms of Reference):

- (1) consideration of the advantages and disadvantages of separating the annual meeting of the Scientific Committee from that of the Commission;
- (2) consideration of ways to increase participation in the Scientific Committee of scientists from developing countries in the work of the Scientific Committee;
- (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; and
- (4) review of the process for inviting participants to the Scientific Committee. Given that the ICG's output would form part of the overall discussions future of the IWC, its Terms of Reference included that the discussion document to be produced by the ICG was *'to be forwarded to the Small Working Group on the Future of IWC at a time to be determined'*.

The Head of Science reported that 16 countries replied to the Secretariat's call for comments (i.e. Argentina, Australia, Brazil, Denmark, France, Germany, Italy, Ireland, Japan, Mexico, The Netherlands, New Zealand, Peru, Spain, UK, and USA). He summarised the comments received (see Annex F) and drew attention to the need for the intersessional meeting of the Commission to decide on how to take this work forward. In this respect he reported that from the responses received, there was general agreement that the Scientific Committee worked effectively and that its processes were sound, but that ways should be investigated to:

- (a) further identify the advantages and disadvantages of separating the annual meeting of the Scientific Committee and make recommendations;
- (b) further identify ways to improve communication between the Scientific Committee and the Commission and make recommendations;
- (c) facilitate the participation of suitably qualified scientists from developing countries in the priority work of the Scientific Committee and to ensure that the priority work included issues relevant to a broad range of countries and make recommendations; and
- (d) facilitate capacity building for scientists in developing countries with respect to cetacean conservation and science and make recommendations.

The Head of Science noted that the primary components of this work are scientific and financial and that possible

ways forward to further address these issues and consolidate the work of the ISG include:

- (1) asking the Scientific Committee and the Finance and Administration Committee to work on their relative aspects of issues (a) – (d) taking into account the ideas expressed in this ISG document; and
- (2) forming a small working group comprising members of the Scientific Committee and the Commission to develop a draft proposal for consideration by the Commission.

With respect to (1) he noted that: the Scientific Committee is already working on some aspects of these issues including that of communication with the Commission; the F&A Committee is already looking at the issue of biennial meetings which is of particular relevance to (a) above. If option (1) was chosen this would require the Commission to: (a) instruct the Scientific Committee, in the light of this document, to examine the scientific and procedural matters related to (a) - (d) above and make recommendations to the F&A Committee and the Commission; and (b) instruct the Finance and Administration Committee to consider the financial aspects of this issue taking into account any recommendations made by the Scientific Committee and make recommendations to the Commission.

Finally the Head of Science noted that if option (2) was chosen, the topics and instructions would be the same but the Commission would need to determine the membership of the group.

4.2 Discussion

Belgium commended the work of the ICG. It believed that the meetings of the Scientific Committee and Commission should be separated in time as this would greatly facilitate the review of the Committee's report and help to create synergies among national science groups. It also believed that the development of a handbook to help scientists new to IWC become accustomed to the Committee's work would be very useful. However, with respect to regional training workshops, it was not sure whether this type of activity is an IWC responsibility given that other bodies already have this function. Rather it recommended that a list of courses and appropriate links to information be provided via IWC's website. It made a similar recommendation with respect to training materials.

New Zealand strongly supported the concept of regional workshops, noting the success of those provided by SPREP and CMS. However, it stressed that such activities need to incorporate a system of mentoring and follow-up to ensure their success.

Brazil believed that there is a need to ensure that more priority items are included on the Scientific Committee's agenda and that this, in turn, would lead to a greater diversity of Invited Participants. With respect to a way forward, Brazil recommended a combination of options (1) and (2), i.e. that the Scientific and Finance and Administration Committees should look separately at the issues and make recommendations to the Commission at IWC/61 who would then establish a small group to further refine the recommendations.

Australia thanked the ICG for its report which is a positive contribution toward improving the delivery of quality science within the Commission. It considered the provision of sound and robust scientific advice to the

Commission as being essential to the effective functioning of the organisation. Australia found it indisputable that one of the most positive features of IWC is the excellent work undertaken by the Scientific Committee, which is internationally recognised as providing the best available knowledge on conservation and management of cetaceans. However, it noted that a number of issues have been identified that need to be addressed to improve its functioning and enhance science within the IWC. Australia believed that discussion on IWC's future could not proceed meaningfully without broadening the issues, taking stock of the current status of science within the IWC and examining how it might be enhanced to meet future demands. It considered that the future conduct of science within the Commission adhere to a number of key principles that would provide for a modern, best-practice approach. It gave the following examples of what it believed such principles might be:

- (1) if good and robust research is to be done in the name of the Commission and under the ICRW, key scientific priorities that require resolution to ensure the effective conservation and management of whales should be determined and agreed collaboratively and explicitly directed by the Commission;
- (2) all scientific activities and particularly those which use IWC resources, should respond to these agreed priorities and be subject to a formalised process of periodic review and performance appraisal;
- (3) the Commission should define and agree the scientific objectives, nature and scope of research;
- (4) a sound governance framework and a collaborative, IWC endorsed decision-making process should oversee the conduct of the science and ensure clear dialogue between the Commission and the Scientific Committee;
- (5) the results of the research should be public and the data made available to promote additional research and analysis;
- (6) processes to ensure the communication of complicated technical science issues to non-science audience should be developed and maintained;
- (7) all analytical tools and documents developed by the Scientific Committee should be lodged with the Secretariat along with explanatory text, and be freely available; and
- (8) the approval and review of the research should not be conducted by the proponents of the research.

With respect to a way forward, Australia favoured Option 2 and proposed that an appropriate group be formed with agreed terms of reference for discussion and decision at IWC/61.

Mexico stressed its view that the Scientific Committee is the aspect of IWC that works the best and that the problems of the organisation lay elsewhere. It believed that the Scientific Committee should continue to meet on an annual basis and in different countries as this facilitates attendance by local/regional scientists. It also believed that the meetings of the Committee and Commission should be separated in time. France was also in favour of separating the meetings. It reminded the Commission of its initiative to strengthen communication between the Scientific Committee and the Commission and that this work continues in co-operation with the Committee itself and with the Secretariat.

In concluding the discussions, the Chair observed that there was support for the separation of the Scientific Committee and Commission meetings. With respect to a way forward, he proposed that the Scientific Committee and Finance and Administration Committee be requested separately to review the issues in Madeira and to forward their recommendations to the Commission. The Commission would then establish a small group in Madeira to continue the work.

DISCUSSIONS RELATED TO THE SCIENTIFIC COMMITTEE'S NEW PROCESS FOR REVIEWING SPECIAL PERMIT PROPOSALS

Australia indicated that it wished to raise a matter with respect to the *'Process for the Review of Special Permit Proposals and Research Results from Existing and Completed Permits'* agreed by the Scientific Committee at IWC/60 last year, i.e. 'Annex P'.

Australia viewed agreement on 'Annex P' as a significant step forward in the review of Special Permit proposals and results. It noted that its understanding was that this new process would, importantly, remove the proponents from the review deliberations and make the process more consistent with acceptable, independent science review practice. Australia had viewed the January 2009 review of Japan's Special Permit whaling in the North Pacific as an important test case. However, it raised some concerns about how it believed the process had been applied with respect to: (1) the balance of the scientists involved in the review; and (2) the exclusion of observers from member governments. It urged that what it believed to be appropriate standards of transparency and independence are applied in future. It believed that only by doing so can greater confidence be created among the membership – and in civil society - for a better future for the IWC. Australia considered it important that a discussion at IWC/61 take place on how 'Annex P' might be improved. In responding to a question from the USA, Australia clarified that it did not believe 'Annex P' needed to be revised fundamentally and added that it believed what it perceived to be problems with the process in the case of the JARPN II workshop had not been intentional.

Brazil and Monaco associated themselves with the remarks of Australia.

In responding to Australia, the Chair of the Scientific Committee prefaced his remarks by noting that the new procedure contained in 'Annex P' had been agreed by consensus at last year's Annual Meeting. He also noted that the report of the Workshop was not yet available. With respect to the selection of scientists to participate in the review, he explained that this was done in accordance with the procedure described in 'Annex P'. A Standing Committee of nominated scientists (ex Scientific Committee Chairs) proposed candidates. This resulted in a long list which was reduced to 15 scientists due to the budget available, the availability of the experts themselves and to the agreed need for the Panel to be reasonably small, balanced and fair. Further selection was performed by the Chair and Vice-Chair of the Scientific Committee and the Head of Science, who, in the process, tried to maintain a balance between external experts (i.e. those not attending IWC meetings) and those with some insight into the history and work of the Scientific Committee. However, the Chair of the Scientific Committee stressed that he took the final decision on the composition of the reviewers and that he had followed the agreed procedure. He also noted that

‘Annex P’ is silent on the question of the presence of observers and it was his view that they had not been anticipated; an essential component of the new process is that the expert panel is able to discuss freely the proposal or results in the absence of the proponents or others. This aspect had formed the basis for his decision to recommend to the Chair of the Commission that observers from Contracting Governments should not attend the review meeting. He also informed the Commission that a review of the new process is already on the Committee’s draft agenda for the 2009 Annual Meeting. It is his intention that this matter will be discussed fully in the light of the experience of the first Workshop.

5. NGO SESSION

The following NGOs addressed the meeting:

- IWC World Conservation Trust;
- Antarctic and Southern Ocean Coalition speaking on behalf of a number of NGOs³;
- All Japan Seamen’s Union;
- Dolphin and Whale Action Network;
- Species Management Specialists Inc;
- Norwegian Society for Protection of Animals.

Their addresses are available from the Secretariat.

6. DIRECTIONS FOR FURTHER WORK OF THE SWG

The meeting agreed to the following directions for the further work of the SWG:

‘The Commission had before it a full report regarding the Small Working Group (SWG) on the Future of the International Whaling Commission (IWC/M09/4) to which were attached, notably, the Chairs’ Suggestions on the Future of the International Whaling Commission put forward following the meetings held at St. Petersburg, Florida, and Cambridge, United Kingdom. The Commission also heard an oral presentation by the Chairman of the SWG. Some clarifications were requested and given and various delegations made comments about the progress achieved so far.

The Chairman of the IWC noted that since the start of the process regarding the future and in the course of the work of the SWG and in the Commission itself, there had been a significant improvement in the atmosphere.

Both Chairs emphasised that the Suggestions paper does not purport to reflect agreement nor should it be seen as a final proposal for action by the IWC.

Accordingly, the Commission asked the Small Working Group to resume its work building on progress achieved so far and taking into account views expressed during the intersessional meeting. The SWG is also hereby authorised to request advice on issues, as

required, from the Scientific Committee. The Scientific Committee is requested to make provision for urgent consideration of any such request from the SWG and to report to IWC/61.

The SWG should specifically strive to complete a package/packages of proposals including, as appropriate, draft Schedule changes and other decisions where required as well as guidance on category (b) issues including elaboration of how these issues will be advanced beyond IWC/61.

The Commission looks forward to receiving a further report on the SWG by 18 May, to include the Report of the Intersessional Correspondence Group on Scientific Committee Issues (IWC/M09/5).’

7. OTHER MATTERS

Japan gave a presentation, including video footage, of the harassment of its research vessels by the Sea Shepherd Conservation Society vessel the *Steve Irwin* during its research activities for JARPA II this austral Summer. It reported that its vessels had been subject to numerous violent attacks including the launching of bottles of liquid and rocket signals, the laying of ropes in the water to damage propellers and intentional ramming that had caused serious damage to the stern of one vessel and minor damage to another. Japan believed it fortunate that death and/or serious injury had been avoided. It reminded the Commission that such activities have been carried out against its vessels for a number of years in spite of consensus Resolutions adopted by the Commission in the past⁴ and the consensus statement issued at the March 2008 intersessional meeting of the Commission⁵. Japan reported that it has raised this matter at the International Maritime Organisation and that it is also pursuing domestic action against several activists. It also reported that it had contacted the relevant Flag and Port States before and after the latest JARPA II cruise requesting that they take measures to prevent such violent protests. Japan noted with appreciation that Australia had searched the *Steve Irwin* when it docked in Tasmania and hoped that such co-operation could continue. It believed that unlawful activities such as those conducted by the Sea Shepherd Conservation Society can never be condoned and considered that if IWC member countries are unable to stop such acts it may reflect badly on Japan’s view of the IWC and the ongoing discussions on its future. Japan requested those countries concerned to impose more resolute measures in future.

Australia noted that it fully understood Japan’s concerns and that while it respects the right of peaceful protest such protests must be exercised with over-riding regard for safety and in full compliance with relevant international and domestic laws. It reported that on numerous occasions this past Summer, it had urged all vessels and crew operating in the Southern Ocean to exercise the utmost restraint and that it had condemned actions that may jeopardise safety at sea or could lead to injury or loss of

³Antarctic and Southern Ocean Coalition, Animal Welfare Institute, Centro de Conservacion Cetacea, Cetacean Society International, The Cousteau Society, Dolphin and Whale Action Network, Eastern Caribbean Coalition for Environmental Awareness, Environmental Investigation Agency, Greenpeace, Humane Society International, Instituto de Conservacion de Ballenas – Argentina, International Fund for Animal Welfare, LegaSeas International, Norwegian Society for the Protection of Animals, Pew Environment Group, Society for the Conservation of Marine Mammals – Denmark, Whale and Dolphin Conservation Society, World Society for the Protection of Animals and WWF.

⁴Resolution 2006-2 on the Safety of Vessels engaged in Whaling and Whale Research-related Activities (*Ann. Rep. Int. Whaling Comm.* 2006:69) and Resolution 2007-2 on Safety at Sea and Protection of the Environment (*Ann. Rep. Int. Whaling Comm.* 2007: 91).

⁵IWC/60/7 Chair’s Report on the Intersessional Meeting on the Future of the IWC, Renaissance London Heathrow Hotel, UK, 6-8 March 2008 (*Ann. Rep. Int. Whaling Comm.* 2008: 56-78).

life. Australia noted that its calls were not always heeded and it understood that several incidents took place that may not have been consistent with responsible conduct at sea. While the primary responsibility for investigating any incidents rests with the flag states of the vessel involved, Australia reported that the Australian Federal Police (AFP) is undertaking preliminary inquiries in relation to alleged incidents in the Southern Ocean this whaling season on the basis of Australia's limited jurisdiction over the incidents. The boarding of the *Steve Irwin* by the AFP upon its arrival into port in Australia on 20 February 2009 formed part of these enquiries. Australia noted that the AFP's preliminary inquiries are in accordance with Australian legislation and consistent with Australia's obligations under the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. It is committed to continue implementing these obligations in good faith and welcomed ongoing co-operation between Australian, Japanese, Dutch and other law enforcement agencies with jurisdiction over these matters.

The Netherlands shared the concerns of other IWC member states concerning safety at sea. It deplored the incidents that occurred between the Japanese vessels and the *Steve Irwin* in December 2008 and February 2009. Noting that it takes seriously its obligations regarding ensuring safety at sea, and in line with the responsibilities of the flag state of the *Steve Irwin*, the Netherlands reported that its competent maritime authorities have emphasised to the Sea Shepherd Conservation Society the obligation for all ships flying the flag of the Kingdom of the Netherlands to uphold safety at sea and that on the high seas, the right to free speech and demonstration should be exercised within the limits of the law. The Netherlands reported that it has received formal complaints from both Japan and the Sea Shepherd Conservation Society about the recent incidents. Its authorities are currently studying these

complaints and will take appropriate steps, possibly legal. It further reported that the implication of the recent incidents on ship registration procedures in the Netherlands is under serious consideration. The Netherlands hoped that all concerned will assume their responsibilities to avoid any future incidents. Finally, it emphasised that it considers the IMO to be the most appropriate forum to discuss the issue of safety at sea and looked forward to doing so.

Many other delegations voiced their concern about the protest activities which they could not condone and expressed sympathy for Japan and the crew of its research vessels. The Commission deplored acts of violence against ships and once again unanimously called for action to be taken by the relevant authorities. Japan appreciated the comments made and was encouraged by the response.

8. CONCLUSIONS AND PRESS RELEASE

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 7.

The Chair thanked delegates for their participation. He noted that despite the complexity of the issues and the strength of feelings held on all sides, he was again pleased with the spirit in which discussions had been held and that directions for the SWG had been developed. He emphasised that this process is vital for the future of whale conservation and the management of human activities, not just whaling, that can affect their status and that it is clear that all IWC members want healthy whale stocks, whatever disagreements exist on how they might be used.

The Chair again thanked the Italian Government for hosting the meeting and the FAO for the use of their facilities.

Appendix 1

LIST OF DELEGATES AND OBSERVERS

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

Argentina

Javier Figueroa (AC)
Miguel Iñíguez (AC)

Australia

Donna Petrachenko (C)
Clare Derrington
David Dutton
Pam Eiser
Nick Gales
Andrew McNee
Stephanie Oberscheider

Austria

Andrea Nouak (C)

Belgium

Alexandre de Lichtervelde (C)

Benin

Joseph Ouake (C)

Brazil

José Truda Palazzo (AC)
André Tenório Mourão

Cambodia

Nao Thuok (AC)

Cameroon

Malloum Ousman Baba (C)

Chile

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Heather Sohl

Appendix 2

LIST OF DOCUMENTS

IWC/M09/

- 1 Draft agenda
- 2 List of participants
- 3rev List of documents
- 4 Report on the Small Working Group (SWG) on the Future of the International Whaling Commission, presented by Alvaro de Soto, SWG Chair (includes the Chairs' Suggestions on the Future of IWC)
- 5 Report of the Intersessional Correspondence Group on Scientific Committee Issues
- 6 Further elaboration on the work of the Scientific Committee with respect to Category (b) items
- 7rev Directions for further work of the SWG (Item 5)

OPENING STATEMENTS

IWC/M09/OS Member governments

- Australia
- Republic of Korea
- New Zealand
- USA

IWC/M09/OS NGOs

- AWI (Animal Welfare Institute)
- CW (Campaign Whale)
- DWAN (Dolphin and Whale Action Network)
- ICB (Instituto de Conservacion de Ballenas)
- ISS (Irish Seal Sanctuary)
- SMS (Species Management Specialists)
- WWF (WWF International)

FOR INFORMATION DOCUMENTS

IWC/M09/Info

- 1 Chair's Report of the Pew Whales Commission, Lisbon, 9-10 February 2009 (submitted by Portugal) [also available in French]

BACKGROUND DOCUMENTS

IWC/S08/SWG

- 3 An overview of the elements/issues identified as being of importance to one or more Contracting Governments in relation to the future of the IWC (prepared by the Secretariat)

IWC/60 DOCUMENTS SUBMITTED IN RELATION TO AGENDA ITEM 18 ON THE FUTURE OF IWC

IWC/60/

- 7 Chair's Report of the Intersessional Meeting on the Future of IWC, Renaissance London Heathrow Hotel, UK 6-8 March 2008 [also available in French and Spanish]
- 8rev The IWC in the 21st century (submitted by Norway)
- 9 Background paper for Japan's small-type coastal whaling (submitted by Japan)
- 10 Chair's recommendations for follow-up to the March 2008 Intersessional Meeting on the Future of IWC
- 11 Declaration of the Buenos Aires Group: The Conservation of Cetaceans in the 21st century and the International Whaling Commission [also available in Spanish]
- 12rev The Future of the International Whaling Commission: Strengthening Ocean Diplomacy (submitted by Professor Juma)
- 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)
- 18 Possible improvements to procedural issues identified at the March 2008 Intersessional Meeting on the Future of IWC (prepared by the Secretariat)
- 24 Chair's summary of the outcome of discussions on the future of the International Whaling Commission
- 26 Funding of work on discussions on the future of IWC up to and including IWC/61

IWC/M08/Info

- 11 Whale conservation and management: a future for the IWC (submitted by Australia) [also available in French and Spanish]

Appendix 3

AGENDA

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Introductory remarks and objectives of the meeting 1.2 Management and reporting 1.3 Review of documents 2. Adoption of the Agenda 3. Report of the Small Working Group on the Future of IWC <ol style="list-style-type: none"> 3.1 Presentation of the SWG Chair's Report 3.2 Discussion | <ol style="list-style-type: none"> 3.2.1 The Chairs' suggestions on the future of the IWC (Appendix 1 of IWC/M09/4) 3.2.2 Handling of category (b) elements/ issues 4. Report of the intersessional correspondence group (ICG) on issues related to the Scientific Committee <ol style="list-style-type: none"> 4.1 Presentation of the Discussion Document 4.2 Discussion 5. Directions for further work of the SWG 6. Other matters 7. Conclusions and press release |
|--|---|

Appendix 4

EXTRACT FROM THE REPORT ON THE SMALL WORKING GROUP (SWG) ON THE FUTURE OF THE INTERNATIONAL WHALING COMMISSION (IWC/M09/4)

CHAIRS' SUGGESTIONS ON THE FUTURE OF THE INTERNATIONAL WHALING COMMISSION

Preamble

WHAT IS AT STAKE

The international whaling régime as embodied in the International Convention for the Regulation of Whaling (ICRW) is at a crossroads, beset by seemingly fundamental disagreements between Contracting Governments as to its nature and purpose. The future course of the IWC needs to be defined by broad agreement; failure to do so could compromise not only the conservation status of whale populations but also the continued relevance and credibility of the Commission as an effective global conservation and management body at a time when there is a growing need for enhanced international cooperation.

These considerations have led the IWC to embark on an intensive process directed toward determining the future of the IWC starting in 2007. It became clear that, despite important differences, there are several commonly held views, including:

- (1) the recognition of the IWC as a primary international body with responsibility for the global conservation and management of whales;
- (2) a strong belief in maintaining healthy populations of whales and especially in the restoration of severely reduced populations; and
- (3) acknowledgement of the IWC's Scientific Committee as the world's foremost authority on cetacean biology, ecology and management science.

This common ground and the improved climate in the work carried out so far provides a basis for overcoming potential gridlock.

THE FUTURE OF THE IWC PROCESS

At IWC/60, the Commission identified 33 issues which need to be considered in developing a package or packages regarding the future of the IWC. It also created a Small

Working Group with the mandate of developing 'a package or packages for review by the Commission' in order to assist it 'to arrive at a consensus solution to the main issues it faces.' At an early stage, the Small Working Group divided the 33 issues into two categories: (a) controversial issues that need to be addressed in the short term, i.e. those that if not addressed in the short term may fail to alter the *status quo* or even result in an irreparable break in the system via the withdrawal of governments from the Convention; and (b) issues which are non controversial or less controversial and which, if left unresolved, would not prevent a package being agreed concerning category (a), provided that a mechanism exists or can be established to address them. These are primarily but not exclusively scientific and administrative issues.

THE APPROACH

The Small Working Group has been working on the principle that nothing is agreed until everything is agreed. It has further agreed that in developing packages for consideration, they must:

- provide for the long-term sustainability of stocks based on best available science;
- provide for the recovery of depleted or endangered stocks based on the best available science;
- be perceived as balanced by all parties; and
- provide procedures for reviewing and where necessary improving governance practices within the IWC.

Of the 13 issues allocated to category (a), i.e. those that must be addressed immediately, it has proven particularly difficult to identify a single way forward regarding three issues. These are: (1) Japanese Small-Type Coastal whaling; (2) Special Permit whaling; and (3) sanctuaries. It is recognised that agreement on these issues is inter-related; e.g. it will not be possible to reach agreement on

coastal whaling without agreement on research whaling under Special Permit and *vice versa*. The question of where regulations would apply – i.e. sanctuaries – cuts across both. It is anticipated that under any result, the total number of whales killed will be reduced during the next five years.

Given the complexity of the numerous political, administrative and scientific issues to be addressed, the paper proposes a two-stage approach to their resolution. The first stage consists of short-term solutions which, it is hoped, the Commission could agree on no later than June 2009, which would last for a five-year period – referred to hereafter as the ‘interim period.’ It should be noted that, although several of the proposed resolutions to identified issues will be *ad hoc* and short term in nature, they have been developed in a precautionary manner and are consistent with the management objectives of the ICRW. During the interim period, long-term solutions relating to the governance and future functioning of the IWC are to be developed to be put in place at the end of the interim period, when the second stage begins. These would incorporate well-developed policies as well as full testing of management protocols using computer simulations following approaches pioneered by the Scientific Committee.

No agreement should be construed as signifying agreement by any party with each of its details. Rather the impact of the conservation and management measures proposed for the interim period - in addition to reducing the number of whales killed - has the overarching purpose of strengthening the conservation and management mandates of the IWC.

Based on the above, and contingent on an agreement regarding the set of issues on which immediate action is required and a process to address long-term governance in the IWC over the next five years, it is proposed by the Chairs that Contracting Governments should agree to the following.

Stage 1: Items requiring immediate action

ELEMENT 6: JAPANESE SMALL TYPE COASTAL WHALING

An interim quota for ‘O’ stock common minke whales in Japanese coastal waters for a five-year period would be implemented, having regard to the unique circumstances that exist for four Japanese coastal communities. This whaling would be managed, consistent with the advice of the Scientific Committee, under a Schedule amendment that would last for five years. The Scientific Committee would provide interim advice concerning the total removals of ‘O’ and ‘J’ stock common minke whales. The advice would be provided under the following two scenarios: (a) constant catches for five years and zero thereafter; (b) constant catches for five years with the same level of catches thereafter.

Any direct take of ‘J’ stock animals must be identified and included with ‘J’ stock animals taken as bycatch in commercial fisheries, and managed according to the recommendations of the Scientific Committee. No more than a total of five vessels from Taiji, Abashiri, Ayukawa and Wada would be used, all trips must be day trips, and monitoring, control and enforcement methods must be identified and implemented. All meat would be locally consumed. In accordance with the Schedule, annual reports would be submitted to the IWC for each year’s hunt identifying the number of whales taken, the position of capture, the species taken and locations where whales are

landed. Arrangements would be made for the Secretariat to verify the composition of total removals regarding ‘J’ and ‘O’ stock animals.

ELEMENT 23: RESEARCH UNDER SPECIAL PERMIT

This issue was one of the most contentious discussed by the Small Working Group. Many countries remained opposed to whaling under Special Permit. Various approaches have been suggested, including elimination, bringing it under the control of IWC and using a Code of Conduct. However, in the spirit of trying to reach a consensus on measures to improve the performance of the IWC, a significant reduction in the number of whales taken under Special Permit during the interim period is proposed; during that period the issue will be addressed further with a view to seeking a long-term arrangement. Such a proposal should in no way be interpreted as meaning that countries who are opposed to Special Permit whaling are thereby endorsing it; they might prefer to view it as a step in the process of reducing the number of whales taken while negotiations continue on the future of the IWC.

Based on discussions, the following options are proposed.

Option 1

- (1) For the next five years, a phase-out of Special Permit whaling of Antarctic minke whales in the Southern Ocean would occur, where takes of minke whales in the Southern Ocean would be reduced by 20% in the first year and each year thereafter to reach zero by year five.
- (2) No takes of humpback or fin whales in the Southern Ocean.
- (3) All removal levels would be reviewed by the Scientific Committee and consistent with its recommendations.

Or,

Option 2

- (1) For the next five years, an annual limit of x Antarctic common minke whales and y fin whales is established in the Southern Ocean associated with JARPA II research, pending interim advice from the Scientific Committee regarding the sustainability of these removal levels.
- (2) It is anticipated, pending advice from the Scientific Committee on sustainability, that in the western North Pacific as part of JARPN II research, ww ‘O’ stock common minke whales, xx sei whales, yy Brydes and zz sperm whales will be harvested annually.

Concerning the conduct of research under Special Permit, the Commission adopted a new approach (‘Annex P’) at the Santiago meeting. The Scientific Committee will continue to use this approach for the review of existing and new research programmes. Member nations will take account of recommendations from the Scientific Committee regarding the experimental design.

During the 5-year interim period the Commission will address all issues pertaining to Article VIII. Of special importance are the issues of where Special Permit whaling would be allowed (i.e. whether Special Permit whaling should be allowed in designated sanctuaries), the long term purpose or need for Special Permit whaling, and monitoring and compliance protocols.

ELEMENT 27: SANCTUARIES

A South Atlantic Sanctuary should be established for an initial period of five years. The boundary for this sanctuary would take into account the interests of coastal range states. A three-quarters majority vote of the IWC would be required to extend this designation beyond the interim period.

ELEMENT 33: WHALEWATCHING/NON-LETHAL USE

The IWC recognises non-lethal use of whales as a management option for coastal States. The IWC will address its scientific, conservation and management aspects through its appropriate bodies.

Stage 2: items requiring action during the five-year interim period

ELEMENT 2: ANIMAL WELFARE

There is agreement among IWC members that animal welfare is an important issue for the IWC.

During the meeting of the Small Working Group in Florida in September 2008, a number of issues on this Element requiring resolution were identified (see Annex) but there had been insufficient time to refine them or discuss them thoroughly. These issues should be clarified and resolved during the interim period.

ELEMENT 3: BYCATCH

During the meeting of the Small Working Group in Florida in September 2008, a number of issues on this Element requiring resolution were identified (see Annex) but there had been insufficient time to refine them or discuss them thoroughly. These issues should be clarified and resolved during the interim period.

ELEMENT 7: COMMERCIAL WHALING MORATORIUM

For the interim period, the moratorium will remain in effect without prejudice to the positions of Contracting Governments.

ELEMENT 8: COMPLIANCE AND MONITORING

During the meeting of the Small Working Group in Florida in September 2008, three specific issues pertaining to Element 8 were identified (see Annex). These should be

addressed during the interim period together with the relationship between Element 8 and the RMS element (Element 25). Monitoring must include a Vessel Monitoring System, a transparent DNA registry and a catch documentation scheme. Some other long-term compliance and monitoring issues will be addressed under governance discussions during the interim period.

ELEMENT 11: CONVENTION (PURPOSE OF)

This is a complex issue to be addressed during the interim period. The primary issue is to address whether the Convention requires amendment to reflect the changes in concerns and priorities, dispute mechanisms and approaches to ocean governance relevant to the IWC that have occurred since the Convention came into force.

ELEMENT 21: OBJECTIONS AND RESERVATIONS

This Element has particular significance in relation to Element 25 (RMS). It will be addressed during the interim period. One possible way forward is the approach used by the North West Atlantic Fisheries Organization where a revised objection procedure was agreed in the context of a revision of the agreement establishing the organisation. Annual harvest levels associated with whaling under an objection will be consistent with advice from the Scientific Committee.

ELEMENT 31: SMALL CETACEANS

This is a longer-term issue that should be addressed during the interim period.

During the meeting of the Small Working Group in Florida in September 2008, a number of issues on this Element requiring resolution were identified (see Annex) but there had been insufficient time to refine them or discuss them thoroughly. These issues should be clarified and resolved during the interim period.

During the interim period, the IWC will continue its current practice of the Scientific Committee providing advice to coastal states regarding the status of small cetaceans in their waters.

Appendix 5

FURTHER ELABORATION ON THE WORK OF THE SCIENTIFIC COMMITTEE WITH RESPECT TO CATEGORY (B) ITEMS

Greg Donovan and Arne Bjørge

INTRODUCTION

We received a request from the Chair of the Commission on 5 February with the following key paragraphs:

As a result of the discussions of the Small Working Group on the Future of the IWC established at last year's Annual Meeting, the Commission requests that the Head of Science and the Chair of the Scientific Committee provide a report at the upcoming Intersessional Meeting in March 2009 on progress made to date and any future plans to address the issues assigned to the Scientific Committee from the 33 items developed by the Commission as part of the 'Future of the IWC' process (see Tables 1 and 2 attached).

We realise that many of these items are already being addressed in the annual Work Plan of the Scientific Committee, which the Commission has endorsed. We further realise that it is very difficult for the Scientific Committee to predict when a given issue will be completed.

Finally, we recognise that this request is neither trivial nor simple, and will require considerable time between now and the intersessional meeting to complete. Nonetheless, some of the Contracting Governments to the IWC believe that one or more of these 19 issues are sufficiently important that the current priorities of the Scientific Committee may need to be changed. To provide for such a discussion, a summary of whether a given issue has been included in the most recent Work Plan of the Scientific Committee, and, if so, the expected time period for completion, would be very helpful.

This document is our response to this request. The short period of time between receiving this request and the present meeting (during which there have been four scientific workshops that one or both of us have had to attend), means that the comments in this document represent our best attempt to answer this request on behalf

of the Scientific Committee – we have not been able to consult with the full Committee as we would have preferred.

DISCUSSION

Appendix 1 provides the summary of the information by element related to the work of the Scientific Committee – it is largely based on the text developed for the Small Working Group, with, as appropriate our comments about ‘timelines’. It will be recalled that when the list of elements was developed it was recognised that there would be overlap amongst them; that is particularly true for the scientific elements. Therefore this document, whilst retaining all of the elements in the Appendix, focuses on some of the broader overlapping issues in the text here that will affect our ability to estimate ‘completion dates’ for a number of the elements, many of which refer to broad issues rather than specific tasks.

The work of the Scientific Committee is primarily carried out by sub-committees and working groups (either topic or species/area-based) that meet in parallel sessions during the first 8-9 days of the Annual Scientific Committee meeting or at specialised intersessional workshops. All of these activities are in response to priority work requested by the Commission and are included in the draft workplan presented to the Commission for approval at each annual meeting. It should be noted that removing or giving lower priority to a particular group or groups may not result in a ‘speeding’ up of the other groups – whether it does or not will depend on the personnel involved and the nature of the particular topics being considered and, in some cases (particularly with respect to ecosystem-related topics), work carried out by other organisations and research groups.

Table 1 summarises the sub-groups of the Scientific Committee that the Commission agreed should work in Madeira and our attempt to identify those which will deal with at least some aspects of the various elements. It is clear from this Table that almost all of the groups are already considering, to a greater or lesser extent, the majority of the elements and that all of the elements are covered by at least one and usually several groups. Newer elements such as conservation management plans and co-operative non-lethal research programmes are or could be relevant to all groups to a greater or lesser extent. Some groups (e.g. stock definition and increasingly environmental concerns) are fundamental to the working of all of the other sub-groups (and thus are also relevant to all elements).

In the sections below we elaborate on some of the issues that overlap several elements. You are also referred to the earlier Secretariat paper that provided background to all 33 elements (IWC/S08/SWG3).

Conservation plans

Coincidentally, the Scientific Committee received two documents on this topic at last year’s Scientific Committee meeting. One was the document produced by the Government of Australia that has already been considered by the Commission (IWC/60/15) and the other was a longer document presented to the Scientific Committee that dealt with the process for developing effective conservation

plans (Donovan *et al.*, 2008)⁶; a summary of the process required and the links between them is given in Fig. 1. The Committee received the document and agreed that all of the Scientific Committee’s groups would take this process into account in their work, either in working towards full conservation plans for particular species/areas where there is an urgent conservation need (e.g. western North Pacific gray whales) or in using the framework as a guide when making research or management recommendations such that they are in a form that can ultimately contribute to a conservation management plan.

It can be seen from the figure that fully developed conservation plans integrate the work of all sub-committees. They should include consideration and prioritisation of all potential anthropogenic threats, both direct (e.g. hunting, bycatches and ship strikes) and indirect (e.g. habitat degradation including chemical and noise pollution, environmental change, etc.) and associated mitigation measures. The last will often include matters that are not related to whaling. These will require collaborative approaches amongst the relevant national and international authorities (e.g. related to fisheries, marine protected areas, pollution, etc.) and monitoring not only of cetaceans themselves but of anthropogenic and environmental factors.

The evaluation of potential threats may require modelling exercises similar to those used for the RMP/AWMP as well as information from in-depth assessments. Work on conservation plans is envisioned to be an ongoing process and thus it is not possible to set a single time limit for completion. A conservation plan itself should be seen as a living document. However, as Donovan *et al.* point out, incorporation of timelines, priorities, responsible players and the legal framework is fundamental to individual conservation plans and incorporated ‘actions’. Actions can relate to research, management and legislative, compliance, monitoring, capacity building/public awareness and co-ordination.

Finally, they stress that effective conservation plans require the participation of all stakeholders (including relevant authorities) – they must have a sound scientific basis but are not the province of scientists alone. How to achieve this broad involvement is something that the Commission will need to consider; the authors had noted that one possibility is that the Scientific and Conservation Committees might work together on determining appropriate broader mechanisms.

Ecosystem related issues including ecosystem approach to management, environmental and climate change

The Scientific Committee has been and continues to address these issues in a variety of ways including the establishment of an ecosystem modelling working group. The importance attached to this work is witnessed by the fact that since Santiago, the Committee has held a joint workshop with CCAMLR on ecosystem modelling and a specialist workshop on climate change and cetaceans.

However, as these and previous meetings of both the IWC Scientific Committee and other relevant bodies (e.g.

⁶Donovan, G., Cañadas, A. and Hammond, P. 2008. Towards the development of effective conservation plans for cetaceans. Paper SC/60/O17 presented to the IWC Scientific Committee, June 2008, Santiago, Chile (unpublished). 15pp. [Paper available from the Office of this Journal].

Table 1

Scientific Committee sub-committees, working groups and standing working groups scheduled for the 2009 Annual Meeting and elements that are relevant to those groups.

Revised Management Procedure

Bycatches; Climate change; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans

Aboriginal Subsistence Management Procedure

Bycatches; Climate change; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans

Bowhead; right and gray whales

Bycatches; Climate change; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans; Marine protected areas

In-depth assessment

Climate change; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans;

Working group on North Pacific common minke whales

Bycatches; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans

Southern Hemisphere whale stocks other than minke and right whales

Bycatches; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans; Marine protected areas

Stock definition

Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management;

Estimation of bycatch and other human-induced mortality

Bycatches; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans; Marine protected areas

Environmental concerns

Climate change; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans; Marine protected areas

Ecosystem modelling

Climate change; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans;

Small cetaceans

Bycatches; Climate change; Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Environmental threats to cetaceans; Marine protected areas

Whalewatching

Conservation Management Plans; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management

DNA

Bycatches; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management

Special Permits

Climate change; Co-operative non-lethal research programmes; Data provision; Ecosystem-based approach to management; Environmental threats to cetaceans.

FAO, CCAMLR) have emphasised, predictive ecosystem modelling is an extremely complex and difficult issue from the perspectives of the available data and analysis and modelling. It is clear that obtaining results sufficiently reliable to directly inform management advice should not be expected within at least the next few years and could require considerable time, even for what some term 'simple' systems such as the Southern Ocean. It also requires considerable collaboration with other bodies – in many cases the data on cetaceans are considerably stronger than those for other components of the ecosystem (e.g. lower trophic levels such as krill, fish and squid species) which may be intrinsically more difficult to measure/model as well as oceanography. In addition, even the IPCC models related to climate change are extremely variable and not always at the appropriate temporal and geographical scale to allow inferences about cetaceans. Given this, it is extremely difficult to produce a 'timeline' for the completion of such work. The Committee is working to ensure more direct collaboration with other groups and in particular to ensure that cetaceans are seen as an important component of ecosystem models.

