

Annual Report of the International Whaling Commission 2003



Covering the
2002-2003
financial year
and the 55th
Annual Meeting
held in
Berlin
in 2003

Annual Report of the International Whaling Commission 2003

Covering the fifty-fifth financial year 2002-2003

**THE INTERNATIONAL WHALING COMMISSION WAS CONSTITUTED UNDER THE
INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING SIGNED AT
WASHINGTON ON 2 DECEMBER 1946**



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List of Members of the Commission

<i>Contracting Government</i>	<i>Adherence</i>	<i>Commissioner</i>	<i>Appointment</i>
Antigua & Barbuda	21.07.82	Mr D.C. Joseph	03.06.96
Argentina	18.05.60	Ambassador E.H. Iglesias	08.02.02
Australia	10.11.48	Mr C. O'Connell	29.08.01
Austria	20.05.94	Dr A. Nouak	09.08.96
Belize	17.06.03	The Hon. I. Cal	01.04.04
Benin	26.04.02	Mr Bantole Yaba	06.05.02
Brazil	04.01.74	Mr H.R. Vianna	02.02.00
Chile	06.07.79	Ambassador M. Fernández	26.09.02
People's Republic of China	24.09.80	Mr Li Jianhua	06.06.00
Costa Rica	24.07.81	Not notified	
Denmark	23.05.50	Mr H. Fischer (Chairman)	24.04.86
Dominica	18.06.92	Mr L. Pascal	10.07.01
Finland	23.02.83	Mr E. Jaakkola	15.04.99
France	03.12.48	Mr J.G. Mandon	28.05.03
Gabon	08.05.02	Dr G.A. Rerambyath	13.04.04
Germany	02.07.82	Mr P. Bradhering	22.06.01
Grenada	07.04.93	The Hon C. Charles	29.12.99
Guinea	21.06.00	Mr I. Sory Touré	29.07.03
Iceland	10.10.02	Mr S. Asmundsson	14.10.02
India	09.03.81	Mr S.V. Rishi	21.05.03
Ireland	02.01.85	Mr C. O'Grady	13.05.03
Italy	06.02.98	Mr G. Ambrosio	01.01.02
Japan	21.04.51	Mr M. Morimoto	12.11.99
Kenya	02.12.81	Mr S. Weru	08.05.02
Republic of Korea	29.12.78	Mr Y.G. Kim	24.10.03
Mauritania	23.12.03	Not notified	
Mexico	30.06.49	Dr E.E. Real de Azúa	14.11.03
Monaco	15.03.82	Prof F. Briand	13.06.03
Mongolia	16.05.02	Not notified	
Morocco	12.02.01	Mr A. Fahfouhi	01.04.04
Netherlands	14.06.77	Mr G.B. Raaphorst	11.07.02
New Zealand	15.06.76	Rt Hon Sir G. Palmer	02.12.02
Nicaragua	05.06.03	Mr M. Marengo	05.06.03
Norway	23.09.60	Ambassador H. Neple	26.09.03
Oman	15.07.80	Mr I.S. Al-Busaidi	17.03.03
Republic of Palau	08.05.02	Hon K. Nakamura	17.05.02
Panama	12.06.01	Mr R. Santamaria	07.05.03
Peru	18.06.79	Ms E. Velásquez	12.03.04
Portugal	14.05.02	Mr J.S. Costa	26.01.04
Russian Federation	10.11.48	Mr V.Y. Ilyashenko	02.05.95
San Marino	16.04.02	Mr D. Galassi	10.10.02
St Kitts and Nevis	24.06.92	Mr C. Liburd	12.04.01
St Lucia	29.06.81	The Hon. C. George	01.01.02
St Vincent & The Grenadines	22.07.81	Senator E. Snagg	05.03.03
Senegal	15.07.82	Dr N. Gueye	05.03.02
Solomon Islands	10.05.93	Mr S. Diake	15.03.04
South Africa	10.11.48	Mr H. Kleinschmidt	11.07.03
Spain	06.07.79	Mr C. Dominguez Diaz (Vice-Chairman)	01.08.02
Sweden	15.06.79	Prof B. Fernholm	15.02.96
Switzerland	29.05.80	Dr T. Althaus	24.02.97
UK	10.11.48	Mr R. Cowan	21.05.01
USA	10.11.48	Mr R. Schmitt	23.06.00

Dr N. Grandy, Secretary to the Commission, 19 April 2004

Preface

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

This report contains the Chair's Report of the Fifty-Fifth meeting of the IWC, held in Berlin, Germany in June 2003. 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.

The Berlin meeting was the last meeting at which Martin Harvey, the Executive Officer of the Secretariat, would attend as he was retiring. Martin had served the IWC admirably since the establishment of a permanent Secretariat in 1976. No-one who met Martin could have failed to be impressed by his calmness, efficiency, fairness and good humour; the Secretariat and the Commission will miss him sorely and all wish him well in the future.

G.P. DONOVAN

Editor

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**SUMMARY OF MAIN OUTCOMES, DECISIONS AND REQUIRED ACTIONS
FROM THE 55TH ANNUAL MEETING**

The main outcomes, decisions and required actions arising from the 55th Annual Meeting of the IWC are summarised in the table below.

Issue	Outcomes, decisions and required actions
Strengthening the conservation agenda of the Commission	<ul style="list-style-type: none"> Resolution 2003-1, <i>inter alia</i>, establishes a Conservation Committee from the next meeting. It may comprise all members of the Commission, and its functions will include: (1) the preparation and recommendation to the Commission of its future Conservation Agenda; (2) the implementation of those items in the Agenda that the Commission may refer to it; and (3) making recommendations to the Commission in order to maintain and update the Conservation Agenda on a continuing basis.
Aboriginal subsistence whaling	<p>Catch limits</p> <ul style="list-style-type: none"> The Commission agreed that no changes to the block quotas renewed in 2002 were needed. The Scientific Committee reiterated its concern at being unable to provide scientific advice on appropriate catch levels for Greenlandic whaling. <p>Review of Schedule paragraph 13</p> <ul style="list-style-type: none"> A small group comprising the Russian Federation, Denmark, Australia, the USA and the Secretariat was charged with reviewing paragraph 13, that provides for aboriginal subsistence whaling catch limits, to determine how consistency in approach across all such whaling operations could be achieved and to propose a Schedule amendment for review and decision-making at IWC/56 next year.
Whale killing methods and associated welfare issues	<ul style="list-style-type: none"> A 3-day workshop was held to <i>inter alia</i>: (1) review and assess whale killing methods in use and under development; (2) review times to death and evaluation criteria for death; and (3) hunter safety and associated problems. The Commission endorsed a Revised Action Plan put forward by the workshop. The Action Plan specifies a continued, co-operative approach to further improvements in data collection and reporting, technical development of killing methods, and criteria and methods to determine death. A further workshop in 3-5 years was recommended.
The Revised Management Scheme (RMS)	<ul style="list-style-type: none"> The Scientific Committee completed the North Pacific common minke whale RMP <i>Implementation Simulation Trials</i>. A majority recommendation and a minority recommendation on the most appropriate RMP variant to use were put forward. The Commission endorsed the Committee's report including that an in-depth assessment of North Pacific minke whales is needed to improve understanding and reduce uncertainty regarding stock structure. The Scientific Committee completed the RMP <i>Implementation Review</i> for North Atlantic minke whales and reached consensus on the most appropriate RMP variant. A proposed amendment to the Schedule that would allow the taking of 150 Bryde's whales a year for 5 years from the Western stock of the North Pacific was not adopted. No agreement was reached on an RMS although progress was made in some areas. The Commission agreed to allow the new Chair of the Commission (Henrik Fischer) to convene a small group to explore ways and possibilities to take the RMS process forward.
Sanctuaries	<p>Southern Ocean Sanctuary</p> <ul style="list-style-type: none"> The Commission endorsed the Scientific Committee's plan for its review of the Southern Ocean Sanctuary next year. The review will focus on an evaluation of the effectiveness of the sanctuary given its objectives and the criteria developed by the Committee and approved by the Commission. A proposed Schedule amendment that the proponents believed would make the sanctuary consistent with Article V.2 of the Convention was not adopted. <p>Proposals for new sanctuaries in the South Pacific and South Atlantic</p> <ul style="list-style-type: none"> As last year, two Schedule amendments were proposed to create sanctuaries in (1) the South Pacific and (2) the South Atlantic. Neither was adopted.

Issue	Outcomes, decisions and required actions
Socio-economic implications and small-type whaling	<ul style="list-style-type: none"> • A proposed amendment that would allow the resumption of community based whaling in Japan was not adopted. The proposal was for the taking of 150 minke whales a year for 5 years from the Okhotsk Sea-West Pacific stock.
Scientific permits	<ul style="list-style-type: none"> • Discussions of the Scientific Committee focused on reviewing the results of Japan's ongoing JARPA and JARPNII programmes, and a new research proposal from Iceland. No consensus recommendations were made. • Two Resolutions on scientific permit whaling were adopted. Through Resolution 2003-2 on Whaling Under Special Permit, the Commission: <ol style="list-style-type: none"> (1) expressed deep concern that the provision permitting special permit whaling enables countries to conduct whaling for commercial purposes despite the moratorium on commercial whaling; (2) stated that the current and proposed special permit whaling operations represent an act contrary to the spirit of the moratorium on commercial whaling and to the will of the Commission; (3) stated that Article VIII of the Convention is not intended to be exploited to provide whale meat for commercial purposes and shall not be so used; (4) reaffirmed that non-lethal techniques available today will usually provide better data at less cost to both animals and budget; and (5) urged any country conducting or considering the conduct of special permit whaling to terminate or not commence such activities and to limit scientific research to non-lethal methods only. • Resolution 2002-3 on Southern Hemisphere Minke Whales and Special Permit Whaling: <ol style="list-style-type: none"> (1) requested the Scientific Committee to provide to the Commission, after the completion of the IDCR/SOWER abundance estimates, all plausible hypotheses to explain any decline in abundance estimates that may emerge; (2) called on Japan to halt the JARPA programme or to revise it so that it is limited to non-lethal research methodologies; and (3) recommended that no additional JARPA programmes be considered until the Scientific Committee has completed an in-depth review of the 16 years of JARPA, its review of the abundance estimates for Southern Hemisphere minke whales and that any such programmes be limited to non-lethal research.
Environmental issues	<p>Interactions between cetaceans and fisheries</p> <ul style="list-style-type: none"> • The Commission welcomed and endorsed the report from the workshop on modelling cetacean-fishery interactions. The workshop concluded that: <ol style="list-style-type: none"> (1) because of a lack of data and appropriate models, it is not currently possible to provide quantitative management advice on the impact of cetaceans on fisheries, or of fisheries on cetaceans; and (2) consideration of ecosystem interactions between fish stocks and cetaceans is a potentially important research topic in a general sense; however there was disagreement as to whether further pursuit of this matter would be helpful in providing advice to the Commission regarding the management of whale populations. <p>Other</p> <ul style="list-style-type: none"> • The Scientific Committee reported on its special session on Southern Ocean climate change and cetaceans involving collaboration with SO-GLOBEC and CCAMLR, and on habitat-related issues (POLLUTION 2000+, SOCER, Arctic issues, habitat degradation, acoustic issues).

Issue	Outcomes, decisions and required actions
Status of stocks	<p>Antarctic minke whales</p> <ul style="list-style-type: none"> Completion of the revised abundance estimate for Antarctic minke whales continues to be a high priority given that there is no agreed current estimate. <p>Blue whales in the Antarctic</p> <ul style="list-style-type: none"> The Scientific Committee agreed that there is evidence for an increase in blue whales in some areas of the Antarctic, although time limitations prevented the acceptance of specific estimates of abundance and trends. <p>Right whales</p> <ul style="list-style-type: none"> The Scientific Committee again reiterated its recommendation that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality in the North Atlantic right whale stock to zero. Right whales continue to die or become seriously injured by entanglements in fishing gear or ship strikes. The Committee believes that the situation of eastern North Pacific right whales is equal to, if not worse than the situation with the western North Atlantic stock. It recommended that research into the status of the North Pacific stock be intensified. <p>Western North Pacific gray whale</p> <ul style="list-style-type: none"> The Commission welcomed the report from the October 2002 workshop designed to: (1) assess the current status of the population; (2) develop the foundation for range-wide research; and (3) update the 10-year research and monitoring programme presented to the Committee in 1999. The Commission endorsed a series of recommendations. <p>Small cetaceans</p> <ul style="list-style-type: none"> The Scientific Committee reviewed the status of small cetaceans in the Black Sea, i.e. harbour porpoises, short-beaked common dolphins and the common bottlenose dolphins. Recommendations included research to improve the understanding of distribution and stock structure within the region and systematic abundance surveys for all three species throughout their range. The Scientific Committee reiterated its concern over the status of the baiji, vaquita and West Greenland stock of white whales.
Future work of the Scientific Committee	<p>The Commission adopted the report from the Scientific Committee, including its proposed work plan for 2003/2004 that includes activities in the following areas:</p> <ul style="list-style-type: none"> Revised Management Procedure (RMP), particularly with respect to (1) reviewing the <i>Implementation</i> process in light of the experience with western North Pacific common minke whales, (2) reviewing the level of information required for <i>pre-implementation assessments</i> and for proceeding to an <i>Implementation</i>, (3) working towards implementing the RMP for western North Pacific Bryde's whales, and (4) commenting on whether there is sufficient information on North Atlantic fin whales to begin a <i>pre-implementation assessment</i>; Estimation of bycatch based on genetic data and data from fisheries and observer programmes. Aboriginal Subsistence Whaling Management Procedure development, and particularly the selection of a <i>Strike Limit Algorithm</i> for eastern North Pacific gray whales; consideration of the Greenland Research programme. In-depth assessments, with particular emphasis on revising the abundance estimate for Southern Hemisphere minke whales, and completing an in-depth assessment of the Bering-Chukchi-Beaufort Seas (BCB) stock of bowhead whales; Annual reviews of catch data and management advice for eastern North Pacific gray whales, BCB bowhead whales, minke and fin whales off Greenland and humpback whales off St. Vincent and The Grenadines; Review of the stock identity concept in a management context; Better integration of the work on environmental concerns with other priority topics; Small cetaceans, with a focus on reviewing (1) the status of franciscana, (2) depredation of fisheries by small cetaceans in the Mediterranean region, and (3) incidental catches and takes of small cetaceans in member countries; Whalewatching; Scientific review of the Southern Ocean Sanctuary.

Issue	Outcomes, decisions and required actions
Secret ballots	<ul style="list-style-type: none"> A proposed amendment to the Commission's Rules of Procedure that would increase the opportunities for using secret ballots was not adopted.
Dealing with legal issues	<ul style="list-style-type: none"> As a first step to exploring how legal advice should be sought in the future, the Commission agreed that the Secretariat should investigate how other Conventions deal with legal issues and the sort of legal issues they have faced.
Administration	<p>Simultaneous interpretation</p> <ul style="list-style-type: none"> The Commission agreed via Resolution 2003-4 to (1) establish a Working Group to explore implications for the provision of technical components for simultaneous interpretation and (2) make recommendations on how provision of such components might be provided at IWC to accommodate the needs of contracting parties for whom English is a second language. <p>Amendments to the Rules of Procedure and Financial Regulations</p> <ul style="list-style-type: none"> The Commission adopted revised rules and regulations to clarify issues relating to observer fees, voting rights, arrears of contribution and withdrawal from the Convention, determining the duration of Annual Meetings, and arrangements for Annual and Special Meetings.
Financial Contributions	<p>Contributions scheme</p> <ul style="list-style-type: none"> The Commission agreed that the Contributions Task Force should meet again prior to next year's meeting to try to finalise a proposal for a revised contributions formula. As a number of members had withdrawn from the group, Contracting Governments were invited to nominate themselves onto the Task Force to join remaining members.
Finance and Budget	<p>Financial statements and budget estimates</p> <ul style="list-style-type: none"> The Commission approved the Provisional Financial Statement for 2002-2003 subject to audit. It also approved the budget for 2003-2004, including the research budget, and increases in the NGO observer fee from £550 to £570 and in the media fee from £25 to £30 for 2004. <p>Budgetary Sub-committee</p> <ul style="list-style-type: none"> The Commission agreed that the Secretariat should: (1) undertake routine maintenance of the membership rota and confirm membership soon after each Annual Meeting; and (2) review the current rota system with a view to encouraging participation, providing greater continuity and improving the process for selection of the Sub-committee Chair. <p>Secretariat office accommodation</p> <ul style="list-style-type: none"> As the lease on the current office expires in 7 years, the Commission agreed that the Secretariat should explore a range of alternatives and report back to the Budgetary Sub-committee next year.
Date and place of Annual Meetings	<ul style="list-style-type: none"> The 56th Annual and associated meetings in 2004 will be held in Sorrento, Italy during the period 29 June to 22 July 2004. The 57th Annual Meeting in 2005 will be held in Ulsan in the Republic of Korea probably in May 2005.
Election of the Chair and Vice Chair	<ul style="list-style-type: none"> Bo Fernholm (Sweden) and Henrik Fischer (Denmark) completed their 3-year terms as Chair and Vice-Chair respectively. Henrik Fischer was elected as the new Chair and Carlos Dominguez Diaz (Spain) as Vice-Chair.
Advisory Committee	<ul style="list-style-type: none"> The Commissioners from Dominica and the UK were elected onto the Advisory Committee to join the Chair (Denmark), the Vice-Chair (Spain) and the Chair of the Finance and Administration Committee (Norway).
Secretary's Report	<ul style="list-style-type: none"> The Commission agreed to discontinue the Secretary's Report on the understanding that information that does not appear elsewhere (e.g. summary of catch data – see Annex M) is made available by other means.
Other matters	<ul style="list-style-type: none"> The meeting rose in tribute to Martin Harvey who would be leaving the Secretariat in August 2003 after 27 years as Executive Officer.

Chair's Report of the 55th Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 55th Annual Meeting of the International Whaling Commission (IWC) took place from 16-19 June 2003 at the Estrel Hotel and Convention Centre, Berlin. It was chaired by Prof. Bo Fernholm (Sweden). A list of delegates and observers attending the meeting is provided in Annex A.

The associated meetings of the Scientific Committee and Commission sub-groups were held at the same venue in the period 24 May – 13 June.

1.2 Welcome address

Renate Künast, Federal Minister of Consumer Protection, Food and Agriculture welcomed all participants to the meeting on behalf of the Government of Germany. She began by noting that over time and due to a growing awareness of environmental degradation and pollution, the German people's perception of nature had changed from viewing it as a threat to be overcome to recognising it as a scarce and valued resource worthy of preservation. Recognising the responsibility Germany has, as an ex-whaling nation, for the concerns of IWC, she noted that it is now keenly aware of the need for whale protection and is strongly committed to whale conservation. She called for the conservation aspect of the Commission's work to be strengthened, indicating Germany's view that the Commission should be responsible for the protection of small cetaceans as well as large whales. She also asked the meeting to reflect on the nature of the sustainable utilisation of marine mammals, suggesting that the 21st Century could open new and modern possibilities, i.e. whale utilisation not by catches but by whalewatching. Recognising however that rules governing whalewatching must also be in place, she believed that this new industry should be placed under the regulatory powers of IWC, thus updating the Commission's tasks while strengthening the Commission itself. Finally, she wished the meeting every success and hoped that participants would have a pleasant stay in Berlin.

1.3 Opening statements

The Chair reminded the meeting that the Commission's practice is to accept opening statements from Commissioners and observers in writing and that only new Contracting Governments would be invited to make short opening statements. Noting that Nicaragua had adhered to the Convention on 5 June 2003, the Chair invited Nicaragua to address the meeting.

Nicaragua recognised the good work that the IWC (particularly its Scientific Committee) has done, in developing advanced conservation and management systems that have set the model for other resource management organisations. Noting that the management of whales is inter-related with, and important to, management of fisheries, Nicaragua considered it vital that developing nations dependent upon fishery resources participate in the work of the IWC. However, it considered that in recent years, obstacles have been put in the way of progress by those who, for political reasons, wish to prevent the sustainable use of whale resources. It believed that attention had been diverted away from the management of

whales towards issues better carried out by others. For example, Nicaragua believed that (1) small cetaceans, primarily resident in waters under national jurisdiction, should be managed under the authority of national governments or a regional organisation entrusted with marine conservation; and (2) trade in whale products is the function of CITES. Nicaragua noted that it must live by the prudent use of its resources on land and in the seas. It was therefore opposed to those who would curtail sustainable use for their own ideological purposes and would work hard to help get IWC back on track.

Belize adhered to the Convention during the meeting (i.e. on 17 June 2003). In its opening statement, Belize indicated that in the same spirit as it joined IWC in 1982 to support the moratorium, it was now rejoining committed to conservation and the principles of sustainable use.

During the meeting, a number of Contracting Governments drew attention to problems with opening statements from certain NGOs. The opening statement of IWMC was withdrawn as it violated Rule of Procedure Q.3 with respect to the fact that such statements 'shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments'. Following a private meeting of Commissioners to discuss a number of NGO opening statements and publications, the Chair issued a statement on behalf of the Commission. He noted that the Commission had been severely distressed by a number of the written statements made by NGOs and in particular by the content of two ECO publications released during the meeting. It was the Commission's view that these publications contained language that was extremely offensive, impugning the sovereignty of a number of Contracting Governments and containing significant factual inaccuracies. The Commission called on ECO to print a formal apology to be distributed during the meeting, and directed that ECO publications could no longer be circulated within the confines of the meeting halls and associated areas for the remainder of the meeting. The Commission unequivocally condemned the statements and considered that they constituted an abuse of the privileges accorded to the accredited observers. Finally, the Commission called on those organisations listed as sponsors of ECO to dissociate themselves formally from the offending statements, failing which their accredited status as observers might be called into question.

1.4 Credentials and voting rights

The Secretary reported that, with the exception of one Contracting Government for which only fax notification had been received, all credentials were in order. She noted however, that the credentials committee (that had been established by the Chair the previous day and comprising Australia, Japan and the Secretary) were prepared to accept this fax notification on the understanding that a hard copy would arrive by midday.

The Secretary also reported that voting rights were suspended for Costa Rica, Gabon, Kenya, Morocco and Senegal and that when voting commenced, she would call on the USA first. Morocco's voting rights were later restored.

New Zealand, Mexico and Italy made brief statements regarding their positions with respect to the adherence of Iceland to the Convention with a reservation to Schedule paragraph 10(e) concerning the commercial whaling moratorium. These Contracting Governments consider that Iceland's reservation is incompatible with the object and purpose of the Convention. Italy and Mexico stated that they do not recognise Iceland as a Party to the Convention or as a member of IWC, nor its right to vote. They called on Iceland to withdraw its reservation. New Zealand does not accept the Convention as being in force between itself and Iceland. Mexico considered that the procedure followed at the 5th Special Meeting of the Commission in October 2002 to decide on the issue of Iceland's accession to the Convention was improper because it allowed Iceland (which it considered to be an observer) to vote. Iceland noted that it had already received Diplomatic Notes from these three countries (and others) and considered the statements made at the meeting to not be relevant.

1.5 Meeting arrangements

The Chair asked Contracting Governments to: (1) keep Resolutions to a minimum and to consult widely in their preparation; and (2) be brief and to the point in their interventions, and to associate themselves, where possible, with earlier speakers who had similar views. The Secretary drew attention to the arrangements for the submission of Resolutions and other documents.

2. ADOPTION OF THE AGENDA

The Chair drew attention to the provisional annotated agenda and to his proposed order of business. Noting that he was aware of differing views among Contracting Governments as to whether some of the items should be on the agenda, he proposed that, as in previous years, these differences be noted and the agenda adopted with all items retained.

While this proposal was supported by some governments, others could not agree. Japan considered that many of the agenda items were contrary to the objectives and purpose of the IWC and that some were outside the terms of reference of the Convention. It proposed deletion of the items on whalewatching, whale killing methods and associated welfare issues, small cetaceans, proposals to establish new sanctuaries in the South Pacific and South Atlantic and the new item (Item 4) on strengthening the conservation agenda of the Commission. Japan believed that there were procedural problems in relation to proposals to be discussed under Item 4 since the required 60-day notice for changes to Rules of Procedure had not been met. Japan's views were supported by Norway, Antigua and Barbuda, Iceland, Dominica, Republic of Guinea, St Lucia and Benin. Several of these countries commented that no new items should be added to the Commission's agenda until completion of the Revised Management Scheme (RMS) that they considered as having top priority, and that the introduction of Item 4 had the potential to further divide and polarise the Commission.

The USA, Monaco, Italy, South Africa, Germany, New Zealand, Sweden, Spain, Brazil, San Marino, the Netherlands, Australia, Denmark and the UK disagreed with Japan and others, noting that the agenda items

mentioned by Japan were within the remit of the Convention and had significant support within the Commission. South Africa, supported by Brazil, mentioned the importance that these items, particularly whalewatching, have in bringing developing countries to IWC. Several countries did not believe that there were procedural problems regarding Item 4, but that in any case, such comments were entering into matters of substance on the item itself rather than whether or not it should be included on the agenda.

Referring to Rule of Debate D.4, Australia moved that the debate on adoption of the agenda be closed. In accordance with this Rule, the Chair allowed two Commissioners to speak against the motion before proceeding to a vote. Antigua and Barbuda hoped that a compromise on the agenda could be reached and believed that more time was needed in order to reach this. Norway considered that the procedural issue regarding Item 4 had not been decided. The meeting was adjourned for lunch. On returning, Australia's motion to close the debate was put to a vote and was carried by 26 votes to 19. The Chair then ruled that the Provisional Annotated Agenda be adopted without change. Japan challenged this ruling. Japan's appeal was put to a vote but the Chair's ruling was upheld (there being 19 votes in support of the appeal and 27 against). The adopted agenda is given in Annex B.

3. SECRET BALLOTS

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

Japan again introduced its proposed amendment (that was unsuccessful at the 2001 and 2002 Annual Meetings¹) to broaden the application of secret ballots, i.e.

Votes can be taken by show of hands, or by roll call, as in the opinion of the Chairman appears to be most suitable, or by secret ballot if requested by a Commissioner and seconded by at least five other Commissioners except that on any matter related to aboriginal subsistence whaling, voting by secret ballot shall only be used when all the Commissioners representing the Contracting Parties where the aboriginal subsistence take or takes will occur requests the use of a secret ballot and where such requests are seconded by at least five other Commissioners.

Japan considered that in addition to being available for electing the Chair and Vice-Chair of the Commission, appointing the Secretary of the Commission and selecting Annual Meeting venues, voting by secret ballot should be possible for setting catch limits and deciding other regulatory measures. It again noted that the secret ballot is a system commonly used in other international organisations including fisheries management bodies, and that its broader application within IWC would help implement Resolution 2001-1² that, *inter alia* 'endorses and affirms the complete independence of sovereign countries to decide their own policies and freely participate in the IWC (and other international forums) without undue interference or coercion from other sovereign countries'. Japan urged Contracting Governments to act consistently with other international organisations.

3.2 Commission discussions and action arising

The Republic of Guinea, Iceland, Norway, St. Lucia and the Solomon Islands spoke in support of the proposal.