However, in addition to direct ecosystem modelling the Scientific Committee also incorporates the concept of environmental change into its work on both the RMP and the AWMP. *Inter alia*, the scenarios considered include

time varying trends in carrying capacity, natural mortality and productivity, and the occurrence of 'catastrophes' which were intended to reflect in an integrative manner environmental impacts including climate change; the results of preliminary ecosystem modelling can in some circumstances inform the choice of scenarios to consider even when the results are not sufficiently robust to be used directly in management. In addition, both the RMP and AWMP incorporate regular (5-year) *Implementation Reviews* during which new information on cetaceans and their environment is evaluated to ensure that the parameter space tested by the simulation trials is adequate; if it not new trials are determined. The Scientific Committee is at present reviewing the need to consider additional trial scenarios with respect to environmental change as detailed in last year's report; it is expected that that work will be completed by the 2010 annual meeting.

Co-operative non-lethal research programmes

This issue was raised as an important initiative by Australia in document IWC/60/16. It is clear that the results of such initiatives are intended to be reviewed by the Scientific Committee and can make an important contribution to its work, particularly as the intention is to take into account Scientific Committee needs and recommendations. The importance of international collaboration is clear for

migratory species that are found in the waters of more than one nation and in the high seas. In many ways this expands on previous collaborative research work undertaken in co-operation with or by the Scientific Committee including the IDCR/SOWER cruises, the NASS cruises, POLLUTION 2000+ and the SOWER/CCAMLR 2000 cruises. Such programmes have been shown to be of major benefit to the work of the Scientific Committee. Again, it is difficult to apply a general timeline – it is expected that individual programmes will have their own timelines and that such programmes in general will contribute in the long-term to the work of the Scientific Committee. The results of a workshop on southern ocean partnerships will be available for consideration at the Madeira meeting.

Collaboration with other groups

It is clear from the text above that the broad issues of cetacean conservation and management requires collaboration with other bodies at a number of levels, not merely scientific. At the scientific level close co-operation already occurs with a number of bodies; members of the Scientific Committee (including the Secretariat) participate fully in the work of, for example, CCAMLR, SO-GLOBEC, IUCN (especially the western gray whale panel), CMS cetacean agreements, FAO (with respect to

bycatch) and it is looking to strengthen and broaden this collaboration.

CONCLUSION

This document, although completed in a rather short time and without the opportunity to consult with our colleagues, does, we believe, show that the scientific category (b) issues are included into the workplan of the Scientific Committee and, for example in the case of the conservation plan concept, have become an increasingly important mechanism to integrate the work of the sub-committees and working groups into effective conservation and management advice. The complexity of many of the topics (especially those with an ecosystem component) makes it difficult for us to provide precise timelines – indeed the changing nature of the environment and anthropogenic activities mean that many topics will require the continued attention of the Committee. However, specific individual actions (be they research or mitigation and management) will be assigned timelines. As an aside, the development of detailed guidelines for the *Implementation* process for the RMP with an associated timeline has proved very effective. A proposal for similar guidelines (with a timetable) for in-depth assessments (an important component of and basis for conservation plans) is expected to be forthcoming at the Madeira meeting.

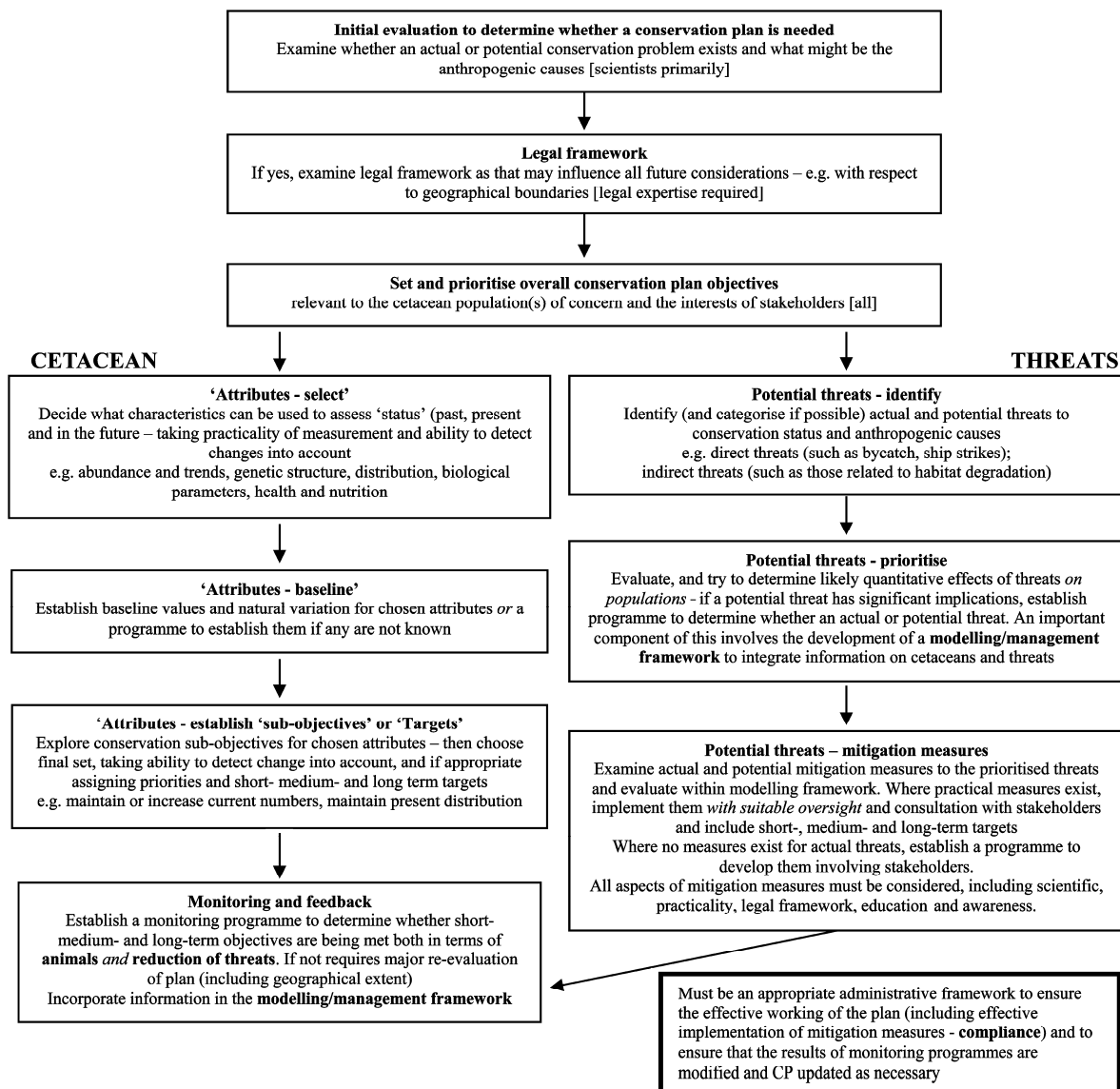


Fig. 1. Steps towards effective conservation plans (from Donovan *et al.*, 2008).

Adjunct 1

**OUTLINE OF ISSUES AND MECHANISMS FOR PROGRESSING WORK ON CATEGORY (B)⁷
ELEMENTS/ISSUES WITH A SCIENTIFIC COMPONENT**

Some issues that have been raised ⁸	How issues are either already being addressed or how they could be addressed
ELEMENT 3: BYCATCH AND INFRACTIONS (SWG 3: P. 8; SWG 4REV: PP. 65-66)	
Continued work on bycatch issues despite disagreements in some areas (e.g. with respect to small cetaceans)	<p>The Scientific Committee continues to examine scientific aspects of bycatch of large whales and small cetaceans in terms of assessing effects at the population level, reviewing mitigation measures and incorporating it into work on the RMP and AWMP and presenting this work to the Commission. It will be assisted in this process by work associated within the conservation management plan framework (see Element 10 below). Several aspects of this work are undertaken in co-operation with other international bodies including, ASCOBANS, ACCOBAMS and FAO.</p> <p><i>This is ongoing work. The problem of incidental catches in fishing gear is worldwide and applicable to a wide variety of fishery types, species of cetaceans and geographical areas. Mitigation measures will be similarly varied and will need to be developed in conjunction with the relevant national and international authorities. Consideration of bycatches is an important component of conservation plans. In particular cases it is important that timelines are set.</i></p>
ELEMENT 4: CLIMATE CHANGE (SWG 3: P. 3; SWG 4REV: PP. 67-68)	
(a) Further efforts to estimate effects on cetaceans at the scientific level	<p>The Scientific Committee has this item on its agenda and is examining this issue from a number of perspectives – in particular it has recently held a joint workshop with CCAMLR with respect to the Southern Ocean and it will be holding a 2nd full workshop on the topic in Spring 2009 (the first was in 1996). The Scientific Committee has recognised that this is a complex issue from both a data and modelling perspective that will require medium- to long-term efforts. Its work with respect to incorporating such effects under whaling management procedures is considered under (b) below.</p> <p><i>This is ongoing complex work. The Scientific Committee is continuing to give this matter priority as witnessed by its recent intersessional workshops and the establishment of an ecosystem modelling working group and report to the Commission on its findings. Given the need for collaboration with other bodies and the focus on non-cetacean as well as cetacean datasets, it is not possible to set a 'completion' date but realistically it will not be for several years for any of the current systems under consideration. The recommendations of the two workshops will be presented to the Scientific Committee in Madeira and the Committee will report to the Commission on the findings.</i></p>
(b) Allowance for effects: management of whaling	<p>Both the RMP and the AWMP are tested with scenarios that use proxies (e.g. changing carrying capacity, catastrophes and changes in reproductive/survivorship) for environmental changes including climate change. The Committee regularly reviews these scenarios and is doing so at present for RMP trials. In addition, both the RMP and AWMP have mandatory reviews every 5 years to ensure that the tested scenarios are adequate in the light of new knowledge.</p> <p><i>The Scientific Committee has identified that this should be accorded priority and work is underway to evaluate the need for additional trials. It is expected that from the perspective of the generic RMP evaluation, this will be completed within two years; as noted above for individual AWMP and RMP Implementations, the process involves re-evaluation at least every five years in the light of new information.</i></p>
(c) Allowing for effects: species not subject to whaling (especially heavily depleted populations)	<p>The Scientific Committee has stressed that the effects of environmental change may affect all species/populations including those for which catches would not be allowed if the RMP was implemented – indeed highly depleted populations are probably the most vulnerable to such changes. The Committee continues to investigate this and will be assisted in this process by work associated within the conservation management plan framework (see element 10 below).</p> <p><i>The generic difficulties have been highlighted already but the Scientific Committee will need to incorporate this in the context of the modelling required in the context of conservation plans. Recommendations made by the Climate Change workshop will be presented to the Scientific Committee in Madeira, incorporated into its workplan and the Committee will report to the Commission.</i></p>
(d) General small cetacean issue	<p>The question as to the level to which this issue should be examined for small cetaceans falls under the category (a) element 30. At present the Scientific Committee is examining the issue for all cetaceans.</p> <p><i>Recommendations made by the Climate Change workshop will be presented to the Scientific Committee in Madeira, incorporated into its workplan and the Committee will report to the Commission.</i></p>
(e) Mitigation actions	<p>At its previous workshop, the Scientific Committee noted that mitigation measures related to the general issue of climate change are well known and it asked the Commission to urge member countries to take such action. These relate to matters outside the regulation of whaling. Mitigation measures related to 'tertiary effects' of climate change (e.g. possible increased shipping) will be considered by the Scientific Committee in terms of the way it reviews such anthropogenic threats now. It is relevant in terms of the development of conservation plans as discussed above.</p> <p><i>It is primarily Commission (and in many cases it would need to be in conjunction with other intergovernmental bodies) responsibility to incorporate advice from the Scientific Committee in terms of mitigation measures. As before this is ongoing work.</i></p>

Cont.

⁷These are issues which are non-controversial or less controversial and which, if left unresolved, would not prevent a package being agreed concerning category (a), *provided* that a mechanism exists or can be established to address them. These are primarily but not exclusively scientific and administrative issues. (There may be issues which, while controversial, may not need to be tackled immediately as part of the package in (a) above).

⁸For each element, the issues are listed in no particular order and may overlap.

Some issues that have been raised ⁸	How issues are either already being addressed or how they could be addressed
ELEMENT 4: CLIMATE CHANGE cont.	
(f) Need for co-operation with other bodies	The Scientific Committee is already working in collaboration with other scientific bodies e.g. those within CCAMLR, CMS as well as Southern GLOBEC. The need for further collaboration (e.g. with respect to possible mitigation measures) will need to be identified as work progresses. <i>The need for collaboration with other bodies is recognised. Co-operation with some bodies (e.g. the CMS cetacean agreements, CCAMLR, SO-GLOBEC are well developed. Co-operation with other relevant bodies needs to be developed when identified.</i>
(g) Level of priority to be given to this work	The Scientific Committee is addressing this as one of its priority issues both in a general context and in the context of the RMP/AWMP; it is necessarily an iterative ongoing subject and future work will <i>inter alia</i> depend on the recommendations from the forthcoming workshop and the level of priority allocated by the other scientific bodies. <i>The Scientific Committee is giving, and should continue to give this matter priority and report to the Commission on its findings.</i>
ELEMENT 10: CONSERVATION MANAGEMENT PLANS (SWG 3: P. 21; SWG 4REV: PP. 85-86)	
(a) The value of conservation management plans as a framework for conservation actions related to recovering species/populations with respect to non-whaling related threats. The development of conservation management plans is a complex and iterative process that even with the appropriate framework will normally take several years.	The Scientific Committee has agreed the value of such a framework and will be taking this into account in its agenda for the forthcoming meeting (and beyond). This is discussed much more thoroughly in the main text of this document. <i>The Scientific Committee has decided to incorporate this concept within all of its work and to give this matter priority. It is of its essence ongoing work but timelines will be incorporated into individual plans and actions.</i>
(b) The appropriate way to link the work of the Commission and its subsidiary bodies on the scientific and mitigation measure/ management actions (including involvement of stakeholders – see (c) below).	This is a matter for the Commission to decide – one suggestion has been that the Conservation Committee (and see Element 9) may be an appropriate technical body to work with the Scientific Committee towards translating scientific advice into appropriate mitigation measures for consideration by the Commission. This would need to be undertaken in conjunction with stakeholders including relevant national and intergovernmental bodies. This is discussed much more thoroughly in the main text of this document and in Donovan <i>et al.</i> , 2008. <i>Determining the appropriate forum and strategy could be placed on the Commission's Agenda.</i>
(c) The need to involve/co-operate with other appropriate national/inter-governmental regulatory bodies that are responsible for non-whaling-related threats	See the comments under (b) above.
ELEMENT 12: COOPERATIVE NON-LETHAL RESEARCH PROGRAMMES (SWG 3: P. 24; SWG 4REV: PP. 90-91)	
(a) Organised regionally outside IWC to develop priorities and research needs	It is intended that the resultant programmes will be submitted to the Scientific Committee for review. This is discussed much more thoroughly in the main text of this document. <i>This will contribute to the ongoing work of the Scientific Committee.</i>
(b) General issues with respect to non-lethal and lethal research	This is covered under element 23 (Research under special permit) and in particular in the new process to review scientific permit work.
ELEMENT 13: DATA PROVISION (SWG 3: P. 25; SWG 4REV: P. 92)	
(a) Ensure that scientific and operational data essential for management are available for review and analysis	The Scientific Committee has developed an approach to this issue (including the Data Availability Agreement and the Requirements and Guidelines related to the RMP) that it believes is working well. <i>The Commission has already endorsed this approach.</i>
ELEMENT 14: DEVELOPMENTS IN OCEAN GOVERNANCE (SWG 3: P. 26; SWG 4REV: PP. 93-94)	
The need to move away from a sector-based single species approach to the conservation and management of marine living resources to an ecosystem-based approach, co-operating with and taking account of the work and outcome of other relevant treaties (e.g. UNCLOS, CBD)	The Scientific Committee has already begun to address aspects of this issue and co-operates with CCAMLR in particular (see Element 15). The general issue is discussed much more thoroughly in the main text of this document. <i>This is an important yet complex issue that will require several years more work.</i>
ELEMENT 15: ECOSYSTEM-BASED APPROACH TO MANAGEMENT (SWG 3: P. 27; SWG 4REV: PP. 95-96)	
(a) No specific definition agreed	The Scientific Committee is working on this issue on two fronts: (1) using ecosystem information to inform single-species management (e.g. under the scenarios used to test the RMP and AWMP); (2) working towards developing ecosystem models (see (b) below) that may ultimately be used in a predictive manner. This is discussed much more thoroughly in the main text of this document. <i>The Scientific Committee is giving this matter priority but recognises that it is a complex issue that will require several years more work.</i>
(b) Level of priority to be given to this work	The Scientific Committee is addressing this as one of its priority issues both in a general context and in the context of the RMP/AWMP; it is necessarily an iterative ongoing subject and future work will <i>inter alia</i> depend on the recommendations from relevant workshops and the level of priority allocated by other scientific bodies. <i>The Scientific Committee is giving this matter priority but recognises that it is a complex issue that will require several years more work. In terms of the RMP/AWMP scenarios it is anticipated that this will be completed within two years in the generic sense as well as at least every five years for specific Implementations.</i>

Some issues that have been raised ⁸	How issues are either already being addressed or how they could be addressed
ELEMENT 15: ECOSYSTEM-BASED APPROACH TO MANAGEMENT cont.	
(c) As with Element 4 (Climate change), complex scientific issue from data and modelling perspective, need for co-operation with other bodies	As noted under Element 4, the Scientific Committee is embarking upon the long-term work needed to begin to develop ecosystem models that may eventually lead to some predictive modelling that can be used to inform management; this work can only be effectively undertaken in collaboration with CCAMLR, SO-GLOBEC and others – and the Scientific Committee is pursuing this. <i>This is ongoing complex work. The Scientific Committee is continuing to give this matter priority as witnessed by its recent intersessional workshops and the establishment of an ecosystem modelling working group and report to the Commission on its findings. Given the need for collaboration with other bodies and the focus on non-cetacean as well as cetacean datasets, it is not possible to set a 'completion' date but realistically it will not be for several years for any of the current systems under consideration.</i>
ELEMENT 16: ENVIRONMENTAL THREATS TO CETACEANS (SWG 3: P. 28; SWG 4REV: PP. 97-98)	
(a) Level of priority to be given to this work and incorporation into the conservation and management of cetaceans.	The Scientific Committee has recognised the importance of addressing threats other than whaling and has established a standing working group on this subject as well as holding specialists workshops and important research programmes (POLLUTION 2000+ and SOWER 2000). It is working towards greater incorporation of the work of this group with the other sub-committees, noting the value of a conservation management plan framework in this context. The RMP and AWMP at present address these issues in their simulation testing frameworks that are regularly reviewed (and see Element 4: Climate Change and 15: Ecosystem-based approach to management). <i>The Scientific Committee is giving these matters increasing priority – again this is ongoing work and it is not possible to set generic completion dates – individual situations will be given specific timelines.</i>
(b) Need for co-operation with other bodies that have some regulatory capacity on factors outside whaling.	The co-operation with other bodies at a scientific level is underway. <i>Where mitigation measures may be proposed on matters other than whaling, there is a need to consider a broader co-ordination with other bodies at a Commission level.</i>
ELEMENT 20: MARINE PROTECTED AREAS (SWG 3: P. 40; SWG 4REV: PP. 103-104)	
(a) This issue is integrally related to the discussion of Element 27 (Sanctuaries) part of which is being considered as category (a)	See the discussion under Element 27.
(b) No general definition of MPAs	The flexibility in the definition of MPAs is valuable and the Scientific Committee may consider a variety of possible targeted MPAs as potential mitigation tools within the context of conservation management plans (see Element 10). <i>The Scientific Committee has agreed to integrate the concept of conservation management plans into its work and where appropriate this will include MPAs. Again this is ongoing work and it is not possible to set generic completion dates – individual situations will be given specific timelines.</i>
(c) Incorporation of Marine Protected Area concepts into IWC Sanctuaries	The Scientific Committee is attempting to incorporate such concepts (e.g. measurable goals) in its review of existing and proposed Sanctuaries – this will need to be done in co-operation with the Commission who has the responsibility to set such goals at least in a qualitative manner. <i>The Scientific Committee will give this matter priority when it is reviewing specific proposals or undergoing periodic reviews of existing Sanctuaries.</i>
(d) Need for co-operation with other bodies with respect to addressing threats other than whaling	The co-operation with other bodies at a scientific level is underway. <i>Where mitigation measures may be proposed on matters other than whaling, there is a need to consider a broader co-ordination with other bodies at a Commission level.</i>
ELEMENT 28: SCIENCE – ROLE OF SCIENCE AND FUNCTIONING OF THE SCIENTIFIC COMMITTEE (SWG 3: P. 62; SWG 4REV: PP. 116-117)	
	<i>The report of the intersessional correspondence group established by the Commission (IWC/M09/5) deals with this matter.</i>

Appendix 6

EXTRACT FROM DOCUMENT IWC/M09/5 REPORT OF THE INTERSESSIONAL CORRESPONDENCE GROUP ON SCIENTIFIC COMMITTEE ISSUES

(Note: for Annexes on Terms of Reference and country responses, please see full document)

BACKGROUND

At the March 2008 Intersessional Meeting on the Future of IWC a large part of the meeting focused on ways to improve approaches to discussions and negotiations within the organisation (see IWC/60/7). The role of science was one of seven broad areas addressed⁹.

There was agreement that the provision of sound scientific advice is essential to the functioning of the IWC and that one of the more positive features of the organisation is its strong scientific element. It was noted that the work of the IWC Scientific Committee is internationally recognised as providing the best available knowledge on conservation and management for cetaceans and that the Committee has a good record in achieving consensus on nearly all of its recommendations to the Commission. Nevertheless, comments were made by some participants that the current workload of the Scientific Committee is too high, difficult to prioritise and, mainly because of its timing in conjunction with the Commission, not adequately integrated into the policy work of the Commission. 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).

In his report to the 60th Annual Meeting in Chile last year (i.e. IWC/60/12), Professor Juma¹⁰ also recognised the critical role that the Scientific Committee plays in the functioning of IWC and stressed that the current difficulties facing the Commission do not result from an inability to provide scientific advice. However, he suggested that there are ways in which its effectiveness could be strengthened by:

- (1) separating meetings of the Scientific Committee from those of the Commission so as to allow more time to consider its report;
- (2) facilitating participation of scientists from developing countries to better-reflect the membership of the Commission; and
- (3) improving co-ordination and co-operation with other relevant scientific organisations in addition to those for which extensive co-operation exists.

The Commission's discussions on the future of IWC at last year's Annual Meeting led to consensus documents on both improved practices and a path towards resolution of substantive issues (see IWC/60/24). With respect to the role of science and the Scientific Committee, the Commission agreed that there are aspects of the Committee's work and functioning that would benefit from

careful review. It therefore decided to establish an Intersessional Correspondence Group on Issues Related to the Scientific Committee (ICG) to address the following issues (see Annex A for full Terms of Reference):

- (1) consideration of the advantages and disadvantages of separating the annual meeting of the Scientific Committee from that of the Commission;
- (2) consideration of ways to increase participation in the Scientific Committee of scientists from developing countries in the work of the Scientific Committee;
- (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; and
- (4) review of the process for inviting participants to the Scientific Committee.

Given that the ICG's output would form part of the overall discussions on the future of the IWC, its Terms of Reference include that the discussion document to be produced by the ICG was 'to be forwarded to the Small Working Group on the Future of IWC at a time to be determined'.

METHOD OF WORKING

At its organisational meeting in Santiago immediately after the close of IWC/60, the Small Working Group (SWG) agreed that the ICG's Terms of Reference should be circulated to all Contracting Governments with a request for comments/suggestions on any or all of the four areas identified in the Terms of Reference to be received by the Secretariat by 15 August 2008 (see Circular Communication IWC.CCG.712 of 16 July 2008). As foreseen when developing the Terms of Reference, the SWG agreed that only those governments responding to the request for comments would continue to be included in subsequent correspondence (and would therefore comprise the intersessional correspondence group). A number of SWG members offered to be on a 'core group' to assist the Chair of the Scientific Committee and the IWC's Head of Science to compile an initial draft of the discussion document. Those offering to be on the 'core group' were Argentina, Australia, Brazil, Italy, Korea, Mexico, Netherlands, New Zealand, Norway, Mexico and the USA.

It had been hoped that a draft discussion document could have been circulated to Contracting Governments and SWG and ICG members in advance of the SWG meeting in Florida from 15-18 September 2008. This had not been possible, although a progress report was submitted to the SWG that included the comments submitted. A draft discussion document was submitted by the Intersessional Core Group to the December 2008 meeting of the SWG in Cambridge, UK.

⁹The others were: the role/purpose/future of the organisation and ripeness to discuss; improving practices and procedures; improving the negotiation process; improving participation; the role of the media; and improving relationships with intergovernmental organisations.

¹⁰Professor Calestous Juma, Belfer Center for Science and International Affairs, Harvard Kennedy School, was engaged by the Commission as a Special Advisor to facilitate discussions on the future of the IWC.

THIS DOCUMENT

This discussion document collates the responses of 16 countries who replied to the Secretariat's call for comments circulated on 15 August 2008 (i.e. Argentina, Australia, Brazil, Denmark, France, Germany, Italy, Ireland, Japan, Mexico, The Netherlands, New Zealand, Peru, Spain, UK, and USA). It follows the structure of the Terms of Reference. For each of the four issues listed above, a summary of the responses is provided. The full responses of each country are given in Annexes B and C. The last section of the document provides options for a way to take this work forward for consideration by the Commission at its March 2008 intersessional meeting.

SUMMARY OF RESPONSES

Term of Reference

(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 Commission;*
- (d) *confidentiality aspects; and*
- (e) *consideration of the applicability of other 'models' such as that of the IPCC.*

Overall summary

All of the responses received recognised that there were some positive aspects about separating the annual meeting of the Scientific Committee from that of the Commission – several also commented on the need to link discussions of this to the question of biennial meetings of the Commission. Even with biennial Commission meetings however, most countries that commented stated their preference for annual meetings of the Scientific Committee given its workload and the iterative nature of its work.

(a) Logistical and financial aspects

Timing

In terms of the timing of any separation, only two countries made suggestions for timing. (Australia) suggested a period of 2-3 months prior to the Commission meeting (and linked this with timing of field seasons assuming that the SC meeting could be in March and the Commission meeting in June/July). The (USA) suggested that if full consultation was required for actions (e.g. Schedule amendments, Resolutions) as discussed *inter alia* in Santiago, then a period of up to 5 months might be required – this includes a period of 2 months for Commissioners to consult after circulation of the Scientific Committee report and allowing for 60 days in advance circulation of proposed decisions; if Commission meetings were held in June/July this would imply that the Scientific Committee meeting would be held in December/January.

It is clear that further consideration needs to be given to the question of the appropriate timing – for example, the December/January period is the peak field season in the Southern Hemisphere whilst the 2-3 month period might be considered too short to allow full consultation amongst governments over proposed decisions. However, the need

for formal resolutions on agreed recommendations from the Scientific Committee is not the only possible approach – for example, the Commission could simply adopt such recommendations (lessening the need for the 60-day period apart from perhaps Schedule amendments). The five-month period could exacerbate the potential problem of 'additional' analyses being submitted directly to the Commission although the UK has suggested that one way to avoid this would be to develop a new rule of procedure to prevent this.

Venue

The question of venue was raised by four countries, three of whom linked this to the question of costs (see below). Australia commented on the value of continuing to hold the Scientific Committee meetings in different countries, noting that a major advantage of this approach is to facilitate attendance by local/regional scientists (also relevant to questions 2-4).

Costs

This will require a more detailed consideration as discussions within the SWG and the Commission itself progress on a number of issues but it is inevitably somewhat complex. For example, costs can be separated into two categories: (a) costs applicable to the IWC central budget; and (b) costs applicable to individual countries. It is possible that actions to reduce (a) may increase costs in (b) and *vice versa* and that the same actions will affect different countries in quite different ways (e.g. countries who always send scientists to Commission meetings will face increased costs by separating the two meetings whereas this will not be the case for those countries who do not send scientists to the Commission meeting).

Several countries noted the possibility of offsetting increased costs incurred with separating the two meetings (e.g. increased Secretariat costs) by having biennial meetings of the Commission, making it difficult to discuss the two issues separately. As noted above, three countries suggested that always holding Scientific Committee meetings in Cambridge would reduce Secretariat travel costs (i.e. relevant to category (a) costs). This of course will be dependant on being able to find a suitable regular venue within Cambridge and the cost of that venue. In addition, holding the venue in the same place each year (a) will see losers and winners with respect to travel costs for country scientists and (b) negates the advantage of facilitating different local/regional scientists participation noted by Australia above.

(b) Scientific aspects

Many countries noted that the work of the Scientific Committee is important and effectively carried out and that this should continue whatever decision is taken with respect to separation of meetings from the Commission and most (but not all) agreed that the Scientific Committee should continue to meet annually, irrespective of any decision on biennial meetings of the Commission, given its workload and the iterative nature of its work and the need for periodic review of progress by the full Committee.

(c) Communication with the Commission

Most delegations commented that the primary advantage of separating the Scientific Committee and Commission meetings would be to allow the Commission longer to review the complex report of the Scientific Committee. As

part of that process some also noted that it would: (a) allow more time for editorial work to finalise the report; and (b) the opportunity could be taken to allow e.g. the Chair of the Committee and the Head of Science to develop an Executive Summary and to explain further the background to discussions as well as the most recent discussions themselves. In addition, reference was made to the initiatives (including the French initiative) already being undertaken by *inter alia* the Committee itself to improve communications between the Scientific Committee and the Commission. It was also suggested that individual countries might consider drafting 'review working papers' on topics of particular interest to themselves, recognising that any final documents would need to be agreed by the full Scientific Committee.

(d) Confidentiality aspects

The present Rules of Procedure mean that the Scientific Committee report remains confidential until the opening Plenary session of the Commission, although the Report is made available to Commissioners as soon as it is ready and usually at least 2 days before and relevant extracts are made available to relevant Commission sub-committees and Committees (e.g. the aboriginal/subsistence whaling sub-committee, the conservation committee, the budgetary sub-committee) prior to the Plenary session.

Most commented that the Rule would need changing if there was greater separation (the present rule for intersessional meetings allows for reports to be confidential until circulated to the Commission, and this may be appropriate should confidentiality be desired) and many questioned the need for confidentiality. It appears that this could be a general issue for discussion by the Commission. Reasons in the past have included: the need for Commissioners to receive the report first as they are the responsible body; the need to avoid manipulation or misrepresentation of the Committee's work.

(e) Consideration of the applicability of the models such as that of the IPCC

Many commented on the value they placed on the work of the Scientific Committee and its international reputation. It was noted that its objectives are different from that of the IPCC, and that the Scientific Committee is much more proactive, undertakes original work and addresses the specific needs of the Commission. However, New Zealand believed that there may be aspects of the IPCC work that may be relevant to the Scientific Committee and Italy commented that the IPCC model might be more relevant to the Commission's Conservation Committee and Aboriginal/Subsistence Whaling Sub-committee.

Term of Reference

(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).*

Overall summary

It is clear that there is general support for increasing the participation of qualified scientists from developing countries in the work of the Scientific Committee. Some suggested that the responsibility for sending at least one scientist to the Scientific Committee lay with each member nations, whilst recognising the financial implications. The role of the Scientific Committee as primarily an advisory body not an educational body was noted and in several cases discussion of this issue was linked to questions (3) and (4) – improving scientific capacity with respect to cetacean conservation throughout the world and examination of the Invited Participant process.

(a) Selection process and preparation for meeting

A number of countries stressed that it was important that only suitably qualified scientists who can contribute to the priority work items attend the Scientific Committee. Some commented that the geographical representation should be achieved by national delegations, others that a selection process (and see (c) below) under the auspices of the Scientific Committee could be established that involved consideration of appropriate qualifications and CVs. It was also suggested that any selected scientists could/should attend a Scientific Committee seminar before attending meetings.

(b) Financial aspects

All countries recognised that this was a fundamental issue that requires future thought. Opinions ranged over the extent to which this should be IWC-funded.

(c) Relationships with the overall invited participant process

Some countries believed that the process should be independent of the current Invited Participant system whereas others believed that the present system was adequate (and see Item 4 below).

Term of Reference

(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.*

Overall summary

Although some countries reiterated their view that the primary responsibility of the Scientific Committee was to provide advice to the Commission not training, most respondents commented that there was value in the IWC assisting in the improvement of the scientific capability of cetacean researchers around the world, particularly in co-operation with other international bodies, where possible.

Regional training workshops

There was considerable support for the idea of members of the Scientific Committee holding short workshops on conservation science and a number of possible collaborative intergovernmental organisations were suggested (including FAO, UNEP, CBD, CMS) and professional bodies such as Society for Marine Mammalogy and the European Cetacean Society. Primary topics suggested included those pioneered and/or extensively used by the Scientific Committee including abundance/trend estimation (e.g. line-transect surveys, mark-recapture), population simulation modelling to assess conservation/management actions (e.g. RMP/AWMP, bycatch, ship strikes). One country suggested that the IWC should seek to provide input into existing training workshops held by FAO as a more cost-effective approach than separate IWC workshops.

Provision of materials (e.g. documents)

Countries noted that the IWC already has a number of materials that could be valuable in training workshops (and in general) including meeting documents, publications (*Journal of Cetacean Research and Management*), PowerPoint presentations etc. The IWC website would be a valuable portal in this regard and the possibility of making all historical meeting documents electronically available was suggested. Other ideas suggested included the provision of summary documents such as that suggested by France at the Santiago meeting.

Financial aspects

A number of views were expressed under this item ranging from the inclusion of a separate budget line, obtaining outside funds from aid agencies and NGOs to collaboration with other IGOs.

Term of Reference

(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.*

Overall summary

In general, countries agreed that the primary purpose of invited participants was to assist the Scientific Committee in providing advice to the Commission on key issues and that such scientists should be able to contribute to the priority work of the Committee. There were some comments that the Commission's review process for the Scientific Committee's work plan items could be modified. With respect to the process to invite participants, there was general agreement that the current process (decision taken by the Chair with advice from the convenors) was a good basis for any review and there were some suggestions as to how this might be improved.

Objectives for inviting participants

As noted in the responses to several questions, there is general agreement that the primary purpose of invited participants was to assist the Scientific Committee in providing advice to the Commission on key issues, particularly where there is expected to be a shortfall in expertise from scientists on member delegations. Several countries stressed the need for co-ordination to occur within the Scientific Committee.

Reasons for non-inclusion of IWC-funded participants on national delegations of developed countries

This matter had been noted by the Chair of the Scientific Committee who noted that there are scientists from developed countries who make a valuable contribution to the work of the Committee but who are not funded by/included on their national delegations. Some commented that the reasons may be varied and include the right of countries to choose their own delegations and the right of scientists who are not government employees not to be bound by any conditions set by a particular government.

Selection process and advice

There was general agreement that the current process provided a good basis for any review of the Invited Participants but that a mechanism to improve the participation of scientists from developing countries should be developed as discussed earlier in this document. One country commented on the need to separate out self invited (self funded) participants.

Financial aspects

This has been discussed extensively under other questions.

A WAY FORWARD

This document summarises the comments provided on those issues identified as being of relevance to the Intersessional Correspondence Group.

There was general agreement that in general, the Scientific Committee worked effectively and that its processes were sound but that ways should be investigated to:

- (a) further identify the advantages and disadvantages of separating the annual meeting of the Scientific Committee and make recommendations;
- (b) further identify ways to improve communication between the Scientific Committee and the Commission and make recommendations;
- (c) facilitate the participation of suitably qualified scientists from developing countries in the priority work of the Scientific Committee and to ensure that the priority work included issues relevant to a broad range of countries and make recommendations; and
- (d) facilitate capacity building for scientists in developing countries with respect to cetacean conservation and science and make recommendations.

The primary components of this work are scientific and financial. Possible ways forward to further address these issues and consolidate the work of the ISG include:

- (1) asking the Scientific Committee and the Finance and Administration Committee to work on their relative aspects of issues (a)-(d) taking into account the ideas expressed in this ISG document;
- (2) forming a small working group comprising members of the Scientific Committee and the Commission to develop a draft proposal for consideration by the Commission.

With respect to (1) it should be noted that: the Scientific Committee is already working on some aspects of these issues including that of communication with the Commission; the F&A Committee is already looking at the issue of biennial meetings which is of particular relevance to (a) above.

If option (1) was chosen this would require the Commission to:

- (a) instruct the Scientific Committee, in the light of this document, to examine the scientific and procedural matters related to (a) - (d) above and make recommendations to the F&A Committee and the Commission; and
- (b) instruct the Finance and Administration Committee to consider the financial aspects of this issue taking into account any recommendations made by the Scientific Committee and make recommendations to the Commission.

If option (2) was chosen, the topics and instructions would be the same but the Commission would need to determine the membership of the group.

Appendix 7

MEDIA RELEASE

Dr William Hogarth, Chair International Whaling Commission, Rome, 11 March 2009

The Intersessional Meeting of the International Whaling Commission concluded in Rome today on a note of cautious optimism.

‘These have been helpful discussions. There were clear expressions of view that efforts to arrive at a package of proposals must continue,’ the Chair of the Commission, Dr Bill Hogarth said. ‘Opinions differ amongst the members as to precisely how to accomplish our goal and a great deal of work remains to be done.’

‘As Chair of the IWC, I am heartened at the views that have been expressed over the last few days on our work so far, and the general commitment to continue to further develop a set of proposals that can command broad agreement.’

‘We are not there yet, but we’ll keep going, and see what we can come up with to be considered at the Commission’s Annual Meeting to be held in Madeira, 22-26 June.’

‘The Intersessional Meeting has agreed to give directions to the Small Working Group to continue its work,’ Dr Hogarth said.

The IWC meeting was held at the FAO Headquarters in Rome from 9-11 March, to consider the results of the initial

deliberations of the Small Working Group (SWG) on the Future of the IWC that was established at the IWC’s Annual Meeting last year.

The task of the SWG, which is chaired by Ambassador Alvaro de Soto, is to ‘assist the Commission to arrive at a consensus solution to the main issues it faces, to enable it to best fulfill its role with respect to the conservation of whale stocks and the management of whaling’.

The final report of the Small Working Group will be available by 18 May.

Over half of the Commission’s 84 members attended the Rome meeting. In addition, there were observers from 4 intergovernmental organisations.

Civil Society was also well represented at the meeting, with over 30 non-governmental organisations. Delegates of six NGOs addressed the meeting.

At close of business, the meeting received a presentation from Japan on events in the Southern Ocean involving the *Steve Irwin* and Japan’s research vessels. The Commission deplored acts of violence against ships and once again unanimously called for action to be taken by the relevant authorities.

Annex E

Report of the Small Working Group (SWG) on the Future of the International Whaling Commission

Prepared for the Commission on 18 May 2009

BACKGROUND

At its 60th meeting in June 2008 in Santiago, Chile, the International Whaling Commission created the Small Working Group on the Future of the International Whaling Commission (SWG), charged with assisting the Commission to arrive at a consensus solution to the main issues it faces and thus to enable it to best fulfill its role with respect to the conservation of whale stocks and the management of whaling. The primary task of the SWG, chaired by Mr Alvaro de Soto, was to make every effort to develop a package or packages for consensus solutions regarding the future of the IWC for review by the Commission.

The SWG has held three meetings: at St Petersburg, Florida, USA in September 2008; at Cambridge, United Kingdom in December 2008; and at Rome, Italy in March 2009. The SWG Chairman has submitted progress reports on all three meetings. This is the report of the SWG to the Commission due by 18 May 2009.