¹ *Ann. Rep. int. Whaling Comm. 2001:8 and 2002:8*

² *Ann. Rep. int. Whaling Comm. 2001:54*

Iceland considered that it should be a general principle of democratic elections that votes are secret so that outside pressures cannot be applied. As last year, Norway believed that transparency should be employed wherever possible but could support Japan's proposal given the real threats of coercion and intimidation surrounding the whaling debate. St. Lucia and the Solomon Islands made similar remarks.

Speaking against the proposal, Monaco noted that all countries are subject to pressure, but that it is important that civil societies know how their representatives vote. New Zealand agreed with Monaco and considered that a move to secret ballots would be a big step backwards in the democratisation of international affairs. The Netherlands also supported transparency in voting procedures.

On being put to a vote, the proposal failed to achieve a majority and was therefore not adopted. There were 19 votes in support of the proposal, 26 against and 1 abstention.

4. STRENGTHENING THE CONSERVATION AGENDA OF THE COMMISSION

4.1 Proposal to strengthen the conservation agenda of the Commission

Mexico introduced a draft Resolution 'The Berlin Initiative on strengthening the conservation agenda of the International Whaling Commission' on behalf of all co-sponsors (Australia, Austria, Brazil, Finland, France, Germany, Ireland, Italy, Kenya, Mexico, Monaco, the Netherlands, New Zealand, Portugal, San Marino, South Africa, Spain, Sweden, the UK and the USA). The draft Resolution proposed that the Commission:

- (1) welcomes initiatives to assess the achievements and orientation of the cumulative work of the Commission in the pursuit of its conservation objective;
- (2) endorses the proposals made by various Contracting Governments to organize, on the basis of that assessment, the future Conservation Agenda of the Commission and to cooperate in its preparation;
- (3) decides to establish a Conservation Committee of the Commission, composed of all Contracting Parties, in conformity with Article III paragraph 4 of the Convention, and to amend paragraph M.1 of the Commission's Rules of Procedure accordingly, together with all the resulting budgetary implications.
- (4) decides to entrust the Conservation Committee with: (1) the preparation and recommendation to the Commission of its future Conservation Agenda, taking full account of this Resolution; (2) the implementation of those items in the Agenda that the Commission may refer to it; and (3) making recommendations to the Commission in order to maintain and update the Conservation Agenda on a continuing basis.
- (5) instructs the Conservation Committee to meet before the Commission's Annual Meeting in 2004, in order to organize its work, so that the Conservation Agenda can be considered for adoption by the Commission at that Annual Meeting.
- (6) directs the Conservation Committee to explore how the Commission can coordinate its conservation agenda

through greater collaboration with a wider range of other organizations and conventions including *inter alia* CMS, CCAMLR, IMO, IUCN, and UNEP.

- (7) requests the Scientific Committee to advise the Conservation Committee in the performance of the tasks entrusted to it in this Resolution, and to ensure that the appropriate scientific research items, including *inter alia*, whalewatching, environmental issues and behavioural research, under the responsibility of the Scientific Committee, are incorporated in the Conservation Agenda.
- (8) requests the Conservation Committee to begin exploring the possible establishment, by the Commission, of an appropriate trust fund (including the identification of potential contributors), to make available the necessary financial resources to the Commission and, particularly, to the Contracting Governments committed to implementing specific items of the Conservation Agenda related to conservation-oriented research. To that end, the Committee shall give priority to the question of securing assistance for scientific research and capacity building for scientists and institutions from developing countries, and shall take advantage from the experiences obtained in other international environmental and conservation conventions and treaties, in the establishment of similarly-oriented international funds.
- (9) directs the Secretariat to prepare a report, to be considered by the Commission at its next annual meeting, on the implementation of Resolution 1998-6 regarding the establishment of a dedicated 'Environment Research Fund' to facilitate research on environmental change and cetaceans, as well as on the results of the appeal it made in its Resolution 1999-5 'to the Contracting Governments, other governments, international organizations and other bodies to contribute financially and in kind' to research programs, and to include in that report a recommendation to the Commission, as to how that Fund could best be considered in the light of the possible establishment of the trust fund referred to in the previous paragraph.

In explaining the rationale behind the proposed Resolution, Mexico believed that a series of new developments concerning IWC-related issues that have emerged since the Convention was agreed in 1946 (e.g. UNCLOS, regional management agreements, the establishment of sanctuaries and the moratorium on commercial whaling) indicate that there is a conservation agenda to be discussed and examined within IWC. It stressed that the Resolution was being proposed simply to provide the institutional structure needed to take account of conservation issues within IWC and not as stated by Japan prior to the meeting to, *inter alia*, attempt to change the fundamental purpose of the whaling treaty by introducing a strategy to end all sustainable use of whale resources for food. Mexico noted that the draft Resolution does not attempt to change the Convention nor any of the mandates, rules or decisions of other bodies within the Commission, and neither does it seek to override the Scientific Committee. It also noted that the proposed Conservation

Committee might not have been needed if the Commission agreed on its competency to deal with matters such as whalewatching and habitat protection. Mexico believed that only a proactive, dynamic and solid conservation agenda would lead to a realisation of all the objectives and purposes of the Convention. The co-sponsors, who did not believe that the only purpose of the Convention is to regulate whaling, considered the Berlin Initiative to be a bone fide attempt to help the Commission escape its current stagnation so that rather than one side prevailing over the other, the Convention would prevail over the division of its Parties. Finally, it noted that the proposed Conservation Committee would be on a par and equal with the Scientific and Finance and Administration Committees and should not have major implications for either cost or responsibilities of the Commission.

4.2 Commission discussions and action arising

A number of co-sponsors reinforced Mexico's introduction and spoke in support of the draft Resolution. Australia considered that the draft Resolution represented a milestone in the evolution of the IWC that would help the Commission clarify, develop and meet the conservation objective of the Convention. It believed that the Conservation Committee should fully involve all Contracting Governments, that it should be supported by and promote good science and have an ambitious agenda. Australia indicated that with this initiative, it would redouble its efforts within IWC. Germany believed that in view of the variety of threats to cetaceans from, for example, pollution, climate change, noise, bycatch in fisheries, shipping and off-shore activities, many conservation measures were needed and that the Resolution would provide a sound basis for future conservation efforts. It stressed that the proposed Resolution is not against sustainable use and is not linked to the moratorium or the RMS. As such, Germany could not understand some countries opposition to the proposal.

New Zealand considered that the Berlin Initiative would provide the framework for meeting the obligation in the preamble to the Convention, i.e. of 'recognising the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks'. It also considered that the initiative would help synthesise and prioritise issues and assist in future planning and would enable the Commission to respond more efficiently than at present. Italy believed that the Resolution would restore the balance between sustainable use and conservation and improve co-operation within the IWC. Noting the concern regarding cetaceans in the Mediterranean, Italy urged those countries that had ratified the ACCOBAMS treaty to support the Berlin Initiative.

For Sweden, a continued balance between the objectives of the Convention is essential, underlining the link with ongoing broader discussions on sustainable development within the Rio/Johannesburg process. As others, it noted that conservation issues are not just linked to questions of sustainable use, since various forms of environmental degradation and fisheries practices are threatening the world's whale populations. Sweden hoped that the new Committee would be able to strengthen actions in response to such threats. It supported completion of the RMS and believed that the Conservation Committee would ultimately be seen as a support structure for an efficient RMS. Sweden regretted that there had not been sufficient time for

wider consultation on the draft Resolution but hoped that there would be continued contacts between different Parties so as to build on it and make the Conservation Committee an important element in realising all the objectives of the Convention. Switzerland noted that the Scientific Committee and Commission has been dealing with conservation issues (e.g. quotas, sanctuaries, giving management advice, RMP) and like Sweden supported completion of the RMS. It also supported the draft Resolution but requested clarification on how the Conservation Committee will be composed and how it will relate to the Scientific Committee. Monaco pleaded for consistency in countries' attitudes to conservation. It did not see the sense of Contracting Governments voting for conservation in other fora and against it at IWC and believed that there is a need to reflect and integrate this new body of knowledge within the work of the Commission.

In supporting the draft Resolution, the USA considered that it did not undermine its commitment to the management principle within the IWC nor did it consider the proposal to be an anti-whaling initiative. The USA supported the draft Resolution because it believed it to be good governance. Finland reported that since 1983, whale conservation had been its main objective under the Convention, but noted that it had never said that there could not be controlled sustainable commercial whaling once an acceptable management system is in place. It referred to the Convention on Biodiversity in which, like the ICRW, conservation and sustainable use are the two basic principles. Finland associated itself with earlier remarks regarding the purpose of the draft Resolution and regretted that it had not been possible to broaden the support even though efforts had been made to do so.

Although Brazil noted that it fully embraces the concept of sustainable use of natural resources, it stressed that direct harvest is not the only option for sustainable use. Accordingly, it believed that conservation of whale resources is not limited to setting catch quotas but must also include adequate action to address other threats to ensure the long-term survival of these species. It considered that to vote against the draft Resolution would be to deny the conservation principle. South Africa considered that the proposals in the draft Resolution worked in favour of developing countries that could benefit from whalewatching and tourism. Ireland expressed some sympathy with the comments of some of those opposing the draft Resolution. Like them, it believed that completion of the RMS is important and noted that it had worked hard towards this goal, including the tabling of the 'Irish Proposal' some six years ago³. However, it considered the development of the RMS to be in a state of paralysis and therefore supported the draft Resolution since it felt it would help drive the work of the Commission forward. It did not doubt that Japan, Norway and others believed conservation to be important. Spain and Portugal also spoke in support of the draft Resolution and associated themselves with the remarks of other co-sponsors.

Denmark expressed a number of concerns over the draft Resolution relating to procedure, substance and timing. With respect to procedure, Denmark believed that the third operative paragraph violated an earlier decision by the Commission that Resolutions cannot be used to amend

³ *Rep. int. Whaling Comm.* 49:35

either the Schedule or the Rules of Procedure. It therefore questioned the legality of the draft Resolution. With respect to substance, Denmark considered the introductory text to have a number of notable omissions. The draft Resolution did not refer to the role of the Commission in managing whaling, it did not mention the Revised Management Procedure and it had omitted NAMMCO from the list of regional and international organisations/agreements that have been established since the ICRW and that may affect great whales. Referring to the operative paragraphs, it considered that creation of a Conservation Committee would detract resources from other activities and it expressed unease that the ninth paragraph might give NGOs undue influence in setting Commission priorities. Denmark believed that this is a responsibility for Contracting Governments alone. It also took issue with certain parts of Annex II of the draft Resolution, particularly regarding language used in relation to whaling under Special Permit – a right clearly enshrined in the Convention. With respect to timing, Denmark believed that in view of the existence of the temporary moratorium on commercial whaling and other area restrictions (Schedule paragraph 8) and two comprehensive whale sanctuaries, there is no urgency for other measures. It did not wish to exclude the possibility of developing a set of guidelines on how the IWC might wish to deal with conservation, which might be a good idea. However, it considered the current priority is to agree an RMS, although if the two things could be done at the same time in good faith, then it believed the IWC would be back on its dual track of conservation and management.

Iceland noted that it supports whale conservation and believed that all whaling must be sustainable. However, it considered that the draft Resolution was hi-jacking the terms of the Convention by selective quotation from its preamble, would draw attention away from work on the RMS and increase polarisation in the IWC. Noting Mexico's remark that the Berlin Initiative would help the Commission escape stagnation, Iceland therefore considered that at the very least, the proposers should be willing to postpone a decision on this issue while the Commission tries to find a more widely agreeable avenue for a conservation agenda. Like Denmark, it had concerns with the legality of the 3rd operative paragraph, noting that it contravened Rule of Procedure R.1 that requires 60-days notice of amendments to the Rules of Procedure.

Norway, the Republic of Korea, Antigua and Barbuda, China, Dominica, the Russian Federation, Japan, Grenada, St. Lucia and Morocco made similar remarks. While agreeing that the Commission has a conservation agenda, Norway expressed the view that this agenda has been exercised consistently at the expense of the main purpose of the Convention (i.e. the orderly development of the whaling industry) and that the Berlin Initiative would further aggravate this imbalance and create a radical and lasting change in the character of the IWC. Norway considered that the only proper way of making such a change would be to call a diplomatic conference to renegotiate the Convention. Realising that this is not feasible, it believed that those Contracting Governments unhappy with the Convention were choosing to circumvent it via the 'Berlin Initiative'. Antigua and Barbuda noted that the sponsors of the draft Resolution had not consulted with those countries supporting sustainable whaling. China recalled a significant conservation measure was taken by

the Commission in 1982 when it agreed the commercial whaling moratorium and therefore did not see the need for a Conservation Committee. It noted that like other developing countries, it already has difficulties in attending the whole Annual Meeting series, and expressed concern that the Conservation Committee, if established, may not attract wide enough participation. Dominica reported that it had been put under unacceptable pressure to support the draft Resolution by certain NGOs. The Russian Federation noted that it gave high priority to the conservation of whale stocks in the context of sustainable use. It agreed with Denmark that there might be room for compromise and suggested that whale conservation could be given high priority under the framework of the Convention on Biodiversity (CBD). Like others, Japan believed the draft Resolution to be contrary to the primary objective of the Convention. It expressed concern regarding the possible establishment of a trust fund, believing that instead, effort should be made to broaden participation in IWC through reducing the financial burden of membership by developing countries. Noting that about half of the Commission appeared strongly opposed to the draft Resolution, Japan questioned how any Conservation Committee could function properly under such conditions. Grenada asked: (1) how the so-called conservation agenda differs from the regulatory and conservation objectives of the RMP, the RMS, the moratorium, sanctuaries and other management tools; and (2) what was the real purpose of the proposal and how did the proposers interpret the meaning of conservation. St. Lucia believed that the proposal would undermine progress on the RMS and the work of the Scientific Committee. It believed that the Scientific Committee's work should expand to allow the conservation agenda to be investigated and achieved and that funds should be used to advance the work of the Scientific Committee.