The SWG had before it 33 elements or issues identified as being of importance by members of the IWC. At its first meeting the SWG adopted a method of work on the understanding that *'nothing is agreed until everything is agreed'*. A distinction was made between:

- (a) controversial issues that need to be addressed in the short term, i.e. those that if not addressed in the short term may fail to alter the status quo or even result in an irreparable break in the system via the withdrawal of governments from the Convention; and
- (b) issues which are non controversial or less controversial and which, if left unresolved, would not prevent a package being agreed concerning category (a) *provided* that a mechanism exist or can be established to address them. The latter are primarily but not exclusively scientific and administrative issues.

The lists of issues and how they are broken down into the two categories are set out in Annexes 6 and 7 of IWC/M09/4¹. The division into these categories should be understood primarily as a methodological step without which the SWG's work might have proved unwieldy (see Progress report on the September 2008 meeting, i.e. IWC/S08/Rep 1).

Category (b) issues were further divided into: (1) items referred to the Scientific Committee; and (2) items of a mainly administrative or financial nature.

As regards (1), the Chairman of the Scientific Committee and the Head of Science were asked to elaborate on these items and a paper was produced for the Rome intersessional meeting (see document IWC/M09/6,

included here for completeness as Appendix 4). This paper demonstrated that these items are already included in the Scientific Committee's work programme. Items in category (2) were discussed by the SWG in Rome (see Annex F of the Progress report of the Rome SWG, i.e. IWC/M09/Rep 1).

CHAIRS' SUGGESTIONS

Having thus organised its work, the SWG was able to concentrate efforts on a core package of issues on the future of the IWC and how they might be combined. Following extensive discussion and consultation, an attempt was made to reflect the outlines of a package for consideration by the Commission as a whole. This took the form of a paper titled 'Chairs' Suggestions on the Future of the IWC' (Appendix 1 of IWC/M09/4). The Chairs' Suggestions contain a two-stage approach to defining the future course of the IWC. The Chairs of the IWC and the SWG, who took responsibility for the 'Suggestions' paper, expressed the view that it pointed in the direction of what might be an overall solution to the core issues.

The Chairs singled out three issues out of the 13 assigned to category (a) for which it has proven particularly important and difficult to identify a single way forward, namely:

- (1) Japanese small-type coastal whaling;
- (2) special permit whaling; and
- (3) sanctuaries.

They are inter-related in that it will not be possible to reach agreement on (1) without agreement on (2) and *vice versa*. The question of *where* regulations would apply (i.e. sanctuaries) cuts across both.

The membership of the SWG is by and large in agreement with the Chairs' view that these three category (a) issues are the key issues. Further exploration and discussion will be required to determine the appropriate way forward in the context of a package or packages. The Chairs' view is that the best way to tackle them is in two stages. The *first stage* would consist of short-term solutions which would be put in place for a 5-year period, to be known as the 'interim period.' It would be understood that the solutions to these issues would be *ad hoc* and short term in nature and that these solutions would not be construed as signifying agreement by any party with each of its details. The impact of the conservation and management measures proposed by the Chairs for the interim period, in addition to reducing the number of whales killed, would have the overarching purpose of strengthening the conservation and management mandates of the IWC.

During the interim period, long-term solutions relating to the governance and future functioning of the IWC would

¹See Annex B for list of documents relevant to meetings of the SWG.

be developed so that they can be put in place at the end of the five years. The *second stage* would begin with the expiry of the short-term solutions and the entry into force of the long-term solutions.

ACHIEVEMENTS THUS FAR

The categorisation and narrowing down of issues are significant achievements in the work of the SWG, as is the agreement that has emerged on the possible value of a two-stage approach. However, given the complexity and the sensitivity of the issues involved, it should not come as a surprise that it has thus far not been possible to secure agreement on key specifics of the 'Chairs' suggestions.² The inter-relatedness of the three issues singled out cannot be overemphasized; hence the importance of the principle that nothing is agreed until everything is agreed.

While agreement on specifics of the core package is still pending², considerable work has also been done in other aspects of the SWG's mandate, as reflected in the Progress report presented by the SWG Chairman following the Rome meeting (see IWC/M09/Rep 1). It is on this basis that Commission members will find attached to this report agreements on three issues: (i) a *work plan* for consideration and action on the issues that would be before the IWC during the interim period (Appendix 5); (ii) *guidance on category (b)* issues including elaboration of how these issues will be advanced beyond IWC/61 (Appendix 6); and (iii) a *request for the Scientific Committee to provide a draft, non-binding work plan and timeline to fully assess the Japanese small-type coastal whaling proposal* (Appendix 7 with background information in Appendix 4).

Advice on (iii) is provided following the authority delegated by the IWC at its intersessional meeting. Appendix 7 was prepared by a small group to assist the Scientific Committee in providing advice on a workplan and timeline to assess Japan's proposal. However, as stated in Appendix 7, it does not represent any agreement by the SWG or the Commission on the appropriate conservation and user objectives that might apply should the Commission decide to approve a quota at some point in the future. In addition, Appendix 7 requests the Scientific Committee to provide advice on the timeline and work plan for the completion of a full RMP implementation review for western North Pacific common minke whales.

Any advice that may be provided by the Scientific Committee will of course not be binding; as has been stated throughout the process, nothing is agreed until everything

is agreed. Japanese small-type coastal whaling is one element in a potential package(s) of measures to resolve IWC's problems that is currently under discussion. Consequently, the requesting of advice from the Scientific Committee is **only** to obtain further background information on one aspect of one potential element of a package or packages to assist in Commission discussions. Accordingly, the Commission can expect a proposed Scientific Committee work plan for the period prior to IWC/62 for consideration by the Commission in Madeira in the context of the Commission's broader consideration of a potential package and the possible user and conservation objectives for Japan's proposal.

Whalewatching was considered as an important element that will be included in the package in an appropriate way.

The Intersessional Correspondence Group on Scientific Committee issues was established at IWC/60. It reported to the Rome intersessional Commission meeting (IWC/M09/5). The Scientific and Finance and Administration Committees were separately requested to review the issues at Madeira on the occasion of IWC/61 and to forward their recommendations to the Commission with a view to establishing a small group in Madeira to continue the work.

THE WAY AHEAD

The SWG has fallen short of the stated goal of agreeing on a package or packages on the future of the IWC for the Commission's review within the time allotted to it. However, significant concrete results have emerged as outlined above and in the annexes to this report in connection with the SWG's work and the sense of urgency that has been developed. The general agreement on the approach to be taken in order to bridge the remaining gaps on the central issues which must form the core of a package is also an important milestone that should not be underestimated. The practical progress achieved must be coupled with the greatly improved atmosphere and the spirit of respectful dialogue which now prevails. This diplomatic method of doing the Commission's business must be retained. It is against this background and to keep up the momentum that has been gained, that the SWG recommends to the IWC that, when it meets at Madeira, it should direct that the efforts underway should be continued for a further year and decisions taken at IWC/62.

²Two SWG members, while appreciative of the work undertaken to develop a package solution for the future of the IWC, expressed concern that too much focus has been given in the short-term to addressing specific whaling activities (Japanese coastal whaling) rather than: the commercial whaling moratorium and general rules on the management of whaling; provisions for objections and reservations; and the purpose of the Convention.

Appendix 1

LIST OF COUNTRIES WHO HAVE ATTENDED ONE OR MORE MEETINGS OF THE SWG

Antigua and Barbuda	Czech Republic	New Zealand
Argentina	Denmark	Norway
Australia	Germany	Palau, Republic of
Benin	Guinea, Republic of	Panama
Brazil	France	Peru
Cambodia	Iceland	St Kitts and Nevis
Cameroon	Italy	St Lucia
Chile	Japan	South Africa
China	Korea, Republic of	Sweden
Costa Rica	Mexico	USA
Côte d'Ivoire	Netherlands	UK

Appendix 2

LIST OF DOCUMENTS RELEVANT TO MEETINGS OF THE SWG

SWG MEETING, FLORIDA, USA, SEPTEMBER 2008

IWC/S08/SWG

- 1 Draft agenda
- 2 List of documents
- 3 An overview of the elements/issues identified as being of importance to one or more Contracting Governments in relation to the future of the IWC (prepared by the Secretariat)
- 4rev Input from Contracting Governments on the 33 elements/issues identified as being of importance to one or more Contracting Governments in relation to the future of the IWC (prepared by the Secretariat)
- 5 Progress report on the work of the Intersessional Correspondence Group on Scientific Committee Issues
- 5 Addendum: input from Denmark

SWG MEETING, CAMBRIDGE, UK, DECEMBER 2008

IWC/S08/Rep

- 1 Progress Report on the September 2008 meeting of the Small Working Group (SWG) on the Future of the International Whaling Commission, presented by Alvaro de Soto, SWG Chairman, St. Petersburg, Florida, USA

IWC/D08/SWG

- 1 Draft agenda
- 2 List of participants
- 3 List of documents
- 4 Draft Report of the Intersessional Correspondence Group on Scientific Committee Issues

SWG MEETING, ROME, ITALY, MARCH 2009

IWC/M09/

- 4 Report on the Small Working Group (SWG) on the Future of the International Whaling Commission, Presented by Alvaro de Soto, SWG Chairman (includes Chairs' Suggestions on the Future of IWC)
- 5 Report of the Intersessional Correspondence Group on Scientific Committee Issues
- 6 Further elaboration on the work of the Scientific Committee with respect to Category (b) items
- 7rev Directions for further work of the SWG

OTHER DOCUMENTS

IWC/M09/Rep

- 1 Progress report on the Small Working Group (SWG) on the Future of the International Whaling Commission, Presented by Alvaro de Soto, SWG Chairman, after the SWG meeting in Rome, 11-13 March 2009

IWC/61/

- 7rev Chair's Report of the Intersessional Meeting of the Commission on the Future of IWC, FAO Headquarters, Rome, 9-11 March 2009
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Appendix 3

(DOCUMENT IWC/M09/6)

[See Annex D, Appendix 5 for text]

Appendix 4

REPORT OF THE WORKING GROUP TO EXAMINE ISSUES RELATED TO THE PROVISION OF SCIENTIFIC ADVICE WITH RESPECT TO POSSIBLE PACKAGES

Members: Doug DeMaster (USA), Mike Donoghue (New Zealand), Greg Donovan (Secretariat), Nick Gales (Australia), Joji Morishita (Japan), Lorenzo Rojas-Bracho (Mexico).

1. Introduction

The focus of the Working Group was to identify matters upon which the Scientific Committee would require policy advice in order to allow it to be able to provide scientific advice.

Adjunct 1 provides a fuller discussion of the background to these issues.

2. Japanese small-type coastal whaling for common minke whales

(A) Data availability

The Scientific Committee will require data on *inter alia* stock structure, abundance and catch history to provide advice on catch limits. These data will need to be made available for all hypothesised populations. It should be recognised that stock structure and abundance issues are the most critical. Data will be required for management and thus will fall under Procedure A of the Data Availability Agreement (DAA), which means that the data used in analyses will be made available to the Scientific Committee with appropriate safeguards in place to ensure that they are only used in the context of Scientific Committee work. Given the importance of stock structure information, the Group **requests** the SWG to ask the Scientific Committee to review the DAA with respect to tissue samples and DNA itself as well as to provision of sequenced data.

(B) Methods for providing management advice and evaluating whether catch limits are acceptable

The Group assumes that catch limits, should they be set, will be on the basis of scientific advice. There are several possible general methods that the Scientific Committee could use within its simulation modelling evaluation framework. In all cases the Committee would inform the Commission of a summary of the status of knowledge and available samples/data on whale populations likely to be impacted by small type coastal whaling (STCW) as part of its provision of advice (see Table).

If requested it may be possible to develop interim advice for the 5-year period *if conservation objectives are specified*. For example, potential objectives could include:

- (a) populations should be allowed to increase (with a specified level of certainty) if below a particular target level;
- (b) populations should not decrease (with a specified level of certainty) below current abundance; or
- (c) population trajectories should not be significantly different over a longer period (say 25 years) if the catches were reduced to zero after the interim period expires or if the catches were zero throughout the period.

The Scientific Committee would inform the Commission that it would not be able to provide it with interim advice if it believed the uncertainty surrounding key data precluded this.

The Commission needs to instruct the Committee on how it would like management advice provided. Implications with respect to **timelines** and the **need to provide objectives** are given in the Table. Options include:

- (1) Undertake a full RMP Implementation Review.
- (2) Use existing 2003 Implementation* to provide advice until full review undertaken.
- (3) Provide, if deemed possible by the Committee, some kind of ad hoc interim advice until management procedure advice (either the RMP or case-specific).
- (4) Develop a new, case specific approach.

With respect to interim advice or case-specific advice, the Commission would need to provide information on pre-specified catch levels should that be the approach taken for user objectives.

(C) Practical implications if more than the target population are taken

It should be noted that individual animals from a common minke whale population are identified based on genetic analysis. For example J-stock animals can be assigned with about 90% probability. This has implications for monitoring catch limits and examples are given in Adjunct 1. The Commission would need to specify one or more mechanisms to ensure that catch limits were not exceeded (e.g. stop all catches once a certain number of J-stock animals have been taken) – a system to obtain and analyse genetic samples in near real time may be required. Proposed mechanisms would need to be tested in a simulation framework to ensure that conservation objectives are met.

*Note that if the 2003 Implementation approach is used, the division of opinions on stock structure hypotheses may remain.

	RMP	Case specific for Japanese STCW	AWMP (for comparison)
Objectives (conservation)	No catches allowed if population below 54% of unexploited size.	Would need to be specified.	'Minimum' level at which catch=0 Don't increase extinction risk Move towards specified target level (usually around 60% of unexploited level).
Objectives (user)	Stability of catches. Highest sustainable yield.	Would need to be specified.	Allow catches to meet specified need.
Input data	Catches, abundance, stock structure, time/area knowledge of expected whaling operations and whale populations.	At least catches, abundance, stock structure time/area knowledge of expected whaling operations and whale populations.	At least catches, abundance, stock structure, time/area knowledge of expected whaling operations and whale populations.
Timeline	If the 2003 <i>Implementation</i> * is used, this could occur at Madeira. If full <i>Review</i> occurs then would take at least until 2010 meeting.	Developing a new procedure would probably take at least three years based upon experience with AWMP.	N/A
Other comments	If Commission decides J-stock (or other non-target populations should they occur) is not considered within RMP objectives (since not direct target of whaling) then decision on conservation objective(s) for J-stock would be needed.		N/A

*Note that if the 2003 *Implementation* approach is used, the division of opinions on stock structure hypotheses may remain.

3. Research under special permit

The Group recognises that there are many policy and scientific aspects related to special permit whaling. It did not attempt to discuss these. In its short discussion it focussed on the fact that if the Commission requires the Scientific Committee to provide advice on the effects of particular catches upon stocks, then it needs to provide more specific advice than e.g. 'pending interim advice on sustainability' as was included on one of the options for the

Chair's summary. This is related, for example, to the need to be more specific about conservation objectives (e.g. see comments on interim advice, above). The Group noted that the Scientific Committee has asked for advice on this matter in the past with respect to consideration of the effects of special permit catches upon stocks.

4. Adoption of report

The report was adopted at 16:08 on 12 March.

Adjunct 1

A note on some of the scientific aspects of potential packages for which the Scientific Committee requires advice

Greg Donovan

Background: The need for objectives when asking for advice on 'sustainability' or effects of catches on stocks

Scientists can advise on the implications of catches on stocks but how that advice is provided and the choice of the criteria by which it is interpreted is primarily a 'political' issue – in essence this refers to the 'objectives' of management both in the context of the needs of the user and the status of the resource. Once known, scientists can design procedures to meet objectives and provide advice accordingly.

Examples of objectives

Table 1 summarises the Commission sanctioned objectives for commercial whaling and aboriginal subsistence whaling; these have been incorporated into the RMP and the agreed *Strike Limit Algorithms* (Bowhead and Gray and interim of the AWMP last year - all have been tested for uncertainty using the simulation modelling approach pioneered by the Scientific Committee).

It should be noted that whilst the *objectives* of the two approaches are different and calculated catch limits may be different, the advice is always conservative with respect to conservation implications (e.g. catches of bowhead whales would not be allowed under the RMP if the estimated

protection level of 54% was invoked, but catches do allow the population to increase).

Table 1
Objectives and principles for the RMP and AWMP.

	RMP	AWMP
Resource (priority)	Protection Level 54% In effect maintain at 'target level'	No explicit protection level... 'minimum level' Don't increase extinction risk At least maintain at or move towards 'target level'
User	Stability in catches Highest sustainable yield	Allow catches to meet need 'in perpetuity'
Type	Generic, all baleen whales but ISTs	Case-specific, species and area
Data 'needs'	'Lowest common'	Actual (data rich, intermediate or data poor)

The Commission took the policy decision to ask for a primarily generic approach (the *Catch Limit Algorithm*) for commercial whaling applicable for all species of baleen whales (case specificity does not occur until an individual *Implementation*). By contrast it agreed to a case-specific approach for the AWMP (different *Strike Limit Algorithms* for each fishery) as (a) it was not envisioned that the

number of operations would be large and (b) because it took better account of the quite different situations with respect to available data.

A further consequence of the different objectives is the nature of the way in which the advice is provided. For an RMP *Implementation*, the Scientific Committee would provide the Commission with the advice on the *highest total number* of anthropogenic removals that will allow the objectives to be met giving priority to the conservation objectives – this would include commercial whaling catches and also bycatches, scientific permit catches and ship strikes should any or all of these occur. By contrast, for aboriginal subsistence whaling operations, the Committee is provided with an estimated ‘need’ level by the Commission. It then evaluates this against the objectives, taking into account any other anthropogenic removals that might occur from that population, and provides the Commission with *advice on whether this level of need can be safely met*.

As noted above, the Committee’s preferred approach to giving management advice is via management procedures tested for uncertainty using simulation modelling (either RMP or AWMP) rather than providing *ad hoc* short-term advice.

With respect to the work of the SWG, this document provides information on a number of options that the SWG would need to provide advice to the Scientific Committee on, for illustrative purposes, the information provided in the Chair’s suggestions.

(1) Japanese small type coastal whaling

Aspect 1. *The Chair’s suggestion refers to an ‘interim’ quota for O-stock common minke whales in Japanese coastal waters for a 5-year period and asks the Scientific Committee to provide ‘interim advice’ concerning the total removals of O- and J-stock common minke whales under two scenarios (a) constant catches for 5 years and 0 thereafter; (b) constant catches for 5 years with the same level of catches thereafter.*

The Scientific Committee will need further information on how the ‘interim advice’ should be obtained, and in what form that advice should take. In addition, scenario (b) would not be strictly applicable if an RMP approach is used – RMP simulation testing implies surveys every six years and a feedback mechanism with the CLA setting catches, i.e. not a constant catch.

Scientific background

The Scientific Committee did complete an *Implementation* in 2003. This was a somewhat controversial exercise, took over ten years and did not result in consensus advice but rather a ‘majority’ and ‘minority’ view, largely over differences of view on stock structure hypotheses. As a result of this exercise, the Committee developed new guidelines to carry out *Implementations* and *Implementation Reviews* that have thus far proved successful.

The primary scientific complications surrounding this *Implementation* included (and these are inter-related):

- (1) Catches and bycatches are taken on migration.
- (2) Stock structure – complex hypotheses.
- (3) Abundance of J- and O-stock (really requires full synoptic survey estimates from the full feeding grounds with associated biopsy sampling, at least once

– complicated by possible mixing of O- and J-stock (and perhaps ‘W’).

In addition, although not the target of the *Implementation*, the results also revealed that under several scenarios, the ‘J-stock’ of common minke whales was considerably below the level at which catches would be allowed under the RMP (although significant numbers of bycatches of J-stock animals occur). As a result of the concern over J-stock, the Scientific Committee established an ‘in-depth’ assessment of western North Pacific common minke whales with an emphasis on J-stock – that is not yet complete. J-stock issues are considered further under Aspect 2.

The Scientific Committee should have begun the process for a full *Implementation Review* but agreed to postpone this until: (a) the review of the JARPN II programme was completed (particularly in the light of the work on stock structure occurring within that programme); and (b) the in-depth assessment was completed. The results of (a) will be presented at Madeira and (b) is ongoing.

With respect to *data availability*, if catches were to be allowed then it would seem that protocol (a) of the data availability agreement would need to be followed, as for the RMP and AWMP cases.

Options that could be considered

There are a number of ways in which the Scientific Committee could try to provide advice – but it should be the Commission’s responsibility to instruct the Committee as to its preferred approach.

(1) UNDERTAKE FULL RMP IMPLEMENTATION REVIEW

This could probably not be completed in Madeira – a full review could not be undertaken in one Annual Meeting unless the new data could be easily interpreted and agreed to and did not require any changes to the existing simulation trial structure (or associated work such as ‘conditioning’).

(2) USE EXISTING IMPLEMENTATION TO PROVIDE ADVICE UNTIL FULL REVIEW UNDERTAKEN

This could be undertaken in Madeira. Disagreements on stock structure hypotheses would remain unless new analyses presented at the meeting could be agreed by consensus (the JARPA II review has recommended analyses to re-evaluate the old hypotheses with the new data) – the outcome of such analyses is as yet unknown. New abundance estimates, if agreed by the Committee would be incorporated. The results of the existing *Implementation* would need to be re-examined using the Committee’s guidelines developed after the previous *Implementation*. The ‘with research’ option may be applicable.

(3) PROVIDE SOME KIND OF AD HOC INTERIM ADVICE UNTIL MANAGEMENT PROCEDURE ADVICE (EITHER THE RMP IMPLEMENTATION REVIEW OR SOME YET TO BE SPECIFIED CASE-SPECIFIC APPROACH – SEE 4 BELOW) BECOMES AVAILABLE

This option would require the most advice from the SWG as there are a number of options for providing *ad hoc* advice should the Commission desire it. As outlined earlier, it would need the specification of objectives with respect to both conservation and users. Some examples that have been used or proposed elsewhere with respect to marine living resources are given in Table 2. The difficulties with respect to stock structure hypotheses would remain. *If* the advice provided to the Scientific

Committee related to a *Commission-specified catch level* (similar to the 'need' under the AWMP), this could for example be incorporated into the RMP-simulation approach but with catches set to the specified level for 5 years and then: (a) set by the *CLA* (which could include zero); or (b) set for a further period at the specified level and the long-term trajectories examined for conservation measures compared.

(4) DEVELOP A NEW, CASE SPECIFIC APPROACH

This option would again require advice from the Commission with respect to objectives and would require considerable work. It would certainly not be possible to develop this in Madeira and may even be a challenge to complete the work within three years. The problems related to catches on migration, stock structure and abundance estimates remain.

Table 2

Some possible examples of objectives that have been suggested for marine living resources.

User	Resource
Sufficient for small operation	Prevent extinction
Maximum catch asap	> some %initial
Maximum eventually with some catch now	Current level
Stable catches	Keep at pre- specified target level
Quick return on investment	Return to initial
No effect on fishery (bycatches only)	Keep trend in abundance
	Maximum productivity level

Aspect 2. *J-stock issues- The Chair's suggestions refers to advice on total removals of J-stock animals as well as O-stock animals implying a joint management regime*

Scientific background

Existing information suggests that the J-stock is at levels below which catches would not be allowed under the RMP at least under some scenarios. The lack of good information on the full abundance of J-stock compounds the problems. It should be noted that J-stock animals can *only* be identified (with a 90% probability and this needs to be further examined) from genetic analyses. Thus both for determining abundance and for examining catch composition, genetic samples are required. The implications will also need to be examined by simulation modelling.

Levels of J-stock removals

If any direct (but accidental) catches of J-stock animals was to be allowed then (1) either a different conservation objective would have to be set from that of the RMP for J-stock (e.g. J-stock should still be able to recover) if it is at less than 54% of initial or (2) catches by Japanese STCW would have to stop as soon as a single J-stock animal was taken. If option (2) was chosen then simulation testing would be required to determine what level of removals would still allow the population to increase with some degree of probability.

As the primary intention is that the Japanese STCW only takes minke whales, then the geographical and temporal segregation of J- and O- stock animals needs to be fully investigated to see the extent to which it is possible to develop time/area restrictions to minimise/eliminate direct catches of J-stock. It is expected that these analyses will be presented to the Scientific Committee in Madeira.

Practical implications during a catching season

If the management regime is such that there is a 'limit', say x whales on removals of J-stock (e.g. based on option 1 or 2 above) then this will have practical implications and will require decisions from the Commission as to how to implement this. Some options (which would need to be examined by simulation modelling) are:

- (1) assume a bycatch level based on recent Korean and Japanese bycatch levels and subtract this to develop a 'direct' catch limit for J-stock animals – the Japanese catches would have to be monitored as close to real time as possible in terms of genetic analyses and catches stopped when the J-stock limit is reached in either (a) any one season or (b) based on a 5-year total – while still complicated this seems easier to implement than (2) below; and
- (2) obtain as close to real time estimates of all J-stock removals in bycatches from both Korea and Japan and then stop STCW catches when the total removal level is reached – this will require co-operation from Korea and Japan.

Note that under either option a mechanism for obtaining genetic samples, analysing the data and reporting the results will need to be established (the document refers to this being accomplished by the Secretariat but a precise mechanism would need to be developed by a technical group similar to that which examined DNA registers under the RMS discussions).

(2) Research under special permit

The Chair's suggestions include reference to 'all removal levels would be reviewed by the Scientific Committee and consistent with its recommendations' (their option 1(3)), and pending [interim] advice on sustainability from the Scientific Committee (or similar words in Option 2). In both options, it appears that the Committee will be provided with numbers to evaluate rather than have to calculate them.

From the Scientific Committee's review process, as special permit whaling refers to catches made for scientific purposes, the initial focus has been on determining what is the appropriate sample size to meet specified objectives followed by examining the effect of that level of catches on the stocks involved. This is the approach adopted in Annex P. The Chair's suggestions do not appear to consider the sample size issue except perhaps in the comment about experimental design made after the two options are elaborated.

A difficulty that the Scientific Committee has had for many years is that there is no Commission guidance on how to provide the necessary advice on the effects of permit catches on stocks, especially for long-term programmes with no specified end date, although the Committee has requested such advice on a number of occasions. In particular, the question here is what are the appropriate conservation objectives. See the earlier discussion of objectives. Some options that have been suggested include:

- (1) retain the objectives of the RMP;
- (2) populations should be allowed to increase if below the level giving highest sustainable yield; and
- (3) populations should not decrease.

This difficulty has been stressed at the recent JARPN II expert review workshop (SC/61/Rep1) who have again requested advice. As noted earlier, choosing the most appropriate objective is not a scientific matter but a political one.

In any event, the preferred method of the Committee is to undertake simulation modelling that accounts for uncertainty and to examine resultant population trajectories – as a minimum this would include a comparison of trajectories with and without catches and an examination of trends.

It should be noted that the Committee has not undertaken an *Implementation* of Antarctic minke whales for over 15 years. New abundance estimates are expected

in Madeira. Undertaking a full *Implementation Review* could not be undertaken in Madeira as this would require a full re-evaluation of stock structure hypotheses and the development and coding of new trials.

No other Antarctic whales have been considered in an RMP context and in-depth assessments have not been undertaken for fin whales. Some but not all of the Southern Hemisphere humpback whale stocks assessments have been completed. In the North Pacific, the Bryde's whale *Implementation* was completed successfully. In-depth assessments have not occurred for the other species.

The Committee will require instructions on how to provide advice.

Appendix 5

WORK PLAN FOR CONSIDERATION AND ACTION ON THE ISSUES THAT WOULD BE BEFORE THE COMMISSION DURING THE INTERIM PERIOD

This work plan is without prejudice to differing positions.

Procedures currently exist regarding *small cetaceans* (Element 31), *bycatch* (3) and *animal welfare* (2).

While disagreement remains regarding the competence of the IWC concerning *small cetaceans*, the Scientific Committee has continued to provide advice and this state of affairs may be sufficient to avoid the need for further process at this stage. The issue of small cetaceans may also be addressed by the Conservation Committee and in conservation management plans.

With respect to *bycatch*, all contracting parties are reminded of their reporting obligations under ICRW. The issue of *bycatch* is dealt with by the Scientific Committee and may also be addressed under *conservation management plans* (element 10).

While disagreement remains regarding the competence of the IWC concerning animal welfare, there is an institutionalized IWC working group that has made progress in addressing concerns regarding *animal welfare*, but there are issues that need to be resolved during the interim period related to collection, provision and use of data.

Provision needs to be made for the continuation of this work and appropriate oversight and guidance from the Commission. Everything else remaining equal, they would

not need to be part of a work plan for addressing Stage 2 issues during the interim period.

The remaining issues in Stage 2 (*commercial whaling moratorium* (7), *compliance and monitoring* (8), *purpose of the Convention* (11), *objections and reservations* (21) as well as RMP (24) and RMS (25)) should be dealt with in a group that is as widely representative as possible while not exceeding (10) members. The group should address outstanding issues related to *small cetaceans*, *bycatch* and *animal welfare* not currently being dealt with under existing procedures and might also address outstanding issues not covered within a Stage 1 package. In order to best ensure the effective conservation of whale stocks and the management of all whaling activities, that group should propose a package or packages for the consideration of the Commission no later than one year before the end of the interim period. The group shall provide annual progress reports to the Commission.

The group may set up *ad hoc* expert groups to address aspects of the Stage 2 elements.

Reference was made to the Technical Committee, currently existing only on paper, as a possible venue for dealing with these matters, but it was considered unsuitable because of its open-ended and hence potentially unwieldy character.

Appendix 6

GUIDANCE ON FURTHERING CATEGORY (B) ISSUES

The Intersessional Meeting of the Commission *inter alia* assigned the SWG to develop 'guidance on category (b) issues including elaboration of how these issues will be advanced beyond IWC/61'.

The intersessional meeting noted that scientific category (b) issues, to a significant extent, are already being addressed by the Scientific Committee (see Annex C). This guidance therefore addresses the following issues:

- 1 – Advisory/Standing Committee or Bureau – need for
- 2 – Animal Welfare
- 4 (e) – Climate change – mitigation actions
- 5 – Civil society – involvement of
- 9 – Conservation Committee
- 10 (b) – Conservation Management Plans
- 13 – Data provision
- 14 – Developments in Ocean Governance
- 16 (b) – Environmental threats
- 17 – Ethics
- 18 – Financial contributions scheme
- 19 – Frequency of meetings
- 20 (d) – Marine Protected Areas
- 22 – Improvements to procedural issues (addressed in Santiago to a certain extent)
- 29 – Secretariat
- 31 – Socio-economic implications
- 32 – Trade restrictions

It is suggested that the issues of 9 – *Conservation Committee*, 13 – *Data provision*, 14 – *Developments in Ocean Governance*, 16 (b) – *Environmental threats* and 20 (d) – *Marine Protected Areas* should be dealt with by a group that is as widely representative as possible. The Group may set up *ad hoc* expert groups to address specific aspects of the issues. Where a need for action is identified but no mechanism recommended, the Commission will decide on the mechanism.

1. Advisory/standing committee or bureau – need for

Depending on the outcome of discussions on the future of the organisation, a revised Advisory/Standing Committee or Bureau with broader participation and responsibilities (e.g. if the Commission were to meet biennially in future) may be required.

It is suggested that the Advisory Committee's Terms of Reference be reviewed. This would be most appropriately done by the F&A Committee and it is suggested that this item be included on its agenda for its meeting at IWC/61 in Madeira.

The review should examine:

- the Advisory Committee's current role and tasks; and
- the roles and responsibilities of advisory bodies/bureaus of a number of other Conventions by building on and updating the review previously done by the Secretariat for the F&A Committee in 2006 (Document IWC/58/F&A 5).

2. Animal welfare

While IWC's competence to address animal welfare issues is a matter of debate (and being handled under category (a)), the Commission addresses animal welfare issues in its

Working Group on Whale Killing Methods and Animal Welfare Issues.

It is noted that in relation to animal welfare there are both technical and policy issues to be considered (e.g. decision support for stranding and/or entanglement incidents).

With respect to technical issues, it is suggested the Terms of Reference for the Working Group on Whale Killing Methods and Animal Welfare Issues be reviewed. It is noted that this Working Group is already addressing whale killing methods and welfare issues related to the euthanasia of stranded animals and that a workshop on welfare issues associated with the entanglement of large whales is planned in the intersessional period after IWC/61.

3. (e) Climate change – mitigation actions

Understanding climate change and its effects on cetaceans is being partially addressed by the Scientific Committee. It is recognised that the IWC is not an appropriate body to recommend mitigation measures. However, it is suggested that any work that is being done on the effects of climate change on cetaceans, should be communicated through appropriate mechanisms, still to be established, to the relevant bodies.

5. Civil society

Recent changes were made to the Commission's Rules of Procedure to allow broader participation by removing the requirement for an NGO to be international in nature before it can become accredited. The fee structure was also changed to be more equitable. At IWC/60 and at the March 2009 Intersessional Meeting of the Commission in Rome, sessions have been held, on a trial basis, in which individual NGOs have been allowed to address the meeting for 5 minutes each.

It is suggested that the Commission establish a mechanism to consider again the level of participation of NGOs through a review and updating of document IWC/58/F&A 3 which compared rules and procedures regarding NGO involvement in decision-making bodies of other IGOs.

9. Conservation Committee

It is noted that there are a range of issues relevant to the conservation and management of whales to be addressed by the Commission. While scientific issues are addressed in the Scientific Committee, the mechanism for dealing with conservation and management issues needs to be considered by the Commission.

It is suggested that the Group consider the issues and develop recommendations on how to proceed.

10. (b) Conservation management plans – the appropriate way to link the work of the Commission and its subsidiary bodies on the scientific and mitigation measure/management actions

It is noted that there is work already being undertaken in the Scientific Committee on the development of Conservation Management Plans and that there is a need to translate scientific advice into appropriate mitigation

measures for consideration by the Commission. This would involve stakeholders.

13. Data provision

It is suggested that this issue be reviewed by the Group.

14. Developments in ocean governance

It is suggested that this issue be reviewed by the Group.

16. (b) Environmental threats – need for co-operation with other bodies that have some regulatory capacity on factors outside whaling

It is suggested that this issue be reviewed by the Group.

17. Ethics

There are no suggestions on how to advance this issue.

18. Financial contributions scheme

It is noted that this topic is already an element of the F&A Committee work programme.

19. Frequency of meetings

It is noted that, given the ongoing nature of discussions on the future of the IWC, there may be implications for the programme of work for the Commission and has not made any recommendation.

20.(d) Marine Protected Areas

It is suggested that this issue be reviewed by the Group.

29. Secretariat

The outcome of discussions on the future of the IWC may have an impact on the role of and expertise required in the Secretariat. However, it is believed premature to address this issue until the discussions on IWC's future are further progressed.

31. Socio-economic issues

The significance of these issues is recognised, but no immediate action is required.

32. Trade

No recommendations are made on this issue.

Appendix 7

REQUEST FOR ADVICE FROM THE SCIENTIFIC COMMITTEE IN RELATION TO JAPANESE SMALL-TYPE COASTAL WHALING

The primary task of the Scientific Committee in Madeira with respect to its evaluation of the Japanese proposal will be to develop a work plan and timetable (including at least one intersessional workshop) for it to be able to provide advice to the Commission on the effects of the proposed catches by the 2010 Annual Meeting. In the normal manner, the work plan will be included in the Scientific Committee report for approval or otherwise by the Commission in Madeira.

Background

The need for advice from the Scientific Committee with respect to any proposals for Japanese small-type coastal whaling has been recognised. An important component of the process for providing the advice is the review by the Scientific Committee of the scientific information developed by Japan as supporting material for its proposal for a take of 150 common minke whales by its small-type coastal whaling operations for a five-year interim period.

Any advice that may be provided by the Scientific Committee will of course not be binding; as has been stated throughout the process, nothing is agreed until everything is agreed. Japanese small-type coastal whaling is one element in a potential package(s) of measures to resolve IWC's problems that is currently under discussion. Consequently, the requesting of advice from the Scientific Committee is only to obtain further background information on one aspect of one potential element of a package or packages to assist in Commission discussions.

Request for advice

The Scientific Committee is instructed to:

- (1) review the Data Availability Agreement with respect to tissue samples, DNA and sequenced data; and
- (2) develop plans to complete a full *Implementation Review* for western North Pacific common minke whales as soon as possible and certainly before the end of any interim period.

The Scientific Committee, beginning at its meeting in Madeira, will assess and provide its advice on Japan's proposal for an interim 5-year catch limit of 150 O-stock common minke whales for its small type coastal whaling operations and on the scientific analysis provided to support its proposal. Final scientific advice on the effects of the proposed catches³ on stocks that may be impacted (at least J- and O-stock) will need to be available by the 2010 Annual Meeting. The documentation supporting the proposal will be made available to the Scientific Committee **at least three weeks** before the start of the 2009 meeting. Data used for the analysis will be made available to the Scientific Committee in accordance with Procedure A of the DAA; these data will be made available by **15 May 2009**. The software used for modelling purposes will be made available to the IWC Secretariat by **15 May 2009**. Fully evaluating the effects of anthropogenic removals on the stocks will involve considerable work and will require at least one intersessional workshop. The report and recommendations from the Expert Workshop to Review the Ongoing JARPN II Programme (SC/61/Rep1) with respect to issues of stock structure and effects of

³In conjunction with other anthropogenic removals arising out of bycatches and special permit whaling.

catches on the stocks will form an important component relevant to the discussions of the Japanese proposal.

The Japanese proposal must at least incorporate the following:

- (1) A statement of the ‘user objectives’ chosen by the proposers for the 5-year interim period and any scenarios proposed for the period after the interim period (recognising that final decisions on user objectives are the responsibility of the Commission);
- (2) Proposals for ‘conservation objectives’ for O- and J-stock animals using the discussion paper (Annex D) as a guide; (recognising that final decisions on conservation objectives are the responsibility of the Commission);
- (3) Details of the method(s) used to support the proposal and to evaluate proposed catch limits, including:
 - (a) use of a simulation modelling framework to take into account uncertainty in stock structure and the numbers of anthropogenic removals from each stock, with due reference to the discussion of the effects of JARPN II catches on western North Pacific common minke whales given in SC/61/Rep1;
 - (b) a full discussion of the temporal and geographical distribution of stocks that may be impacted by the proposed catches (at least J- and O-stocks), in particular with reference to the proposed measure

to refrain from catching within 10 n.miles of the coast in order to minimise takes of J-stock animals;

- (c) consideration of the uncertainty in stock structure using the 2003 *Implementation Simulation Trials* as a guide although taking into account analyses of new data and with due reference to the discussion of stock structure given in SC/61/Rep1; and
- (d) presentation of results in such a form⁴ as to allow comparison of stock trajectories (for a period of at least 30 years) with and without catches during the interim period for stocks that may be impacted by the catches (at least J- and O-stocks).

The provision of such trajectories will allow the ultimate evaluation of the results for a number of potential conservation objectives (see Annex D) – as noted above it is a Commission responsibility to decide on final user and conservation objectives.

At this stage, it is not appropriate for the Scientific Committee to use the CLA to calculate catch limits in the provision of advice on this interim proposal. However, the Scientific Committee should complete a full *Implementation Review* as soon as possible and certainly before the end of any interim period. A decision on the appropriate long-term management regime for Japanese small-type coastal whaling will need to be taken by the Commission before the end of any interim period.