Although it was not necessarily against the Committee, Morocco did not consider it necessary since conservation issues can be addressed within the existing structure of the Commission and its sub-groups. It considered it preferable to improve the functioning of the existing structure rather than establishing a new group that would face the same problems. While it recognised the significant effort made in developing the draft Resolution, it believed further discussion was necessary and that without consensus the Conservation Committee would not work.

In responding to a number of points made, Mexico acknowledged that amendments to the Rules of Procedure could not be made until the draft Resolution is adopted. It agreed that if the Commission did decide to establish a Conservation Committee then the Rules of Procedure would need to be amended. It reported that the co-sponsors were willing to delete part of the 3rd operative paragraph (i.e. the part reading 'and to amend paragraph M.1 of the Commission's Rules of Procedure accordingly, together with all the resulting budgetary implications') on the understanding that it will propose appropriate Rules of Procedure prior to the next Annual Meeting and in accordance with the 60-day notice rule. Responding to Switzerland, Mexico drew attention to the third operative paragraph of the draft Resolution indicating that the Conservation Committee would be open to all Contracting Governments. It noted that it would be up to individual governments to decide whom to send to the Committee, but it hoped that there would be a combination of those with

experience in conservation issues and those with experience in the science of conservation. Mexico noted that the relationship of the Conservation Committee with the Scientific Committee was described in operative paragraph 7 and that there would be no major costs involved. The main cost would be that associated with holding a Committee meeting. With respect to the proposal of the Russian Federation, Mexico did not believe this to be an appropriate alternative since the CBD does not have competency over cetaceans, unlike the IWC, and that in addition, not all IWC members are also Parties to the CBD. Mexico again stressed that there was no hidden agenda behind the Berlin Initiative but expressed the view that to vote against the draft Resolution would be to vote against conservation.

Noting that there had been an exhaustive debate, the Chair ruled that the draft Resolution, with the third operative paragraph amended as described by Mexico, be voted upon. Norway challenged this ruling, but the ruling was upheld when put to a vote – there being 20 votes in support of the challenge and 26 against. The amended draft Resolution was therefore put to a vote. There were 25 votes in favour and 20 against, thus the Resolution was adopted (Resolution **2003-1**, Annex C). A number of countries explained their vote. Grenada, who had not participated in the vote, believed that to establish a Conservation Committee without consensus is counterproductive. Antigua and Barbuda, Norway and Japan considered that despite the amendment to the third operative paragraph, the vote was still in contravention of the Rules of Procedure. Japan considered that this outcome would further polarise the IWC and together with Antigua and Barbuda, Norway and Dominica, reserved the right not to participate in the Committee or to contribute financially. Iceland associated itself with other speakers. It also asked the proponents not to misrepresent the outcome, i.e. voting against the proposal did not mean that countries were against conservation. On the contrary, Iceland believed that all countries supported conservation, but it considered that the proposal would direct attention away from the real purpose of the Convention, i.e. conservation of whale stocks to allow sustainable use. It hoped that this would not mean the end of the RMS development process. China felt that more time should have been made available for consultations.

In drawing discussions to a close, the Chair noted that establishment of the Conservation Committee would not solve the problems within IWC and stressed the need to continue to work to find a balance between conservation and management.

5. WHALEWATCHING

5.1 Report of the Scientific Committee⁴

In 2000, the Committee had identified a number of areas for further research on possible long-term effects of whalewatching on whales and a number of possible data types that could be collected from whalewatching operations to assist in assessing their impact. The Committee developed this further at the 2003 meeting and

will continue to work on data collection issues in the intersessional period.

The Committee also reviewed whalewatching guidelines and regulations, and new information on dolphin feeding and 'swim-with' programmes. The Committee also welcomed the news that a whalewatching management workshop will be held in late 2003 or early 2004 in Cape Town, South Africa. It recommended that workshop participants should be geographically representative and include scientists, managers, conservation organisations, whalewatching operators and representatives from other disciplines, such as economics and social sciences. The Committee established an intersessional correspondence group to provide scientific advice for the organisation of the workshop.

5.2 Commission discussions and action arising

The Chair and a number of countries welcomed Doug DeMaster as the new Chair of the Scientific Committee and thanked him for his report.

The UK, New Zealand, Germany, Brazil, Italy, South Africa, Australia and the USA all spoke of the importance of whalewatching, with a number of them regarding it as the only sustainable way to use whale resources (given appropriate regulations) and as a more economically viable activity than whaling. Its contributions of useful scientific information on whale stocks and its benefit to indigenous peoples were also noted.

The UK announced that it was pleased to contribute funds to the workshop being arranged by South Africa, and together with a number of others expressed the hope that IWC funding could be found to support the participation of representatives from the Scientific Committee.

Norway considered whalewatching to be outside the remit of the Convention.

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

6. WHALE STOCKS⁵

6.1 Southern Hemisphere minke whales

6.1.1 Report of the Scientific Committee

The Committee has carried out annual surveys in the Antarctic (south of 60°S) since the late 1970s. The last agreed estimates for each of the six management Areas for Antarctic minke whales were for the period 1982/83 to 1989/90. At the 2000 meeting, the Committee agreed that whilst these represented the best estimates for the years surveyed, they were no longer appropriate as estimates of current abundance. An initial crude analysis of available recent data had suggested that current estimates might be appreciably lower than the previous estimates⁶.

At the 2001 meeting⁷, considerable time was spent considering Antarctic minke whales with a view to obtaining final estimates of abundance and considering any trend in these. This included a review of data sources and analytical methodology. After considering many of the factors affecting abundance estimates, there is still evidence of a decline in the abundance estimates, although it is not clear how this reflects any actual change in minke

⁴ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 6 (Suppl.)

⁵ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 6 (Suppl.)

⁶ *J. Cetacean Res. Manage.* 3 (Suppl.): 29-32.

⁷ *J. Cetacean Res. Manage.* 4 (Suppl.): 30-6.

abundance. Three hypotheses that might explain these results were identified:

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

A considerable amount of work to investigate this further was undertaken at the 2003 meeting and a number of high priority tasks have been identified and recommended for completion before the 2004 meeting.

Last year, it had been hoped that the full third circumpolar series of IWC/SOWER⁸ cruises would have been completed by the 2002/2003 season. Unfortunately poor weather on the 2002/2003 cruise means that this will no longer be possible. The Committee does not anticipate being able to provide a full report on the status of Antarctic minke whales (including an agreed estimate of current abundance) until the third circumpolar has been completed – at the earliest at the 2006 meeting. It thanked Japan for once more providing the two vessels used on the SOWER cruises.

The Committee reiterated the great importance the SOWER surveys have been to its work. It recommended that sufficient time be set aside next year to adequately discuss further plans, given the completion of the third circumpolar set of surveys this year. To facilitate that discussion, an intersessional Steering Group was established.

6.1.2 Commission discussions and action arising

Australia considered that the Scientific Committee report confirmed that: (1) there is still no available abundance estimate for Southern Hemisphere minke whales, and (2) it has not yet been possible to explain the apparent decline in this population. Australia remained disturbed regarding the takes of minke whales in this area as part of Japan's JARPA programme without a reliable abundance estimate. New Zealand made similar remarks, looked forward to a revised abundance estimate and believed that in the meantime a precautionary approach should be employed. The UK, Germany, Italy and Monaco shared the concerns expressed by Australia and New Zealand.

Drawing attention to the Scientific Committee's report, Norway acknowledged that there is still no agreement on an explanation of the apparent population decline, but noted that the most appropriate time to resolve this issue is after the Committee completes its work on reviewing the IDCR/SOWER abundance estimates and trends, i.e. in two years time. It noted however, there are still large numbers of minke whales in this area, and believed that any decline, if it does exist, is not caused by Japan's catches.

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

6.2 Southern Hemisphere blue whales

6.2.1 Report of the Scientific Committee

The Committee is beginning the process of reviewing the status of Southern Hemisphere blue whales. An important part of this work is to try to develop methods to identify

pygmy blue whales from 'true' blue whales at sea and progress is being made on this. Work on genetic and acoustic differentiation techniques is continuing and there is considerable progress with morphological methods. Last year, the Committee received information that point estimates of blue whale abundance appear to show an increase between the third circumpolar series of cruises (CPIII) and the previous two, although this was not statistically significant. The Committee has agreed on a number of issues that need to be resolved before it is in a position to carry out an assessment, which it believes should commence in 2006.

6.2.2 Commission discussions and action arising

New Zealand commented that the situation with respect to blue whale populations is a tragic indicator of uncontrolled whaling, and that even after 40 years of protection, the signs of recovery are minimal. Australia agreed.

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

6.3 Southern Hemisphere humpback whales

6.3.1 Report of the Scientific Committee

Considerable progress has been made in recent years in working towards an assessment of humpback whales. Attention has focussed both on data from historic whaling operations and on newly acquired photo-identification, biopsy and sightings data. The Committee made a number of research recommendations to further progress towards an assessment. An intersessional group was established last year to review progress and determine whether it is feasible to set a deadline for the assessment to be completed. Further work was identified this year and progress will be reviewed in 2004.

6.3.2 Commission discussions and action arising

New Zealand was pleased to note the contribution of Auckland scientists to this work. It noted that while the information available on this population is highly variable with large gaps it was clear that while some stocks are recovering from past excesses, others are still in a severely depleted state. New Zealand therefore considered that the South Pacific, in particular, will require protection for years to come if stocks are to recover to previous abundance levels. Australia agreed and commented that whalewatching operations are dependent on whale populations migrating in large and reliable numbers. It encouraged the continuation of work on abundance estimates so as to ensure reliable data for whalewatching purposes.

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

6.4 Other stocks - bowhead, right and gray whales

6.4.1 Report of the Scientific Committee

SMALL STOCKS OF BOWHEAD WHALES

The Committee received information on the stock identity and movements of bowhead whales from the Davis Strait/Baffin Bay and Hudson Bay/Foxe Basin stocks. Preliminary abundance estimates for some regions of Canada were received. The catch of one animal by Canada is considered under Item 16.

NORTH ATLANTIC RIGHT WHALES

The Committee has paid particular attention to the status of the North Atlantic right whale in the western North Atlantic in recent years (e.g. see Special Issue 2 of the Journal -

⁸ SOWER: Southern Ocean Whale and Ecosystem Research.

Right whales: worldwide status). The Committee is extremely concerned about this population, which, whilst probably the only potentially viable population of this species, is in serious danger (*ca* 300 animals). By any management criteria applied by the IWC in terms of either commercial whaling or aboriginal subsistence whaling, there should be no direct anthropogenic removals from this stock.

This year, the Committee once again noted that individuals are continuing to die or become seriously injured as a result of becoming entangled in fishing gear or being struck by ships. It repeated that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality in this population to zero. This is perhaps the only way in which its chances of survival can be directly improved. There is no need to wait for further research before implementing any currently available management actions that can reduce anthropogenic mortalities.

The Committee reviewed progress on a number of research and management recommendations concerning this stock.

EASTERN NORTH PACIFIC RIGHT WHALES

The Committee believes that the situation of eastern North Pacific right whales is equal to, if not worse than, the situation in the western North Atlantic. Numbers are estimated to be of the order of tens of individuals, with only two sightings of possible juveniles or calves this century. Both the photographic and biopsy catalogues contain several individuals that were sampled in multiple years. The Committee strongly recommended that research into the status of eastern North Pacific right whales be continued and intensified; specifically that:

- (1) visual and acoustic surveys to establish the summer distribution and feeding ground be continued;
- (2) photo-identification and photogrammetry effort be combined with attempts to obtain photographs suitable for examination of evidence of entanglement and ship strikes; and
- (3) genetic sampling of individuals be continued and the use of genotypic mark-recapture methods for population estimation be investigated.

SOUTHERN HEMISPHERE RIGHT WHALES

The Committee received updated information on right whales found off Peninsula Valdes, Argentina between June and December each year. Based on 30 years of photo-identification data, the annual increase in the population was 6.8% (SE 0.5%) and the population contains some 700 reproductively active females (SE 50).

WESTERN NORTH PACIFIC GRAY WHALES

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

from a low number of reproductive females, low calf survival, male-biased sex ratio, dependence upon a restricted feeding area and apparent nutritional stress (as reflected in a large number of skinny whales). Other major potential concerns include behavioural reactions to noise (notably in light of increasing industrial activity in the area) and the threat of an oil spill off Sakhalin which could cover all or part of the Piltun area and thus potentially exclude animals from this feeding ground. The Workshop had noted that assessments of the potential impact of any single threat to the survival and reproduction of western gray whales were insufficient and had strongly recommended that risk assessments consider cumulative impact of multiple threats (from both natural and anthropogenic sources).

The Committee adopted the Workshop report and endorsed its recommendations, including the research and monitoring plan. In conclusion, the Committee strongly reiterated that it is a matter of absolute urgency that every effort is made to reduce anthropogenic mortality (including direct catches) and disturbance to zero to save western North Pacific gray whales from extinction.

HUMPBACK WHALES OFF GABON

The potential impact of ongoing seismic surveys on a humpback whale breeding and calving ground in Gabon was raised. Seismic surveys were planned for May-July 2003 and coincided with humpback whale breeding and calving in the area. The Committee expressed serious concern about the spatial and temporal overlap of surveys and humpback breeding and noted that future seismic surveys should be completed prior to the arrival of whales on their wintering grounds off Gabon.

6.4.2 Commission discussions and action arising

Discussion within the Commission focussed on the western North Pacific stock of gray whales. The USA generally welcomed the Scientific Committee's report and was encouraged by the collaborative effort at the workshop in the Republic of Korea in October last year. It remained concerned, however, about the status of the stock in view of its geographic and genetic isolation combined with small population size and the possibility that there are less than 50 reproductive individuals present. The USA continued to support the Scientific Committee's recommendations that long-term research and management of this stock be continued and expanded. It also noted the recommendations that other range states such as Japan, China and the Republic of Korea develop national research and management programmes. The Netherlands complimented the Republic of Korea for organising the workshop and supported the remarks made by the USA. It noted that increasing industrial activity such as oil exploration may cause additional threats to this stock and urged that before such activities are started, environmental impact assessments are made and appropriate action taken. Noting the recommendations regarding national research and management programmes, the Republic of Korea indicated its willingness to participate actively in research programmes and reported that its national programme for next year will include the monitoring of gray whales in its waters.

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

6.5 Other

6.5.1 Report of the Scientific Committee

MATTERS RELEVANT TO MORE THAN ONE STOCK

The Committee received reports on the new data that have been incorporated into the IWC-DESS sighting database, including new data from the Southern Hemisphere SOWER cruises and from the Icelandic component of the NASS 2001 surveys.

It also continued to work on the use of simulated datasets to test methods of estimating abundance.

IN-DEPTH ASSESSMENT OF SPERM WHALES

The Committee received and endorsed a proposal to plan for an in-depth assessment of sperm whales some time around 2007/2008, provided that certain analyses and field work are undertaken. A proposal for a workshop was endorsed but not given high priority for funding. An intersessional working group will continue to discuss this matter.

SOUTHERN HEMISPHERE FIN WHALES

The Committee briefly considered new information on Southern Hemisphere fin whales. A number of research recommendations were made.

NORTH ATLANTIC FIN WHALES

The Committee received a suggestion that a *pre-implementation assessment* of North Atlantic fin whales should become a priority activity for the Committee. There had been insufficient time during the meetings of the sub-committee on the RMP for this to be discussed. It was agreed that an intersessional Steering Group would develop a recommendation for the Committee regarding whether the available data are sufficient to allow a *pre-implementation assessment* to occur.

6.5.2 Commission discussions and action arising

Iceland welcomed the Committee's plans for an in-depth assessment of the North Atlantic fin whale stock since it is important to Iceland. The UK also welcomed the Committee's intentions to press forward with this work, but indicated that it would be happier if it could be assured that no further efforts would be made to exploit the stock until completion of this assessment.

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

7. ABORIGINAL SUBSISTENCE WHALING⁹

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on 11 June chaired by Andrea Nouak (Austria). Delegates from 28 Contracting Governments participated. The full Sub-committee report is available as Annex D.

7.1 Aboriginal subsistence whaling procedure

7.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee

The Sub-committee noted that the Scientific Committee's progress on developing a strike limit algorithm (*SLA*) for gray whales was slower than expected, but that with the intersessional workshop planned for early 2004, the Committee hoped to complete its work at next year's meeting.

The Sub-committee also noted that there had been considerable discussion of the Greenland Research Programme during the Scientific Committee meeting and that the Committee had: (1) emphasised the urgent need for information on stock structure and abundance and (2) made strong recommendations on the need to: (a) collect genetic and other biological material from the catch, and if possible from neighbouring waters; (b) continue focussed telemetry studies; and (c) undertake an aerial survey this summer (2003) in West Greenland.

The Scientific Committee had also requested logistical and financial support from relevant governments and authorities.

In the Sub-committee, most of the discussion centred on the financial support mechanisms to enable the research to take place. After an exchange of views, it endorsed the recommendations of the Scientific Committee.

7.1.2 Commission discussions and action arising

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

7.2 Aboriginal subsistence whaling scheme (AWS)

7.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

Last year, the Scientific Committee had recommended a number of scientific aspects of an eventual AWS¹⁰ and it repeated these this year. During the Sub-committee meeting there was a brief discussion of a 'grace period' (i.e. a mechanism to deal with a hypothetical situation of no abundance estimate being made available within the specified time-frame) but it made no recommendations under this item.

7.2.2 Commission discussions and action arising

The Commission noted this part of the report.

7.3 Aboriginal subsistence whaling catch limits

7.3.1 Report of the Aboriginal Subsistence Whaling Sub-committee

7.3.1.1 BERING-CHUKCHI-BEAUFORT SEAS STOCK OF BOWHEAD WHALES

The Scientific Committee had noted that the adoption of the *Bowhead SLA* last year has implications for the focus of its in-depth assessment of this stock in 2004. It agreed that the primary focus of the in-depth assessment should be: (a) the data required for the *Bowhead SLA*; and (b) examining whether the present situation is within the tested parameter space for that *SLA*. The latter effort will include consideration of such issues as stock identity and biological parameters. Previous assessment models can be used to investigate this, but it will not be necessary to determine the 'best' model or to calculate management-related quantities (in the time-consuming manner of previous assessments) as the *Bowhead SLA* will be used to provide management advice.

It had received a new population estimate for 2001 of around 10,000 whales and a rate of increase of 3.4% for the period 1978-2001. The Scientific Committee agreed that there was no reason to change its previous management advice.

The Sub-committee noted the Scientific Committee's report.

⁹ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 3 (Suppl.): 29-32

¹⁰ *Ann. Rep. int. Whaling Comm.* 2002: 74-5

7.3.1.2 NORTH PACIFIC EASTERN STOCK OF GRAY WHALES

The Scientific Committee had reported on recent revised abundance estimates and noted that these will be considered in the AWMP (Aboriginal Subsistence Whaling Management Procedure) trial structure. The Scientific Committee agreed that there was no reason to change its previous management advice.

The Sub-committee noted the Scientific Committee's report.

7.3.1.3 MINKE AND FIN WHALE STOCKS OFF WEST GREENLAND

The Scientific Committee had again noted its great concern that it was unable to provide satisfactory management advice for these stocks, particularly given the long periods since the last abundance estimates. It again called for very high priority to be given to obtaining adequate information for management. Without this, the Scientific Committee will not be able to provide safe management advice in accord with the Commission's management objectives, or develop a reliable *SLA* for many years, with potentially serious consequences for the status of the stocks involved. It strongly recommended that an abundance survey be carried out this year if possible.

In the Sub-committee, several delegations noted that they shared the Scientific Committee's concern. Denmark indicated that they consider the issue extremely important and reported that they were diverting both manpower and financial assistance, both domestically and in co-operation with IWC, to address the scientific shortcomings. Ways to improve the situation were discussed although no recommendations were made.

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

The Scientific Committee had agreed that it was most plausible that the animals off St. Vincent and The Grenadines are part of the West Indies breeding population (over 10,000 animals in 1992/3) although it acknowledged that further data to confirm this are desirable. It repeated its previous recommendations that every effort be made to obtain photographs and genetic samples from animals taken. In this regard, the Scientific Committee had particularly welcomed news that for the first time, genetic analyses of three samples from the hunt (1 in 2001, 2 in 2002) are being undertaken in a collaborative study. It looked forward to receiving the final report at next year's meeting.

The Sub-committee noted the Scientific Committee's report.

7.3.2 Commission discussions and action arising

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

7.3.2.1 BERING-CHUKCHI-BEAUFORT SEAS STOCK OF BOWHEAD WHALES

Japan commented that it considers that there is no scientific consistency between the *SLA* and the RMP *CLA* (*Catch Limit Algorithm*). In its view, the *CLA* is too conservative compared with the *SLA*. Japan noted that no catch limits would be set for this stock under the RMP and called for consistency in methods for both commercial and aboriginal subsistence whaling. Norway agreed.

In response to these comments, the Scientific Committee Chair drew attention to Item 5.8 of the Committee's report regarding a comparison of the RMP and AWMP. He noted

that at its meeting last year, the Committee had reported that:

...a strict comparison of the *Bowhead SLA* with the *CLA* is not possible for a number of reasons, particularly with respect to: (1) the different objectives for each, notably the difference between management aimed at producing the highest possible continuing yield and management aimed at satisfying a limited need requirement in perpetuity; and (2) the case-specific nature of the *Bowhead SLA* that was tailored to manage a data-rich population as opposed to the generic *CLA*, that has to be able to cope with a variety of situations.

Norway noted that another aspect to take into account in comparisons between aboriginal subsistence and commercial whaling is the scientific information necessary to estimate abundance and to discuss stock structure. Noting the in-depth assessment for the B-C-B bowhead stock planned for 2004, Norway considered that from a scientific point of view, the same criteria as those used for 'commercially-interesting' stocks such as the western North Pacific stock of minke whales should apply.

The USA referred to the revision to Schedule paragraph 13(b)(1), adopted at the 5th Special Meeting of the Commission in Cambridge in October 2002, that renewed the catch limits for the aboriginal take of bowheads from this stock. It reported that, as suggested by the Chair in Cambridge, there had been consultations regarding clarification of the wording of sub-paragraph (iv) but that no conclusion had been reached. The USA therefore wished to place on record that it interprets sub-paragraph (iv) to reaffirm the responsibility of the Commission to review and revise if necessary, the bowhead catch limits following the Scientific Committee's in-depth assessment for 2004. In doing so, the USA considered that the Commission shall be guided by the results of the 2004 assessment.

7.3.2.2 NORTH PACIFIC EASTERN STOCK OF GRAY WHALES

There were no comments on this stock.

7.3.2.3 MINKE AND FIN WHALE STOCKS OFF WEST GREENLAND

Australia noted the Scientific Committee's and the Sub-committee's concerns regarding Greenland's aboriginal subsistence whaling. It also noted its own concerns regarding the Greenland research programme, the possible market element (see Section 5.2 of Sub-committee report), stock estimates and the inability of the Scientific Committee to provide management advice, and the female bias in takes. In view of these concerns it was uneasy about Greenland's aboriginal subsistence whaling and encouraged Denmark to provide information to next year's meeting that might settle this unease.

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

The UK indicated its disappointment that St. Vincent and The Grenadines had been unable to attend the meeting of the Aboriginal Subsistence Whaling Sub-committee and requested information on the status of the regulations promised by St. Vincent and The Grenadines last year. In response, St. Vincent and The Grenadines reported that the regulations had been passed in Cabinet on 13 June 2003 and that a copy had been provided to the Secretariat. It noted that the regulations were consistent with the draft made available at IWC/54 last year. The USA complimented St. Vincent and The Grenadines for completing this task.

7.4 The Russian Federation proposed Schedule amendment

7.4.1 Report of the Aboriginal Subsistence Whaling Sub-committee

The Sub-committee had reviewed a proposal from the Russian Federation to amend Schedule paragraph 13 concerning aboriginal subsistence whaling by the addition of a new sub-paragraph (c) as follows:

13.(c). Notwithstanding any other provision of the Schedule, the meat and products of whales taken by the aborigines are not to be sold or offered for sale, with the exception of blood, plasma, endocrine glands used for biomedical purposes or authentic native articles of handicrafts, including clothing, made wholly or in some respect of whale products.

During the discussions, the Russian Federation had pointed out an anomaly in the way that the Chukotka peoples are treated compared with other aboriginal groups. It referred specifically to Schedule paragraph 13(b)(2) that states

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 whose traditional aboriginal subsistence and cultural needs have been recognised'.

The Russian Federation proposed to remedy this inequity by deleting the words '*whose traditional aboriginal subsistence and cultural needs have been recognised*'. This phrase is not applied to any of the other aboriginal hunts and the Russian Federation suggested that such conditions prevent the important practice of cultural exchange of goods among indigenous peoples. It wished to achieve consistency among all indigenous groups with aboriginal subsistence whaling operations.

While there was some sympathy among the Sub-committee regarding the objectives of the Russian Federation, it was unable to make any recommendations to the Commission. The Sub-committee Chair noted that the new Schedule amendment proposed by the Russian Federation during discussions should be formally submitted to the Commission.

7.4.2 Commission discussions and action arising

In the Commission, the Russian Federation withdrew its proposal to add a new Schedule paragraph 13(c), indicating that it would continue to work intersessionally on this issue with other Contracting Governments.

Commission discussions therefore focussed on the Russian Federation proposal to amend 13(b)(2) of the Schedule as follows:

Replace sub-paragraph 13 (b) (2) of the Schedule to read as follows:

(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. ~~whose traditional aboriginal subsistence and cultural needs have been recognised.~~

- (i) For the years 2003, 2004, 2005, 2006, and 2007, the number of gray whales taken in accordance with this sub-paragraph shall not exceed 620, provided that the number of gray whales taken in any one of the years 2003, 2004, 2005, 2006, or 2007 shall not exceed 140.
- (ii) (ii) It is forbidden to strike, take or kill calves or any gray whale accompanied by a calf.
- (iii) (iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.

The Russian Federation urged adoption by consensus.

Although some countries supported the proposed amendment, others, while again expressing sympathy with the objective to treat all aboriginal peoples equally, believed that more time was needed to adequately address this issue. After further discussion, the Commission agreed that a small group should work intersessionally by email to review the whole of Schedule paragraph 13 to determine how consistency in approach could be achieved and to propose a Schedule amendment for review and decision-making at IWC/56 next year. It was agreed that the small group should comprise the Russian Federation, Denmark, Australia and the USA, working with the Secretariat.

7.5 Other

In the Commission, the UK referred to discussions at last year's meeting regarding packages of whale meat bought on the Japanese market labelled as coming from Greenland and the Russian Federation¹¹. It recalled that the governments of Denmark, the Russian Federation and Japan had agreed to investigate the matter and that Japan had requested samples of the products involved for DNA analysis. The UK noted that the samples had been divided in two, with Japan analysing one set, with the other being stored at the USA's embassy in Tokyo pending issuance of CITES export permits by Japan to enable the second set to be analysed in the USA. It understood that Japan's analyses had revealed that the product labelled as coming from Greenland was in fact minke whale from the Antarctic and that the product labelled as coming from the Russian Federation was Dall's porpoise. The UK requested information from Japan regarding progress in issuing CITES export permits for the second set of samples. Japan responded that since it had analysed one set of samples it did not see any reason to export the second set and indicated that it had no intention of issuing CITES permits. The UK did not doubt Japan's report on the analyses of the samples, but believed that an understanding had been reached that corroborative analysis would be performed. Understanding that it may be difficult for Japan to issue CITES export permits, the UK indicated that it would try to arrange for corroborative analysis to be done in Japan.