⁴Where relevant, the summary tables and graphs used to present the results of recent *Implementation Simulation Trials* (e.g. western North Pacific Bryde’s whales) provide a useful guide.

Annex F

Resolutions Adopted at the 61st Annual Meeting

Resolution 2009-1

CONSENSUS RESOLUTION ON CLIMATE AND OTHER ENVIRONMENTAL CHANGES AND CETACEANS

WHEREAS the Commission has adopted Resolutions regarding the impact of environmental changes on cetaceans since 1980¹;

NOTING that the Commission decided in 1993 that the Scientific Committee should give priority to research on the effects of environmental changes on cetaceans in order to provide the best scientific advice for the Commission to determine appropriate response strategies to these new challenges;

NOTING that the Scientific Committee identified the priority issues for cetaceans of climate/environmental change, ozone depletion and UV-B radiation, chemical pollution, impact of noise, physical and biological habitat degradation, effects of fisheries, disease and mortality events;

APPRECIATIVE of the efforts to date of the Scientific Committee to understand the impact of environmental changes, starting with workshops on chemical pollution and climate change/ozone depletion in 1995 and 1996 resulting in the development of long-term, multi-disciplinary, multi-national research programmes;

AWARE that knowledge about climate change has advanced substantially since the first IWC workshop in 1996 and that since that time, unequivocal greenhouse-gas induced global warming has been demonstrated, often at rates exceeding some worst-case modelling scenarios;

NOTING work by other international fora on climate change and its impacts on wildlife, ecosystems, and human society;

WELCOMING the report of the Costa Rica Workshop on Cetaceans and Other Marine Biodiversity of the Eastern Tropical Pacific held in February 2009;

WELCOMING the Report of the February 2009 International Whaling Commission Scientific Committee (IWC SC) workshop on cetaceans and Climate Change (SC/61/Rep4);

CONCERNED that, as stated by the IWC SC workshop, 'climate-related changes will impact negatively on at least some species and populations, especially those with small and/or restricted ranges, those already impacted by other human activities and those in environments subject to the most rapid change For these species there is a real potential for elevated risks of extinction.'

The Commission therefore:

ENDORSES the outcome of the climate change workshop and associated recommendations of the Scientific Committee given in IWC/61/Rep1, including the need to expand the current international multi-disciplinary efforts and collaborative work with other relevant bodies;

REQUESTS Contracting Governments to incorporate climate change considerations into existing conservation and management plans;

DIRECTS the Scientific Committee to continue its work on studies of climate change and the impacts of other environmental changes on cetaceans, as appropriate;

CALLS on Contracting Governments, IGOs and NGOs to support the expansion of this important work;

REQUESTS the Secretariat to forward this resolution and the workshop report (SC/61/Rep 4) to relevant bodies and meetings including inter alia the World Climate Conference, the UNFCCC and the IPCC in time for upcoming meetings; and

APPEALS to all Contracting Governments to take urgent action to reduce the rate and extent of climate change.

¹See Resolutions 1980-Appendix 10; 1981-Appendix 7; 1992-Appendix 2; 1993-Appendix 12; 1993-Appendix 13; 1994-13; 1995-10; 1996-8; 1997-7; 1998-5; 1998-6; 1999-5; 2000-6; 2000-7; and 2001-10.

Resolution 2009-2**CONSENSUS RESOLUTION ON THE EXTENSION OF THE SMALL WORKING GROUP ON THE FUTURE OF THE IWC UNTIL THE 62ND ANNUAL MEETING OF THE COMMISSION**

Accepting that:

- (1) the IWC is at a crossroads beset by fundamental disagreements as to its nature and purpose;
- (2) the future course of the IWC needs to be defined by broad agreement.

Recalling that:

- (1) by consensus IWC/60 decided to form a Small Working Group on the Future of the IWC (Annex B of IWC/60/24);
- (2) the Small Working Group had not been able to reach its ambitious goal of agreeing on a package or packages on the future of the IWC for the Commission's review by IWC/61 but had recommended that 'the efforts underway should be continued for a further year and decisions taken at IWC/62'.

Accordingly, by consensus the Commission **resolves** to:

- (1) intensify its efforts to conclude a package or packages by IWC/62 (2010) at the latest;
- (2) reconfirm the principles that nothing is agreed until everything is agreed and that any package must be seen as fair and balanced;
- (3) build upon the concept of a two-phase process and the progress reported in IWC/61/6;
- (4) reconfirm that discussion of the core issues will be conducted without prejudice to the principles held by IWC members;
- (5) reconstitute the Small Working Group for a further year under its original terms of reference; and
- (6) modify the *modus operandi* as outlined below:

- (a) the process will follow the principles outlined at IWC/61 -

- (i) recognise the advantages of miniaturisation and an effective communication system;
- (ii) involve delegations that are empowered to engage in constructive discussions aimed at reaching agreement by consensus; and
- (iii) allow the IWC Chair, at their discretion, to schedule a closed open-ended negotiating session or sessions when the circumstances are deemed to be ripe;

- (b) the IWC Chair, in consultation with the Advisory Committee, shall appoint a Support Group containing equitable geographic and socio-economic representation, and range of views to assist him/her in providing direction to the process and to assist in the preparation of material for submission to the Small Working Group;
 - (c) the Small Working Group shall operate on the same basis as the Commission with respect to being open to observers;
 - (d) the Chair of the IWC shall develop, in consultation with the Support Group, a communication plan to ensure that Contracting Governments and civil society receive, full and timely information on the progress of the process;
 - (e) the Chair of the IWC, in consultation with the Support Group, may appoint independent outside experts and/or facilitators in order to assist the Small Working Group process;
 - (f) the Small Working Group will submit its final report to the Commission at least five weeks prior to IWC/62;
 - (7) continue to work on remaining 'category (a) and (b)' issues in accordance with Annexes E and F of IWC/61/6, to be completed no later than the end of the interim 5-year period.
-

Annex G

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

Tuesday, 16 June 2009, Madeira

The meeting took place on 16 June 2009. The list of participants is given in Appendix 1. The Working Group was established to review information and documentation available with a view to advise the Commission on whale killing methods and associated welfare issues.

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Esko Jaakola (Finland) was appointed as Chair of the Working Group.

1.2 Appointment of rapporteurs

Allison Reed (USA) was appointed Rapporteur.

1.3 Review of documents

The Chair reviewed the list of documents available to the Working Group (see Appendix 2) and drew attention to specific documents to be addressed under Agenda Items 3 and 4. The Chair noted that IWC/61/WKM&AWI4 and WKM&AWI8 address both Agenda Items 3 and 4.

2. ADOPTION OF AGENDA

The UK and Germany expressed interest in addressing additional items under Agenda Item 6, Other Matters. The Agenda as listed in Appendix 3 was adopted by consensus, and the Chair noted that the additional items proposed by the UK and Germany would be addressed under Agenda Item 6.

3. DATA PROVIDED ON WHALES KILLED

Documents were provided under this Agenda item to meet the request of IWC Resolutions 1999-I and 2001-2.

New Zealand (IWC/61/WKM&AWI3) provided information on the euthanasia of sixteen distressed whales believed to be beyond hope of recovery that stranded on its coastline between end of March 2008 and end of February 2009. It noted that for these whales (seven pygmy sperm, one Gray's beaked whale, and eight pilot whales), the chosen method of dispatch was a rifle, and that death was instantaneous for all but three whales. Three of the pilot whales were part of a large stranding of over one hundred whales at a remote beach in the Chatham Islands, which were not reached until almost night fall and were by then partially covered by sand. As a result of the difficult conditions, time to death for the three pilot whales was between one and three minutes. Advice on the target area is provided by experienced veterinarians. Norway thanked New Zealand for their report, and asked where interested parties could obtain information. New Zealand responded that Massey University had provided diagrams for shot

location information, as part of the Department of Conservation's Standard Operating Procedure for managing whale strandings. They indicated that the information had previously been submitted to the IWC, but assured Norway that they would obtain the specific details for Norway's information.

The Russian Federation (IWC/61/WKM&AWI5) provided information on time to death and killing method (including number of shots) for all 127 gray whales and 2 bowheads taken in its 2008 hunt. Ten of the gray whales were reported as 'stinky' and three gray whales had been struck and lost. 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. With regard to time to death, average time to death for the two bowhead whales was one hour and five minutes.

Denmark/Greenland (IWC/61/WKM&AWI6) provided summary information for the 2008 subsistence hunt that involved the taking of 152 minke whales (including five struck and lost) and 14 fin whales (including three struck and lost). For the West Greenland minke whale hunt, the penthrate grenade and rifle were used as the primary and secondary killing methods respectively. There were changes in the figures in the report from previous years, namely an increase in the mean time to death, due to an increase in the use of rifles over harpoons, and a decrease in the overall catch. With respect to the changes, Denmark/Greenland indicated that there was severe weather during the hunting season, which accounts for the increase in use of rifles and time to death, and decrease in numbers taken.

Norway (IWC/61/WKM&AWI 8) provided information for 2008 that included the take of 535 whales by 27 vessels. Four whales (0.7 %) were reported lost after they were dead. No whales were reported to have escaped wounded. During the season one inspector from the Directorate of Fisheries was present at sea and on land and no violations of national regulations for hunting methods were reported.

The UK expressed disappointment that a number of countries did not provide data, but thanked Norway for its report and commended Norway on previous efforts to improve the humaneness of whaling operations, as well as its ongoing co-operative work with other whaling nations to facilitate improvements in hunt welfare. The UK noted that Norway ceased the collection of full welfare statistics in 2004, when it removed inspectors from vessels and introduced the 'blue box,' and continues to refer to welfare statistics from 2000-02. The UK expressed concern that reference to this seven year old data may not be an accurate representation of the current situation with respect to times

to death and instantaneous death rates and asked Norway to consider the re-introduction of inspectors on board whaling vessels for the purpose of welfare data collection, as requested in Resolutions 1999-1 and 2001-2. Norway reiterated its view that animal welfare is outside the mandate of the IWC; however, it pointed out that hunting has to be consistent with Norway's domestic regulation on animal welfare and that Norwegian research and development on hunting and killing methods for whales has been carried out for nearly 25 years. These efforts have resulted in the development and adoption of improved whaling methods, development of new devices, improvement in hunting gears, the introduction of new rifle ammunition for backup purposes and the introduction of obligatory training workshops for hunters and gunners. Additionally, the instantaneous death rates have steadily increased from about 17% at the beginning of the 1980s to at least 80% in 2000. More than 70 minke whale brains have been retrieved after fixation in the skull for macroscopic and histological investigations to ascertain the effectiveness of the penthrite detonation and rifle ammunition. Data from more than 5,500 minke whales have been collected and reported on a voluntary basis to six IWC workshops in addition to the annual meetings of the IWC whale killing methods working group. Norway stated that the killing methods used for minke whales in the Norwegian hunt were well documented and therefore continuous monitoring of the killing of each whale was no longer needed and periodic checks would suffice. This is in accordance with common practice in similar situations, such as hunting of large mammals as well as in slaughter of domestic livestock.

Australia was grateful to Norway for providing the information but, along with the UK, it observed gaps in the data, particularly in relation to issues associated with animal welfare. Australia noted its belief that close monitoring is necessary and encouraged whaling nations to monitor and report. New Zealand associated itself with the statements of the UK and Australia. The Russian Federation noted its continued cooperation with Norwegian scientists and hopes to improve hunting methods. The Netherlands indicated that its understanding of Norway's statement was that Norway did not mind sharing data, and if this was the case, asked Norway to consider submitting data in the way the IWC requested. Norway expressed surprise at this comment, stating that it had never heard that its data was insufficient for the IWC and indicating its belief that data had been submitted in the way the IWC requested.

The USA addressed these matters under Agenda item 4.

4. INFORMATION ON IMPROVING THE HUMANENESS OF WHALING OPERATIONS

The USA (IWC/61/WKM&AWI4) presented information on the 2008 Alaskan aboriginal whaling hunt. It noted that 38 bowheads were struck and landed, and 12 bowheads were struck and lost, resulting in an efficiency rate of 76%. The USA explained that weather and ice conditions play a significant role in determining the efficiency of the spring aboriginal bowhead hunt. The USA also noted that the efficiency is in line with the 79% average over the last ten years and is an improvement from the 65% rate in 2007. Of the whales struck, 35 were taken using traditional hand thrown darting gun harpoon with the traditional shoulder

gun used as the secondary method. Three whales were taken using the penthrite projectile. This is a decrease from 2007 where 7 out of 41 were taken using penthrite.

Eugene Brower, Chairman of the Alaska Eskimo Whaling Commission (AEWC) Weapons Improvement Committee, provided a description of the AEWC hunt in the USA. He noted that aboriginal subsistence whaling takes place in 11 villages in Alaska. Many of the villages are extremely remote and depend on the land and sea for sustaining their populations. There are 9 villages that hunt in the Spring and 3 villages that hunt in the Autumn. The primary weapon is the harpoon and the secondary is the shoulder gun. He noted that the hunters do everything possible to prevent suffering of the animals and to protect the whaling crew. The AEWC has undertaken a programme to improve hunting methods and appreciates the help of Dr. E.O. Øen from Norway with the weapons improvement programme. They have also developed a training manual on the use of new weapons for captains and crew. Austria made a general comment about efficiency, noting that if a whale is struck and lost, the benefit is zero and the death of the animal for nothing, and wondered if it was possible for a new direction and focus on such losses.

The UK reminded the Working Group that Denmark/Greenland had a new bowhead hunt and asked what efforts were being made to make the new hunt as humane as possible, bearing in mind the size of the animal. Denmark/Greenland responded that 3 bowheads had been taken under the new hunt in 2009, observations by wildlife officers had been instituted and that it would use the same method as in the fin whale hunt. New regulations had already been made and would be further evaluated in accordance with what was learnt from the observations.

Norway (IWC/61/WKM&AWI8) provided information that research and development on hunting and killing methods for whales has been carried out for nearly 25 years. Norway has continued co-operative work with hunters, scientists, authorities, and whale hunters' organisations in Norway, the USA (Alaska), the Russian Federation, Greenland, Canada and Iceland and assisted in the teaching and training of hunters and transfer of knowledge, developments and technology derived from the above mentioned research in order to improve the hunting methods and hunting gears used for marine mammals. Norway indicated plans to continue these cooperative efforts when requested.

5. WELFARE ISSUES ASSOCIATED WITH THE ENTANGLEMENT OF LARGE WHALES

The Chair reminded the Working Group that a Workshop on entanglement issues had been proposed by Norway in 2007 and that an organising committee had been formed by Australia, Denmark/Greenland, the USA and Norway. The Chair invited a member of the committee to provide an update on progress made.

The USA (IWC/61/WKM&AWI7) presented a plan from the organising committee. The USA noted that during initial discussions in the organising committee, three interlinked aspects on the issue were identified: (1) prevention and mitigation methods; (2) a decision matrix for dealing with entangled animals; and (3) if euthanasia is decided to be appropriate, how best it can be achieved. Although it can be argued that it is logical to focus on

prevention and mitigation (topic 1) first, the organising committee agreed prevention was a long-term item, and that it would be prudent at this stage to focus the workshop on topics 2 and 3. An overall budget was presented, and it was noted that some funds were available from the IWC and that the USA had also made a contribution; however there was still a need for £8,000. It was decided that the workshop would be held from 13-15 April 2010 in Maui, Hawaii, that 25-30 experts would be invited, and that the major components on the proposed Agenda would be topics 2 and 3.

Mexico congratulated the USA for the comprehensive agenda proposed and noted that it covered the major issues. South Africa congratulated the organising committee, noted that it was a well thought out agenda and supported the funding request. New Zealand raised an associated issue describing a 20m stranded blue whale that had been found dead with 2m of 30-32mm polyamide hawser rope in its oesophagus and 1.8m of rope in its stomach. New Zealand reminded the Working Group that all marine debris are threats to cetaceans, and strongly supported the paper presented by the USA. New Zealand noted that prevention is the ultimate solution, and indicated that there would be great merit if prevention were also a focus for the workshop. Austria associated itself with the comment from New Zealand. Australia indicated that there had been considerable discussion in the organising committee on this issue, that prevention is without a doubt essential, however the committee had focused on topics 2 and 3 as that was what could realistically be accomplished in a 3 day workshop. Australia further noted that the group of experts required to address topics 2 and 3 was very different to those required to address item 1. They agreed with New Zealand and indicated that the committee would immediately plan for a longer term discussion or workshop on prevention once the proposed workshop concluded.

Norway welcomed the workshop plan and voiced concern for entangled whales and their suffering. Norway noted that its interest in this workshop was the euthanasia of entangled whales that could not be released or were too exhausted to recover if disentangled and that this should be the main focus of the workshop. Norway expressed appreciation for the cooperation of the organising committee, and highlighted that there were two types of entanglement issues that should be dealt with separately (immovable gear not requiring emergency action as the whales could be tracked and movable gear requiring emergency action as there was a risk that the whales would not be discovered a second time). Norway noted that it was looking forward to the workshop and that it should be followed up with another where the main focus should be targeting methods for disentanglement and prevention of entanglement.

6. OTHER MATTERS

The Chair noted that two other matters had been raised during adoption of the Agenda. First, that the UK wished to discuss the World Organisation for Animal Health, and second, that Germany wished to discuss whale killing methods reporting requirements.

The UK noted the rapidly developing science of animal welfare, and that the World Organisation for Animal Health (OIE), the largest intergovernmental organisation responsible for setting standards for improving animal

health worldwide, has identified animal welfare as a priority. Of its 174 member countries and territories, 65 are members of the IWC. The UK noted that the OIE has agreed, by consensus, guiding principles for animal welfare as well as international standards for the humane slaughter of terrestrial animals in slaughterhouses. The UK noted its belief that the principles may be relevant to the commercial killing of whales at sea, since the OIE itself noted that these principles are applicable to animals killed outside of slaughterhouses. Specifically, the UK recommended that the WKM working group review the existing welfare principles and slaughter guidelines from the OIE to ascertain where these are relevant and applicable to the killing of whales, encourage the Secretariat to maintain a watching brief on the OIE's deliberations, specifically the OIE's Permanent Working Group on Animal Welfare's review of the commercial killing of wildlife in its annual meeting from 30th June to 2nd July, and encourage the Secretariat to establish contact with the OIE Secretariat to make them aware of the Commission's discussions. Norway expressed surprise that the UK now seemed to associate itself with the opinion that the animal welfare issue is outside the competence of IWC as it called for an outside organisation to deal with these questions in the future. The UK clarified its position that the IWC is the relevant and primary body to address these issues, but that we can look outside the IWC to other international bodies for advice and guidance. Australia noted that the UK's suggestion was very useful, and supported the view that the committee can consider OIE's relevance. Luxemburg expressed its concern on animal welfare and associated itself with the statement from the UK. Argentina associated itself with the statements from the UK, Australia and Luxemburg. Belgium supported the view that OIE could be informative for the IWC. The Russian Federation noted that animal welfare is not within the competence of the ICRW and that reports were presented on a voluntary basis. The Chair suggested the Working Group bring this exchange of views to the attention of the Commission, as there was no clear consensus on the UK's recommendation.

Germany noted that several countries provided reports that far exceeded the requirements under Section 6, paragraph 25 of the Schedule, and in particular wished to thank the Russian Federation. Germany noted, however, that Iceland and Japan had not provided reports, and asked if those countries planned to submit reports to the IWC. Japan indicated that this issue had been raised in the past, and it reiterated its position expressed before. Japan shares the position of Norway and the Russian Federation that animal welfare is outside the mandate of the IWC, and that the reports are provided on a voluntary basis. Japan noted that it took the issue seriously and has been continuing to improve its whale killing methods. Japan then 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 the discussion had been quite acrimonious. Since its data had been used in what it considered to be a non-constructive manner and handled differently from data provided by other governments, Japan had decided to submit its welfare data to NAMMCO for the time being, where more productive discussions occurred. Japan also wished to reiterate its position that Article 8 was not subject to any other provision of the Convention, so there was no obligation on its part to provide reports. Iceland noted the

importance of continued improvement of hunting methods and indicated that it utilises the same methods as Norway for minke whales, and that trial methods for fin whales would be developed in Norway in this season. Iceland noted its appreciation of the co-operative work with Norway.

Iceland expressed the view that any information on hunting methods was provided on a voluntary basis with a view to improving these methods, voiced its concern on how data had been treated in the IWC and associated itself with the statement from Japan that there were more constructive discussions in NAMMCO. Therefore, for the

time being, Iceland was considering continuing using NAMMCO for this purpose. Sweden remembered the acrimonious nature of previous discussions, but wished to remind the Working Group that the meetings had also been productive. Sweden expressed its appreciation that Japan was continuing to improve its methods and asked Japan to elaborate on this. Japan responded that there had been weapons improvement.

7. ADOPTION OF THE REPORT

The report was adopted 'by post' on 19 June 2009.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñíguez

Australia

Andrew McNee
Nick Gales
Lesley Gidding
Pam Eiser

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Alexandre de Lichtervelde
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Brazil

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Chile

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Nette Levermann
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Penina Blankett

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Luxembourg

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Mexico

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Netherlands

Maaïke Moolhuijsen

New Zealand

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Hild Ynnesdal

Portugal

Marina Sequiera

Russian Federation

Valentin Ilyashenko
Vladimir Etylin
Rudolf Borodin
Gennady Zelenskiy

South Africa

Herman Oosthuisen

Spain

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Santiago Lens

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Bob Brownell Jr.
Rollie Schmitten
Michael Tillman
Earl Comstock
George Noongwook
Janice Meadows
Cheryl Rosa
Jonathan Scordino
Keith Johnson
D.J. Schubert

Secretariat

Nicky Grandy
Greg Donovan

Appendix 2

LIST OF DOCUMENTS

<p>IWC/61/WKM&AWI</p> <ol style="list-style-type: none"> 1 Draft Agenda 2 List of documents 3 Summary of activities related to the action plan on whale killing methods (based on Resolution 1999-1): euthanasia of stranded whales beyond all hope of rescue; submitted by New Zealand 4 Report on weapons, techniques and observations in the Alaskan bowhead whale subsistence hunt; submitted by USA 	<ol style="list-style-type: none"> 5 Summary of activities related to the action plan on whale killing methods (based on Resolution 1991-1); submitted by the Russian Federation 6 Summary of activities related to the action plan on whale killing methods (based on Resolution 1991-1); submitted by Denmark (Greenland) 7 Welfare issues associated with the entanglement of large whales; submitted by the USA 8 Norwegian minke whaling 2008
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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. Data provided on whales killed 	<ol style="list-style-type: none"> 4. Information on improving the humaneness of whaling operations 5. Progress with workshop on welfare issues associated with the entanglement of large whales 6. Other 7. Adoption of the Report
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Annex H

Report of the Aboriginal Subsistence Whaling Sub-Committee

Wednesday, 17 June 2009, Madeira

1. INTRODUCTORY ITEMS

A list of participants is given in Appendix 1.

1.1 Appointment of Chair

Jorge Palmeirim (Portugal) was appointed as Chair.

1.2 Appointment of rapporteurs

Pam Eiser (Australia) was appointed as Rapporteur, with assistance from Greg Donovan (Secretariat and Chair of the Scientific Committee's Small 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/61/ASW

- 1 Draft annotated Agenda
- 2 List of documents
- 3 Aboriginal harvest of gray and bowhead whales by Russian indigenous peoples in 2008 (submitted by the Russian Federation)

IWC/61/Rep1 (extract)

Report of the Scientific Committee

2. ADOPTION OF AGENDA

The adopted Agenda is given as Appendix 2.

3. ABORIGINAL SUBSISTENCE WHALING MANAGEMENT PROCEDURE

3.1 Progress with the Greenlandic Research Programme

3.1.1 Report of the Scientific Committee

The Chair of the Scientific Committee's Standing Working Group on the Development of an Aboriginal Whaling Management Procedure, Greg Donovan (hereafter Chair of the SWG), reported on the Scientific Committee's work in this regard.

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 a number of assumptions; for example, there is no confounding of the trend over time in sex ratio and other factors. Developing a robust and tested way to use the sex ratio data to arrive at a

lower confidence bound that can be used for management purposes is not a trivial task and has resulted in some extremely interesting and innovative science. Last year, the Committee agreed that it had two methods that provided the first scientifically justifiable way to overcome the Committee's past inability to provide management advice based on a population model.

Since last year's meeting, considerable progress has been made both at an intersessional workshop held in Copenhagen and at this year's Annual Meeting. As a result, the Committee has agreed that sufficient progress had been made to overcome the technical difficulties related to the specification and implementation of sex ratio-based methods of assessment. The method is now ready to be evaluated using simulation testing. It is particularly important to evaluate this method fully as it is a new and novel approach for conducting assessments. Considerable discussion on how best to achieve this occurred and an approach has now been adopted. Since the intention is that the ultimate goal is to use this approach for providing management advice, the assessment calculations and robustness evaluations will be conducted by the Secretariat. The details of this are included in the text of our report including initial robustness tests needed to allow us to decide if this method is sufficiently reliable in the face of uncertainty to be actually used in the real world. To get this far is a major achievement and the Chair of the SWG would particularly like to thank the scientists involved: Brandão, Witting, Butterworth, Schweder and Punt. To complete the work and allow us to answer the question of whether we can use the approach will require intersessional work and almost certainly an intersessional workshop.

The ultimate aim of the Committee is to develop *Strike Limit Algorithms (SLAs)* for all species off West Greenland and work is beginning on this a matter of priority. Development of *SLAs*, as we have seen for Bering-Chukchi-Beaufort seas (B-C-B) bowheads and eastern gray whales, benefits from having several potential developers. Finalisation of the sex ratio assessment method for common minke whales off West Greenland will provide an important basis for this work, as will examining the nature of the trials used for the Implementation of the RMP for North Atlantic fin whales; a short working paper will be developed for consideration next year. Development of *SLAs* that are sufficiently robust also requires some idea of what scenarios to consider in the future (i.e. the 100 year simulation period) with respect to need. This is not intended to be anything other than a guess for simulation purposes and, as for the *Bowhead* and *Gray Whale SLAs*, the Committee has asked that the Chair of the SWG discuss this matter with the relevant delegation (Denmark and Greenland). Some of you may recall this is what we term a 'need envelope'.

3.1.2 Discussion and recommendations

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 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. Last year, the Committee had expected to carry out an *Implementation Review* of eastern gray whales. However, as discussed also under Item 5.2, it was not possible to undertake the review this year, primarily because the revised series of abundance estimates are not yet available. The purpose of an *Implementation Review* is not to undertake an in-depth assessment but rather to examine whether there is any information to suggest that the 'parameter space' used to evaluate the *Gray Whale SLA* was inadequate. Depending on the results of the analyses mentioned under the Scientific Committee's item 9.2.2, it may be necessary to conduct further trials incorporating the new information. The best manner in which to conduct the *Implementation Review* should be apparent by the time that papers need to be submitted under the data availability agreement i.e. the end of February 2010 if our meeting starts at the beginning of June next year as this year.

3.2.2 Discussion and recommendations

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 Committee did not have time to consider this issue further this year, including any issues arising out of the bowhead *Implementation Review* but it is hoped to have a thorough discussion next year.

4.2 Discussion and recommendations

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 a number of interesting scientific papers had been received relevant to this stock of bowhead whales this year. This brief summary considers those aspects relevant to the status of the stock and the next *Implementation Review*. Three papers examined the potential impact of industrial activity in the habitat of

bowhead whales, including seismic surveys and mitigation measures.

The Committee also considered three papers relevant to abundance estimates and in particular the use of mark-recapture data to estimate abundance. One of the advantages of this approach is that it allows abundance to be estimated in a bad ice year or prolonged periods of bad ice when the traditional census would be impossible. In that respect, the Committee was pleased to agree an abundance estimate of 11,800 (95% CI 7,200-19,300) for 2004 from the photo-id data that is suitable for use in the *Bowhead Whale SLA*.

The Committee looks forward to receiving additional information on approaches incorporating photo-id data next year and note that funding permitting, a census and a photographic survey will occur in 2010.

A total of 50 bowhead whales were struck with 38 animals landed (18 males; 19 females; and 1 of unidentified sex). Hunters reported that one female was pregnant with a foetus ~3m in length. Hunters mistakenly harvested a 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.

In 2008, two females were landed in Chukotka.

As part of its work on the AWMP, the Committee completed its work to develop a *Bowhead Whale SLA* in 2002 and an *Implementation Review* in 2007. The Committee reaffirms its advice from last year that the *Bowhead Whale 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.

5.1.2 Discussion and recommendations

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 noted that the Committee was unable to complete an *Implementation Review* for gray whales this year. The Committee received a paper explaining the work required to finalise the abundance estimates and a time series from 1967/68 and looks forward to receiving this information by next year. The Committee also received an interesting paper looking at possible incorporation of environmental factors into the *Implementation Review*.

The Committee received a report on investigations of eastern gray whales taken in Mechigmsky Bay during 2007/08. Perhaps the issue of most interest to this Sub-Committee and the Conservation Committee was that in 2007, two 'stinky' whales were killed whilst there were eight in 2008. Research to try and understand this phenomenon, that renders the meat inedible, is underway.

The status of this population can be affected by a number of anthropogenic factors.

The Committee received information on a new marine port to be developed in Baja California by 2014 and draw this to the attention of the Commission. Gray whales pass near this area on both their northerly and southerly migrations to and from the calving grounds. The Scientific Committee is concerned at the possible effects this development may have on gray whales and stress the need

to implement an ongoing research and monitoring programme as well as information on proposed shipping routes to allow the design of effective mitigation measures.

The Committee also noted that due to population increases and some environmental changes during the last decade (e.g., retreating sea-ice and a regime shift in the Bering Sea), eastern gray whales have begun foraging much more extensively in the Chukchi Sea. This is a region of increased interest for the development of offshore petroleum resources, and the Committee urges the Commission to request National Governments to ensure that appropriate resource agencies pay additional attention to the changing role and habitat use of gray whales in the Arctic.

A total of 127 gray whales (63 males, 64 females) were taken in the aboriginal hunt in Chukotka waters in 2008 and three were struck and lost.

In discussion, it was noted that sex ratios in the aboriginal hunt in Chukotan waters have historically been skewed towards more females. However the present sex ratio is more even. One reason for this difference is that the selectivity of the hunt changed after the early 1990's, when the harvest transitioned from using a catcher ship to shore based small boats.

As part of its work on an Aboriginal Subsistence Whaling Management Procedure (AWMP), the Committee completed its work on the simulation-tested *Gray Whale SLA* in 2004. The Committee reaffirmed its previous advice that the *Gray Whale SLA* remains the most appropriate tool for providing management advice for this harvest. Use of this confirmed that the current limits will not harm the stock. The *Implementation Review* is now scheduled for 2010.

5.2.2 Discussion and recommendations

Mexico thanked the Scientific Committee for drawing attention to the proposed port development in Baja California and noted that it would take heed of the recommendations and will work to implement them in due course.

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 hunts to consider under this Agenda Item, that off West Greenland and that off East Greenland.

WEST GREENLAND

The Chair of the SWG first dealt with West Greenland. A key component of providing management advice is obtaining an estimate of abundance of whales in the area. A number of factors make this difficult for West Greenland, not the least of which are the environmental conditions for undertaking surveys. Another is that while the evidence is that the West Greenland area does not cover the full range of the stock, it is not known what the full extent of the range is. The Committee was pleased to receive the results of analyses of the data from an aerial survey successfully conducted in August-September 2007. In fact the paper was a revision of one received at the intersessional workshop and the authors addressed the comments made there. The details can be seen in the Scientific Committee report but in summary two analytical approaches were

presented, both of which had merit and for which the results were not substantially different. However, one method was more precise, based on more sightings and data from more whales were used in the availability bias correction. On balance, the Committee concluded that this estimate, although it might be more negatively biased, was the best estimate to use for management. The Committee therefore recommended the estimate of 17,307 (95% CI 7,628-39,270).

A total of 148 common minke whales were landed in West Greenland (86 females; 55 males; 7 unidentified sex) and 5 were struck and lost during 2008. No information was available on the number of genetic samples taken from the harvested whales at this time. The Committee recommended that this information, along with any updated information on sex of the animals caught, be provided to the Secretariat.

In 2007, the Commission agreed that the number of common minke whales struck from this stock shall not exceed 200 in each of the years 2008-2012, except that up to 15 strikes can be carried forward. As it has said on several occasions in the past, the Committee has never been able to provide satisfactory management advice for this stock, although in recent years, the situation has been improving. This year, in addition to the progress made with the sex ratio method for assessment, the Committee has adopted a new abundance estimate.

The Committee now has an agreed method for providing interim management advice and this was confirmed by the Commission last year. Such advice can be used for up to two five-year blocks whilst *SLAs* are being developed. Based on the application of the agreed approach, and the lower 5th percentile for the 2007 estimate of abundance (i.e. 8,918), the Committee agreed that an annual strike limit of 178 will not harm the stock. This is the first time that the Committee has been able to provide unequivocal advice on this stock and the Chair of the SWG noted that the work of the Greenlandic scientists and others to enable the Committee to provide advice is to be congratulated.

EAST GREENLAND

The Chair of the SWG noted that in 2007, the Commission agreed to an annual strike limit of 12 minke whales for East Greenland for 2008-2012. One female common minke whale was landed in 2008. The present catch limit represents a very small proportion of the Central Stock. The Committee repeats its advice of last year that the present catch limit will not harm the stock.

OTHER

The Chair of the SWG was asked to present the work of the Committee on an aspect of its work that was applicable to all Greenlandic fisheries, not that only related to common minke whales.

He noted that the Greenlandic need statement is expressed in terms of tonnes, not in numbers of animals. At last year's Commission meeting, the Chair of the Commission asked the Scientific Committee to take note of a request from Argentina seeking clarification of factors used to convert whales to tonnes (e.g. whether and how this included edible products in addition to meat). Discussion within the Committee focussed on whether it was possible to estimate a conversion factor per strike per species from the available data and if not, how it should be done, rather than the way that it had been done within the Commission

in the past. It noted that it had not been requested to review the conversion factors used when they had been accepted by the Commission previously.

The Committee received two analyses addressing this question but agreed that neither provided sufficient information to allow it to answer the question referred to it by the Chair. The approach in SC/61/AWMP6, had methodological and data problems for example, in that it had treated the formula to convert lengths to weights given by Lockyer (1976) as precise while some estimate of the uncertainty should be incorporated. In addition, Lockyer's analyses for some species (e.g. humpback whales) included a large proportion of Southern Hemisphere animals which are larger than their northern counterparts. Finally no allowance was made for the actual conditions in Greenlandic operations that would affect yield. The primary difficulty with the approach of Witting in SC/61/AWMP8 was that although he used a considerable amount of data from the Greenlandic hunt itself to calculate a yield per strike in order to examine the strike limit that would be needed to meet the need request from Greenland, the reliability and representativeness of the data from the Greenlandic hunt that he obtained from the hunters' reports was unknown (e.g. whether weights are measured or estimated).

The Committee agreed that for it to be able to adequately address the question and to determine a conversion rate per strike, it would require reliable, representative data from the Greenlandic hunt. This would involve data on the measured weight of obtained edible products (meat, ventral grooves, blubber and skin) from an adequate sample of animals of each species and associated information on the individuals (sex, length, date of capture, position of capture). The Committee requested that Greenland collect such information and provide it, along with sampling and validation protocols and information on factors that may affect yield, to the Committee for its consideration.

5.3.2 Discussion and recommendations

With respect to West Greenland minke whales, the UK expressed disappointment that no genetic information had been made available from harvested whales and sought clarification as to whether this information would be provided later.

The UK also referred to the issue raised under 'Other Matters' concerning conversion factors used to determine need in the Greenland aboriginal subsistence whaling hunts. Of the two approaches cited, it noted that the first analysis described had resulted in higher conversion factors than those used in Greenland's needs statements. The UK also drew attention to the comments on the reliability and representativeness of the data used in the second approach by Witting and also asked whether any steps might be taken to increase the efficiency of the flensing and processing operation. The UK asked Denmark to take this information into consideration in making any future quota requests.

Greenland (Denmark) responded that information had been provided from hunters over many years and that this had been a genuine process to collect information. It did confirm however that there could be some insufficient methods of information collection because of the situation at the flensing places and variability from place to place arising from the different hunters collecting the

information. Greenland confirmed that the Greenland Home Rule Government is working to improve the collection of information and said they would submit more data in the coming years. It noted however that it could be very difficult to collect information from flensing areas as this can depend on weather (ice) and tidal conditions or what equipment is available for the weighing and therefore accurate determination of tonnes of meat, blubber and mattak obtained. Greenland advised that sufficient equipment to weigh pieces is not available in all places.

The UK expressed appreciation for any information that Greenland could provide on how whales are secured during the flensing process and further asked if it could elaborate on what the improvements in the collection of information referred to in its previous response might entail. Greenland advised it was looking for better coordination of information collected from hunters and wildlife officers involved in the process and improvements in information distributed to the hunters, but added that the Greenland Government does not have the finances to ensure the practicalities needed to collect all of the information required can be met. Greenland also noted that if biologists want to collect information that this needed to be coordinated with the hunters and the local hunters' associations.

In response to a question from Sweden concerning the term 'edible products' and whether there is agreement as to what are edible and what are not edible, the meeting was informed that, for Greenland, edible includes meat, blubber and mattak. The Chair of the SWG further clarified that 'blubber' can have different meanings in different places and that the Committee had been informed that in Greenland it relates to the ventral (throat) grooves but not necessarily all of the blubber¹.

The USA referred to the extract from Scientific Committee report (item 8.4) and noted that the Scientific Committee had considered at least two different approaches to the question of conversion factors but agreed that neither provided sufficient information to answer the question referred to it by the Commission, and asked if the Committee would be able to provide the advice requested in the near future. The Chair of the SWG noted that normally, the responsibility for dealing with the question of need lay with this Sub-Committee. However, of course the Scientific Committee will provide advice on scientific issues related to need if requested to do so. The USA recalled discussions at the 2008 Annual Meeting on Greenland's quota requests and concerns raised by a number of countries concerning issues such as the efficiency of the hunt, the basis for conversion factors used as well as some other aspects concerning the operation of the hunt and asked Denmark/Greenland if it could advise of any actions taken to address the concerns raised previously. In response, Denmark/Greenland noted that the Greenland paper (SC/61/AWMP8) presented information at the Scientific Committee which was based on data collected from nearly 1,900 hunters and that the results obtained from this analysis fit very well with the conversion factors Denmark/Greenland has been using over time. It added that the information given has been provided freely and that the Greenland Home Rule Government will continue its best efforts to improve its information collection.

¹The meat is separated from the blubber, ventral grooves are skin, blubber and fattened meat; mattak is skin and a thin layer of blubber.

The USA expressed itself in a quandary over this issue. As the USA said in 2008, it noted the clear advice of the Scientific Committee that the quota requested for humpback whales would not harm the stock but also raised concerns that other parties had raised with respect to the needs statement and asked that these be addressed. In particular, the USA said it did not quite understand the issue concerning the availability of meat and how much can be collected due to tidal conditions which it was sure could be addressed in terms of protocols for how much meat could be obtained from the carcass. The USA sought help in better understanding the numbers of whales harvested and the Greenland needs statement.

Whilst recognising that Greenland is no doubt doing its best, Mexico too sought clarification. It said that at present there is a needs statement which expresses need in tonnes of meat which has to be converted to numbers of whales and this depends on a conversion factor that has not been understood and accepted. To adequately address this issue, Mexico noted that the Scientific Committee needs reliable data from the Greenlandic hunt and questioned Greenland if they are in a position to gather and provide such data.

Denmark (Greenland) reiterated its willingness to continue to collect data, to report on its hunt and to submit this information to the IWC. The information provided will come both from the hunters themselves and from the Greenland Institute of Natural Resources. In this respect it reminded members that a document had been submitted to the Scientific Committee and noted that the Scientific Committee could not come to an agreement yet. Denmark also recalled that in the late 1980s the Greenland Home Rule Government and Denmark had submitted a comprehensive report on Greenland's whaling which included information concerning Greenland's conversion factors and also a needs statement. Both the report and the needs statement, showing that Greenland had a need for 670 tonnes from large whales from West Greenland, had been accepted by the IWC. Denmark expressed the view that the discussion by the USA from 2008 attempted to re-open the adopted needs document and added that it considered that the paper produced this year by the Greenland Institute of Natural Resources provided a very good basis on which to begin to look at the question and noted that the preliminary results obtained from this confirmed the figures used in its 1989 and 1990 documents of 1 minke whale being equivalent to 2 tonnes of edible product. Denmark added that it would ask the Secretariat to submit to the meeting the 1989/90 documents.

The USA and Germany noted that a number of countries had hoped that a new updated needs statement to that tabled at the meeting in Anchorage would be provided that included a better justification for the estimate of 2 tonnes of edible product per minke whale, particularly when other methods indicate a different result.

The Sub-Committee 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 reported that the Committee was again pleased to receive the results of analyses of the data from an aerial survey successfully conducted in August-September 2007, this time for fin whales. This was fully reviewed at the intersessional workshop and the Committee agreed with the conclusion of the workshop that the results

of one of the two approaches presented could be used for management. That estimate was 4,359 fin whales (95% CI 1,879-10,114). It was recognised that the estimate was negatively biased because no correction was applied for whales submerged during the passage of the survey plane.

A total of 11 (8 male; 3 female) fin whales were landed, and 3 struck and lost, in West Greenland during 2008. No information was available on the number of genetic samples taken from the harvested whales. The Committee recommended that this information be provided to the Secretariat when it becomes available.

In 2007, the Commission agreed to a quota (for the years 2008-12) of 19 fin whales struck off West Greenland. As noted under Item 8, last year the Committee agreed an approach for providing interim management advice and this was confirmed by the Commission. Such advice can be used for up to two five-year blocks whilst *SLAs* are being developed. Based on the application of the agreed approach, as last year, the Committee agreed that an annual strike limit of 19 whales will not harm the stock.

5.4.2 Discussion and recommendations

The UK sought clarification of an apparent discrepancy between the catch figure (11 landed; 5 struck and lost) given in the Scientific Committee extract and the catches reported earlier in the Whale Killing Methods and Associated Welfare Issues Working Group (IWC/61/WKM&AWI 6) which showed a total of 14 animals killed (11 landed, 3 struck and lost). Denmark confirmed that the correct figure is 11 landed with 3 struck and lost and that the figure in the draft Scientific Committee report needed to be corrected accordingly.

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 noted that the Committee has agreed at the previous two Annual Meetings to consider a single stock of bowhead whales in this region as the 'working hypothesis' while acknowledging that there is still some uncertainty about the population structure of bowhead whales in eastern Canada and Western Greenland. The Committee expressed disappointment that the expected genetic analyses were not supplied this year to test the single stock hypothesis. The Committee agreed that a 'working' hypothesis of one stock implies that alternative hypotheses are still considered and therefore there should be consideration of both one stock and two stock hypotheses. The Committee strongly encouraged provision of genetic analysis to evaluate the appropriateness of the hypotheses considered.

In 2008, the Committee agreed on a negatively biased estimate of 6,344 (95% CI = 3,119-12,906) which pertains to the Baffin Bay-Davis Strait population i.e. that relevant to West Greenland.

The Committee was informed by one of its members that three bowhead whales were harvested under licence in the eastern Canadian Arctic in 2008, two in Nunavut and one in Nunavik, northern Quebec. No bowhead whales were harvested by Greenlandic whalers in 2008.

In 2007, the Commission 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. Greenland noted that three bowhead whales were taken in 2009 using the 2008 carryover. In 2008, the Committee was pleased to have developed an agreed approach for determining interim management advice. The Committee again 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

In response to a question from the USA, the Chair of the SWG advised that there had been no discussion relating to the derivation of meat from the Canadian catches.

Mexico asked if there had been any increase in the Canadian bowhead quota and sought any information on trends – are these stable or increasing – and whether an increase in catches would affect the advice given by the Scientific Committee. The Chair of the SWG said that the Scientific Committee had no information on Canadian quotas, but assumed that this could be obtained from the Canadian Government; if a representative from the Canadian Government was present at the Annual meeting they could be asked. As to the second part of Mexico's question, the Chair of the SWG said that the answer would depend on how large any increase in catches might be. If the Scientific Committee has this information then it can provide advice based on this.

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 no catch report has been provided to the Scientific Committee by St. Vincent and The Grenadines. Clapham advised the SWG that he had been informed that a whale had been taken on 27 April 2009. The Committee noted that St. Vincent and The Grenadines has submitted detailed catch information directly to the Secretariat during the Commission meeting over the past few years. It encouraged St. Vincent and The Grenadines to also submit as much information as possible about any catches to the Committee via an annual progress report. It again 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 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 block catch limit 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 noted that the Committee was first asked to provide management for humpback whales off West Greenland in 2007 (IWC, 2008b).

Humpback whales found off West Greenland belong to a separate feeding aggregation whose members mix on the breeding grounds in the West Indies, with individuals from other similar feeding aggregations and the Committee has agreed that the West Greenland feeding aggregation was the appropriate management unit to consider when formulating management advice. Last year it had agreed a fully corrected estimate for 2007 (3,039, CV=0.45) for use in assessments and a rate of increase for humpback whales off West Greenland of 0.0917yr^{-1} (SE 0.0124).

No new information was available for this stock since the thorough review that occurred last year. Last year, the Committee agreed an approach for providing interim management advice and this was confirmed by the Commission. It had agreed that such advice could be used for up to two five-year blocks whilst *SLAs* were being developed. Using this approach, as last year, the Committee agreed that an annual strike limit of 10 humpback whales will not harm the stock.

5.7.2 Discussion and recommendations

Denmark (Greenland) informed the Sub-Committee that it would be requesting from the Commission a quota of 10 humpback whales off West Greenland.

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

6. OTHER MATTERS

Based on some information available, the Netherlands noted that there appeared to be 3 humpback whale deaths in Greenlandic waters and queried whether these animals were in good enough condition to use for consumption and whether any official documentation would be provided. Denmark advised that one of the whales had died as a result of euthanasia – the whale had been found with a 1.5 metre wound on its back, possibly having been struck by a ship – and the meat from this whale had been distributed to institutions. The other two whales had been found dead as a result of entanglement and there was no information as to what state they were in or what happened to the carcass.

Mexico congratulated the Scientific Committee on the extraordinary amount of work undertaken in arriving at *SLAs* for a number of different stocks.

7. ADOPTION OF REPORT

The report was adopted 'by post' on 20th June 2009.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñíguez

Australia

Donna Petrachenko

Andrew McNee

Lesley Gidding

Nicola Beynon

Pam Eiser

Austria

Andrea Nouak

Michael Stachowitsch

Belgium

Alexandre de Lichtervelde

Fábian Ritter

Brazil

André Tenório Mourão

José Truda Palazzo Jr.

Chile

Barbara Galleti

Francisco Ponce

Czech Republic

Pavla Hýčova

Denmark

Øle Samsing

Lars Witting

Nette Levermann

Helga Jakobsen

Amalie Jessen

Finland

Esko Jaakkola

Penina Blankett

Germany

Thomas Schmidt

Karl-Hermann Kock

Iceland

Tomas H. Heidar

Gísli Víkingsson

Italy

Plinio Conte

Michele Alessi

Caterina Fortuna

Japan

Joji Morishita

Toshinori Uoya

Hideaki Okada

Yasuo Iino

Kayo Ohmagari

Saemi Baba (I)

Republic of Korea

Hyun-Jin Park

Zang Geun Kim

Jeong Seok Park

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer

Jan Henderson

Mike Donoghue

Ara Tai Rākēna

Norway

Øle-David Stenseth

Hild Ynnesdal

Einar Tallaksen

Egil Ole Øen

Portugal

Jorge Palmeirim

Marina Sequeira

Russian Federation

Valentin Ilyashenko

Rudolf Borodin

Igor Mikhno

Gennady Zelenskiy

Vladimir Etylin

St. Lucia

Jeannine Rambally-Compton

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

Santiago Lens

Sweden

Bo Fernholm

Stellan Hamrin

Switzerland

Bruno Mainini

UK

James Gray

Trevor Perfect

Sarah Archer

Panayiota Apostolaki

Mark Simmonds

Claire Bass

USA

Doug DeMaster

Roger Eckert

Allison Reed

Shannon Dionne

Cheri McCarty

Lisa Phelps

Ryan Wulff

Eugene Brower

Harry Brower Jr.

D.J. Schubert

Robert Brownell Jr.

Keith Johnson

Rollie Schmitten

Michael Tillman

Doug Tedrick

Scientific Committee

Arne Bjørge

Secretariat

Greg Donovan

Appendix 2

AGENDA

1. Introductory items
 - 1.1 Appointment of Chair and Rapporteur
 - 1.2 Review of Documents
2. Adoption of the Agenda
3. Aboriginal Subsistence Whaling Management Procedure
 - 3.1 Progress with the Greenlandic Research Programme
 - 3.1.1 Report of the Scientific Committee
 - 3.1.2 Discussion and recommendations
 - 3.2 *Implementation Review* for gray whales
 - 3.2.1 Report of the Scientific Committee
 - 3.2.2 Discussion and recommendations
4. Aboriginal Whaling Scheme (AWS)
 - 4.1 Report of the Scientific Committee
 - 4.2 Discussion and recommendations
5. Aboriginal Subsistence Whaling catch limits
 - 5.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales (annual review)
 - 5.1.1 Report of the Scientific Committee
 - 5.1.2 Discussion and recommendations
 - 5.2 North Pacific Eastern stock of gray whales (annual review)
 - 5.2.1 Report of the Scientific Committee
 - 5.2.2 Discussion and recommendations
- 5.3 Common minke whale stocks off Greenland (annual review)
 - 5.3.1 Report of the Scientific Committee
 - 5.3.2 Discussion and recommendations
- 5.4 West Greenland stock of fin whales
 - 5.4.1 Report of the Scientific Committee
 - 5.4.2 Discussion and recommendations
- 5.5 West Greenland stock of bowhead whales
 - 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
 - 5.6.1 Report of the Scientific Committee
 - 5.6.2 Discussion and recommendations
- 5.7 Humpback whales off West Greenland
 - 5.7.1 Report of the Scientific Committee
 - 5.7.2 Discussion and recommendations
6. Other matters
7. Adoption of the Report

TERMS OF REFERENCE

The Terms of Reference of the Aboriginal Subsistence Whaling Sub-Committee are to consider relevant information and documentation from the Scientific Committee, and to consider nutritional, subsistence and cultural needs relating to aboriginal subsistence whaling

and the use of whales taken for such purposes, and to provide advice on the dependence of aboriginal communities on specific whale stocks to the Commission for its consideration and determination of appropriate management measures (*Rep. int. Whal. Commn* 48: 31).

Annex I

Report of the Conservation Committee

Tuesday, 16 June 2009, Madeira

The meeting was opened by Hyun-Jin Park (Korea), who welcomed the participants. A list of participants is given in Appendix 1.

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Hyun-Jin Park (Korea) was confirmed as Chair.

1.2 Appointment of rapporteurs

Jemma Miller (Secretariat) was appointed rapporteur.

1.3 Review of documents

A list of documents is given as Appendix 2.

2. ADOPTION OF THE AGENDA

The Agenda, as circulated, was adopted with the following changes (see Appendix 3).

- (1) Under Item 10, Other matters, consider document SC/61/O20 relating to the first International Conference on Marine Mammal Protected Areas (MMPAs), sponsored in part by the IWC, held in March 2009.
- (2) Under Item 10, note the recent Scientific Committee workshop on climate change held in February 2009.

3. INVESTIGATION OF INEDIBLE 'STINKY' GRAY WHALES

At IWC/57, the Conservation Committee established a research programme to address the issue of inedible 'stinky' gray whales caught by Chukotkan aboriginal subsistence hunters.

3.1 Report on progress

The USA introduced IWC/61/CC22, a paper summarising the 2008 collection activities related to 'stinky' gray whales in Chukotka, which was co-authored by the Russian Federation. Over the last forty years, Chukotkan aboriginal subsistence hunters have occasionally noticed a peculiar smell associated with exhalations and tissues from eastern North Pacific gray whales. During the last ten years, the number of stinky whales appears to have risen and in 2008 ten stinky whales were reported, compared with two in 2007. Samples were collected from eight of the 2008 'stinky' whales by (1) a USA/Russian cooperative group; and (2) Chukotkan researchers. Fifteen samples were taken from the eight whales and each of the samples was split into three parts. Analyses will be conducted in Russia, USA and Japan.

Blubber samples from the 1994 and 2001 hunts are currently being analysed by the US National Marine Fisheries Service for polybrominated diphenyl ether

(PBDE), flame retardants and other classes of persistent organic pollutants. The results of these analyses will be available for IWC/62.

3.2 Committee discussion and recommendations

In response to a query by Mexico, Russia confirmed that samples were treated well; avoiding freeze-thaw cycles that could compromise sample quality. Results from their chemical analyses indicated the presence of flame retardant in the intercellular liquid and although a link has not been made between this and the stinky phenomenon, it is still of interest. The USA also confirmed samples were stored and collected in an appropriate manner and new analyses based on the presence of flame retardants and PBDE would be conducted.

The North Slope Borough Department of Wildlife Management will continue to support field research efforts to obtain and store samples; however funding for future analyses of samples has not been secured.

4. SHIP STRIKES

In 2005 the Conservation Committee agreed to initiate work to make progress on the issue of whales being killed or seriously injured by ship strikes, recognising that this is also a matter being addressed by the Scientific Committee. The Ship Strikes Working Group (SSWG) was established to develop more detailed proposals and to coordinate any work initiated.

New Zealand introduced its voluntary National Progress Report (IWC/61/CC6). Bryde's whale ship strikes are a serious problem in the Hauraki Gulf, near Auckland. It noted IWC engagement had assisted greatly in this matter in bringing the issue to the attention of Maritime New Zealand. As a consequence stakeholders have sought to improve knowledge of Bryde's whales in the Gulf by funding aerial surveys to estimate abundance and deployment of D-tags to study their underwater behaviour and surfacing, as well as their responses to ship noise.

Australia introduced its report on ship strikes (IWC/61/CC3). There were ten incidences of ship strikes in Australian waters during 2008 and it is now using the IMO draft guidelines to improve management of ship strikes, particularly information gathering. Education of mariners has been improved and technology is being developed to detect the presence of cetaceans.

The USA summarised relevant information contained in IWC/61/CC14 and CC15, which included domestic regulations, research, monitoring, reporting and outreach efforts. Regarding ship strikes, in December 2008 speed restrictions of 10 knots or less were implemented for certain vessels along the US Atlantic Seaboard, which corresponds to an area of right whale occurrence. Also, in 2008, two vessel routing proposals were submitted to the

IMO, in an attempt to further reduce right whale ship strikes. These were endorsed and became effective 1 June 2009.

Documents IWC/61/CC12rev and CC17 were summarised by Argentina. New legislation has been implemented by the Argentine Coast Guard from 1 June to 30 November each year to reduce ship strikes with southern right whales in the nursery ground of Peninsula Valdés. Vessels must use navigation corridors, reduce their speed to less than 10 knots and use the minimum speed possible while manoeuvring at harbour. Any collisions with whales must be reported. These measures were taken in direct response to the collision of a navy vessel with a southern right whale, which resulted in the death of the animal.

Further legislation from the Ministry of Defence instructs the Argentine Navy to minimise activity in Golfo Nuevo and San Jose, the docks 'Almirante Storni' and 'Comandante Luis Piedrabuena' and the lighthouses 'Punta Ninfas' and 'Morro Nuevo'.

Brazil introduced its voluntary National Cetacean Conservation Report (IWC/61/CC18). It noted information contained in it had also been presented to the Scientific Committee, particularly in relation to humpback whales. Brazil highlighted that the major breeding grounds for humpback and right whales are regularly monitored for boat traffic.

Chile introduced a document concerning a vessel collision with a large whale off Southern Chile (SC/61/BC7), which had also been discussed by the Scientific Committee this year. A cruise liner docked in Puerto Montt, Chile with a dead female sei whale on its bow and this is believed to be the first confirmed vessel strike of a large whale in Chilean waters.

Spain provided a summary of activities on cetaceans carried out by the Canary Islands Government and a review of historic data records of cetaceans and ship strikes in the Canary Islands (IWC/61/CC16). A stranding network has been in operation in the region for over a decade and cases are grouped into three classes: boat collisions; fisheries interactions; and other cases of interest. In 2008 there were 73 stranding cases of 12 different species. Four cases were of possible boat collisions and five were caused by interactions with fisheries.

With regard to historical data, an average of almost five cetaceans are struck by ships each year, approximately half of these cases being sperm whales. Spain informed the committee that to build on its current work in this area the Regional Government of the Canary Islands intends to contract a study on the abundance of sperm whales and ziphids in the archipelago allowing it to put mortality levels into the context of the population as a whole.

The Committee thanked Spain for their comprehensive study on cetaceans in the Canary Islands, which is a well established whalewatching area. In response to a query by Belgium in relation to the risks that high-speed ferries pose to sperm whales, Spain noted that there has been cooperation between ferry operators and government representatives for a number of years. Information on progress on mitigation measures relating to high-speed ferries (see Item 4.2) will be presented to the joint IWC/ACCOBAMS workshop.

4.1 Report from the Ship Strikes Working Group (SSWG)

The Chair of the SSWG introduced its Fourth Progress Report to the Conservation Committee (IWC/61/CC11). Since IWC/60 there have been four main areas of progress within the SSWG:

- (1) collaboration with IMO;
- (2) the ship strikes database;
- (3) awareness raising; and
- (4) preparation for a joint IWC/ACCOBAMS workshop (see Item 4.2).

Ship strikes were put on the IMO agenda by a core group of IWC members at the 57th Marine Environment Protection Committee (MEPC) in March/April 2008. A guidance document was presented by the USA at the 58th MEPC meeting proposing *inter alia* a number of ship strike reduction measures including amendments to traffic separation schemes, creation of areas to be avoided, speed reduction, mandatory ship reporting systems, onboard observers, notices to mariners and detection systems. Italy, Spain, France and Monaco have submitted a document synthesising the knowledge of ship strikes in the Mediterranean Sea and prioritising mitigation measures. Both the IWC Secretariat and the Chair of the SSWG attend MEPC meetings.

With regard to raising awareness of the issue of ship strikes, a folder on ship strikes has been developed by Belgium and was made available to the meeting. It contains advice to help mariners avoid collisions and details of the online IWC ship strikes database. The folder can be personalised with the contact details for the ship strikes contact point or local stranding network coordinator. The SSWG Chair emphasised the importance of establishing links between such networks and those familiar with collision issues.

The global centralised ship strikes database is now available on the IWC website for data entry and by May 2009 the database had 763 records. Around 150 new records are in the process of being reviewed and validated. Future developments will include enabling web-based browsing of the database. Reporting of ship strikes by member countries is key in progressing the database. The SSWG Chair noted the importance of publicising the database and suggested:

- (1) sending by the SSWG Chair of a mailing with the folder (see above), including to shipping federations;
- (2) inclusion of the database website address in e-mail footers; and
- (3) advertisement in relevant shipping publications and specialised press.

The SSWG Chair also reported on his active participation in training courses for mariners in The Netherlands and France, as well as presentations at IUCN and CMS meetings, in association with Australia and the USA.

The Chair of the SSWG briefly summarised other information received. Information on new legislation to reduce ship strikes was received from Argentina and the USA and he encouraged the taking of such positive action by other countries. The SSWG has been co-operating with a number of organisations including CMS, ACCOBAMS and ASCOBANS. He thanked those countries that had submitted voluntary national cetacean conservation reports containing information on ship strikes. New voluntary

contributions towards the work of the SSWG were acknowledged from Belgium and France.

The Committee thanked the SSWG for its report and noted the importance and relevance of its work.

The Chair of the Scientific Committee summarised the main areas of IWC/61/Rep1 relevant to this item. Ship strikes are on the Scientific Committee agenda because as part of the Revised Management Procedure, recommended catch limits must take into account estimates of mortality due to *inter alia* bycatch, ship strikes and other human factors.

The format and structure of an international ship strike database was agreed by the Scientific Committee in 2007 in collaboration with the Conservation Committee. The web-based data entry system is now in use, but work remains to further develop and maintain the database, clarify policies for access and interchange with national databases and develop tools and procedures for data review and validation.

The Scientific Committee is concerned by the high rate of ship strikes involving fin and sperm whales in the Mediterranean Sea and other areas and hence supported the proposed IWC/ACCOBAMS workshop on mitigation (see Item 4.2).

4.2 Committee discussions and recommendations

The Chair of the SSWG introduced IWC/61/CC5, which outlined a proposal for a joint IWC/ACCOBAMS workshop on ship strike reduction in Monaco, late September 2010. The purpose of the workshop is to bring together all stakeholders (including scientists, politicians, shipping industry, NGOs etc.) and the Terms of Reference are:

- (1) exchange, evaluate and analyse data on cetacean distribution and shipping traffic;
- (2) examine existing ship strike reduction methods; and
- (3) develop scientific and conservation recommendations and a two-year work plan.

The geographical focus of the workshop will be the Mediterranean Sea and the Canary Islands due to availability of data and the high number of ship strikes in these areas. Voluntary contributions towards the workshop have been received from Belgium and Italy.

The UK expressed its appreciation for the work of the SSWG, particularly with respect to the collaboration with IMO and the development of guidance for minimising collisions. It also supported the joint IWC/ACCOBAMS workshop and noted that ASCOBANS is keen to receive the results of the workshop to assist in its ship strikes work. The UK voiced concern regarding collisions of powerboats and yachts with cetaceans and suggested working with worldwide yachting associations to gather further data on collisions.

Mexico suggested that updates in current legislations be made available to all countries to aid in developing mitigation measures and exchange of information. Mexico expressed support for the joint workshop and hoped the scope of the work could be extended beyond the Mediterranean Sea and the Canary Islands in the future.

The Committee strongly endorsed the proposal for the joint IWC/ACCOBAMS workshop and expressed appreciation for the work of the SSWG with respect to preparing for the workshop.

5. SOUTHERN RIGHT WHALE POPULATION OF CHILE-PERU

Last year the Conservation Committee received reports from: (1) a workshop on the status of the southern right whale population of Chile-Peru; and (2) the Scientific Committee. The Conservation Committee noted the importance of continuing work on the status of right whales and has thus retained the item on its Agenda.

Chile introduced a 'Report of Measures Taken in Chile to Protect Southern Right Whales' (IWC/61/CC19). In March 2009 the population of southern right whales was classified as 'endangered' under Chilean legislation (the maximum level possible) and in 2008 the Chile-Peru sub-population was classified as 'critically endangered' by IUCN. Due to its endangered status Chile has taken a number of measures to afford maximum protection to the population including legal measures and recording sightings. Last year all whaling operations were permanently banned and a decree declaring 43 cetacean species to be a national monument was granted. Two national sightings networks have been implemented along the Chilean coast and in 2008 seven opportunistic sightings comprising at least ten southern right whales were documented.

In July 2008 a southern right cow-calf pair was sighted. Protective measures were deployed by the Chilean navy, including prohibition of entry by any marine platform, until the whales left the bay in mid-August. Similar measures will be taken until regulations are in place for whalewatching in Chile.

New Zealand commented that it is funding a research expedition to study southern right whales in the sub-Antarctic Auckland Islands in July 2009. Australian scientists will be involved in the work, as well as a Chilean researcher. Expertise in connecting genetic samples and development of a photo-id catalogue will be shared and it is hoped the research will facilitate development of a Chile-Peru research programme for southern right whales. New Zealand offered to provide technical advice in relation to this whenever required.

A number of countries commended the Government of Chile for taking such proactive management decisions. The Committee agreed to retain this item on the Agenda next year.

6. WHALEWATCHING

In 2007 it was noted that while the Scientific Committee deals with scientific aspects of whalewatching, the Conservation Committee could usefully address aspects relating to management, including the implementation of the Scientific Committee's recommendations, socio-economic aspects and international cooperation.

6.1 Report from the Scientific Committee

The Chair of the Scientific Committee summarised the relevant parts of the Scientific Committee report (IWC/61/Rep1). In recent years the Scientific Committee has noted increasing disturbance of cetaceans through whalewatching activities. To address this issue, a Large-scale Whalewatching Experiment (LaWE) has been proposed to assist in describing effects of whalewatching, to improve understanding of mechanisms and to develop mitigation measures. The Scientific Committee made a number of recommendations for long-term impact

assessment research and commended actions taken by the USA to protect Hawaiian spinner dolphins through establishment of control areas to facilitate long-term research.

The Scientific Committee reiterated its recommendation that in order to be effective, codes of conduct should be supported by an appropriate legal framework. It commended the Madeira Regional Government for its recent management measures and encouraged the Madeira Parliament to approve and implement proposed whalewatching regulations. A number of other recommendations relating to whalewatching were made including:

- (1) Governments issuing whalewatching permits allocate a percentage of fees to research/enforcement programmes;
- (2) a review of the nature and extent of aerial platforms; and
- (3) right whale research and whalewatching monitoring in southern Brazil.

6.2 Committee discussions and recommendations

A number of countries including Australia, Mexico and South Africa expressed their support for the LaWE and Mexico indicated that it has an ideal site for this.

New Zealand and the UK supported the recommendation relating to proposed whalewatching regulations in Madeira and New Zealand noted the responsible manner that Madeira already conducts whalewatching.

New Zealand emphasised the importance of whalewatching to its tourism industry, economy and its indigenous people and it therefore strongly supports well managed whalewatching standards. In response to the comments of the Scientific Committee in 2007 on dolphin watching in Doubtful Sound and Fiordland, New Zealand the Department of Conservation and local operators have developed a voluntary code of conduct that promotes the best international practice by operators and monitoring suggests that this is being widely respected. Within the Pacific Islands region whalewatching has expanded dramatically in recent years and is thus an important part of the economies of these small countries. New Zealand further stated that the attention of the Conservation Committee to whalewatching is pertinent, relevant and helpful.

The UK noted that previous recommendations by the Scientific Committee have helped governments develop policies and has led to management advice in Chile, Croatia and Australia. Future work to evaluate the inter-relationship between pressures such as noise, ship strikes and whalewatching was encouraged.

South Africa noted that it looks forward to receiving the results from the review of aerial platforms and drew attention to the value of the 'Compendium of Whalewatching Guidelines' that the Scientific Committee has been compiling for a number of years. South Africa also supported the recommendation relating to right whale research in southern Brazil. Mexico commented that the work of the Scientific Committee has aided Mexico in reviewing its whalewatching guidelines. Spain commented that although the recommendation regarding governments allocating a percentage of fees to enforcement programmes is a good one, it would be difficult to implement.

On behalf of the Conservation Committee the Chair thanked the Scientific Committee for its hard work, particularly for the extensive assessment and recommendations relating to whalewatching.

Spain introduced its paper on whalewatching in the Canary Islands (IWC/61/CC10), which gives information on:

- (1) the evolution of whalewatching;
- (2) activity areas and target species;
- (3) regulation and management;
- (4) facts about the whalewatching industry; and
- (5) problems identified and action taken.

The paper had already been discussed by the Scientific Committee when reviewing whalewatching in Portugal, the Canary Islands and the Strait of Gibraltar. A number of countries, including Belgium, Korea, Sweden and South Africa thanked Spain for its comprehensive report and noted its use in developing whalewatching management strategies.

In response to a question from Sweden regarding the slowdown in growth of the industry in recent years Spain responded that this is most likely to be due to current global economic problems, but there may be other factors involved and it is not possible to determine future trends in whalewatching demand.

Korea noted that there is currently no whalewatching industry in Korea. Feasibility studies have been conducted, particularly in the Ulsan area, to determine suitable places for whalewatching. In April this year a whalewatching vessel began to operate in the Ulsan area, but was unsuccessful due to unpredictable weather and sea conditions. Korea noted that it would need time to develop appropriate whalewatching. Korea understands conservation to mean the management of human activities to sustain healthy whale populations and that this is the function of the IWC. In this regard the effort of member nations involved in the discussions of the Future of the IWC should be acknowledged. Korea emphasised the effort it put into data collection through systematic surveys and opportunistic sightings as reported in its National Progress Report.

Chile summarised relevant information in its voluntary National Cetacean Conservation Report (IWC/61/CC24). In 2009 three significant whalewatching-related activities occurred:

- (1) formation of a working group to develop a process for the regulation of whalewatching;
- (2) a project to ensure high quality whalewatching operations; and
- (3) an international seminar on responsible whalewatching.

The latter item led to the creation of a Plan of Action to develop a responsible whalewatching industry.

South Africa presented IWC/61/CC9 on behalf of Argentina, Australia, Brazil, Mexico and South Africa. The document reported on the intersessional activities of the Intersessional Correspondence Group (CG) on Whalewatching, which met in the Kruger National Park, South Africa earlier this year. The CG considers that it is up to governments to determine appropriate management action, with the IWC fulfilling an advisory role. The CG identified two critical areas of potential work in relation to the research and assessment needs of establishing

whalewatching in countries: (1) assessment of the potential opportunity for whalewatching activity; and (2) monitoring the impacts of whalewatching activities. An important element of any future programme will be the development of frameworks to assist in the development of appropriate monitoring regimes and to prioritise areas for assessment. The CG considers the management of whalewatching activities as one of the most critical but also underdeveloped issues and is thus a key area for future work. The issues in relation to management revolve around three specific areas:

- (1) identifying key elements of effective management for responsible whalewatching;
- (2) managing whalewatching in a precautionary way when information is lacking; and
- (3) reviewing governance and regulatory frameworks, coupled with impact assessment.

The CG agreed that whalewatching will continue to expand and generate increasing economic and social benefits. Future work around capacity building and development could focus on: (1) what can be learnt from others; (2) what support do communities and countries want; and (3) how can countries with expertise, resources and a desire to assist be linked up to these countries.

The CG recommended a number of steps to build on the momentum that has been generated in relation to whalewatching:

- (1) note the report of the CG and endorse the proposed approach and the identified theme;
- (2) establish a Standing Working Group on Whalewatching;
- (3) task the Working Group, in consultation with the Scientific Committee, with the preparation of a five-year strategic plan for consideration at IWC/62;
- (4) support in principle an intersessional workshop to initiate the strategic plan; and
- (5) establish a small Steering Committee to oversee workshop preparations.

Brazil noted the document is particularly relevant to Latin American countries for both socio-economic and management purposes. It also noted that the issue has great potential in uniting the Commission as a whole. Australia remarked on the diversity in forms and potential for whalewatching globally, the expansion of whalewatching and thus the growing need and demand for management advice. It also noted that the Commission is uniquely positioned, via its scientific and management subsidiary bodies, to progress work in this area. Australia indicated that it would be able to provide a voluntary contribution of AU\$25,000 to support the intersessional workshop.

Argentina reiterated the comment of Brazil that whalewatching is very important for the economy of Latin American countries, as well as for the conservation of the whales and dolphins. In particular in Argentina, it is very important for the coastal communities of Patagonia. Since 2006, the Argentine Cooperation Agency has been developing a cooperative programme to promote responsible whalewatching activities in the countries of Latin America. Since its inception, seven whalewatching workshops or related issues have been developed in Chile, Guatemala, Nicaragua, Panama and Venezuela. This programme includes capacity building and provides expertise through governmental experts and training of tour

operators. For these reasons, Argentina offered to host the intersessional whalewatching workshop.

Mexico expressed its appreciation to Australia for providing financial support for the workshop in South Africa and to the countries in the CG. It thanked South Africa for hosting the workshop and presenting the report and noted that the proposed intersessional workshop will provide an excellent starting point for initiating a strategic plan and for development of the key actions detailed in the report. The framework looks beyond scientific issues, focusing on the practical needs of communities, regions and nations in developing sustainable industries.

Belgium noted two areas that are particularly difficult in the context of management of whalewatching: (1) monitoring of compliance; and (2) enforcement of regulations, and suggested that intersessional work should focus on these areas.

New Zealand emphasised the need for consistency in whalewatching operations and management throughout the migratory path of highly migratory species. In this regard New Zealand drew the attention of the Committee to the first workshop for whalewatch operators in the Pacific Islands region, which was convened in Auckland in April 2008. Participants included managers, operators and scientists and voluntary guidelines were drafted for whale and dolphin watching in the region. New Zealand also noted the importance of the IWC in supporting developing countries (including non-members) in undertaking research resulting in good management.

Spain indicated that it has contributed in this area for a number of years and informed the Committee that last year a Royal Decree was adopted that focuses on whalewatching which Spain regards as a highly important issue.

Many countries thanked South Africa for its excellent presentation and the CG for producing such a comprehensive document. Further, the Committee agreed to establish a Standing Working Group on Whalewatching and the Committee fully endorsed the recommendations of IWC/61/CC9. A number of countries indicated they would be interested in participating in the workshop Steering Committee, including Australia, USA and Mexico.

7. WHALE SANCTUARIES

7.1 Report from the Scientific Committee

The Chair of the Scientific Committee confirmed that no new proposals were received under this Item by the Committee this year. However, the Scientific Committee received a report from the first International Conference on Marine Mammal Protected Areas, which was held in Hawaii, April 2009. This report was well received by the Scientific Committee and is further discussed under Item 10.

7.2 Committee discussions and recommendations

France introduced its paper describing long-term acoustic monitoring of baleen whales in the Southern and Indian Sanctuaries (IWC/61/CC7). A year-long acoustic dataset recorded from a permanent hydro-acoustic station near the Crozet Islands (French Southern and Antarctic Lands) was analysed to provide the annual cycle of occurrence of baleen whales in the area by using species specific calls. Fin whale calls were detected occasionally and only during

the austral Autumn-Winter. Antarctic blue whale calls were very abundant, occurring year round with a peak during Autumn and Winter. Pygmy blue whale calls of 'Australia type' and 'Sri Lanka' were detected occasionally and only during the Summer and Winter. The pygmy blue 'Madagascar type' call was detected during Summer to Winter, with a peak during late Summer/Autumn. The results suggest that this sub-Antarctic area is an important feeding ground for blue whales.

The Chair of the Committee noted that the survey provided very useful information. Brazil thanked France for bringing this work to the Committee and noted its use for the sanctuaries concerned. On a separate matter, Brazil indicated that as in previous years the proposal for a South Atlantic Sanctuary is still on the Commission's Agenda this year.

8. CONSERVATION MANAGEMENT PLANS

The Chair of the Scientific Committee reported that last year the Scientific Committee had agreed to introduce the concept of conservation plans. A discussion paper related to this matter will be submitted to IWC/62. This year the Scientific Committee focused on western North Pacific gray whales.

The Scientific Committee received and endorsed a report from the IUCN Range Wide Workshop. In particular it endorsed the development of a 'Conservation Plan for Western North Pacific Gray Whales'. The core of the plan is to reduce anthropogenic mortality towards zero as soon as possible. This reiterates the view expressed by the Scientific Committee for a number of years. The recommendations of the report cover three broad areas: (1) status and monitoring; (2) threats and improved mitigation; and (3) improved information outside the feeding grounds.

Australia introduced IWC/61/CC3, which addressed Australia's views on the next steps to further develop the process of taking action to improve the conservation status of cetaceans under threat. Specifically the paper proposed a process for advancing Conservation Management Plans within the IWC.

In introducing the idea of a Conservation Management Plan framework at IWC/60, Australia indicated that Conservation Management Plans are intended to provide the Commission with an adaptive, flexible, tailored management tool which can be applied to improve conservation outcomes through targeted management of human activities. The implementation of such a framework cannot be achieved without adequate resources and positive and constructive engagement from the IWC, relevant stakeholders and range states. A three tiered approach was suggested:

- (1) immediate actions to support conservation planning activities underway for critically threatened populations;
- (2) development of conservation management plans for key species; and
- (3) establishment of a mechanism for the ongoing evaluation of development needs for Conservation Management Plans.

In relation to (1), Australia noted the high priority the Scientific Committee has given to preventing the extinction of western North Pacific gray whales. In order to immediately advance the principles of the Conservation Management Plan initiative, a substantial effort could be

directed at supporting the implementation of the western North Pacific gray whale conservation plan. This work is currently under the primary control of IUCN's Western Gray Whale Action Plan panel, and Australia proposed that the Conservation Committee should seek their recommendations on how support and resources can be most effectively directed.

With regard to (2) prioritising the species, region and threats that a plan should address is complex. Effort should focus on interactions where the chances of positive conservation outcomes can be maximised.

Technical scientific advice could be distilled by the IWC Scientific Committee from the IUCN species review programmes. This would provide a species specific and regional focus. Tailored information on human activities and geo-political issues could then be sought on the highly ranked candidates for a Conservation Management Plan, with a final recommendation to the Commission coming from the Conservation Committee in consultation with the Scientific Committee.

Examples of areas where Conservation Management Plans could be beneficial include: (1) the southern right whale population that ranges the coastlines of Chile and Peru about which little is known of the threats potentially limiting its recovery; and (2) the more numerous right whale population on the Atlantic coast which has recently experienced a series of serious unusual mortality events. Understanding any disease processes and the role human activity has had on them is critical to ensuring the continued secure status of this population.

Finally, a mechanism must be developed for the ongoing evaluation of development needs for Conservation Management Plans. A multi-disciplinary Steering Committee, including IWC scientists and conservation managers could span the technical requirements; input from national programmes, IUCN and other sources would be needed for a strategic evaluation process.

Acknowledging that implementation of a Conservation Management Plan framework cannot be achieved without adequate resources, Australia indicated that it would provide a voluntary contribution of AU\$0.5 million to support the development and implementation of Conservation Management Plans. This will be part of an overall voluntary contribution of AU\$1.5 million toward IWC conservation work. Australia encourages other countries to contribute to this work.

Many countries thanked Australia for their generous contribution, and supported the inclusion of southern right whales in a conservation plan. The Committee endorsed the formation of a small, specialist group to construct a list of candidate management plans. The membership of the group will include Argentina, Australia, Belgium, Brazil, Chile, Mexico, New Zealand, UK, USA and South Africa as well as representatives from the Scientific Committee. The specialist group will report back to the Committee before priorities are addressed.

9. NATIONAL PROGRESS REPORTS ON CETACEANS

9.1 Introduction of national reports

The Chair noted that several countries had submitted voluntary National Cetacean Conservation Reports. They are as follows:

IWC/61/CC		IWC/61/CC	
4	Australia	20	Mexico
17	Argentina	6	New Zealand
15	Brazil	8	Panama
13	Chile	13	UK
21	France	15	USA

Reports included information on *inter alia* legal developments, whalewatching, ship strikes, conservation management plans, bycatch and international cooperation.