Norway and the Russian Federation noted that they believed trade issues to be outside the competence of IWC. The Russian Federation indicated that it was completely satisfied with Japan's report. The UK did not agree with this view on competency, believing such issues to be crucial with respect to the value of any RMS.

8. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

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

The Workshop was held in Berlin from 7-9 June 2003. It was chaired by Dr Joe Geraci from the National Aquarium, Baltimore, USA, with Dr Nick Gales (Australia) as Vice-Chair. The Workshop report is available as Annex E. As neither the Chair nor Vice-Chair were able to stay on for the Commission meeting, they prepared a short written report summarising their views on the Workshop outcome. This is given in the following paragraphs.

¹¹ *Ann. Rep. int. Whaling Comm. 2002:22-3*

Twenty-five working papers from nine Contracting Governments were presented and discussed in the context of the Workshop Agenda Items (Description of killing methods in use and under development, Assessment of methods including review of time to death, hunter safety and associated problems, evaluation of criteria for death, collection of animal welfare data, and development of a revised action plan).

While there are still areas in which improvements can be made, there can be little doubt that the papers and discussions at this workshop represent substantial progress in the development and application of killing methods, and these are reflected in a general trend of improved data on time to death and instantaneous death rate. There have also been encouraging improvements in the provision of relevant data on whale killing methods from Contracting Governments, and it is hoped that this trend will continue.

Many of the advances that are detailed in the full report from the Workshop can be attributed to the excellent work of Norwegian scientists, veterinarians and technicians. Their improvements in penthrate grenades, harpoon delivery systems, secondary killing efficiency and post-mortem determination of the effectiveness of the aforementioned have advanced the application of whale killing methods not only in Norway, but also in the several countries to which Norway has provided equipment or technical advice.

It is reasonable to surmise from this workshop that the use of appropriately powerful penthrate grenades, fired from improved delivery systems represents the current state of 'best practice' for a primary killing method. Similarly, several important papers on the ballistics, technical characteristics and field application of guns used as secondary killing methods can now allow users of this technology to make informed decisions on the most appropriate calibre and power choices for their weapons. Moves to incorporate these current 'best practice' methods will (and have been) leading to better and safer outcomes for the hunters, and more humane outcomes for the whales.

Discussions at the workshop highlighted the important practical, logistic and fiscal differences that exist between Commercial Whaling and Aboriginal Subsistence Whaling, particularly in the manner and extent in which data are collected, and the degree to which effort can be invested in the development and application of improved killing methods. Contracting Governments representing Aboriginal Subsistence Whalers were keen to ensure that workshop participants understood these difficulties and the degree to which they contributed to the differences in whale killing techniques and performance between the different types of whaling.

While Japan expressed a view that welfare issues were beyond the competence of the IWC (and excluded themselves from those discussions), and differences were expressed about whether or not killing issues for small cetaceans could be discussed at the workshop, the overall level of cooperation and common ground was a positive feature of this workshop. The positive contributions of non-whaling countries like the United Kingdom and New Zealand to the technical improvement of killing methods, or methods to determine time of death were well received and helpful towards the aims of the workshop. Indeed it is really encouraging to note that consensus was reached on the usefulness of a suite of data identified at the workshop to better assess whale killing methods and associated welfare issues.

The workshop participants also agreed to some minor revisions in the Action Plan, which specifies a continued, cooperative approach to further improvements in data collection and reporting, technical development of killing methods, and criteria and methods to determine death (both operationally and from post-mortem approaches). A further workshop in 3-5 years is recommended, and it is hoped that the improvements represented at this workshop will continue and be a feature of the next meeting.'

8.2 Commission discussions and action arising

New Zealand indicated that it had been pleased to participate in the workshop. It welcomed progress in the use of the penthrate grenade, but expressed disappointment with the lack of progress in some areas since the last workshop, noting that Times to Death (TTD) in many hunts are still, in its opinion, unacceptably long. With respect to aboriginal subsistence whaling, it regretted that many of these hunts employ small-arms weapons that it believed are inadequate for killing a large animal. New Zealand drew

attention to its remark at the workshop (and included in the report) that the research presented suggested a current level of best practice for determining the minimum specifications of rifles used to kill whales (i.e. a minimum calibre of .375 inches with round nosed full metal-jacketed bullets) and that it would be appropriate to consider a broad implementation of these best practice standards. It acknowledged that this may require investment in new firearms, but in its view, it would be preferable for a village or settlement to have one effective weapon than many of too small a calibre. While agreeing that .375 calibre round nosed full metal-jacketed bullets are very effective for minke whales, Norway did not agree that they should be recommended as a minimum calibre. It drew attention to discussions on this issue at previous whale killing method workshops. Norway noted the importance of marksmanship and training for all calibres and recommended that hunters use the calibre with which they feel most comfortable.

New Zealand and a number of other governments expressed disappointment that some countries had not provided data, including those on the number of animals struck and lost. It called on them to make this available in future. Noting that it does not hunt whales but that strandings occur quite frequently, New Zealand indicated that it would provide welfare data on euthanised whales to the Commission. Mexico recalled a remark from Japan at an earlier Annual Meeting that it may report killing data from its catches under Special Permit elsewhere. It urged Japan to publish this information. Spain agreed. The UK made a similar remark and noted that JARPNII has been extended to from one to five species. Australia commented that there are disparities in some of the TTD reported to the workshop, some of which could be explained by the difficult conditions under which some hunts are performed while others suggested that improvements in hunting practice are need. It noted that while efforts to reduce TTD were welcomed by the workshop, Australia believed that data presented re-inforced its view that current killing methods are not humane. Austria noted the importance of distinguishing between primary and secondary killing methods to the extent possible. Germany noted the importance it gave to this issue. It appreciated the outcome of the workshop, particularly the Revised Action Plan and the consensus reached on the usefulness of a suite of data proposed by the UK to better assess whale killing methods and associated welfare issues. Together with a number of countries, it recognised the contribution of Egil Ole Øen and Norway in this area and thanked Mr Øen for the advice and assistance he has given to other whaling operations. The UK thanked the Chair and the Vice-Chair and the Secretariat for their contributions to the workshop. While it generally supported the Chair's summary report, it considered that it might be rather too optimistic to suggest that widespread improvements have been achieved. It could see no improvement in TTD in Japan's hunts.

The Russian Federation informed the meeting that it had presented all the data it has to the workshop. It noted that it is trying to make its hunts more humane and emphasised that over 70% of the whales harvested in the Russian Federation are taken using a darting gun. Rifles are used mainly as a secondary killing method. The Russian Federation recalled that a previous Resolution requesting all Contracting Governments to provide appropriate technical assistance to improve the humaneness of

aboriginal subsistence whaling had been sponsored by over 12 countries. It noted that it had approached all sponsoring countries, but reported that not one of them had offered to provide help. It did, however, recognise the assistance provided by Norway, Japan and the Alaska Eskimo Whaling Commission. It requested those countries calling for more humane hunts to provide technical support. The Netherlands indicated that they would be willing to work bilaterally with the Russian Federation to explore how support could be organised.

Norway noted the many positive comments on its activities to improve whale killing methods and its contribution to the workshop. It also noted the more positive attitude at this latest workshop compared with those held in the past and that recent improvements and improved knowledge has been recognised. Norway believed that all whaling communities are concerned about the humaneness of their hunts and are trying their best to improve given the resources and weapons available to them and the conditions under which the hunts take place. It noted however that improvements would take time and warned that hunter safety should not be compromised. Regarding comparisons with the killing of other large animals, Norway noted that available data indicate that the TTDs for its takes of minke whales are: (1) better than for all terrestrial mammals except, perhaps, impala; (2) not quite as good as those for seals taken in Norway; and (3) and similar to those in slaughter houses. While recognising that the UK had provided some data in the past on red deer hunts in Scotland, it noted that these data had not included TTDs or the number of animals escaping wounded. Norway urged Contracting governments to provide comparative data. Sweden agreed with the importance of comparisons with other hunts, believed that efforts should be made to improve killing techniques in all hunts, and indicated that it would try to get comparative data from hunts in Sweden.

Denmark drew attention to the progress made in the development of whale killing methods reflected in improved data on TTDs and instantaneous death rates. It noted that it provided these data on a voluntary basis. Denmark considered that it is important to note that a continued dialogue and communication between different groups is needed in understanding the differences between developed and developing countries. It was of the opinion that some have unrealistic expectations in developing even more effective killing methods. Denmark indicated that it is doing its best to reach best practice, but like Norway, believed that hunter safety should not be compromised. It agreed with the comments of the Russian Federation regarding its call for assistance and thanked Norway for the help it had already provided.

Responding to a remark from Australia regarding its planned takes under Special Permit (see Section 12), Iceland emphasised that no decision had been made on: (1) the implementation of the research; or (2) whale killing methods that would be used, although it stressed that cold harpoons would not be used. Australia did not understand why consideration of killing methods had not been included as part of the research plan.

The UK drew attention to document IWC/55/24 listing questions it wished to pose to several Contracting Governments regarding killing methods and associated welfare issues. It noted that this document was submitted for information and that it would pursue the matter

bilaterally with relevant governments. It reported that it had initially requested that these questions be appended to the workshop report, but noted that it had withdrawn this request after several countries objected. It was therefore reluctant to agree to Denmark's request made during the plenary to withdraw the paper.

The Commission adopted the report of the workshop including the Revised Action Plan (see Annex E).

9. REVISED MANAGEMENT SCHEME

9.1 Revised Management Procedure (RMP)¹²

9.1.1 Report of the Scientific Committee

GENERAL RMP ISSUES

The Committee examined a number of general issues related to the RMP. These included: adjustment of the convergence criteria for the CATCHLIMIT program; implications of choice of component of population to which MSYR, MSYL¹³ and density-dependence apply in RMP trials; and determination of the levels of information required for *pre-implementation assessments* and for proceeding to an *Implementation*. Considerable progress was made in all of these and agreement reached on the last. Further work is needed on how to deal with situations where whaling occurs on a migratory corridor but abundance estimates are from a summer feeding ground. This will be considered again next year.

Two issues directly related to the Revised Management Scheme were also addressed. The first concerned the implications of restricting whaling to within 200 miles of a whaling nation's coast (or the EEZ). In conclusion, the Committee drew attention to the risk-averse nature of the RMP in distributing catches among *Small Areas*. It noted that any variant of the RMP recommended by the Committee for any species has been judged as displaying satisfactory performance with respect first to risk and then to yield. The Committee was aware of the vulnerability of species to whaling close to the coast and takes this into account in the process of conducting *Implementation Simulation Trials* before the recommendation of an RMP variant to the Commission.

The Committee therefore advised that under the RMP, the restriction of whaling to waters within 200 miles of the coast will have no effect on catches permitted in *Small Areas* that fall entirely or partly within 200 miles of the coast. However, because no catches would be taken in *Small Areas* entirely outside 200 miles of the coast, this additional management measure would reduce risk (to beyond that incorporated in the RMP) but also reduce yield.

The second issue concerned the value or otherwise of collecting tympanic bullae for age determination of minke whales as part of the RMS. The Committee agreed that reliable age determination beyond the first few years was not possible using tympanic bullae and recommended that a requirement to collect bullae should not be included in the Schedule.

NORTH PACIFIC COMMON MINKE WHALE IMPLEMENTATION

Implementation Simulation Trials are trials that are carried out before using the RMP to calculate a catch limit and

¹² For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 6 (Suppl.)

¹³ MSYR = Maximum Sustainable Yield Rate; MSYL = Maximum Sustainable Yield Level

involve investigating the full range of plausible hypotheses related to a specific species and geographic area.

The process of developing *Implementation Simulation Trials* is not the same as identifying the 'best' assessment for the species/region, but involves considering a set of alternative models to examine a broad range of uncertainties with a view to excluding variants of the RMP that show performance that is not sufficiently robust across the trials. Account needs to be taken of the plausibility of the various trial scenarios when evaluating RMP variants.

The Committee has been working on *Implementation Simulation Trials* for this area since 1994; a special workshop was held prior to the Berlin meeting. The process has proven to be difficult for a number of reasons, including:

- (1) harvesting is projected to take place on migration as well as on feeding grounds;
- (2) there is a seasonally-dependent overlap of management stocks;
- (3) continual updating of information on relatively complex population structure;
- (4) issues related to the plausibility of trials, particularly with respect to population structure;
- (5) complexity and time required to code and run trials;
- (6) lack of agreement on when to stop 'improving'. Completing this process was one of the major areas of work for the 2003 meeting.

The Committee considered four stock scenarios for the western North Pacific (ranging from 2-4 stocks with various boundaries and levels of mixing) and six management variants (allowing catches in different *Small Areas* and combinations of *Small Areas* and times of year). It also carried out trials with 1% and 4% MSYR and a variety of sensitivity investigations of a number of assumptions including numbers of bycaught animals, level of depletion of the non-target 'J-stock' etc.

There was disagreement within the Committee with respect to the plausibility of the various stock scenarios and this led to lack of consensus over the most appropriate management variant to recommend. Most members supported the management variant (variant 5) that performed best under all stock scenarios, whereas some supported the variant that performed best for the stock scenario that they believed was most plausible (variant 6). Details can be found in Item 6.1 of the Scientific Committee's report.