9.2 Committee discussion and recommendation

Brazil highlighted that in late 2008 it declared all waters under its jurisdiction as a whale and dolphin sanctuary. The UK noted that information on a mass stranding event mentioned in its report has recently been published and is available from www.defra.gov.uk.

10. OTHER MATTERS

The UK noted that an intersessional workshop took place earlier this year in Siena, Italy to study the effects of climate change on cetaceans. The UK looked forward to receiving the report of that workshop during the Commission plenary meeting and noted a request from the workshop on the need to progress work on the consequences of climate change for small cetaceans.

This was supported by the Scientific Committee; but given its workload there was inadequate time to consider this matter in any detail. The UK supported the proposal for a small intersessional workshop to be held to progress this important and pressing matter; noted that funding will be required to support the workshop and requested any countries interested in assisting in this matter or requiring further information to consult UK scientists to aid in developing the necessary plans. A report of the intersessional workshop should be available to the Committee in 2010.

The USA hosted the first International Conference on Marine Mammal Protected Areas in Hawaii, March/April 2009 (see SC/61/O20). Over 200 managers, scientists and educators were brought together from 40 countries to engage in sessions that provided a forum for sharing information on approaches to marine mammal management and conservation. The conference was supported by many nations and the USA particularly acknowledged the financial contributions from the Government of Australia and the IWC. France has agreed to host the second conference in late 2011/early 2012.

11. ADOPTION OF THE REPORT

The report was adopted by correspondence on 19 June 2009.

Appendix 1

LIST OF PARTICIPANTS

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 Keith Johnson
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Scientific Committee

Arne Bjørge

Secretariat

Nicky Grandy
 Greg Donovan
 Jemma Miller

Appendix 2**LIST OF DOCUMENTS****IWC/61/CC**

- | | | | |
|-------|---|------------|---|
| 1 rev | Revised draft Agenda | 16 | Activities on cetaceans carried out by the Canary Islands Government in 2008 and review of historic data records of cetaceans and ship strikes in the Canary Islands (submitted by Spain) |
| 2 | List of documents | | |
| 3 | Country Report on Ship Strikes: Australia | | |
| 4 | Voluntary National Cetacean Conservation Report: Australia | | |
| 5 | Outline proposal for a joint IWC-ACCOBAMS workshop on reducing risk of collisions between vessels and cetaceans | 17 | Voluntary National Cetacean Conservation report: Argentina |
| 6 | Voluntary National Cetacean Conservation Report: New Zealand | 18 | Voluntary National Cetacean Conservation Report: Brazil |
| 7 | Long-term acoustic monitoring of baleen whales in the Southern and Indian Sanctuaries (submitted by France) | 19 | Report of measures taken in Chile to protect southern right whales (submitted by Chile) |
| 8 | Voluntary National Cetacean Conservation Report: Panama | 20 | Voluntary National Cetacean Conservation Report: Mexico |
| 9 | Report of the intersessional correspondence group on whalewatching (Argentina, Australia, Brazil, Mexico and South Africa) | 21 | France voluntary report to the Conservation Committee for the year 2008 |
| 10 | Whalewatching in the Canary Islands by Elejabeitia, C. and Urquiola, E. (submitted by Spain) | 22 | Summary of 2008 collection activities related to 'stinky' gray whales in Chukotka, Russia (submitted by the United States of America and the Russian Federation) |
| 11 | Ship Strikes Working Group: Fourth Progress Report to the Conservation Committee | 23 | A strategic approach to the development and implementation of Conservation Management Plans (submitted by the Government of Australia) |
| 12 | Actions to reduce the threat of ship collisions with southern right whales in Patagonia, Argentina (submitted by Argentina) | 24 | Chile Voluntary National Cetacean Conservation Report, 2009 |
| 13 | Voluntary National Cetacean Conservation Report: United Kingdom | IWC/61/Rep | |
| 14 | Update on the United States' actions to reduce the threat of ship collisions with large whales | 1 | Report of the Scientific Committee (extracts) |
| 15 | Voluntary National Cetacean Conservation Report, 2009: USA | SC/61/BC | |
| | | 7 | Vessel collision with a large whale off Southern Chile |

Appendix 3**AGENDA**

1. Introductory items
 - 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
 - 3.1 Report on progress
 - 3.2 Committee discussion and recommendations
 4. Ship strikes
 - 4.1 Report from the Ship Strikes Working Group
 - 4.2 Committee discussion and recommendations
 5. Southern right whale population of Chile-Peru
 6. Whalewatching
 - 6.1 Report from the Scientific Committee
 - 6.2 Committee discussion and recommendations
 7. Whale sanctuaries
 - 7.1 Report from the Scientific Committee
 - 7.2 Committee discussion and recommendations
 8. Conservation management plans
 9. National reports on cetacean conservation
 - 9.1 Introduction of National Reports
 - 9.2 Committee discussion and recommendations
 10. Other matters
 11. Adoption of the Report
-

Annex J

Report of the Infractions Sub-Committee

Wednesday, 17 June 2009, Madeira

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/61/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 2008

2. ADOPTION OF THE AGENDA

Japan reaffirmed the position of Japan and Norway that Item 7.1, which deals with stockpiles of whale products and trade questions, was outside the scope of the Convention. In a spirit of co-operation they did not request the item be deleted from the Agenda. The draft Agenda was adopted unchanged (Appendix 2).

3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2008

3.1 Reports for 2008

The Sub-Committee reviewed IWC/61/Inf3, the draft summary of infraction reports received by the Commission for 2008. A revised version is given as Appendix 3 to this report.

The USA provided information on infraction 2008.3 (see Appendix 3 Table 2) which had appeared to be a small independent bowhead whale that was not associated with a large whale. After being harvested, the whale was determined to be a calf, based on standard criteria (length, baleen length, and milk in the stomach). The AEWB Board of Commissioners met on 2 March 2009, and after receiving testimony from the crew in question and other nearby crews, determined that the crew had taken all possible precautions and the incident was an honest

mistake. The USA further noted that the calf was only about a foot short of being an independent yearling.

Korea regretted the fourteen infractions it reported this year, which were taken illegally to supply a demand for whale meat. In the past, eating whale meat has been part of the cultural tradition in Korea, and since the Moratorium bycatches have been the only legal source of the meat. The Ministry for Food, Agriculture, Forestry and Fisheries has been striving to reduce the illegal trade and has made the issue a top priority. This year new legislation is planned which will include strict regulation of bycatch which should enable the Government to block illegal sources of whale meat.

In response to a question by the UK as to why further investigation of infraction 2008.1 was impossible, Denmark (Greenland) explained that the extensive coastline of Greenland made policing very difficult. When a whale is found dead it may be impossible for the police to discover more unless someone gives information on the matter.

No infractions were reported by St. Vincent and The Grenadines or the Russian Federation this year.

3.2 Follow-up on earlier reports

Information on the five unresolved infractions from previous seasons (numbers 2005.1, 2006.1, .2, .3 and .4), are reported in IWC/61/Inf4 (see Appendix 3 Table 3).

4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Reports submitted by the USA and the Russian Federation stated that 100% of their catches are under direct national inspection. In their Infractions Report Denmark (Greenland) reported that their catches were subjected to a random check.

In response to a question concerning the frequency of its random checks, Denmark (Greenland) informed the Committee that 13 wildlife officers, including assistants, were responsible for ensuring compliance with regulations but it had no information on the frequency of the checks. However, it noted that the wildlife officers are based in eight different cities or settlements and cover all areas of Greenland.

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 66% 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 is 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 97-100% of the catch. Biological samples are collected from at least 71% 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. Biological sampling was conducted on 44 gray whales.

St. Vincent and The Grenadines: Information on date, time, species, length, sex, whether the whale is pregnant and/or lactating and numbers struck and lost is collected for 100% of the catch. Biological samples are collected.

Norway and Iceland: the required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/61/Rep1).

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of National Legislation supplied to the Commission is given in Table 1. Following a request from Austria, member states of the European Union who are hence subject to EU legislation are identified in a footnote to the table.

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	Laos	None
Argentina	2003	Lithuania	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	2008	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)	2009	Peru	1984
Dominica	None	Poland	None
Ecuador	None	Portugal	2004
Eritrea	None	Romania	None
Estonia	2008	Russian Federation	1998
Finland	1983	San Marino	None
France	1994	Saint Kitts and Nevis	None
Gabon	None	Saint Lucia	1984
Gambia	None	Saint Vincent and The Grenadines	2003
Germany	1982	Senegal	None
Greece	None	Slovak Republic	None
Grenada	None	Slovenia	None
Guatemala	None	Solomon Islands	None
Guinea-Bissau	None	South Africa	1998
Guinea, Republic of	None	Spain	2008
Hungary	None	Suriname	None
Iceland	1985	Sweden	2004
India	1981	Switzerland	1986
Ireland	2000	Tanzania	None
Israel	None	Togo	None
Italy	None	Tuvalu	None
Japan	2004	UK	1996
Kenya	None	USA	2004
Kiribati	None	Uruguay	2002
Korea, Republic of	1996		

¹Up to the middle of June 2009. Dates in the table refer to the date of the material not the date of submission. ²Member states of the European Union (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and UK) 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 2005.

7. OTHER MATTERS

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

The Commission has adopted a number of Resolutions inviting Contracting Governments to report on the availability, sources and trade in whale products:

- 1994-7 on international trade in whale meat and products
- 1995-7 on improving mechanisms to prevent illegal trade in whale meat
- 1996-3 on improving mechanisms to restrict trade and prevent illegal trade in whale meat.
- 1997-2 on improved monitoring of whale product stockpiles.

- 1998-8 *inter alia* reaffirmed the need for Contracting Governments to observe fully the above Resolutions addressing trade questions, in particular with regard to the problem of illegal trade in whale products, and urged all governments to provide the information specified in previous resolutions.

No reports were received by the Secretariat on these resolutions and no comments were made during the meeting.

7.2 Other

No other matters were raised.

8. ADOPTION OF REPORT

The report was adopted by correspondence on 19th June 2009.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñíguez

Australia

Andrew McNee

David Dutton

Lesley Gidding

Nick Gales

Pam Eiser

Nicola Beynon

Austria

Andrea Nouak

Michael Stachowitsch

Belgium

Alexandre de Lichtervelde

Fábian Ritter

Brazil

José Truda Palazzo Jr.

André Tenório Mourão

Fabia de Oliveira Luna

Marcia Engel

Chile

Francisco Ponce

Barbara Galletti

Denmark

Øle Samsing

Amalie Jessen

Helga Jakobsen

Nette Levermann

Germany

Thomas Schmidt

Karl-Hermann Kock

Iceland

Tomas H. Heidat

Japan

Joji Morishita

Toshinori Uoya

Hideaki Okada

Yasuo Iino

Kayo Ohmagari

Saemi Baba (I)

Republic of Korea

Hyun-Jin Park

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Zang-Geum Kim

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaïke Moolhuijsen

Norway

Egil Ole Øen

Einar Tallaksen

Hild Ynnesdal

Øle David-Stenseth

Portugal

Marina Sequiera

Russian Federation

Valentin Ilyashenko

Igor Mikhno

Vladimir Etylin

Rudolf Borodin

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

Switzerland

Bruno Mainini (Chair)

UK

Claire Bass

James Gray

Trevor Perfect

Mark Simmonds

Sarah Archer

USA

Rollie Schmitten

Keith Johnson

Roger Eckert

Cheri McCarty

Shannon Dionne

Michael Tillman Jr.

Bob Brownell

Doug DeMaster

Harry Brower Jr.

Ryan Wulff

Secretariat

Cherry Allison

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 2008 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 FOR 2008

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/61/Rep1). Norway took 536 minke whales (including 4 lost) in her commercial whaling operations and reported no infractions. Iceland took 38 minke whales (including 2 lost) 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 2008 season and Table 3 gives information on the five unresolved infractions from previous years (numbers 2005.1, 2006.1, .2, .3 and .4).

Table 1
Summary of Aboriginal subsistence catches and infractions reported for the 2008 season.

Nation	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/comments
Denmark							
West	Fin	8	3	11	3	14	None
Greenland	Minke	55	86	148 ¹	5	153	2 ²
East Greenland	Minke	0	1	1	0	1	None
St. Vincent and The Grenadines							
	Humpback	0	1	1	1	2	None
USA							
	Bowhead	18	19	38 ³	12	50	1 ⁴
Russian Federation							
	Bowhead	0	2	2	0	2	None
	Gray	63	64	127	3	130	None
Republic of Korea							
	Minke	-	-	-	-	-	14 ⁵

¹Includes 7 animals of unknown sex (including 2 reported as infractions); ² see Table 2, infractions 2008.1 and 2008.2; ³includes 1 animal of unknown sex; ⁴See Table 2, infraction 2008.3; ⁵See Table 2, infractions 2008.4-2008.11. Infractions 2008.4 to 2008.6 occurred in 2007 but were reported in 2008.

Table 2
List of infractions from the 2008 season.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Invest. complete?
2008.1	Greenland /Denmark	Minke whale	?	4m	Oct. 2008	Illegal rifle hunt	Young minke whale found dead with rifle wounds after the allocated quota had been taken.	Reported to the police. Further investigation impossible.	Case suspended
2008.2	Greenland /Denmark	Minke whale	?	4m	Nov. 2008	Illegal rifle hunt	Reported catch after the allocated quota had been taken. The catch was left on a beach after it was reported as a illegal catch. Participating hunters are known.	Reported to the police. Investigation ongoing.	No. Expected in 2009
2008.3	USA	Bowhead (<i>Balaena mysticetus</i>)	M	7.2m	6 Sep. 2008	Calf	Whale appeared to be a small independent animal that was not associated with a large whale. After being harvested, it was obviously a calf based on its standard length, baleen length, and milk in the stomach (George and Suydam, 2006).	The AEWEC Board of Commissioners met on 2 Mar. 2009 to take testimony from the crew in question and crews nearby. After receiving testimony, the Commissioners determined that the crew had taken all possible precautions, but that the absence of a large whale in the area where the calf was taken led to an honest mistake.	Yes
2008.4 ¹	Korea	4 minke whales	-	-	27 May 4 Jun. 21 Jul. 16 Aug. 2007	No quota	The following 4 minke whales were caught in Korean waters: (1) around 15 miles from Ulgi lighthouse, Ulsan; (2) in waters around Jangsaengpo Port, Ulsan; (3) in waters around Jangsaengpo Port, Ulsan; (4) in waters around Jangsaengpo Port, Ulsan.	10 months of imprisonment and 2 years probation.	Yes
2008.5 ¹	Korea	3 minke whales	-	-	27 Jul. 18 Aug. 19 Aug. 2007	No quota	The following 3 minke whales were caught in Korean waters and taken onto a vessel in pieces: (1) in waters around Gampo beach, Gyeongju-si; (2) in waters around Chuksan-myeon, Yeongdeok-Gun, Gyeongbuk; (3) in waters around Gampo beach, Gyeongju-si.	10 months of imprisonment and 2 years probation.	Yes
2008.6 ¹	Korea	Minke whale	-	-	20 Oct. 2007	No quota	A minke whale was caught using a harpoon in Korean waters around Hupo-port, Uljin-gun Gyeongbuk by two vessels.	8 months of imprisonment and 2 years probation.	Yes
2008.7	Korea	Minke whale	-	7m	25 May 2008	No quota	A minke whale was caught using a harpoon in Korean waters around 13 miles from Guryongpo-eup, Pohang-si.	6 months of imprisonment and 2 years probation. Fined US\$5,000.	Yes
2008.8	Korea	Minke whale	-	3m	8 Jul. 2008	No quota	A minke whale was harpooned in Korean waters around 11 miles from Chuksan-myeon, Yeongdeok-Gun, Gyeongbuk.	14 months of community service command; 8 months of imprisonment and 2 years probation.	Yes
2008.9	Korea	2 Minke whales	-	2*5m	20 Oct. 2008	No quota	In Korean waters around 1 mile from Namoe-port, Busan, a fishing vessel which carried 3 tons of whale meat obtained from 2 minke whales (worth of around 0.24 million dollars) was seized by a guard ship of Busan Customs.	10 months of imprisonment and 2 years probation.	Yes
2008.10	Korea	Minke whale	-	5m	16 Nov. 2008	No quota	A vessel received 87 bags of minke whale meat from an unidentified vessel around the docks in Naengcheon brige, Cheongnim-dong, Pohang-si, Korea. The bags were seized.	6 months of imprisonment and 2 years probation; 87 bags of whale meat were forfeited.	Yes
2008.11	Korea	Minke whale	-	5m	17 Dec. 2008	No quota	A minke whale was caught in Korean waters around 12 miles from Chuksan-myeon, Yeongdeok-Gun, Gyeongbuk; a fisherman was drowned due to a harpoon hurled to catch the whale.	One violator was imprisoned for 10 months and received 2 years probation.	Yes

¹ Infractions 2008.4 to 2008.6 occurred in 2007. Following investigation they were identified as infractions by the Korean Government in April and May 2008.

Table 3

List of unresolved infractions from previous seasons and follow-up actions.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Invest. complete?
2005.1	Greenland /Denmark	Fin whale	?	?	Sep. 2005	Unreported struck and lost whale	A dead whale with a harpoon embedded on its flank was seen near Maniitsoq (West Greenland).	Reported to the police. Investigation ongoing.	No. Completion unlikely.
2006.1	Greenland /Denmark	Fin whale	Unk.	Unk.	Aug. 2006	Hunting method; failure to report; waste of meat	Reported on August 22, Qasigiannguit (Disko Bay). Skiffs were observed using rifle shots to assist a boat equipped with harpoon cannon. Probably the same whale was found dead later, with only part of the meat removed for consumption.	Case given up by the police, since further investigations are expected not to result in any prosecution.	Yes
2006.2	Greenland /Denmark	Fin whale	Unk.	Unk.	23 Aug. 2006	Prohibited stock	A fin whale with bullet wounds was observed at Kulusuk (E Greenland). Fate unknown.	Investigation stopped.	Yes
2006.3	Greenland /Denmark	Humpback whale	Unk.	Unk.	14 Sep. 2006	Prohibited species	A humpback whale with bullet wounds was observed at Niaqornaarsuk (SW Greenland). Fate unknown.	Reported to the police. Investigation ongoing.	No. Completion unlikely.
2006.4	Greenland /Denmark	Sei whale	Unk.	Unk.	21 Aug. 2006	Prohibited species	A sei whale was taken at Uummannaq (NW Greenland) by hunters licensed to catch a minke whale.	Reported to the police. Investigation ongoing.	No. Expected in 2009.

Annex K

Catches by IWC Member Nations in the 2008 and 2008/2009 Seasons

Prepared by the Secretariat

	Fin	Humpback	Sei	Bryde's	Minke	Sperm	Bowhead	Gray	Operation
North Atlantic									
Denmark									
(West Greenland)	14 ¹	-	-	-	153 ²	-	-	-	Aboriginal subsistence
(East Greenland)	-	-	-	-	1	-	-	-	Aboriginal subsistence
Iceland	-	-	-	-	38 ³	-	-	-	Whaling under Objection
Norway	-	-	-	-	536 ⁴	-	-	-	Whaling under Objection
St. Vincent and The Grenadines	-	2 ⁵	-	-	-	-	-	-	Aboriginal subsistence
North Pacific									
Japan	-	-	100	50	171 ³	2	-	-	Special Permit
Korea	-	-	-	-	6 ⁶	-	-	-	-
Russian Federation	-	-	-	-	-	-	2	130 ⁷	Aboriginal subsistence
USA	-	-	-	-	-	-	50 ⁸	-	Aboriginal subsistence
Antarctic									
Japan	1	-	-	-	680 ⁵	-	-	-	Special Permit

¹Including 3 struck and lost. ²Including 5 struck and lost and 2 reported as infractions. ³Including 2 lost. ⁴Including 4 lost. ⁵Including 1 lost. ⁶The Republic of Korea reported that 6 minke whales had been deliberately killed in 2008 (see IWC/61/Rep 4 for details); it also reported an additional 8 minke whales deliberately killed in 2007 that were omitted from last year's reports. ⁷Including 3 struck and lost and 10 'stinky' whales. ⁸Including 12 struck and lost.

Annex L

Summary of Presentations by Non-Governmental Organisations

The views of the Animal Welfare Institute were supported by a number of NGOs¹. It noted the threats to cetaceans from inter alia climate change, pollution, marine noise and marine traffic and acknowledged the work of the Scientific Committee on such issues. It questioned whether it is possible to sustainably utilise whales since they are difficult to study, and the above factors making studies even more complex. It commented that governments and NGOs are increasingly acknowledging the need to protect the welfare of the animals that humans utilise, making the approval of explosive harpoons on conscious whales a retrograde action. Further, since it believes commercial whaling cannot be conducted humanely, it queried whether it should indeed be conducted at all. Finally, the Animal Welfare Institute called for increased participation of NGOs within the IWC and increased transparency within the work of the Commission.

The International Transport Worker's Federation (ITF) stated that interference of research activities by Sea Shepherd Conservation Society (SSCS) cannot be described as peaceful protest and its actions pose a risk to people's lives. It noted that the IWC unanimously condemns such acts, thus does not understand why SSCS boats are able to sail to the Antarctic repeatedly. It requested cooperation from the countries concerned, particularly port and flag states, to take effective measures to ensure safety as sea. ITF also noted that the role of the IWC is to conduct discussions democratically and based on science, while being respectful of different cultures and customs. It strongly supports the sustainable use of marine resources.

The Humane Society International spoke on behalf of a number of other NGOs². While respecting the motivation in seeking a consensus package to bring whaling back under IWC control and in addressing the 33 identified issues, it noted that the process had failed to produce a tangible outcome. It disagrees that the impediments to consensus are the issues of coastal whaling, special permit whaling and sanctuaries and does not believe discussions within the Small Working Group should be allowed to continue for an additional year. Previous negotiations regarding the Irish Proposal and the Revised Management

Scheme have shown the impediment to compromise is the unwillingness of whaling countries to make concessions. Without such concessions Humane Society International believes the objectives of bringing whaling under control and improving whale conservation are unlikely to be achieved. Without a commitment from all Contracting Governments to bring all whaling under IWC control, Humane Society International believes no more resources should be allocated to negotiations within the Small Working Group. Instead it believes the IWC should dedicate efforts to the conservation and protection of cetaceans.

The Association of Traditional Marine Mammal Hunters of Chukotka (ATMMHC) noted that its people have pursued the rational and sustainable use of natural resources for centuries and that they do not take more from the environment than needed for food and for supporting the wellbeing of their communities. It asked that the IWC respect this way of life and support the real needs and demands of its people for whale products. It believes some Contracting Governments are attempting to undermine communities affected by IWC regulation by questioning their need for whale hunts. The ATMMHC believes compromise and reform must be achieved within the IWC, and when considered within the perspective of its own history, surviving the harsh conditions of the Arctic north, the task should not appear so daunting.

The Antarctic and Southern Ocean Coalition (ASOC), speaking on behalf of a number of other NGOs³, expressed dismay at the depletion of great whales, particularly since

¹American Cetacean Society, Animal Welfare Institute, Asociacion de Biologia Marina de Guatemala, Campaign Whale, Canadian Marine Environment Protection Society, Centro de Conservacion de Cetacea, Cetacean Society International, Committee Ballena Azul, Conservación de Mamíferos Marinos de México, Cousteau Society, Dolphin Connection, Eastern Caribbean Coalition for Environmental Awareness, Environmental Investigation Agency, Fundacion Cethus, Humane Society International, The Humane Society of the United States, Instituto de Conservación de Ballenas, International Fund for Animal Welfare, International Marine Mammal Project of Earth Island Institute, Irish Seal Sanctuary, Iruka and Kujira Action Network, LegaSeaS International, Natural Resources Defense Council, NOAH, Norwegian Society for the Protection of Animals, OceanCare, Pacific Orca Society/Orcalab, Pew Environment Group, Project Jonah, Pro Wildlife, Society for the Conservation of Marine Mammals, Whale and Dolphin Conservation Society, The Whaleman Foundation, Whales Alive, World Society for the Protection of Animals and WWF.

²Antarctic Southern Ocean Coalition, American Cetacean Society, Asociacion de Biologia Marina de Guatemala, Animal Welfare Institute, Campaign Whale, Canadian Marine Environment Protection Society, Centro de Conservacion de Cetaceans, Cetacean Society International, Committee Ballena Azul, Conservación de Mamíferos Marinos de México, Cousteau Society, Dolphin Connection, Eastern Caribbean Coalition for Environmental Awareness, Environmental Investigation Agency, Fundacion MonteCarlo Verde, Greenpeace, The Humane Society of the United States, Instituto de Conservación de Ballenas, International Fund for Animal Welfare, International League for the Protection of Cetaceans, International Marine Mammal Project of Earth Island Institute, International Ocean Institute, Iruka and Kujira Action Network, Irish Seal Sanctuary, LegaSeaS International, Natural Resources Defense Council, NOAH, Norwegian Society for the Protection of Animals, OceanCare, Pacific Orca Society/Orcalab, Pro Wildlife, Society for the Conservation of Marine Mammals, Whale and Dolphin Conservation Society, The Whaleman Foundation, World Society for the Protection of Animals and WWF.

³American Cetacean Society, Animal Welfare Institute, Asociacion de Biologia Marina de Guatemala, Campaign Whale, Canadian Marine Environment Protection Society, Centro de Conservacion de Cetacea, Cetacean Society International, Committee Ballena Azul, Conservación de Mamíferos Marinos de México, Cousteau Society, Dolphin Connection, Environmental Investigation Agency, Eastern Caribbean Coalition for Environmental Awareness, Fundacion MonteCarlo Verde, Global Ocean, Humane Society International, The Humane Society of the United States, Instituto de Conservación de Ballenas, International Fund for Animal Welfare, International League for the Protection of Oceans, International Marine Mammal Project of Earth Island Institute, International Ocean Institute, Irish Seal Sanctuary, Iruka and Kujira Action Network, LegaSeas International, Natural Resources Defense Council, NOAH and Norwegian Society for the Protection of Animals.

the 1950s when a sanctuary in the Antarctic was first proposed. It supported the continuation of the Moratorium and believes it should be taken further to end all whaling under special permits, in sanctuaries and under objection. This can be justified due to the improvement in scientific knowledge regarding whales, employing non-lethal research methods and the increase in non-lethal utilisation of whales. Additionally, increasing threats to the survival of whales resulting from human activities in and around the water mean that relieving the ecological stress caused by whaling is necessary. If the Small Working Group is to continue meeting, the ASOC believes the terms of reference should be amended to include discussion of a phase-down and out of residual commercial whaling. During this time catches should be reduced, no new

whaling vessels should be brought into service and no new whaling operations begun. The ASOC also recommends that more research be conducted on the recovery of whale populations and ecosystems and into new cetacean threats.

Te Ohu Kaimoana supports indigenous and coastal peoples to continue their traditional and cultural practices of hunting whales for food. It believes that it is imperative that compromise is reached and a package must be agreed to ensure the future of the IWC. It feels that currently indigenous and coastal people have to beg the Commission for whale quotas and believes that this process is demeaning. Further, it believes limiting indigenous peoples' use of whales to a nutritional need or subsistence basis alone is indefensible and a rights-based formula should be included in discussions on the future of the IWC.

Annex M

Report of the Finance and Administration Committee

Wednesday, 17 June 2009, Madeira

1. INTRODUCTORY ITEMS

The list of participants is given in Appendix 1.

1.1 Appointment of Chairman

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

Two Contracting Governments identified items that they wished to raise under Agenda Item 7 'Other Matters'. Australia indicated that it wished to raise the matter of its intended voluntary contribution and Germany indicated that it wished to raise the matter of the timing of the availability of documents.

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.

3.1.2 Other

The item discussed under 'other' was in relation to the follow-up to the Report of the Intersessional Correspondence Group (ICG) on Issues Related to the Scientific Committee (IWC/M09/5)

BACKGROUND

At the March 2008 Intersessional Meeting on the Future of IWC, a large part of the meeting focused on ways to improve approaches to discussions and negotiations within the organisation (see IWC/60/7). The role of science was one of seven broad areas addressed.

There was agreement that the provision of sound scientific advice is essential to the functioning of the IWC

and that one of the more positive features of the organisation is its strong scientific element. It was noted that the work of the IWC Scientific Committee is internationally recognised as providing the best available knowledge on conservation and management for cetaceans and that the Committee has a good record in achieving consensus on nearly all of its recommendations to the Commission. Nevertheless, comments were made by some participants that the current workload of the Scientific Committee is too high, difficult to prioritise and, mainly because of its timing in conjunction with the Commission, not adequately integrated into the policy work of the Commission. 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).

With respect to the role of science and the Scientific Committee, the Commission agreed at its 2008 Annual Meeting that there are aspects of the Committee's work and functioning that would benefit from review. It therefore decided to establish an intersessional correspondence group on issues related to the Scientific Committee (ICG) to address the following issues:

- (1) consideration of the advantages and disadvantages of separating the annual meeting of the Scientific Committee from that of the Commission;
- (2) consideration of ways to increase participation in the Scientific Committee of scientists from developing countries in the work of the Scientific Committee;
- (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; and
- (4) review of the process for inviting participants to the Scientific Committee.

The ICG's report was well received by the Commission at its intersessional meeting in Rome in March 2009 (IWC/61/7). In summary, the responses received showed that there was general agreement that the Scientific Committee worked effectively and that its processes were sound, but that ways should be investigated to:

- (a) further identify the advantages and disadvantages of separating the annual meeting of the Scientific Committee from that of the Commission and make recommendations;
- (b) further identify ways to improve communication between the Scientific Committee and the Commission and make recommendations;

- (c) facilitate the participation of suitably qualified scientists from developing countries in the priority work of the Scientific Committee and to ensure that the priority work included issues relevant to a broad range of countries and make recommendations; and
- (d) facilitate capacity building for scientists in developing countries with respect to cetacean conservation and science and make recommendations.

In concluding the discussions at the intersessional meeting, the Chair of the Commission had observed that there was support for the separation of the Scientific Committee and Commission meetings. With respect to a way forward, he proposed that the Scientific Committee and Finance and Administration Committee be requested separately to review the issues in Madeira and to forward their recommendations to the Commission. The Commission would then establish a small group in Madeira to continue the work.

IWC/61

The outcome of the Scientific Committee's discussion on this matter was reported to the F&A Committee by the Scientific Committee's Chair (see section 20.1.2 of IWC/61/Rep1). Discussion in the F&A Committee focused on the Scientific Committee's discussions on the advantages and disadvantages of separating the meeting of the Scientific Committee from that of the Commission which were as follows:

- (1) *Some separation between the two meetings could have advantages in terms of extra time to finalise the report, and the ability to write an executive summary – both of which could improve communication with the Commission.*
- (2) *However, it also draws the Commission's attention to the disadvantage of additional analyses being undertaken and presented directly to the Commission without the Committee's ability to comment on these – while a Rule of Procedure might be written to try to prevent such analyses being presented to the Commission this might prove difficult to enforce in practice; the greater the gap between the meetings, the greater the likelihood of additional analyses.*
- (3) *Should the Commission decide to separate the two meetings, careful consideration needs to be given to:*
 - (a) *whether the Scientific Committee meeting is moved back or whether the Commission meeting is moved forward – the present meeting time (May-June) is generally feasible for scientists from both hemispheres but earlier dates may not be suitable for those from the Southern Hemisphere given their summer field season; and*
 - (b) *giving the Scientific Committee advanced warning of at least one meeting, particularly if the meeting is made earlier as this will affect the ability to complete proposed intersessional tasks on time.*
- (4) *The Committee agrees that the iterative nature of its work would require Annual Meetings if its present workload remains.*
- (5) *The Committee agrees that the rotation of venues assist in its ability to widen participation, facilitate the attendance of different local scientists (see items below) and include regional issues on its agenda.*
- (6) *The nature of the Committee's work is very different from that of IPCC and it believes that the present model is suitable.*

The discussions focused on (3) above, with several delegations stressing that the current timing of the Scientific Committee works well for scientists from both Southern and Northern Hemispheres. The need for caution in changing the timing was therefore stressed.

Noting: (1) the shortage of time to adequately consider the financial and administrative implications of the ICG report and the Scientific Committee's discussions; and (2) the decision at the intersessional Commission meeting in

March 2009 to establish a small group in Madeira, the F&A Committee requested the Secretariat to develop draft Terms of Reference for the small group for review by the Commission at IWC/62.

3.2 IWC's website

3.2.1 Introduction by the Secretariat

The Secretariat reported on three issues: (1) progress with the partial translation of the website as agreed by the Commission last year; (2) options for addressing the proposal made by Belgium when commenting on an earlier draft F&A Committee agenda to include the contact details of Commissioners on the IWC website; and (3) recent problems with the website being compromised.

TRANSLATION

The Secretariat recalled that at IWC/60 the Commission agreed to start partial translation of its website by: (1) making part of the website available in French and Spanish in a similar way to some other IGOs who have more than one working language, 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. As an initial step, it was agreed that the translated pages would be made available on the website as PDF documents.

The Secretariat reported that the 15 most popular pages on the website (see below) have been translated into French by France and are available as PDF documents on the website as agreed. Spain has provided translations of both the Convention and the Schedule.

The 15 most popular pages on the IWC website (in no particular order) are:

Title	http://www.iwcoffice.org/
Aboriginal subsistence whaling	conservation/aboriginal.htm
Catches and catch limits	conservation/catches.htm
Environmental effects	conservation/environment.htm
Population estimates	conservation/estimate.htm
The Commission	commission/iwcmain.htm
Lives of whales	conservation/lives.htm
Scientific permits	conservation/permits.htm
RMP	conservation/rmp.htm
RMS	conservation/rms.htm
Whale sanctuaries	conservation/sanctuaries.htm
Taxonomy of whales	conservation/cetacea.htm
Welfare issues	conservation/welfare.htm
Whalewatching	conservation/whalewatching.htm
The Convention	commission/convention.htm
The Schedule	commission/schedule.htm

The Secretariat further reported that the machine translation service on the website that was used last year has been replaced with an improved version that allows the reader to choose which translation service to use and provides a default choice of 38 languages¹. The default translation service now allows the reader to provide more appropriate suggestions to mistranslated words and phrases, providing a constantly improving vocabulary. This service has been implemented at no further cost despite the estimate of £1,000 per year. The Secretariat indicated that

¹Arabic, Brazilian Portuguese, Bulgarian, Catalan, Chinese Simplified, Chinese Traditional, Croatian, Czech, Danish, Dutch, Filipino, Finnish, French, German, Greek, Hebrew, Hindi, Hungarian, Icelandic, Indonesian, Italian, Japanese, Korean, Latvian, Lithuanian, Norwegian, Polish, Portuguese, Romanian, Russian, Serbian, Slovak, Slovenian, Spanish, Swedish, Ukrainian, Vietnamese, Welsh.

it would welcome feedback from speakers of those languages as to the quality of the translations produced.

COMMISSIONERS' CONTACT DETAILS

In response to Belgium's proposal to include Commissioners' contact details on the IWC website the Secretariat suggested that there are three ways this can be achieved, depending on the level of security and functionality required.

- (1) A publicly available standard web page with contact details with no password protection.
- (2) Password-protected contact list. A page could be created that had a simple list of contact details, that would be maintained by the Secretariat. This would be protected by one shared password.
- (3) Individual login page. This would allow the individual to login with their own discrete password and view their own contact details and any changes would be notified to the Secretariat who would update the details accordingly. This method could also have group e-mail functionality that would enable individual members to e-mail the entire list without having to go through the Secretariat.

The Secretariat noted that method (1) and (2) could be set up immediately at no extra cost, whereas method (3) would take approximately one week and would cost approximately £85 per year for additional software.

COMPROMISING OF THE WEBSITE

The Secretariat reported that on the 26th of March the IWC website was compromised by an external hacker who placed a 'spam'-generating program on the host web server which generated illegal spam e-mails from one of the Secretariat e-mail addresses. As a result of this the Company hosting the site locked the server for five days making the site inaccessible to the outside world. Security measures were put in place immediately, but this prompted a far more aggressive attack which corrupted the host's server. Again the host locked the site for a further week and the whole site had to be removed completely, causing severe disruption to IWC/61 registration, publication ordering, document retrieval etc. During this time, the site was mirrored temporarily with another host to keep it visible to the outside world whilst remedial action was taken. It was impossible to determine the source of the attack and whether or not it was performed with malicious intent. To secure the site from further intrusion all of the site's original functionality had to be removed and an external secure form-provider service was adopted at a cost of £387 per year.

The hosting package used by the Secretariat is very basic and one of the cheapest available in the UK (£240 per annum). Due to its basic nature, the Secretariat has very limited administration rights and no control over website security. This presented considerable barriers to overcoming the issue. As a result, the Secretariat indicated that it wished to move the site to a dedicated server over which the Secretariat would have full control and administration rights. It noted that a dedicated server with the same host would cost £1,520 per year and would also result in a speeding up of the site, which has slowed since conception due to the site's expansion.

3.2.2 F&A Committee discussions and recommendations

With respect to translation of the website, France thanked the Secretariat for its co-operation in making the French

translations of the 15 most popular pages of the website, provided as an in-kind contribution, available on the website as PDF documents in October 2008. It noted that this in-kind contribution was a one-off contribution and that, if agreed by the Commission, the future updating of these pages should be arranged for by the Secretariat. It further noted that while the availability of the translated pages in PDF format is useful it looked forward to them being converted into HTML format in the future. It recognised and was sensitive to the fact that this would require more work from the Secretariat.

With respect to the placing of Commissioners' contact details on the website, concern was expressed by a number of Commissioners regarding posting them on the public site even though this is the practice for some other intergovernmental organisations (e.g. the Antarctic Treaty and CCAMLR). Concerns related particularly to two aspects: (1) that the information governments provide to the Secretariat is to assist communication among Contracting Governments and with the Secretariat and that if a list was to be publicly available, different information may need to be provided; and (2) mass e-mailing events that can either accidentally or intentionally cause the mailbox of individuals to overflow or overwhelm the server where the e-mail address is hosted resulting in a loss of e-mail service. Contracting Governments recalled that such an event actually happened during IWC/59 in Anchorage.

The Secretariat reported that the current approach is to provide Commissioners and Contracting Governments updated information on contact details following each Annual Meeting (and subsequently on request) and to circulate updated details for individuals as received (e.g. when a new Commissioner is appointed). The Secretariat noted that it provides names and contact details of Commissioners to members of the public on request, noting that some Commissioners prefer not to have their telephone, fax or email details provided.

After further discussion the F&A Committee agreed to continue the *status quo* but requested the Secretariat to circulate details of all Commissioners and Contracting Governments more frequently through the year (e.g. every 3-4 months).

3.3 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate

3.3.1 Proposal to amend the footnote to Financial Regulations F, Arrears of Contributions

BACKGROUND

At IWC/55 in Berlin in 2003, the Commission agreed to add the following footnote to Financial Regulation F to clarify what is meant by the phrase 'received by the Commission' as used in Financial Regulation F.1:

'For the purposes of the Financial Regulations the expression 'received by the Commission' means either (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account or (2) that the Secretariat has in its possession cash, a cheque, bankers draft or other valid instrument of the correct value.'

On further consideration, it was recognised that presentation of a cheque to the Secretariat should not qualify as the annual payment being 'received by the Commission' as a cheque does not guarantee payment unlike a banker's draft or international money order.

At IWC/57 the Commission agreed to revise the footnote as follows:

'For the purposes of the Financial Regulations the expression 'received by the Commission' means either (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account or (2) that the Secretariat has in its possession cash or bankers draft/international money order of the correct value.'

THE PROPOSAL

Because of experiences after IWC/60 in Chile last year in which it came to light that having possession of a banker's draft does also not guarantee payment, the Secretariat proposes that the footnote be revised as follows:

'For the purposes of the Financial Regulations the expression 'received by the Commission' means [] (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account via bank transfer, (2) that a cheque, banker's draft or international money order of the correct value has been paid into the Commission's bank and cleared, or (3) that the Secretariat has in its possession cash of the correct value.'

The problem that arose last year was that the voting rights of two Contracting Governments were reinstated on the basis of the Secretariat being handed, in Santiago, bankers' drafts. Unfortunately however, the drafts were subsequently rejected by the Commission's bank because they did not comply with the clearance criteria required for this type of financial instrument. The Commission's bank has advised that similar problems may arise with international money orders. While the Secretariat understands that such problems with bankers' drafts and international money orders are rare, given the implications on voting rights it would be prudent to require that payment by such methods have been cleared in order for them to have been 'received by the Commission'. Furthermore, in relation to cheques, bankers' drafts and international money orders, the term 'credited to the Commission's account' has been dropped from the footnote in favour of the term 'cleared' since our bankers have also advised us that even if these forms of payment have been credited, it does not guarantee that they will have been cleared.

Given the above, the F&A Committee **recommends** to the Commission that the amendments to the footnote be adopted.

3.3.2 Proposal to amend the Scientific Committee Rule of Procedure A.5

At IWC/59 in Anchorage in 2007, the Commission adopted the changes to its Rules of Procedure with respect to the participation of international organisations/NGOs as observers. This change required a corresponding change to the Scientific Committee's Rule of Procedure A.5 which, due to an oversight, was not done. To bring the Scientific Committee rules into compatibility with those of the Commission, the F&A Committee therefore **recommends** to the Commission that the following amendment to the Rule of Procedure be adopted (amendments in **bold italics**):

From:

A5. 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.

To:

A.5. Any **non-governmental** 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.

3.3.3 Clarification of rules applying to the election of the Scientific Chair and Vice-Chair

The Secretariat explained that while the Scientific Committee has clear rules on how to conduct the Vice-Chair vote (Scientific Committee Rule of Procedure C.5); its own rules do not address voting rights and suspension of voting rights if financial contributions have not been received from Contracting Governments. This was an issue during the election this year of a new Scientific Committee Vice-Chair which is conducted by the Heads of Delegation to the Scientific Committee.

The Secretary's interpretation that she provided to the Heads of Delegation was that the rules used by the Commission apply (Rule of Procedure E.2) in the absence of a specific Scientific Committee rule. Not all Heads of Delegation to the Scientific Committee agreed with this interpretation and the Secretary was requested to consult with the Chair of the Commission for his view.

The outcome of this consultation was that it is the view of the Chair of the Commission that a country whose voting rights have been suspended cannot vote in the Scientific Committee in the absence of a specific Scientific Committee rule stating otherwise. The election of the new Vice-Chair of the Scientific Committee therefore proceeded on this basis.

The Chair did however recommend that the procedure be clarified either by: (1) amending the Scientific Committee rules; or (2) adding an editorial note to Scientific Committee Rule of Procedure C.5 referencing back to Rule of Procedure E.2.

In the F&A Committee, the interpretation of the Commission Chair was upheld and the Secretariat was requested to draft an editorial footnote to Scientific Committee Rule of Procedure C.5.

3.3.4 Confirmation of when changes to Rules of Procedure agreed at IWC/60 come into effect

The Secretariat reminded the meeting that at IWC/60 in Chile last year, a number of amendments to the Commission's Rules of Procedure were agreed, although only that on introducing French and Spanish as working languages came into effect after IWC/61 (i.e. Rule of Procedure N.1). This was the only one for which there had been the required 60-days notice. The Commission agreed that the others would come into effect at the next meeting.

The Secretariat noted that more precise timing of when the other Rules of Procedure would come into effect was discussed at the private meeting of Commissioners at the intersessional meeting to discuss the future or the organisation held in Rome in March 2009. At that meeting, the Commission agreed: (1) that it would be useful for the amendments relating to handling of a meeting (e.g. the new

chapeau to Rule of Procedure E and new Rule of Debate 3) be put in place at the beginning of the plenary; and (2) that the other amendments referring to content and deadlines for submission of Schedule amendments, Resolutions etc. and voting rights of new countries will apply after IWC/61, i.e. these would be the rules applying at the next Commission meeting (see Appendix 4) .

The F&A Committee noted the outcome of the Commission's agreement in Rome.

3.4 Carbon-neutral study

Last year the Commission agreed 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.

The Secretariat reported that while it had done some preliminary work towards a feasibility study it had not done the study itself due to other commitments. It stressed that it took the matter seriously and that it would undertake the study and report to the F&A Committee next year. The F&A Committee agreed to this approach.

4. FINANCIAL ASSISTANCE FOR DEVELOPING COUNTRY MEMBERS

4.1 Background

At the short private meeting of Commissioners on Monday 9 March in Rome, just prior to the Intersessional Meeting of the Commission on the Future of IWC, there was a discussion regarding the provision of financial assistance to developing countries. This matter had arisen because of the high level of intersessional activity created by discussions on the future of the organisation and the financial burden this has created for developing country members of IWC in particular.

It was noted that financial assistance could come in the form of:

- changes to the financial contributions scheme that would reduce contributions due from developing countries; and/or
- providing financial assistance for attendance at meetings.

While the former could be addressed as part of the discussions on IWC's future in relation to element 18 (financial contributions) of the 33 elements/issues identified as important, the latter would not comply with Article III.5 of the Convention that states: '*The expenses of each member of the Commission and his experts and advisers shall be determined and paid by his own Government*'.

Contracting Governments were urged to give this matter some thought prior to IWC/61.

4.2 Report from the Budgetary Sub-committee

The Chair of the Budgetary Sub-committee (BSC) reported that the BSC had brief discussions on the matter of providing financial assistance to developing countries. It was noted that one possibility was to further reduce financial contributions (i.e. beyond the reduction provided by the Interim Measure). It was also noted however that the money saved by this measure would not necessarily be made available to assist participation in meetings. A

suggestion was made that the full financial contribution due would be payable, and part of this could be returned directly to those individuals involved in IWC meetings. A further suggestion was made that a Voluntary Trust Fund might be established to accept voluntary contributions and then distribute them to countries with greatest need (e.g. using UN development criteria).

4.3 F&A Committee discussions

The F&A Committee noted the report from the BSC. One member noted that there are two different aspects to consider in providing support to developing countries. One being legal and procedural (e.g. the requirements of Article III.5 of the Convention) the other being that additional sources of finance would need to be found.

Given that because of the re-scheduling of the meeting it was likely that not all Contracting Governments interested in this issue had arrived, the F&A Committee recommended that this issue be placed on the agenda of the private meeting of Commissioners at IWC/61 on 21 June in order that they would have an opportunity to contribute to the debate.

5. FORMULA FOR CALCULATING CONTRIBUTIONS AND RELATED MATTERS

5.1 Updating cut-off points defining capacity-to-pay groups

5.1.1 Background

Last year the Commission agreed that the cut-off points defining the four capacity-to-pay groups within the Interim Measure used to calculate financial contributions should be updated each year by the Secretariat and that this should be done prior to the calculation of the following year's financial contributions. The Secretariat reported on the update and on any effects to the allocation of Contracting Governments to the capacity-to-pay groups. The 'cut-off points' defining 'capacity to pay groups' are shown in Appendix 5).

The Secretariat noted that the World Bank data for Gross National Income (GNI) and GNI per capita available in December 2008 (to be used in the calculation of Financial Contributions for 2009-2010) were published in September 2008 and refer to 2007. For the current cut off points to be consistent with the published World Bank data (i.e. to 2007) they should be adjusted from 2005 to 2007 levels.

The application of the inflation adjusted 'cut-off points', together with World Bank data published in September 2008 (and available for use in December 2008) result in some revised allocations to capacity to pay groups. Estonia and the Czech Republic move from Group 2 to Group 3 and Spain from Group 3 to Group 4.

5.1.2 F&A Committee discussions and recommendations

Spain noted that its reclassification as a Group 4 country and the consequent projected increase in its Financial Contribution of around 2.5 times from 2008-09 to 2009-10 created concern particularly in the current economic climate. It requested the Secretariat to provide the World Bank data used to update the cut-off criteria so that it could be passed back to its capital. Spain also noted the facility in Financial Regulations (Rule E.2) to delay the payment of any increased portion of Financial Contribution to 31st August following the standard 'due date' of 28th February

and asked the Secretariat to confirm that this was so. The Secretariat subsequently confirmed to Spain that its understanding was that Financial Regulation E.2 would apply. [Note that the Secretariat suggests that this be confirmed by the Commission to avoid any misunderstandings that may arise at a later date.]

5.2 Due date for financial contributions

5.2.1 Background

The due date for financial contributions is 28 February (Financial Regulation E.2). If dues are not received by the Commission by this date, a 10% penalty charge is added (Financial Regulation F.1).

At last year's Commission meeting, Cameroon noted that because of a conflict between the 28 February deadline and its own national budgetary cycle it usually has to make late payments which attract a penalty charge. It asked whether it would be possible for the Commission to change the deadline. The Chair of the Commission indicated that this should be considered at the 2009 Annual Meeting.

5.2.1 F&A Committee discussions and recommendations

Cameroon was invited to propose any changes that might improve its position. Cameroon had no proposal in mind and looked to the Commission for constructive suggestions.

One member expressed sympathy with those countries with financial cycles that differed from the IWC, but thought it impractical to change the due date used within Financial Regulations because of the widespread effects this might have. However it was proposed that the Secretariat might explore the implications of changing the date on which penalty interest is charged for late payment of Financial Contributions from the current due date. This proposal was supported by other members and the Secretariat asked to report back in time for IWC/62.

The F&A Committee therefore **recommends** to the Commission that the Secretariat explore the implications of changing the date on which penalty interest is charged for late payment of Financial Contributions from the current 'due date' and to report back in time for IWC/62.

5.3 Other

At last year's meeting, St. Vincent and The Grenadines gave notice to the Commission that it intended to propose a reasonable reduction in its contributions at the 2009 Annual Meeting.

It was noted that St. Vincent and The Grenadines had not yet provided any proposals on this matter and was not present at the meeting. However, it had the option to raise the matter at the private meeting of Commissioners at IWC/61 on 21 June.

6. FINANCIAL STATEMENTS, BUDGETS AND OTHER MATTERS ADDRESSED BY THE BUDGETARY SUB-COMMITTEE

6.1 Review of the Provisional Financial Statement, 2008-09

6.1.1 Report of the Budgetary Sub-committee

The report of the Budgetary Sub-committee (BSC) was introduced by its Chair Andrea Nouak. The Provisional Financial Statement presented in IWC/61/5rev had been circulated to the BSC in April 2009. It had been

accompanied by fairly extensive notes and explanations. 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 £41,000, the chief factors being: (1) Financial Contributions from new members; (2) interest on late contributions; and (3) increase in voluntary contributions.

Expenditure: is projected to exceed budget by £128,000 due to increases in Other Meeting Costs of £112,000, Small Cetacean costs of £6,000 and Secretarial costs of £10,000.

Provisions: are projected to be under budget by £11,000.

Result for the year: a projected excess of expenditure over income of £-251,000 which, after transfers between funds, translates into a deficit of £-283,000.

The balance on the General Fund is projected at about £1,092k at the end of the current financial year (31 August 2009). This represents about 106% of the target level (6 months expenditure: £2,055k × 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 Member £3.5k (Poland)
 - Voluntary Contributions
- (1) EUR 20,000 is expected from Belgium towards ship-strike work arising from the Conservation Committee. The 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.
 - (2) Australia has stated its intention to make a voluntary contribution of AUD\$1.5 million to support the activities of IWC in the following areas: (a) Conservation Management Plans; (b) the Southern Ocean Research Partnership; and (c) small cetacean conservation research.

It should be noted that Australia intends to seek formal approval at IWC/61 to establish three new funds to support these activities and to work with the Secretariat and the Commission to formalise a process by which the funds are to be managed (but see section 7.1).

A release from provision for doubtful debts is anticipated in the final accounts for 2008-09 of approximately £83,000 (Costa Rica £67,000 + Uruguay £16,000) but this may be reduced by provision made at the financial year end for any current debts still outstanding.

The BSC noted that the projected out-turn for 2008-09 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 6) is forwarded to the Commission with a recommendation that it be approved subject to audit.

6.1.2 Secretary's report on the collection of financial contributions

The Chair of the BSC referred to document IWC/61/F&A6 and reported that several countries on the list had indicated that they were trying to pay. During the BSC meeting, it

was suggested that the experience of other organisations might be explored to see if any improvements might be made to the collection of financial contributions. The Secretariat had noted however that the repayment schedules as allowed by current Financial Regulations had been successful in encouraging several Contracting Governments to clear long-standing debts. Nevertheless, the Secretariat was asked to keep in close contact with countries with outstanding contributions and to provide what support it could to their endeavours to pay.

The Secretary's report on the collection of financial contributions as presented by the BSC Chair was noted.

6.1.3 Summary of recommendations to the Commission

The F&A Committee **recommends** that the Provisional Financial Statement (Appendix 6) 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'.

6.2 Secretariat offices

6.2.1 Report of the Budgetary Sub-committee

INTRODUCTION TO THE BSC BY THE SECRETARIAT

The lease on the Secretariat's current offices (The Red House) expired on 17 March 2009. Last year the Commission agreed that the lease should be re-negotiated. As of 1 June, negotiations are not complete but interim arrangements are allowed by UK law to permit the continued occupancy of the Red House by the Secretariat after 17 March 2009 while a new lease is negotiated. Discussions with the owner of the property are therefore on-going regarding the terms of the renewal (the Secretariat is trying to negotiate much more favourable terms, particularly in relation to the rental charge).

The Secretariat reported that the two parties were part-way through a timetable defined by the court, which requires documents to be exchanged and provides a framework to reach agreement on terms. If no agreement can be reached then there is the option to refer the matter to arbitration, where both parties agree to settle on the basis of a decision by a Real Estate Expert.

If an arbitrator cannot be agreed by the two parties, then the matter would be referred to the court for the judge to make the final decision: (a) with regard to rent; and possibly (b) with regard to the detailed technical terms of the lease.

BUDGETARY SUB-COMMITTEE DISCUSSIONS AND RECOMMENDATIONS

The question was raised as to the likely size of the new rent. The Secretariat noted that the current rent of £75,000 *per annum* was regarded as unrealistic in current market conditions. The owner of the property has made an initial offer of a starting rent of £67,500. The IWC's real estate advisors again regard this as unrealistic in current market conditions.

Another question was raised concerning the timeframe for negotiations. The Secretariat noted that there is no set time table and that it is possible for the process to drag on for a considerable time, during which period the IWC is obliged to pay the current level of rent (£75,000 *per annum*) until a new rent is agreed. The Secretariat understands that when a new rent is agreed, any difference between the new rent and the old rent which has been paid by the IWC from the date of expiry of the old lease will be refunded to the IWC (if the new rent is lower) or paid to the owner (if the new rent is higher). The law gives the

Secretariat security of continued occupation during the period the lease is re-negotiated.

Following these discussions the BSC agreed to recommend that the F&A Committee take note of the progress reported by the Secretariat.

6.2.2 F&A Committee discussions and recommendations to the Commission

The F&A Committee noted the report of the BSC and **recommends** that the Commission take note of the progress reported by the Secretariat on the re-negotiation of the lease of the Red House.

6.3 Consideration of estimated budgets, 2009/2010 and 2010/2011, including the budget for the Scientific Programme

6.3.1 Report of the Budgetary Sub-committee

Review of the Proposed Budget for 2009-2010 and the forecast budget 2010-2011 (Appendix 7).

This aspect of the work done by the BSC was introduced by its Chair, Andrea Nouak. She highlighted the main factors affecting their formulation as follows:

PROPOSED BUDGET 2009-2010

INCOME AND EXPENDITURE ACCOUNT

Income: is projected to increase overall by about 3% (from £1,764k in the 2008-2009 Approved Budget to £1,817k in the proposed budget for 2009-2010). This is largely made up of increases in Financial Contributions and staff assessments offset by a reduction in bank interest receivable.

Poland adhered to the International Convention for the Regulation of Whaling, effective 17 April 2009. Due to the very recent nature of this news, Poland's Financial Contributions for 2009-2010 could not be included in time for circulation to the Commission.

Contracting Government Contributions: the total contributions required from Contracting Governments is increased for 2009-2010 to £1,533k (from £1,460k in the 08/09 Forecast Out-Turn). This represents a total increase of 5.0%, but due to an increase in the number of member countries and movements of three countries to higher 'capacity to pay groups', the majority of contribution changes per country will be less than this.

The forecast budget is increased for 2010-2011 by 8%.

Expenditure: 1.0% has generally been used to allow for cost increases for 2009-2010 (and for 2010-2011) 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, with the exception of a proposed allocation of £150,000 for intersessional meetings and activities relating to discussions on the future of the IWC.

The forecast budget is intended to show the general trend in reserve levels where budget deficits are shown in both years.

Projected results for the year(s)

	2009-10	2010-11
Balance of income and expenditure (deficit)	-290,100	-22,900
Surplus/(Deficit) after transfers between Funds	-296,550	-29,150

General Fund Reserves

	2009-10	2010-11
Projected balance on General Fund at year-end	795,200	766,050
Target level – approximately 6 months costs	1,053,200	982,800
% of target level	76	78

Reserves

Concern was expressed at IWC/57 in 2005 that the level of reserves should be brought more in line with the 'target level' of 50% of operating expenditure in any year (at that time the reserves were well above the target level). This has resulted in the adoption by the Commission of deficit budgets since then.

In recent years the reserves have been in excess of the target level due mainly to new governments adhering to the Convention each year after budgets have been agreed, interest received from late-paying governments, favourable levels of bank interest received and re-payments of old debts by existing members. Despite the Commission adopting deficit budgets with the intention of reducing the reserves to the target level, the actual results for the past few years have continued to produce surpluses because of the factors mentioned above.

However the Forecast Out-Turn for the current financial year 2008/09 predicts a larger deficit than planned in the approved budget, principally because of costs incurred by the discussions on the future of IWC. This will have the effect of bringing the reserves to near the target level for this financial year, i.e. a year earlier than anticipated.

The effect of the reserves in 2008/09 being reduced to near the target level of 50% of operating costs is that, as predicted, expenditure for 2009/10 and 2010/11 will have to be mainly funded by Financial Contributions, i.e. if reserves are to be maintained, they will not be available to use to fund expenditures.

If the IWC is to hold further intersessional meetings in 2009/10 to discuss the future of the organisation and other expenditure is expected to rise broadly with inflation, then Financial Contributions would have to rise significantly over the next two to three years to keep reserves at or near the target level of 50% of operating costs in a given financial year.

To try to strike a balance between affordability for member governments and viability for the IWC (i.e. maintaining adequate reserves), gradual increases in total financial contributions over a three year period have been included for the proposed and forecast budgets. Total Financial Contributions for 2009/10 are based on the 2008/09 Forecast Out-Turn level plus 5%, with 2010/11 being increased by 8% and 2011/12 being increased by 10%. The predicted level of reserves based on these total financial contributions over the three years is 76%, 78% and 89% of the current target level.

This three-year scenario would depart from the Commission's policy of setting the reserves at 50% of operating costs per financial year and significantly defers achieving this level. However, any decline in the level of reserves even of a temporary nature should be considered in the context of the effective running of the IWC and its ability to meet unplanned/unexpected expenditure.

During discussions one BSC member indicated that: (1) the Commission should be adopting balanced rather than deficit budgets and that the structure of expenditure should therefore be analysed; (2) that there should be zero increase in financial contributions; and (3) that the IWC's reserves were too high and should be considered in more depth. With respect to the former, the member noted that the reason for the deficit foreseen for 2008-2009 was caused largely by expenditure on work associated with discussions on the future of the IWC. While the need for the discussions on IWC's future was not questioned, it was

suggested that as this is a temporary expenditure it could be financed (at least in part) by other means (e.g. by using the reserves) rather than through financial contributions. With respect to the level of reserves the member noted the high level of IWC's reserves (target of 6 months expenditure) compared with those of UN organisations which are typically 1-2 months operating costs and proposed that a level of 15-25% for IWC would be more appropriate. In response to this suggestion, the Secretariat noted that the predicted level of reserves resulting from the proposed and forecast budgets already showed a significant reduction from target. It advised that if the Commission wished to reduce its level of reserves, this be done in a gradual rather than sudden manner. The Secretariat also reported that at least some Fisheries Management Organisations have reserves at a similar level to that of IWC and questioned whether UN bodies are able to have such low levels of reserves because they have access to other funds in times of emergency not available to autonomous bodies like IWC and some fisheries organisations. The IWC has only its General Fund to fall back on. There was also the suggestion that different organisations have different levels of reserves because of different patterns of peaks in income and expenditure. The Secretariat noted that there was no legal requirement to maintain reserves at a particular level.

In response to a question as to why IWC set its reserves at 6 months operating costs, the Secretariat reported that to the best of its knowledge, the target level was established based upon experience of a period of considerable financial instability in the past when many Contracting Governments were either slow to pay their Financial Contributions and/or did not pay at all. The organisation's cash flow therefore became difficult to manage. The target level of reserves of 6 months operating costs was judged to be the level sufficient to bring stability to the organisation's finances.

The Secretariat acknowledged that reserve levels might be eroded by Contracting Governments failing to pay Financial Contributions due to economic difficulties – a particular concern in the current economic climate. The Secretariat noted that the scale of operations of the organisation had increased in recent years to support an increase in membership. It suggested that if more services are considered desirable and increases in Financial Contributions to fund them are resisted, the temptation to run-down reserves is obvious. Concern was expressed by another member at the number of Contracting Governments remaining to pay Financial Contributions for 2008-2009 and that the trend towards decision making by consensus could weaken the incentive to pay promptly when the loss of voting rights was not as relevant as has been the case in the past.

The BSC recommended the proposed budget as presented in the Financial Statements document IWC61/5rev to the Commission via the F&A Committee for approval noting the strong views of one member regarding the level of reserves.

With respect to the Research Budget for 2009-2010 (Appendix 8), the BSC Chair invited Arne Bjørge, Chair of the Scientific Committee (SC), to introduce the Committee's proposals for research funding for 2009-2010. He noted that the Scientific Committee had identified projects totalling £308,320 which it considered necessary to properly carry out the Commission's requirements. In reviewing the request, one member noted that while item 9

(see Appendix 8) is related to in-depth assessments in the context of Japanese coastal whaling, as part of the on-going discussions about the future of the organisation extra funding might be needed. The SC Chair drew particular attention to the value for money of the proposed budget allocation of £64,000 for invited participants (item 20) who provide their time free of charge and only require funding for travel and subsistence.

The Sub-committee accepted the request from the Scientific Committee for the proposed budget and recommended this to the F&A Committee.

Regarding **fees for observers**, the Secretariat noted that 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. A new procedure for setting NGO registration fees was agreed at IWC59 (i.e. per individual observer rather than per organisation), and it was accepted that the level of fees set for IWC60 be used also for 2008/09. In previous years NGO fees were increased in line with UK inflation. For 09/10 it is proposed that NGO fees again increase in line with UK inflation set at 1%. Thus the NGO registration fee for 2009/10 would be set at: **£505** for the first observer and **£253** for each additional observer. There will be no charge for interpreters (each NGO will normally be restricted to one interpreter per organisation). The Secretariat indicated that the new procedure was budget neutral with no decline in revenue for the year 2007-2008.

The BSC supported the proposal to set the fee for the first observer at £505 and £253 for each additional observer.

Regarding **press fees**, the BSC also supported the increase proposed by the Secretariat from £55 to **£60**.

Having reviewed the proposed budget for 2009-2010, including the research budget and the level of fees for NGOs and press, the BSC recommended that this be adopted by the Commission, subject to consideration by the F&A Committee.

6.3.2 F&A Committee discussions and recommendations

One F&A member emphasised his concerns regarding reserves as discussed at length in the BSC (see 6.3.1 above).

The F&A Committee noted the strong views expressed by one member regarding reserve levels but decided by consensus to **recommend** the proposed budget as presented in the Financial Statements document IWC/61/5rev to the Commission for approval.

The F&A Committee **recommends** that:

- the proposed budget for 2009-2010 (Appendix 7) be forward to the Commission for its adoption;
- the Commission takes note of the Forecast Budget for 2010-2011; and
- for 2009-2010, the NGO fee continue to be set at **£505** for the first observer from an organisation and at **£253** for each additional observer and the media fee be set at **£60**.

6.4 Other

6.4.1 Report of the Budgetary Sub-committee

THE DEBT OWING TO IWC BY ST. KITTS AND NEVIS FOLLOWING THE ANNUAL MEETING IN 2006

The Secretariat reminded the BSC that since IWC/58, St. Kitts and Nevis has had a debt outstanding with the IWC of

£14.5k. This was because during IWC/58, the IWC incurred expenditure on behalf of St. Kitts and Nevis to facilitate the smooth running of the Annual Meeting. St. Kitts and Nevis received voluntary contributions from other IWC members to make good the short-fall in the running costs of the meeting but these were insufficient to cover the balance owed to the IWC.

The Secretariat noted that when a host government invites the IWC to hold an Annual Meeting on its territory, it is expected to meet the full costs of running the meeting in excess of the contribution paid directly to them by the IWC. St. Kitts and Nevis still has to complete this obligation. The BSC was invited to consider whether: (a) the residual liability of St. Kitts and Nevis to the IWC for IWC/58 of £14.5k should be written off against reserves; or (b) whether St. Kitts and Nevis might be encouraged to enter into an agreement with the IWC to pay off this debt in instalments over a period of say 3 years.

The question was raised as to the effect on reserves if the debt was written off. The Secretariat noted that the effect would be small. However, the BSC agreed that writing off the debt might set a bad precedent and that St. Kitts and Nevis should be approached by the Secretariat with the aim of setting up a repayment plan.

BUDGETARY SUB-COMMITTEE OPERATIONS

Walter Deubner had resigned as Vice-Chair, having been assigned to a new role by his government. Thomas Schmidt (Germany) was elected by consensus to serve as Vice Chair for the next two years.

A table prepared by the Secretariat showed the provisional membership of the BSC up to 2011-2012 (see Appendix 9).

Of the countries shown in the table, Panama, Peru, Cyprus and Greece were approached by the Secretariat in late May to see if they were interested in participating in the work of the BSC. No acceptances or rejections had been received by the time the BSC met.

The BSC Chair noted that there are two open seats available to Contracting Governments on the BSC and called for expressions of interest from F&A members.

6.4.2 F&A Committee discussions and recommendations

The Committee noted the report on these items.

The Chair of the F&A Committee thanked the BSC Chair for her report and encouraged members to think about occupying the open seats available on the BSC.

7. OTHER MATTERS

7.1 Australian Voluntary Contribution

Australia informed the F&A Committee that it intended to make a voluntary contribution to IWC of AUD\$1.5 million to be divided equally to support activities in three areas: (1) Conservation Management Plans; (2) The Southern Ocean Research Partnership; and (3) small cetacean conservation research. It believed that the issue germane to the F&A Committee was the way in which to best handle the funds within the Commission's rules.

Australia noted that the money to support small cetacean conservation research would be donated to the existing Voluntary Fund for Small Cetaceans. For the remainder of the voluntary contribution, it saw two possibilities, i.e. amending the Commission's Financial Regulations to create two trust funds, or transferring the money to the

General or Research Funds and ear-marking them for work in the appropriate areas. While Australia's preference was for the former, as it hoped to see these items as on-going work for the Commission to which other governments may also wish to contribute, it welcomed the views of others. If the two fund route was to be followed, Australia indicated that it would develop specific proposals for review by the Commission. It further noted that if there were strong feelings against this option, it was willing to pursue the second possibility identified.

Delegations welcomed the generous contribution from Australia. However, concerns were raised by several Contracting Governments in relation to:

- (1) the potential influence on IWC's agenda that may result from voluntary contributions (particularly given the specific focus indicated by Australia in this instance and the amount involved);
- (2) the need to retain the independence of IWC's Scientific Committee and not to overburden it unduly or divert it from other priority areas;
- (3) the need for clarity on Australia's ideas for a governance structure;
- (4) the request to the Secretariat to receive the funds before the Commission had had an opportunity to discuss the matter; and
- (5) that if new funds were to be created, the Commission is being asked to make decisions on issues that are the subject of ongoing discussions on IWC's future before those discussions are completed, which is inappropriate.

In relation to (5), one Contracting Government suggested that it would be preferable to defer handling of the contribution for one year.

Australia understood that its voluntary contribution might raise concerns but believed these could be assuaged. It noted that work in the three areas targeted for funds is already ongoing within the Scientific Committee and it envisioned that the funds would be spent in accordance with procedures approved by the Commission. With regard to timing, Australia explained that the urgency of transferring funds related to the fact that it was approaching the end of its budgetary cycle and that if the money had not been transferred before 30 June it would have been lost.

Other Contracting Governments expressed no concerns over the voluntary contribution, including the creation of two new funds and believed that Australia's generosity should be recognised. The lack of IWC funding for cetacean conservation issues was noted by these governments who also stressed that the ongoing discussions on IWC's future should not be used to stall important conservation efforts. The importance of the contribution towards work in the Southern Ocean was noted by several Southern Hemisphere countries and one member particularly welcomed the proposed contribution to the Voluntary Fund for Small Cetaceans which is never replete with funds. One member hoped that agreement could be found regarding the way to handle the contribution fearing that otherwise it might be lost.

Noting that there was no consensus, at the suggestion of the chair of the F&A Committee, the Committee recommends that the matter be forward to plenary for further discussion. The F&A Committee Chair urged consultation among Contracting Governments prior to plenary.

7.2 Timing of availability of documents

Noting that some of the documents for the meeting had only just been made available, one member requested that to the extent possible, documents be made available to delegates at least 12 hours in advance of the session in which they will be discussed.

8. ELECTION OF NEW CHAIR

This was Anthony Liverpool's third meeting as Chair of the F&A Committee. Practice within the Commission is to change Chairs of Commission sub-groups every three years. Given that the F&A Committee had been held a day earlier than planned due to the need to re-schedule sessions to discuss the future of IWC and that some Contracting Governments had not yet arrived, the F&A Committee agreed to postpone the election of a new Chair to allow adequate time for consultation. It recommends that the matter be discussed at the private meeting of Commissioners on Sunday 21 June.

9. ADOPTION OF REPORT

The Report was adopted 'by post' on 21 June 2009.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Donna Petrachenko

David Dutton

Nick Gales

Pam Eiser

Nicola Beynon

Andrew McNee

Lesley Gidding

Austria

Andrea Nouak

Belgium

Alexandre de Lichtervelde

Brazil

André Tenório Mourão

Jose Truda Palazzo Jr.

Cameroon

Baba Malloum Ousman

Chile

Barbara Galletti

Francisco Ponce

Finland

Esko Jaakkola

Penina Blankett

France

Stéphane Louhaur
Martine Bigan

Germany

Thomas Schmidt

Iceland

Tomas H. Heidar

Italy

Michele Alessi
Plinio Conte

Japan

Joji Morishita
Dan Goodman
Toshinori Uoya
Midori Ota (I)
Hideaki Okada
Kayo Ohmagaki
Yasuo Iino

Republic of Korea

Hyun-Jin Park
Jeong-Seok Park
Zang Geun Kim

Luxembourg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

Netherlands

Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer
Mike Donoghue
Ara Tai Rākena

Norway

Karsten Klepshvik
Hild Ynnesdal
Øle-David Stenseth
Einar Tallaksen

St. Lucia

Jeannine Rambally-Compton

South Africa

Herman Oosthuizen

Spain

Carmen Asencio

Sweden

Bo Fernholm
Stellan Hamrin

Switzerland

Martin Krebs

USA

Doug DeMaster
Lisa Phelps
Bob Brownell, Jr.
D.J. Schubert

UK

Trevor Perfect
James Gray
Claire Bass
Mark Simmonds

Scientific Committee

Arne Bjørge

Secretariat

Sean Moran
Sandra Holdsworth
Nicky Grandy
Greg Donovan
Mark Tandy

Appendix 2**LIST OF DOCUMENTS**

IWC/61/F&A

- 1rev Revised draft Agenda
- 2 List of documents
- 3 Secretariat proposal to revise the definition of the phrase '*received by the Commission*' in the context of Financial Regulations F 'Arrears of Contributions'
- 4 Scientific Committee Invited Participants 2009
- 5 Report of the Budgetary Sub-committee
- 6 Secretary's report on the collection of financial contributions for 2008-2009
- 7 Proposed amendment to the Scientific Committee Rules of Procedure

IWC/61/Rep

- 1 (Extract 1 from the) Report of the Scientific Committee Item 24 (as submitted to Budgetary Sub-Committee)
- (Extract 2 from the) Report of the Scientific Committee Item 20.1 (as submitted to Budgetary Sub-Committee)

IWC/61/

- 5rev Financial statements

IWC/M09/

- 5 Report of the intersessional correspondence group on the Scientific Committee

Appendix 3

AGENDA

1. Introductory items
 - 1.1 Appointment of Chair
 - 1.2 Appointment of Rapporteurs
 - 1.3 Review of documents
2. Adoption of the Agenda
3. Administrative matters
 - 3.1 Annual Meeting arrangements and procedures
 - 3.1.1 Need for a Technical Committee
 - 3.1.2 Other
 - 3.2 Website
 - 3.3 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
 - 3.4 Carbon-neutral study
4. Financial assistance for developing country members
5. Formula for calculating contributions and related matters
 - 5.1 Updating cut-off points defining capacity-to-pay groups
 - 5.2 Due date for financial contributions
 - 5.3 Other
6. Financial statements, budgets and other matters addressed by the Budgetary Sub-committee
 - 6.1 Review of the provisional financial statement, 2008/2009
 - 6.1.1 Report of the Budgetary Sub-committee
 - 6.1.2 Secretary's report on the collection of financial contributions
 - 6.1.3 F&A Committee discussions and recommendations
 - 6.2 Secretariat offices
 - 6.2.1 Report of the Budgetary Sub-committee
 - 6.2.2 F&A Committee discussions and recommendations
 - 6.3 Consideration of the proposed budget for 2009/2010, including the budget for the Scientific Programme, and the forecast budget for 2010/2011
 - 6.3.1 Report of the Budgetary Sub-committee
 - 6.3.2 F&A Committee discussions and recommendations
 - 6.4 Other
7. Other matters
8. Election of new Chair
9. Adoption of the Report

Appendix 4

RULES OF PROCEDURE AGREED AT IWC/60, CHILE, 2008

(Extract from IWC/60/24, Annex 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 Spanish².

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 5

ECONOMIC DATA AND 'CAPACITY TO PAY' GROUPS

						Countries in group
Economic data and 'Capacity to Pay' Groups (2002-03 to 2007-08)						
Group 1	GNI	Less than 10,000,000,000	and	GNI/capita	Less than 10,000	-
Group 2	GNI	Greater than 10,000,000,000	and	GNI/capita	Less than 10,000	-
Group 3	GNI	Less than 1,000,000,000,000	and	GNI/capita	Greater than 10,000	-
Group 4	GNI	Greater than 1,000,000,000,000	and	GNI/capita	Greater than 10,000	-
						Total
						-
Economic data and 'Capacity to Pay' Groups (2008-09)						
Group 1	GNI	Less than 11,850,000,000	and	GNI/capita	Less than 11,850	28
Group 2	GNI	Greater than 11,850,000,000	and	GNI/capita	Less than 11,850	27
Group 3	GNI	Less than 1,185,000,000,000	and	GNI/capita	Greater than 11,850	20
Group 4	GNI	Greater than 1,185,000,000,000	and	GNI/capita	Greater than 11,850	6
						Total
						81
Economic data and 'Capacity to Pay' Groups (2009-10)						
Group 1	GNI	Less than 12,650,000,000	and	GNI/capita	Less than 12,650	29
Group 2	GNI	Greater than 12,650,000,000	and	GNI/capita	Less than 12,650	27
Group 3	GNI	Less than 1,265,000,000,000	and	GNI/capita	Greater than 12,650	21
Group 4	GNI	Greater than 1,265,000,000,000	and	GNI/capita	Greater than 12,650	7
						Total
						84

²As 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.

Appendix 6**PROVISIONAL FINANCIAL STATEMENT 2008-2009****Income and Expenditure Account**

	Approved Budget		Projected Out-turn	
	£	£	£	£
Income				
Contracting Government contributions		1,442,400		1,460,100
Recovery of Arrears		0		0
Interest on overdue financial contributions		0		25,200
Voluntary contributions		2,000		31,100
Sales of publications		18,750		18,750
Sales of sponsored publications		1,050		1,050
Observers' registration fees		49,800		49,800
UK taxes recoverable		22,800		26,400
Staff assessments		169,000		165,650
Interest receivable		56,950		26,500
Sundry income		1,000		0
		1,763,750		1,804,550
Expenditure				
Secretariat	1,097,100		1,107,050	
Publications	38,000		38,150	
Annual meetings	362,100		362,100	
Other meetings	100,600		213,000	
Research expenditure	305,400		305,400	
Small cetaceans	1050		6,500	
Sundry	0		0	
	1,904,250		2,032,200	
Provisions				
Unpaid interest on overdue contributions	0		5,400	
Severance Pay Provision	33,600		17,750	
Provisions for other doubtful debts	0		0	
		1,937,850		2,055,350
Excess of expenditure over income		-174,100		-250,800
Net Transfers from or to (-):				
Sponsored Publications Fund		-2,050		-1,400
Research Fund		-6,350		-30,500
Small Cetaceans Fund		-50		-800
Surplus/Deficit (-) for the year after transfers		-182,550		-283,500

Appendix 7**PROPOSED BUDGET 2009-2010; FORECAST 2010-2011**

The Proposed Budget 2008-2009 was approved in Commission Plenary with no changes. See Annex N of the Chair's Report.

Appendix 8**SCIENTIFIC COMMITTEE FUNDING REQUIREMENTS FOR 2009-2010**

The Approved Research Budget as agreed in Commission Plenary is given as Annex O of the Chair's Report.

Appendix 9

**CURRENT AND FUTURE MEMBERSHIP OF BUDGETARY SUB-COMMITTEE AS OF 01 JUNE 2009
COMPARED TO 01 JUNE 2008**

Current membership of Budgetary Sub-committee based on Contracting Governments as of 01 June 2008

	Term of membership (years)	Current membership* 2007-08	Participants at IWC/60
Group 1	3	Benin (3) Gabon (3)	No No
Group 2	3	Morocco (1) Monaco (resigned)	No No
Group 3	3	Belgium (2) Denmark (2)	Belgium No
Group 4	3	Germany (3) Japan USA	Germany Japan USA
Open seats Chair	2	Vacant Joji Morishita (Japan)	No (Japan)
Vice-Chair		Andrea Nouak (Austria)	(Austria)

*Number in brackets indicates how many years a country has already been a member.