The Committee agreed that stock structure was the key source of uncertainty for this *Implementation*. It noted that the range and relative plausibility of stock structure hypotheses might change given additional research and new data.

It suggested that, in the light of the concerns about catch performance in coastal *Small Areas*, it would be useful to examine the effect of additional abundance information, definition of alternate sets of *Small Areas*, specification of alternate RMP variants for cascading, and alternate seasonal-area restrictions. Such information could be used to improve the implementation's catch performance in coastal areas, and could be considered in an *Implementation Review*.

A full review of how best to implement the RMP in cases of uncertain stock structure will take place at next year's meeting.

In the light of the implications of the simulations for 'J' stock animals, the Committee strongly endorsed conducting an in-depth assessment of North Pacific minke whales next year to improve understanding and reduce uncertainty.

WESTERN NORTH PACIFIC BRYDE'S WHALES IMPLEMENTATION

The Committee has made relatively slow progress on completing the implementation for western North Pacific Bryde's whales *inter alia* due to its heavy workload. While noting that it was in the *pre-implementation assessment* stage, the Committee noted the considerable work already undertaken and agreed that it should be possible to move faster towards implementation than would be the case for new situations. It will be an important topic at next year's meeting.

NORTH ATLANTIC COMMON MINKE WHALES - IMPLEMENTATION REVIEW

The Committee completed an *Implementation Review* of North Atlantic minke whales this year, taking into account new information on stock structure and abundance. The Committee recommended some changes to the Small Area boundaries for the eastern *Medium Area* and agreed that the *Catch-cascading* option at the *Medium Area* level remained the preferred management option. Details can be found in Item 6.2 of the Scientific Committee's report.

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

The Scientific Committee began to consider this issue in some detail two years ago. It agreed that priority should be given to those areas where the RMP is likely to be implemented – such as the northwestern Pacific and the northeastern Atlantic. Four steps are required:

- (1) identification of the relevant fisheries;
- (2) description and categorisation of those fisheries to allow a sampling scheme to be devised;
- (3) identification of a suitable sampling strategy or strategies; and
- (4) design and implementation of the sampling scheme to enable estimation of the total bycatch.

The Committee has reviewed general methods for estimating bycatches. These fall under two headings: (1) those based on fisheries data and observer programmes; and (2) those based on genetic data. The former have been used successfully for several small cetacean populations. The Committee agreed that independent observer schemes are generally the most reliable means of estimating bycatch rates in a statistically rigorous manner, but that they may not always be practical and will require careful design.

Genetic approaches potentially represent a new way of estimating bycatches. The Committee has agreed that although genetic methods based on market samples may not be the primary approach to estimating bycatch, they could provide useful supplementary data that could not be obtained in another way. The use of market samples to

provide absolute estimates should not be ruled out. However, it will require further developments in sampling design with input from experts with detailed knowledge of market sampling issues. A proposal for a workshop on that subject is being developed for consideration in 2004.

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

The Committee received a very preliminary rough estimate of the total number of bycaught cetaceans in the world. Different assumptions and methods led to estimates ranging from 60,000 to 300,000. Recognising the limitations of the approach, the authors concluded that the estimates provided at least an initial idea of the likely scale of cetacean bycatch globally and the potential problems this may cause populations. The Committee had recommended a number of improvements to the analyses.

9.1.2 Commission discussions

GENERAL ISSUES

With respect to the Scientific Committee's report concerning the implications of restricting whaling to within 200 miles of a whaling nation's coast (EEZ), interventions were made by Japan and Ireland.

Japan believed that from the biological point of view, such restrictions would increase risk as it would concentrate catches on part of a stock. Additional restrictions on quotas to account for increased risk would decrease yields unnecessarily and be contrary to the principle of optimum use. Japan also believed that monitoring and inspection would be less effective and more costly since more smaller boats that may not be able to carry inspectors or observers would be used and because the number of land stations required would increase thereby requiring more inspectors and observers. It also considered that if whaling were to be restricted to EEZs, whaling would be local and could be managed on a regional or national basis. In these circumstances, Japan believed that a global management body like IWC would be unnecessary.

Ireland recalled that as part of the so-called 'Irish Proposal' it had proposed to restrict whaling to EEZs and stressed that it had never claimed its proposal to be based on science. Rather it had been proposed as a practical means of moving forward as a world community to address both the conservation and management aspects of the Convention. It was pleased to note that the Scientific Committee's report confirmed what Ireland thought might be the outcome of its proposal, i.e. a reduction in both risk and yield. It understood that a decrease in yield would cause problems for some countries, but noted that the proposal had been made as a compromise and as a way to introduce to the public to the idea that under certain circumstances and subject to scientifically-based quotas, a situation could be foreseen where whaling countries could legitimately utilise their whale resources.

NORTH PACIFIC COMMON MINKE WHALE IMPLEMENTATION SIMULATION TRIALS

A number of countries complimented the Scientific Committee on completing the Trials and for producing a clear report of what is a complex issue.

Australia stressed the importance of this work in relation to the standing of the RMP. Recalling that the generic *CLA* at the heart of the RMP is designed to address a single

stock scenario, Australia noted that consideration of spatial distribution and mixing of stocks or sub-stocks involving one or more depleted stocks was being tackled by the Scientific Committee for the first time in the context of the North Pacific minke whale *Implementation Simulation Trials*. It believed that the main message from the outcome of the simulations is that spatial considerations are very important and need to be considered whenever stocks overlap. It noted from the Committee's report that catch scenarios allowing coastal whaling in the Sea of Japan resulted in an unacceptable increase in risk of depletion or extinction of the already depleted 'J' stock, and that even in the two more conservative catch scenarios recommended by most of the Scientific Committee, there could be an unacceptable increased risk to this stock under certain conditions. Australia therefore had significant concerns about the results of the Scientific Committee's results as presented.

The USA associated itself with Australia's comments. It noted the unanimous agreement within the Scientific Committee that stock structure is the key source of uncertainty in this implementation and that accordingly most Committee members recommended variant 5 as the preferred management option if the RMP was to be implemented for this population as it is the most robust approach for dealing with uncertainty in stock structure. Consequently, if implementation of the RMP were to proceed, the USA urged adoption of variant 5 or other conservative approaches if the uncertainty over stock structure remained next year. Sweden and the UK made similar remarks.

Monaco was encouraged by the progress made. It noted that while variant 5 seemed to be preferred as it was most robust, variant 6 was not entirely rejected. However, Monaco believed that given the uncertainty that existed, it was clear that if variant 6 was adopted, then the *Small Areas* should be delineated as proposed by the Scientific Committee. Mexico supported the Scientific Committee's recommendation for an in-depth assessment. It believed that given the levels of uncertainty, a precautionary approach should be taken and that therefore variant 5 should be applied. New Zealand associated itself with earlier remarks and believed that the majority of the Scientific Committee favoured taking a precautionary approach to possible future exploitation. It considered that there was only one course of action given the uncertainties, i.e. to start the process over again. It therefore strongly supported the recommendation for an in-depth assessment. In the meantime, New Zealand suggested that Japan should halt the take of 'J' stock animals, release alive minke whales caught in nets, and work to reduce incidental take. Germany and Spain also stressed the importance of reducing bycatch, with Germany taking the view that bycaught animals should not be commercialised thereby reducing incentives for incidental catches.

In view of the uncertainty surrounding stock structure, like others, the Republic of Korea supported the Committee's recommendation for an in-depth assessment and indicated it would contribute to this work with respect to stocks off the Korean peninsula.

Japan and Norway expressed a preference for variant 6 and disagreed with the remarks of Australia and others. Japan believed that the 4-stock scenario (Baseline C) proposed by the USA was implausible and should be withdrawn. It believed that the 'J' stock in the Sea of Japan

had recovered (from 6,000 to 10,000 animals) and noted the increased number of animals bycaught in fixed stationary nets as evidence of this recovery. Japan considered it too early to start an in-depth assessment since it believed insufficient sighting data are available. Norway noted that these *Trials* had been a difficult issue for the Scientific Committee and that in its view, the reasons for these difficulties were political as well as scientific. It felt that the evidence for a 'W' stock is rather weak and considered variant 5, which would not allow coastal whaling, to be rather implausible. It noted that even if variant 6 were to be chosen for the implementation, an implementation review would be required in 6 years, at which point the implementation could be revised if evidence against this scenario became available. Iceland and Grenada associated themselves with Norway. Grenada expressed concern that work on the RMP and RMS was open-ended and suggested that a deadline be set for completion.

At the request of the UK, the Scientific Committee Chair commented on the approach taken by the Committee and on the status of the 'J' stock. He explained that the Scientific Committee tries to take account of uncertainty through the testing of a number of plausible scenarios and reported that within the Committee there was genuine scientific disagreement over the plausibility of the various stock structure hypotheses. He noted however, that in the end, most scientists agreed that none of the four stock structure hypotheses could be regarded as implausible, although this is not to say that they are all given the same level of plausibility by all scientists. Regarding the 'J' stock, he reported that there is considerable scientific uncertainty regarding its status as reflected in the Committee's report and in the range of depletion estimates (i.e. from 15-70%) used in the *Trials*. The Chair explained that the in-depth assessment had been recommended for this reason.

NORTH ATLANTIC MINKE WHALES IMPLEMENTATION REVIEW

Norway asked the UK whether it had reconsidered its earlier decision not to allow access by Danish and Norwegian survey vessels into its EEZ¹⁴. In response, the UK reported that new requests would be reconsidered but it noted that none had been received. It had not reconsidered earlier requests in the absence of new ones.

WESTERN NORTH PACIFIC BRYDE'S WHALES

Japan noted with regret that this work had been delayed yet again and appealed for work to now proceed more quickly. The UK suggested that the lack of progress was because Japan is not forthcoming in providing data on stock structure and abundance. Japan considered this comment incorrect.

ESTIMATION OF BYCATCH

In response to a request from Denmark for clarification regarding the range of estimated bycatch of 60,000 to 300,000, the Scientific Committee Chair explained that these are estimates including both large and small cetaceans.

9.1.3 Action arising

SCIENTIFIC COMMITTEE REPORT

The Commission noted the report and endorsed its recommendations.

PROPOSED SCHEDULE AMENDMENT

Japan introduced its proposed Schedule amendment to add the following sub-paragraph (g) under paragraph 10:

(g) Notwithstanding the other provisions of this paragraph, the taking of 150 Bryde's whales from the Western Stock of the North Pacific shall be permitted for each of the 2004, 2005, 2006, 2007 and 2008 seasons.

Japan explained the rationale behind its proposal. It noted that the western North Pacific stock of Bryde's whale was classified as an initial management stock (IMS) or a sustained management stock (SMS) when the moratorium was placed on commercial whaling and that present abundance is estimated at 23,751, according to the Scientific Committee's Comprehensive Assessment completed in 1996. It considered the stock to be very robust. It also noted that the RMP, designed to calculate an excessively conservative catch quota that will ensure that there are no adverse effects on the stock, was completed in 1992 and accepted by the Commission in 1994. Japan therefore considered that, together with monitoring and control, the necessary management measures required for sustainable whaling without negatively impacting the stock are available.

On the other hand, however, it noted that work on the development of *Implementation Simulation Trials* has made little progress and that work to develop the Revised Management Scheme (RMS) has continued for more than ten years. It considered that effective monitoring and control measures have been discussed exhaustively and that these discussions have turned into unrealistic demands designed to delay completion of the RMS and implementation of the RMP. At the same time, Japan noted that its former whaling communities have not yet recovered economically after the imposition of the commercial whaling moratorium and that fishery resources are declining due to over-predation by whales and reductions in fishery operations.

In view of the above, Japan indicated that it wished to resume coastal whaling for the sustainable use of robust whale stocks, the management of fishery resources, and the revitalisation of the impoverished coastal fishing and/or whaling communities. It believed that the resumption of coastal whaling would promote the local processing industries, and stimulate distribution of whale products and tourism, leading to more employment opportunities, which will help vitalize the local economy. In addition, the resumption of coastal whaling would also reinstate traditional practices associated with sales of whale meat, and revitalize traditional festivals and rituals of the regions.

Japan went on to describe the specifics of the whaling operations proposed, including provisions for monitoring and control, and the scientific basis for coastal whaling. It hoped that the proposed Schedule amendment could be adopted by consensus.

¹⁴ *Ann. Rep. int. Whaling Comm. 2001: 27*

Mexico, the USA, the Netherlands, Germany, Sweden, Switzerland and New Zealand spoke against the proposed Schedule amendment. The USA noted that it was a completely new proposal to re-start large-scale commercial whaling from land bases. It considered there to be a number of scientific issues that should be taken into account, including: (1) that the Scientific Committee's work on *Implementation Simulation Trials* is not yet complete; (2) that the Committee does not have accurate past catch history data that are important for the RMP; and (3) that catch limits must be calculated by the Scientific Committee, not a Contracting Government. In addition, the USA noted that the provisions for inspection and observation would operate as prior to the moratorium. It found this to be unacceptable. The Netherlands noted that in calculating catch limits, Japan had used a modified version of the RMP rather than that recommended by the Scientific Committee. Noting that the abundance data used was from the period 1988 – 1994, it considered that Japan had ignored the provision within the RMP that provides for the step-wise phase out of catches when the input survey data are over 8 years old. Together with a number of other countries, the Netherlands urged Japan to submit abundance data for this stock to the Scientific Committee.

Norway, Iceland and Dominica spoke in support of Japan's proposal. Norway noted that the stock could be managed under the New Management Procedure that remains valid, adding that the moratorium should have expired by 1990. It considered Japan's proposal as a way to get out of the current impasse. Dominica believed the proposal to be in keeping with the RMP and considered that it should be looked at as an opportunity to provide a way forward towards providing information to complete the RMS.