Current and future membership of Budgetary Sub-committee based on Contracting Governments as of 01 June 2009

	Term of membership (years)	Current membership (as per rota)	Current (effective) membership*	Future membership assuming no country declines to serve		
				2009-10	2010-11	2011-12
Group 1	3	The Gambia (!!) Grenada (!!)	The Gambia (1) Grenada (1)	The Gambia Grenada	The Gambia Grenada	Guinea Guinea-Bissau
Group 2	3	Morocco (#) Oman (#)	-	Panama Peru	Panama Peru	Panama Peru
Group 3	3	Belgium Denmark (#)	Belgium(3)	Cyprus Greece	Cyprus Greece	Cyprus Greece
Group 4	3	Italy (!!) Japan USA	Italy (1) Japan USA	Italy Japan USA	Italy Japan USA	UK Japan USA
Open seats Chair	2	Vacant Andrea Nouak (Austria)	Vacant Andrea Nouak (Austria)	Vacant Andrea Nouak (Austria)	Vacant Andrea Nouak (Austria)	Vacant To be elected
Vice-Chair		Walter Duebner (Germany) (^)	To be elected	To be elected	To be elected	To be elected

(!!)Willing to participate when asked during IWC/60. (#)Declined to participate when asked during IWC/60. (^)No longer involved with IWC, new election required. *Number in brackets indicates how many years a country has already been a member.

Annex N

Approved Budget for 2009/2010 and Forecast Budget for 2010/2011

Income and Expenditure Account

	Proposed Budget 2009-2010		Forecast Budget 2010-2011	
	£	£	£	£
Income				
Contracting Government contributions		1,533,000		1,655,600
Recovery of Arrears		0		0
Interest on late financial contributions		0		0
Voluntary contributions		2,000		2,000
Sales of publications		18,900		19,100
Sales of sponsored publications		1,000		1,100
Observers' registration fees		50,300		50,800
UK taxes recoverable		22,000		22,200
Staff assessments		172,500		176,600
Interest receivable		16,200		14,800
Sundry income		500		500
		1,816,400		1,942,700
Expenditure				
Secretariat	1,153,300		1,176,300	
Publications	38,500		38,900	
Annual meetings	365,700		369,400	
Other meetings	198,000		41,400	
Research expenditure	308,500		311,500	
Small cetaceans	1,000		1,000	
Sundry	0		0	
	2,065,000		1,938,500	
Provisions				
Unpaid interest on overdue contributions	0		0	
Severance Pay Provision	41,500		27,100	
Provision for other doubtful debts	0		0	
	0		0	
		2,106,500		1,965,600
Excess of expenditure over income		-290,100		-22,900
Net Transfers from or to (-):				
Sponsored Publications Fund		-1,700		-1,700
Research Fund		-4,600		-4,400
Small Cetaceans Fund		-150		-150
		-296,550		-29,150
Surplus/Deficit (-) for the year after transfers		-296,550		-29,150

Annex O

Approved Research Budget for 2009/2010

		Approved budget (£)
RMP		
1	RMP MSY intersessional workshop	17,500
2	Computing support for North Pacific minke whale analyses	17,500
AWMP		
3	Workshop to continue assessment of common minke whales off West Greenland	10,000
4	AWMP developers fund	8,000
IA		
5	IDCR/SOWER biopsy and photo-id records database	12,000
6	Abundance estimates of Antarctic minke whales using SOWER data	5,000
7	Import of 2008/09 SOWER data and assist abundance working group	7,100
8	SOWER 2009/10 cruise and planning meeting; NP sighting survey meeting	71,000
IANP		
9	Intersessional workshop on North Pacific minke whales	20,000
10	Updated simulations of dispersal for western North Pacific minke whales	10,000
SH		
11	Modelling of Southern Hemisphere humpback populations	3,500
12	Interchange analysis, migratory connections, and mixing in Antarctic feeding grounds for Southern Hemisphere humpback whales Breeding Stock B	10,000
13	Antarctic humpback whale catalogue	15,000
14	Estimating abundance of Oceania humpback whales	8,200
15	IWC-SOWER blue whale photo-id continuation of archival and analysis	3,500
BC		
16	Further development and maintenance of the IWC ship strike database	10,000
17	Progress with bycatch and the Fisheries Resource Monitoring System (FIRMS)	4,000
E		
18	Modelling workshop: pollution in the 21 st century	9,020
19	State of the Cetacean Environment Report (SOCER)	3,000
ALL		
20	Invited Participants to the 2010 Annual Meeting	64,000
	Total	308,320

Annex P

Amendments to the Schedule Adopted at the 61st Annual Meeting

At the 61st Annual Meeting of the International Whaling Commission held in Madeira, Portugal from 22-25 June 2009, no modifications were made to the provision for zero catch limits for commercial whaling with effect from the 1986 coastal and the 1985/86 pelagic seasons.

Only the following amendments to the Schedule of the International Convention for the Regulation of Whaling are therefore necessary (changes in *bold italics* type):

Paragraphs 11 and 12, and Tables 1, 2 and 3:

- Substitute the dates *2009/2010* pelagic season, *2010* coastal season, *2010* season, or *2010* as appropriate.

**Financial Statements
for the
Year ended 31 August 2009**

Financial Statement for the year ended 31 August 2009

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 adequate 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 there is no obligation for the financial statements to give a true and fair view under Commission's rules.

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 adequate 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 International Auditing Standards (UK and Ireland) 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 2009.

Edward Tully, Senior Statutory Auditor, for and on behalf of **Edwards Chartered Accountants**, 15 Station Road, St Ives, Cambridgeshire, PE27 5BH, 26 February 2010

Accounting Policies - Year Ended 31 August 2009

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 £111,998 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 denominated in foreign currencies are translated into sterling at the 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 2009)

	[Note]*	2009 £	£	2008 £	£
Income: continuing operations					
Contributions from member governments			1,465,525		1,416,046
Interest on overdue financial contributions			26,776		34,273
Voluntary contributions for research, small cetaceans work and publications			278,497		24,919
Sales of publications			13,493		19,069
Sales of sponsored publications	[1]		278		651
Observers' registration fees			42,254		59,332
UK taxes recoverable			31,555		22,862
Staff assessments			165,322		157,954
Interest receivable			27,597		106,919
Sundry income			174		219
			<u>2,051,471</u>		<u>1,842,244</u>
Expenditure					
Secretariat		1,081,329		1,009,681	
Publications		33,607		35,567	
Annual meetings		362,100		347,900	
Other meetings		218,394		133,330	
Research expenditure	[2]	358,076		260,410	
Small cetaceans	[3]	11,569		10,179	
Sundry		(1,528)		6,308	
		<u>2,063,547</u>		<u>1,803,375</u>	
Provisions made for:					
Unpaid contributions		(9,095)		20,955	
Unpaid interest on overdue contributions		(63,513)		(64,932)	
Severance pay	[5]	38,400		20,300	
Other doubtful debts		(738)	2,028,601	4,880	1,784,578
			<u>2,028,601</u>	<u>4,880</u>	<u>1,784,578</u>
Surplus of income:					
Continuing operations	[7]		22,870		57,666
Net transfers from /(to) funds:					
Publications fund	[1]	(488)		(1,511)	
Research Fund	[2]	18,768		(57,975)	
Small cetaceans fund	[3]	(243,093)	(224,813)	(716)	(60,202)
(Deficit) for the year after transfers	[4]		<u>(201,943)</u>		<u>(2,536)</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 2008-09 the Commission was pledged Voluntary Contributions to the General Fund totalling £600k (£490k in support of the Southern Ocean Research Partnership and Conservation Management Programme, £69k to support developing nations attending 'Future of the IWC' meetings and £41k to support other Intersessional work).

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 2009)

	2009	2008
	£	£
SECRETARIAT		
Salaries, national insurance and allowances	703,301	664,112
Retirement and Other Benefit Schemes	169,493	145,878
Travelling expenses	6,056	5,355
Office rent, heating and maintenance	97,321	104,400
Insurance	5,682	5,292
Postage and telecommunications	18,835	17,106
Office equipment and consumables	51,206	46,939
Professional fees	27,620	9,354
Training and recruitment	1,090	794
Photocopying	726	10,451
	<u>1,081,329</u>	<u>1,009,681</u>
PUBLICATIONS		
Annual Report	5,654	6,089
Sponsored publications	13	0
Journal Cetacean Research and Management	27,940	29,478
	<u>33,607</u>	<u>35,567</u>
RESEARCH		
Invited participants	54,527	38,846
2006/2007 SOWER cruise	0	12,867
2007/2008 SOWER cruise	7,262	53,152
2008/2009 SOWER cruise	53,616	0
IA SOWER Abundance	0	3,111
Contract 14 Analysis support	35,602	0
Contract 16 Antarctic Humpback Catalogue	8,800	4,400
Finalise assessment of Southern Hemisphere humpback whale breeding stocks	0	1,000
Pollution 2000+	0	360
AWMP fund for developers	12,020	12,366
AWMP Greenland fisheries Workshop	13,621	6,416
SP JARPN II Review Workshop	23,139	0
IA Development support	4,500	7,352
IA Travel for earplug ageing expert in calibration experiment	2,239	0
RMP North Atlantic fin whales Workshop	11,811	16,924
RMP Workshop to review MSY rates	3,594	4,783
RMP computing Workshop for <i>Implementations</i>	4,829	17,260
RMP investigate DNA/allozyme anomalies	13,500	0
Southern Hemisphere blue whales Comprehensive Assessment	0	3,300
Southern Hemisphere blue whales photo-id catalogue	5,850	0
Southern Hemisphere Workshop modelling method humpback whale populations	10,663	0
Southern Hemisphere additional humpback assessment models	2,000	0
SD intersessional Workshop genetic	0	1,251
JARPA review Workshop	0	1,132
TOSSM project	16,567	9,113
E-scoping meeting for climate change Workshop	36,467	4,268
E-workshop to review skin diseases in cetaceans in South America	0	14,364
BRG Western North Pacific gray whale telemetry	0	1,339
Krill distribution	0	1,000
EM CCAMLR/IWC Workshop July 2008	932	28,088
DNA validate mtDNA control region	2,500	2,726
WW Workshop for strategic planning	0	10,360
WW LaWE steering group committee	2,130	0
Arctic sea ice	14,500	0
BC IWC global ship strike database	3,516	0
E SOCER State of the Cetacean Environment Report	2,023	0
Marine mammal protected areas conference	10,000	0
Other (including exchange differences)	1,868	4,632
	<u>358,076</u>	<u>260,410</u>
SMALL CETACEANS		
Invited Participants	7,207	6,922
Bycatch reduction	4,244	3,168
Other (including exchange losses)	118	89
	<u>11,569</u>	<u>10,179</u>

Balance Sheet 31 August 2009

	[Note]	2009		2008	
		£	£	£	£
CURRENT ASSETS					
Cash on short term deposit					
General fund		2,228,394		1,760,324	
Research fund		230,022		232,497	
Publications fund		29,467		28,117	
Small Cetaceans fund		<u>244,450</u>	2,732,333	<u>910</u>	2,021,848
Cash at bank on current account					
Research fund		1,000		1,000	
Publications fund		1,000		1,000	
Small Cetaceans fund		326		1,000	
Cash in hand		<u>230</u>	<u>2,556</u>	<u>146</u>	<u>3,146</u>
			2,734,889		2,024,994
Outstanding contributions from members, including interest					
		302,687		387,287	
Less provision for doubtful debts		<u>(302,687)</u>	0	<u>(375,295)</u>	11,992
Other debtors and prepayments			<u>106,071</u>		<u>107,823</u>
			2,840,960		2,144,809
CREDITORS:					
Amounts falling due within one year	[6]		<u>(742,844)</u>		<u>(107,963)</u>
NET CURRENT ASSETS					
			2,098,116		2,036,846
PROVISION FOR SEVERANCE PAY	[5]		<u>(450,400)</u>		<u>(412,000)</u>
			<u>1,647,716</u>		<u>1,624,846</u>
FINANCED BY					
Publications fund	[1]		38,708		38,220
Research fund	[2]		182,604		201,373
Small cetaceans fund	[3]		253,109		10,016
General fund	[4]		<u>1,173,295</u>		<u>1,375,237</u>
	[7]		<u>1,647,716</u>		<u>1,624,846</u>

Approved on behalf of the Commission

Nicola J Grandy (Secretary)
26 February 2010

Notes to the Accounts (Year Ended 31 August 2009)

	2009	2008
	£	£
1. Publications fund		
Interest receivable	223	860
Receipts from sales of sponsored publications	278	651
Expenditure	(13)	0
Net transfers to income and expenditure account	488	1,511
Opening balances at 1 September 2008	38,220	36,709
Closing balances at 31 August 2009	<u>38,708</u>	<u>38,220</u>
2. Research fund		
Allocation for research	305,400	293,350
UK taxes recoverable	5,120	0
Voluntary contributions received	23,864	14,076
Interest receivable	4,924	10,960
Expenditure	(358,076)	(260,410)
Net transfers (to) income and expenditure account	(18,768)	57,976
Opening balances at 1 September 2008	201,372	143,397
Closing balances at 31 August 2009	<u>182,604</u>	<u>201,373</u>
3. Small cetaceans fund		
Voluntary contributions received	254,633	10,843
Interest receivable	29	52
Expenditure	(11,569)	(10,179)
Net transfer from/(to) income and expenditure account	243,093	716
Opening balances at 1 September 2008	10,016	9,300
Closing balances at 31 August 2009	<u>253,109</u>	<u>10,016</u>
4. General fund		
Opening balances at 1 September 2008	1,375,238	1,377,773
Surplus (deficit) transferred from income and expenditure account	(201,943)	(2,536)
Closing balances at 31 August 2009	<u>1,173,295</u>	<u>1,375,237</u>
5. Provision for severance pay		
Opening balances at 1 September 2008	412,000	391,700
Transfer from (to) income and expenditure account, being:		
Allocation	35,252	3,311
Interest received	3,148	16,989
Closing balances at 31 August 2009	<u>450,400</u>	<u>412,000</u>
6. Creditors:		
Amounts falling due within one year		
Deferred contributions income	83,972	59,295
Other creditors and accruals	658,872	48,668
	<u>742,844</u>	<u>107,963</u>
7. Reconciliation of movement in funds		
Surplus of income over expenditure	22,870	57,667
Opening Funds	1,624,846	1,567,179
	<u>1,647,716</u>	<u>1,624,846</u>
8. Financial commitments		

The Commission had annual commitments at 31 August 2009 under non-cancellable operating leases as set out below and which expire:

	2009		2008	
	Land and Buildings	Office Equipment	Land and Buildings	Office Equipment
	£	£	£	£
Within one year		-	40,890	-
Within 2 to 5 years	<u>60,000</u>	<u>26,000</u>	-	<u>25,400</u>

The lease on the IWC Secretariat Offices was renewed from 18 March 2009 for 10 years, with an option to break after 5 years.

Appendix 1

Financial Contributions for the Year Ended 31 August 2009

Line No	Country	Financial Contribution	Line No	Country	Financial Contribution
1	Antigua and Barbuda	5,775	45	Kiribati	5,775
2	Argentina	10,395	46	Korea	26,602
3	Australia	31,735	47	Laos	5,775
4	Austria	21,469	48	Lithuania	6,930
5	Belgium	21,469	49	Luxembourg	21,469
6	Belize	3,850	50	Mali	5,775
7	Benin	5,775	51	Marshall Islands	5,775
8	Brazil	10,395	52	Mauritania	5,775
9	Bulgaria	3,465	53	Mexico	10,395
10	Cambodia	5,775	54	Monaco	10,395
11	Cameroon	10,395	55	Mongolia	5,775
12	Chile	17,324	56	Morocco	10,395
13	China	10,395	57	Nauru	5,775
14	Congo, Rep of	3,850	58	Netherlands	26,602
15	Costa Rica	10,395	59	New Zealand	26,602
16	Cote D'Ivoire	10,395	60	Nicaragua	5,775
17	Croatia	10,395	61	Norway	47,781
18	Cyprus	21,469	62	Oman	10,395
19	Czech Republic	10,395	63	Palau	5,775
20	Denmark	47,781	64	Panama	10,395
21	Dominica	3,850	65	Peru	10,395
22	Dominican Republic	3,465	66	Poland	3,465
23	Ecuador	10,395	67	Portugal	21,469
24	Eritrea	3,850	68	Romania	6,930
25	Estonia	6,930	69	Russia	23,104
26	Finland	21,469	70	San Marino	10,395
27	France	55,861	71	Senegal	5,775
28	Gabon	5,775	72	Slovak Republic	10,395
29	Gambia, The	5,775	73	Slovenia	26,602
30	Germany	60,994	74	Solomon Is	5,775
31	Ghana	1,925	75	South Africa	10,395
32	Greece	21,469	76	Spain	21,469
33	Grenada	5,775	77	St Kitts	5,775
34	Guatemala	6,930	78	St Lucia	5,775
35	Guinea	5,775	79	St Vincent	15,405
36	Guinea Bissau	7,700	80	Suriname	5,775
37	Hungary	10,395	81	Sweden	26,602
38	Iceland	47,781	82	Switzerland	21,469
39	India	10,395	83	Tanzania	6,930
40	Ireland	21,469	84	Togo	5,775
41	Israel	21,469	85	Tuvalu	5,775
42	Italy	60,994	86	UK	66,127
43	Japan	118,105	87	Uruguay	10,395
44	Kenya	0	88	USA	82,174
			Total	1,465,525	

**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.161 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 61st Annual Meeting
Madeira, Portugal, June 2009**



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 61st Annual Meeting in June 2009. The amendments, which are shown in *italic bold* type, came into effect on 02 January 2010.

In Tables 1, 2 and 3 unclassified stocks are indicated by a dash. Other positions in the Tables have been filled with a dot to aid legibility.

Numbered footnotes are integral parts of the Schedule formally adopted by the Commission. Other footnotes are editorial.

The Commission was informed in June 1992 by the ambassador in London that the membership of the Union of Soviet Socialist Republics in the International Convention for the Regulation of Whaling from 1948 is continued by the Russian Federation.

The Commission recorded at its 39th (1987) meeting the fact that references to names of native inhabitants in Schedule paragraph 13(b)(4) would be for geographical purposes alone, so as not to be in contravention of Article V.2(c) of the Convention (*Rep. int. Whal. Commn* 38:21).

I. INTERPRETATION

- The following expressions have the meanings respectively assigned to them, that is to say:

A. Baleen whales

“baleen whale” means any whale which has baleen or whale bone in the mouth, i.e. any whale other than a toothed whale.

“blue whale” (*Balaenoptera musculus*) means any whale known as blue whale, Sibbald’s rorqual, or sulphur bottom, and including pygmy blue whale.

“bowhead whale” (*Balaena mysticetus*) means any whale known as bowhead, Arctic right whale, great polar whale, Greenland right whale, Greenland whale.

“Bryde’s whale” (*Balaenoptera edeni*, *B. brydei*) means any whale known as Bryde’s whale.

“fin whale” (*Balaenoptera physalus*) means any whale known as common finback, common rorqual, fin whale, herring whale, or true fin whale.

“gray whale” (*Eschrichtius robustus*) means any whale known as gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

“humpback whale” (*Megaptera novaeangliae*) means any whale known as bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale.

“minke whale” (*Balaenoptera acutorostrata*, *B. bonaerensis*) means any whale known as lesser rorqual, little piked whale, minke whale, pike-headed whale or sharp headed finner.

“pygmy right whale” (*Caperea marginata*) means any whale known as southern pygmy right whale or pygmy right whale.

“right whale” (*Eubalaena glacialis*, *E. australis*) means any whale known as Atlantic right whale, Arctic right whale, Biscayan right whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, or southern right whale.

“sei whale” (*Balaenoptera borealis*) means any whale known as sei whale, Rudolphi’s rorqual, pollack whale, or coalfish whale.

B. Toothed whales

“toothed whale” means any whale which has teeth in the jaws.

“beaked whale” means any whale belonging to the genus Mesoplodon, or any whale known as Cuvier’s beaked whale (*Ziphius cavirostris*), or Shepherd’s beaked whale (*Tasmacetus shepherdi*).

“bottlenose whale” means any whale known as Baird’s beaked whale (*Berardius bairdii*), Arnoux’s whale (*Berardius arnuxii*), southern bottlenose whale (*Hyperoodon planifrons*), or northern bottlenose whale (*Hyperoodon ampullatus*).

“killer whale” (*Orcinus orca*) means any whale known as killer whale or orca.

“pilot whale” means any whale known as long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*G. macrorhynchus*).

“sperm whale” (*Physeter macrocephalus*) means any whale known as sperm whale, spermacet whale, cachalot or pot whale.

C. General

“strike” means to penetrate with a weapon used for whaling.

“land” means to retrieve to a factory ship, land station, or other place where a whale can be treated.

“take” means to flag, buoy or make fast to a whale catcher.

“lose” means to either strike or take but not to land.

“dauhval” means any unclaimed dead whale found floating.

“lactating whale” means (a) with respect to baleen whales - a female which has any milk present in a mammary gland, (b) with respect to sperm whales - a female which has milk present in a mammary gland the maximum thickness (depth) of which is 10cm or more. This measurement shall be at the mid ventral point of the mammary gland perpendicular to the body axis, and shall be logged to the nearest centimetre; that is to say, any gland between 9.5cm and 10.5cm shall be logged as 10cm. The measurement of any gland which falls on an exact 0.5 centimetre shall be logged at the next 0.5 centimetre, e.g.

10.5cm shall be logged as 11.0cm. However, notwithstanding these criteria, a whale shall not be considered a lactating whale if scientific (histological or other biological) evidence is presented to the appropriate national authority establishing that the whale could not at that point in its physical cycle have had a calf dependent on it for milk.

“small-type whaling” means catching operations using powered vessels with mounted harpoon guns hunting exclusively for minke, bottlenose, beaked, pilot or killer whales.

II. SEASONS

Factory Ship Operations

2. (a) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating baleen whales except minke whales, in any waters south of 40° South Latitude except during the period from 12th December to 7th April following, both days inclusive.
- (b) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating sperm or minke whales, except as permitted by the Contracting Governments in accordance with sub-paragraphs (c) and (d) of this paragraph, and paragraph 5.
- (c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, an open season or seasons not to exceed eight months out of any period of twelve months during which the taking or killing of sperm whales by whale catchers may be permitted; provided that a separate open season may be declared for each factory ship and the whale catchers attached thereto.
- (d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by the whale catchers may be permitted provided that:
 - (1) a separate open season may be declared for each factory ship and the whale catchers attached thereto;
 - (2) the open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to sub-paragraph (a) of this paragraph.
3. It is forbidden to use a factory ship which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, except minke whales, in any other area except the North Pacific Ocean and its dependent waters north of the Equator for the same purpose within a period of one year from the termination of that season; provided that catch limits in the North Pacific Ocean and dependent waters are established as provided in paragraphs 12 and 16 of this Schedule and provided that this paragraph shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

Land Station Operations

4. (a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with sub-paragraphs (b), (c) and (d) of this paragraph.
- (b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen whales, except minke whales, by the whale catchers shall be permitted. Such open season shall be for a period of not more than six consecutive months in any period of twelve months and shall apply to all land stations under the jurisdiction of the Contracting Government: provided that a separate open season may be declared for any land station used for the taking or treating of baleen whales, except minke whales, which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen whales, except minke whales, under the jurisdiction of the same Contracting Government.
- (c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed eight continuous months in any one period of twelve months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, provided that a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000 miles from the nearest land station used for the taking or treating of sperm whales under the jurisdiction of the same Contracting Government.
- (d) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations one open season not to exceed six continuous months in any period of twelve months during which the taking or killing of minke whales by the whale catchers shall be permitted (such period not being necessarily concurrent with the period declared for other baleen whales, as provided for in sub-paragraph (b) of this paragraph); provided that a separate open season may be declared for any land station used for the taking or treating of minke whales which is more than 1,000 miles from the nearest land station used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government.

Except that a separate open season may be declared for any land station used for the taking or treating of minke whales which is located in an area having oceanographic conditions clearly distinguishable from those of the area in which are located the other land stations used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government; but the declaration of a separate open season by virtue of the provisions of this sub-paragraph shall not cause thereby the period of time covering the open seasons declared by the same Contracting Government to exceed nine continuous months of any twelve months.

- (e) The prohibitions contained in this paragraph shall apply to all land stations as defined in Article II of the Whaling Convention of 1946.

Other Operations

5. Each Contracting Government shall declare for all whale catchers under its jurisdiction not operating in conjunction with a factory ship or land station one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by such whale catchers may be permitted. Notwithstanding this paragraph one continuous open season not to exceed nine months may be implemented so far as Greenland is concerned.

III. CAPTURE

6. The killing for commercial purposes of whales, except minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1980/81 pelagic and 1981 coastal seasons. The killing for commercial purposes of minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1982/83 pelagic and the 1983 coastal seasons.*
7. (a) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Indian Ocean Sanctuary. This comprises the waters of the Northern Hemisphere from the coast of Africa to 100°E, including the Red and Arabian Seas and the Gulf of Oman; and the waters of the Southern Hemisphere in the sector from 20°E to 130°E, with the Southern boundary set at 55°S. This prohibition applies irrespective of such catch limits for baleen or toothed whales as may from time to time be determined by the Commission. This prohibition shall be reviewed by the Commission at its Annual Meeting in 2002.☼
- (b) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Southern Ocean Sanctuary. This Sanctuary comprises the waters of the Southern Hemisphere southwards of the following line: starting from 40 degrees S, 50 degrees W; thence due east to 20 degrees E; thence due south to 55 degrees S; thence due east to 130 degrees E; thence due north to 40 degrees S; thence due east to 130 degrees W; thence due south to 60 degrees S; thence due east to 50 degrees W; thence due north to the point of beginning. This prohibition applies irrespective of the conservation status of

baleen and toothed whale stocks in this Sanctuary, as may from time to time be determined by the Commission. However, this prohibition shall be reviewed ten years after its initial adoption and at succeeding ten year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph is intended to prejudice the special legal and political status of Antarctica.**+

Area Limits for Factory Ships

8. It is forbidden to use a factory ship or whale catcher attached thereto, for the purpose of taking or treating baleen whales, except minke whales, in any of the following areas:
- (a) in the waters north of 66°N, except that from 150°E eastwards as far as 140°W, the taking or killing of baleen whales by a factory ship or whale catcher shall be permitted between 66°N and 72°N;
- (b) in the Atlantic Ocean and its dependent waters north of 40°S;
- (c) in the Pacific Ocean and its dependent waters east of 150°W between 40°S and 35°N;
- (d) in the Pacific Ocean and its dependent waters west of 150°W between 40°S and 20°N;
- (e) in the Indian Ocean and its dependent waters north of 40°S.

Classification of Areas and Divisions

9. (a) *Classification of Areas*
Areas relating to Southern Hemisphere baleen whales except Bryde's whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 1.
- (b) *Classification of Divisions*
Divisions relating to Southern Hemisphere sperm whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 3.
- (c) *Geographical boundaries in the North Atlantic*
The geographical boundaries for the fin, minke and sei whale stocks in the North Atlantic are:

FIN WHALE STOCKS

NOVA SCOTIA

South and West of a line through:
47°N 54°W, 46°N 54°30'W,
46°N 42°W, 20°N 42°W.

NEWFOUNDLAND-LABRADOR

West of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W,
52°20'N 42°W, 46°N 42°W and
North of a line through:
46°N 42°W, 46°N 54°30'W, 47°N 54°W.

*The Governments of Brazil, Iceland, Japan, Norway and the Union of Soviet Socialist Republics lodged objections to the second sentence of paragraph 6 within the prescribed period. For all other Contracting Governments this sentence came into force on 8 March 1982. Norway withdrew its objection on 9 July 1985 and Brazil on 8 January 1992. Iceland withdrew from the Convention with effect from 30 June 1992. The objections of Japan and the Russian Federation not having been withdrawn, this sentence is not binding upon these governments.

☼At its 54th Annual Meeting in 2002, the Commission agreed to continue this prohibition but did not discuss whether or not it should set a time when it should be reviewed again.

** The Government of Japan lodged an objection within the prescribed period to paragraph 7(b) to the extent that it applies to the Antarctic minke whale stocks. The Government of the Russian Federation also lodged an objection to paragraph 7(b) within the prescribed period but withdrew it on 26 October 1994. For all Contracting Governments except Japan paragraph 7(b) came into force on 6 December 1994.

+ Paragraph 7(b) contains a provision for review of the Southern Ocean Sanctuary "ten years after its initial adoption". Paragraph 7(b) was adopted at the 46th (1994) Annual Meeting. Therefore, the first review is due in 2004.

WEST GREENLAND

East of a line through:
75°N 73°30'W, 69°N 59°W,
61°N 59°W, 52°20'N 42°W,
and West of a line through
52°20'N 42°W, 59°N 42°W,
59°N 44°W, Kap Farvel.

EAST GREENLAND-ICELAND

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

NORTH NORWAY

North and East of a line through:
74°N 22°W, 74°N 3°E, 68°N 3°E,
67°N 0°, 67°N 14°E.

WEST NORWAY-FAROE ISLANDS

South of a line through:
67°N 14°E, 67°N 0°, 60°N 18°W,
and North of a line through:
61°N 16°W, 61°N 0°, Thyborøn
(Western entrance to Limfjorden, Denmark).

SPAIN-PORTUGAL-BRITISH ISLES

South of a line through:
Thyborøn (Denmark), 61°N 0°, 61°N 16°W,
and East of a line through:
63°N 11°W, 60°N 18°W, 22°N 18°W.

MINKE WHALE STOCKS**CANADIAN EAST COAST**

West of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W,
52°20'N 42°W, 20°N 42°W.

CENTRAL

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

WEST GREENLAND

East of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W,
52°20'N 42°W, and
West of a line through:
52°20'N 42°W, 59°N 42°W,
59°N 44°W, Kap Farvel.

NORTHEASTERN

East of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,
and North of a line through:
74°N 3°E, 74°N 22°W.

SEI WHALE STOCKS**NOVA SCOTIA**

South and West of a line through:
47°N 54°W, 46°N 54°30'W, 46°N 42°W,
20°N 42°W.

ICELAND-DENMARK STRAIT

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

EASTERN

East of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,
and North of a line through:
74°N 3°E, 74°N 22°W.

(d) Geographical boundaries in the North Pacific

The geographical boundaries for the sperm, Bryde's and minke whale stocks in the North Pacific are:

SPERM WHALE STOCKS**WESTERN DIVISION**

West of a line from the ice-edge south along the 180° meridian of longitude to 180°, 50°N, then east along the 50°N parallel of latitude to 160°W, 50°N, then south along the 160°W meridian of longitude to 160°W, 40°N, then east along the 40°N parallel of latitude to 150°W, 40°N, then south along the 150°W meridian of longitude to the Equator.

EASTERN DIVISION

East of the line described above.

BRYDE'S WHALE STOCKS**EAST CHINA SEA**

West of the Ryukyu Island chain.

EASTERN

East of 160°W (excluding the Peruvian stock area).

WESTERN

West of 160°W (excluding the East China Sea stock area).

MINKE WHALE STOCKS**SEA OF JAPAN-YELLOW SEA-EAST CHINA SEA**

West of a line through the Philippine Islands, Taiwan, Ryukyu Islands, Kyushu, Honshu, Hokkaido and Sakhalin Island, north of the Equator.

OKHOTSK SEA-WEST PACIFIC

East of the Sea of Japan-Yellow Sea- East China Sea stock and west of 180°, north of the Equator.

REMAINDER

East of the Okhotsk Sea-West Pacific stock, north of the Equator.

(e) Geographical boundaries for Bryde's whale stocks in the Southern Hemisphere**SOUTHERN INDIAN OCEAN**

20°E to 130°E,
South of the Equator.

SOLOMON ISLANDS

150°E to 170°E,
20°S to the Equator.

PERUVIAN

110°W to the South American coast,
10°S to 10°N.

EASTERN SOUTH PACIFIC

150°W to 70°W,
South of the Equator (excluding the Peruvian stock area).

WESTERN SOUTH PACIFIC

130°E to 150°W,
South of the Equator (excluding the Solomon Islands stock area).

SOUTH ATLANTIC

70°W to 20°E,
South of the Equator (excluding the South African inshore stock area).

SOUTH AFRICAN INSHORE

South African coast west of 27°E and out to the 200 metre isobath.

Table 1
BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS¹ (excluding Bryde's whales).

Area	SEI		MINKE		FIN		BLUE		RIGHT, BOWHEAD, HUMPBACK		PYGMY RIGHT		GRAY	
	Classification	Catch limit	Classification	Catch limit	Classification	Catch limit	Classification	Catch limit	Classification	Catch limit	Classification	Catch limit	Classification	Catch limit
SOUTHERN HEMISPHERE-2009/2010 pelagic season and 2010 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-2010 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														
Remainder														
Eastern Stock														
Western Stock														
NORTH ATLANTIC														
Whole region														
West Greenland Stock														
Newfoundland-Labrador Stock														
Canadian East Coast Stock														
Nova Scotia Stock	PS	0	-	0	PS	0	PS	0	PS	0	PS	0		
Central Stock														
East Greenland-Iceland Stock														
Iceland-Denmark Strait Stock														
Spain-Portugal-British Isles Stock														
Northeastern Stock														
West Norway-Faroe Islands Stock														
North Norway Stock														
Eastern Stock														
NORTHERN INDIAN OCEAN														

¹ Available to be taken by aborigines or a Contracting Government on behalf of aborigines pursuant to paragraph 13(b)/2.

² Available to be 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 61st 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 2 January 2010. The Czech Republic lodged a similar objection to Schedule amendments arising from the 60th Annual Meeting of the Commission. This objection has not been withdrawn.

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-2009/2010 pelagic season and 2010 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-2010 season [▲]		
Eastern Stock	IMS	0
Western Stock	IMS	0
East China Sea Stock	PS	0
NORTH ATLANTIC-2010 season [▲]	IMS	0
NORTHERN INDIAN OCEAN-2010 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.

[▲]See footnote to Table 1.

*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-2009/2010 pelagic season and 2010 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-2010 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.

[▲]See footnote to Table 1.

Baleen Whale Catch Limits

11. The number of baleen whales taken in the Southern Hemisphere in the 2009/2010 pelagic season and the 2010 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 2010 and in the North Atlantic Ocean in 2010 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.

[▲]See footnote to Table 1.

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 61st Annual Meeting, June 2009
(amendments are shown in *bold italics*)**

RULES OF PROCEDURE	177
FINANCIAL REGULATIONS.	182
RULES OF DEBATE	185
RULES OF PROCEDURE OF THE TECHNICAL COMMITTEE.	186
RULES OF PROCEDURE OF THE SCIENTIFIC COMMITTEE	187

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 *shall make every effort* to reach its decisions by consensus. *If all efforts to reach consensus have been exhausted and no agreement reached*, 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: *(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.*
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, 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 *full draft text* has been *or* 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.*

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 intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports, with the exception of the report of the Finance and Administration Committee, shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).
2. Any document submitted to the Commission for distribution to Commissioners, Contracting Governments or members of the Scientific Committee is considered to be in the public domain unless it is designated by the author or government submitting it

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.

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.

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 *and the Rules of Debate* may be amended from time to time by a simple majority of the Commissioners voting, but ***[[the full draft text of any proposed amendment shall be circulated to the Commissioners]]*** ***at least*** 60 days in advance of the meeting at which the matter is to be discussed.

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[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,

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.

⁴For the purposes of the Financial Regulations the expression 'received by the Commission' means // (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account via bank transfer, (2) that a cheque, banker's draft or international money order of the correct value has been paid into the Commission's bank and cleared, or (3) that the Secretariat has in its possession cash of the correct value.

Acceptance of contributions from entities other than Governments will be subject to the Commission's procedures for voluntary contributions. Where funds or support in kind are to be made available through the Voluntary Fund, the donation will be registered and administered by the Secretariat in accordance with Commission procedures.

The Secretariat will notify all members of the Commission on receipt of such voluntary contributions.

Where expenditure is incurred using these voluntary funds the Secretariat will inform the donors of their utilisation.

Distribution of Funds

1. Recognising that there are differences of view on the legal competence of the Commission in relation to small cetaceans, but aware of the need to promote the development of increased participation by developing countries, the following primary forms of disbursement will be supported in accordance with the purpose of the Voluntary Fund:
 - (a) provision of support for attendance of invited participants at meetings of the Scientific Committee;
 - (b) provision of support for research in areas, species or populations or research methodology in small cetacean work identified as of direct interest or

- priority in the advice provided by the Scientific Committee to the Commission;
 - (c) other small cetacean work in developing countries that may be identified from time to time by the Commission and in consultation with intergovernmental agencies as requiring, or likely to benefit from support through the Fund.
2. Where expenditure is proposed in support of invited participants, the following will apply:
 - (a) invited participants will be selected through consultation between the Chair of the Scientific Committee, the Convenor of the appropriate sub-committee and the Secretary;
 - (b) the government of the country where the scientists work will be advised of the invitation and asked if it can provide financial support.
3. Where expenditure involves research activity, the following will apply:
 - (a) the normal procedures for review of proposals and recommendations by the Scientific Committee will be followed;
 - (b) appropriate procedures for reporting of progress and outcomes will be applied and the work reviewed;
 - (c) the Secretariat shall solicit the involvement, as appropriate, of governments in the regions where the research activity is undertaken.

Rules of Debate

A. Right to Speak

1. The Chair shall call upon speakers in the order in which they signify their desire to speak.
2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion.
3. A speaker shall not be interrupted except on a point of order. He/she may, however, with the permission of the Chair, give way during his/her speech to allow any other Commissioner to request elucidation on a particular point in that speech.
4. The Chair of a committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by his/her committee or group.

B. Submission of Motions

1. Proposals and amendments shall normally be introduced in writing in the working language of the meeting and shall be submitted to the Secretariat which shall circulate copies to all delegations in the session. As a general rule, no proposal shall be discussed at any plenary session unless copies of it have been circulated to all delegations normally no later than 6pm, or earlier if so determined by the Chair in consultation with the Commissioners, on the day preceding the plenary session. The presiding officer may, however, permit the discussion and consideration of amendments, or motions, as to procedure, even though such amendments, or motions have not been circulated previously.

C. Procedural Motions

1. During the discussion of any matter, a Commissioner may rise to a point of order, and the point of order shall be immediately decided by the Chair in accordance with these Rules of Procedure. A Commissioner may appeal against any ruling of the Chair. The appeal shall be immediately put to the vote and the question voted upon shall be stated as: Shall the decision of the Chair be overturned? The Chair's ruling shall stand unless a majority of the Commissioners present and voting otherwise decide. A Commissioner rising to a point of order may not speak on the substance of the matter under discussion.
2. The following motions shall have precedence in the following order over all other proposals or motions before the Commission:
 - (a) to adjourn the session;
 - (b) to adjourn the debate on the particular subject or question under discussion;
 - (c) to close the debate on the particular subject or question under discussion.
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.*

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 **non-governmental** 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.

The election process shall be undertaken by the heads of national delegations who shall consult

⁵[Invited participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

widely before nominating candidates⁶. 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.

⁶The Commission's Rule of Procedure on voting rights (rule E.2) also applies to the Scientific Committee.

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 Convention⁷.

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.

⁷[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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