As there was clearly no consensus on its proposal, Japan requested that it be put to a vote. There were 17 votes in support, 26 against and 2 abstentions. The Schedule amendment was therefore not adopted.

RESOLUTION ON BYCATCH

Italy introduced a draft Resolution on bycatch on behalf of the other co-sponsors (Argentina, Australia, Austria, Brazil, France, Germany, Italy, Mexico, Monaco, Portugal, the Netherlands, New Zealand, San Marino, South Africa, Switzerland, Sweden, the UK and the USA). Recalling *inter alia*: (a) previous Commission Resolutions (1998-2¹⁵ and 2001-13¹⁶) concerning the need to take all human-induced mortalities into account and to reduce bycatch of cetaceans in fisheries; (b) estimated levels of bycatch as referred to in the Scientific Committee report; and (c) recommendations from a January 2002 International Workshop on Reducing Cetacean Bycatch and from the 6th and 7th Conference of the Parties to the Convention on Migratory Species (CMS) the draft Resolution recommended that the Commission:

- (1) commend the work of the Scientific Committee in this area;
- (2) request the Scientific Committee to investigate the feasibility, in co-operation with other relevant international fora such as the FAO and CMS and its relevant agreements, to hold international, regional

and/or national workshops as appropriate, and without prejudice to the competence of regional fisheries organisations, to build scientific and technical capacity in evaluating and mitigating bycatch of cetaceans;

- (3) request the Scientific Committee to report to the Commission at IWC/56 with a detailed proposal on such workshops;
- (4) establish a working group within the Commission with the participation of interested Contracting Governments, representatives of the Scientific and Conservation Committees, appropriate international and regional organisations, and non-governmental observers with relevant expertise, to develop the workshops proposed; and
- (5) establish a dedicated voluntary fund for the facilitation of the above working group.

Denmark expressed disappointment at not being invited to discuss this Resolution prior to it being proposed in plenary, and noted that with regard to estimated bycatch, only the upper estimate of 300,000 had been included and not the estimated range (i.e. 60,000 to 300,000). Concerning the operative paragraphs, Denmark questioned whether these applied to all cetaceans or only large whales and indicated that it believed the last two paragraphs (4 and 5 above) did not make sense. However, it stated that it could support the Resolution if these two paragraphs were deleted, while noting its general reservation to IWC's competence to deal with small cetaceans.

Like Denmark, Norway was perturbed that only the highest bycatch estimate had been used in the draft Resolution. It questioned whether the second operative paragraph was necessary and if so whether such a request to the Scientific Committee has to be done in this way. It considered the third paragraph to be very ambitious and quite costly. It associated itself with Denmark regarding deletion of the last two paragraphs.

The USA and Germany spoke in support of the draft Resolution believing the reduction of bycatch to be a very important issue.

Recalling that at the beginning of the meeting he had requested wide consultation during the preparation of draft Resolutions, the Chair adjourned discussion on this issue and strongly urged the co-sponsors to undertake such consultations. On returning to the matter, Italy reported that it had consulted with all co-sponsors and several other Contracting Governments. It noted the widespread recognition of the need for action to mitigate cetacean bycatch, but that more time is needed to achieve consensus on the Resolution. It was therefore withdrawing the Resolution with the intention to return next year after consultation with a broader and fully representative range of co-sponsors. Italy also noted that a recent scientific workshop on this issue had called for co-operative effort involving relevant intergovernmental and governmental agencies, industry groups, environmental organisations and scientific research organisations to move forward with urgency to address cetacean bycatch, and in particular the need to assist developing country fishermen, both logistically and financially. In this regard, Italy referred to the US\$75,000 donation to the Commission by WWF for research projects to assist efforts to mitigate bycatch in developing countries. It therefore considered it useful if the

¹⁵ *Ann. Rep. int. Whaling Comm. 1998:42*

¹⁶ *Ann. Rep. int. Whaling Comm. 2001:60*

Commission could agree to recommend that appropriate IWC committees develop a proposal for consideration next year regarding the most effective ways to build scientific and technical capacity to evaluate and mitigate bycatch, to consider, *inter alia*, the feasibility of holding various types of workshop (international, national) and to co-operate to the extent possible with relevant international bodies such as FAO and CMS.

9.2 Revised Management Scheme (RMS)

9.2.1 Report from the Private Commissioners' meeting on the RMS

The Commissioners met in private on 12 and 13 June 2003 to review intersessional work on the RMS and to discuss future steps. Henrik Fischer (Denmark) Commission Vice-Chair chaired the private meeting and reported back to the Commission in plenary.

INTERSESSIONAL WORK

In his report, Henrik Fischer recalled that at IWC/54 last year, the Commission agreed to hold a special intersessional meeting of Commissioners, chaired by him, to: (1) examine the outstanding issues (which included items of both a technical and a political nature) required to finalise the RMS for commercial whaling; and (2) specify the future work needed to expedite its completion. This meeting was held in Cambridge UK from 15-17 October 2002.

At that meeting, there had been a valuable exchange of views and ideas on a number of difficult issues surrounding the completion of an RMS, including catch verification schemes, compliance reviews, costs, area restrictions, animal welfare data and other related issues. Progress was made in several areas where fundamental differences had been expressed in the past. A mechanism to build on this progress was established, including the establishment of three special working groups (on costs, catch verification and compliance). It was also agreed that a second special Commissioners' meeting should take place in association with IWC/55 in Berlin.

Henrik Fischer reported that the working groups on catch verification and costs met in Antigua from 28-30 April and 1-3 May 2003 respectively.

The working group on catch verification followed the approach used in the past by the RMS Expert Drafting Group in identifying what needed to be verified, why, and how this could best be achieved (e.g. DNA registers/market sampling, Catch Document Schemes, or both?) in light of the objectives of the RMS and its guiding principles. Although no final consensus recommendation was reached, considerable progress was made in a number of areas and three catch verification options were put forward for consideration by the Commissioners' meeting.

The working group on costs was charged with: (1) identifying and estimating costs of possible components of an RMS; (2) considering how costs might be apportioned among Contracting Governments; and (3) presenting to the Commission one or more options on how RMS costs could be factored into the financial contributions scheme currently under review, while recognising that there is no agreement on whether these elements should or should not be included in the final RMS package. The group agreed that there were four main elements to the costs of an RMS: (1) national inspectors; (2) international observers; (3) vessel monitoring systems; and (4) catch verification. Cost

estimates were developed for each element, although in relation to catch verification, estimates could only be developed for DNA registers/market sampling since no definite proposal for a Catch Document Scheme had been developed. The group believed it had achieved as much as it could given the uncertainties involved.

The working group on compliance worked initially via email correspondence but did meet briefly in Berlin. It made progress in resolving areas on which there had previously been no agreement and was able to put forward recommendations to the private Commissioners' meeting.

PRIVATE COMMISSIONERS' MEETING, BERLIN

Henrik Fischer noted that the meeting received the reports from the three working groups as well as (1) information from the Workshop on Whaling Killing Methods and Associated Issues regarding the usefulness of data proposed by the UK in assessing whale killing methods and (2) a report from the Scientific Committee particularly in relation to the management implications in terms of risk and yield of restricting whaling to within EEZs or 200 miles of the coast - a question posed by the Commission at IWC/54. It also gave some consideration to what a final RMS 'package' might constitute.

Henrik Fischer reported that although some progress had been made intersessionally, there was no consensus among Commissioners on whether progress to date had been sufficient. He noted that the meeting had been unable to make any recommendations regarding possible components of an RMS or how best it would take this issue further.

9.2.2 Commission discussions and action arising

There were no comments on the report from the private Commissioners' meeting.

Henrik Fischer, in his capacity as Commission Vice-Chair, considered it regrettable if no discussions would be held on the RMS prior to the next Annual Meeting. He therefore asked whether the Commission would allow him to convene a small group to explore ways and possibilities to take the RMS process forward. He suggested that such a group could work initially via e-mail, but that a meeting might be needed prior to IWC/56 either intersessionally and/or in Sorrento prior to the plenary. Regarding any intersessional meeting, he suggested this could be held at the Secretariat to minimise costs.

Norway, the USA, Iceland, Germany, Mexico, the UK, the Netherlands, Dominica, Sweden, the Republic of Korea, Australia, St. Lucia and Ireland all spoke in support of the Vice-Chair's proposal, although a number of them also expressed disappointment that more progress on the RMS had not been made. Norway believed the approach should be kept under review in view of cost implications. The USA considered that for reasons of transparency the group should not discuss specific text. Mexico, supported by the UK and Australia, believed the group should be limited to discussions on process rather than negotiating on matters of substance. Australia took the view that little progress had been made in previous discussions on matters of substance (e.g. in the Expert Drafting Group, costs and compliance groups, private Commissioners' meetings) and that a repeat of this would not be constructive. Ireland, on the other hand believed that the group might well be able to explore matters of substance (e.g. by giving further consideration to the Secretariat's presentation on RMS packages) and suggested that the Vice-Chair be allowed to

see how far he could go in making progress. Iceland took a similar view. It also suggested that Henrik Fischer be allowed to constitute the group rather than being directed by the Commission. This was supported by Germany and others. Assuming that the small group would need to report back to the Commission as a whole prior to the plenary, the UK considered that this should be done in an open session. It did not believe the process of meeting behind closed doors to necessarily be constructive. Unlike some, the Netherlands believed that progress on the RMS had been made, particularly over the last year. It suggested that the group proposed by the Vice-Chair think not in terms of minimum and maximum packages but in terms of scenarios that would include consideration of time as one of the parameters. Dominica, supported by St. Lucia, believed that the group should reflect on the reasons for establishing an RMS. It hoped that the group would report back to the Commission with a series of sound recommendations for taking the process further. Sweden considered completion of the RMS to be important and acknowledged that a better process to work towards this is needed. While Australia re-iterated its well-known position on the RMS (i.e. any RMS is inconsistent with its policy to seek a permanent and global ban of commercial whaling), it indicated that it would continue to offer constructive comments. Norway, Iceland, Sweden, the Republic of Korea and Australia indicated that they would be willing to take part in the proposed group.

Japan recalled that discussions on the RMS have been ongoing for many years and noted the 1990 deadline in paragraph 10(e) for completion of the comprehensive assessment of whale stocks and consideration of catch limits other than zero. It considered that with an increasing number of elements being added to the RMS discussions, together with the establishment of the Conservation Committee, it was likely that the RMS would never be completed. It felt that it had made substantial compromises but that the discussions were not being conducted in good faith by others. It was of the opinion that unless there is a clear understanding that 10(e) would be lifted immediately an RMS is agreed, then pursuing the Vice-Chair's proposal may not be worthwhile. These views were shared by a number of other countries. Australia believed that discussions on the RMS and on paragraph 10(e) should be kept separate.

Based on the many positive comments, the Chair invited the Vice-Chair to proceed according to his proposal.

10. SANCTUARIES

10.1 Reviews of sanctuaries

10.1.1 Improvements to the review process

REPORT OF THE SCIENTIFIC COMMITTEE¹⁷

The Committee's discussions of sanctuaries in the past have been somewhat inconclusive, with attention being drawn to a number of general arguments both in favour of and against sanctuary proposals. This year discussions centred on consideration of existing criteria to review sanctuaries (including Resolution 2002-1 on Guidance to the Scientific Committee on the Sanctuary Review Process), the use and interpretation of the 'Precautionary

Approach', the appropriateness of the use of simulation trials to evaluate sanctuaries and the introduction of the Marine Protected Area (MPA) concept.

COMMISSION DISCUSSIONS AND ACTION ARISING

The Netherlands commended the work of the Scientific Committee and endorsed its plans to co-operate with other international organisations.

Japan noted the request of some Scientific Committee members for clarification and elaboration of certain aspects of Resolution 2002-1. Japan agreed that this is necessary. It considered that the first principle regarding temporary overlap of management measures is inconsistent with earlier instructions given to the Scientific Committee, and the second principle on the application of the Precautionary Approach to be an excuse for using worst-case scenarios. Japan believed that the earlier instructions provide a better framework for sanctuary reviews and that Resolution 2002-1 impeded progress in reviews and should be repealed.

Mexico considered it inappropriate for members of the Scientific Committee to request clarification on Resolution 2002-1. The Resolution had been adopted by majority voting and therefore was an instruction to the Scientific Committee from the Commission. Norway took the opposite view. It considered that the Scientific Committee should be independent and should point out potential problems to the Commission.

While Norway found the MPA concept very interesting, it believed that according to international law, MPAs can only be established by sovereign states within their 200 mile zone. It therefore questioned why the concept was being discussed in association with reviews of IWC sanctuaries. Japan expressed similar views. The Netherlands, Australia, Italy, Mexico, Brazil and Monaco disagreed, believing that MPAs are relevant to the Scientific Committee's work. Italy noted that in discussions in both the World Summit on Sustainable Development and the Convention on Biodiversity, recommendations have been made for the establishment of MPAs in waters beyond those of national jurisdiction, and added that it, France and Monaco have established a network of interconnected MPAs largely in the high seas. Monaco commended the Committee for drawing the Commission's attention to the link between sanctuaries and MPAs.

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

10.1.2 Preparations for the review of the Southern Ocean Sanctuary

REPORT OF THE SCIENTIFIC COMMITTEE

The Committee had been asked by the Commission to review the Southern Ocean Sanctuary (SOS) in 2004 and an intersessional working group had been appointed to develop a proposed framework to carry out the review. A number of detailed comments on the review process for the SOS were made and a mechanism to improve the review next year was developed, including co-operation with other organisations. In particular, it believed that outside scientists could contribute in two main areas: (1) to provide advice on how to introduce MPA scientific concepts to the IWC Sanctuaries and Sanctuary proposals and on establishing monitoring programmes; and (2) to evaluate the SOS effectiveness given its objectives and the criteria developed by the Committee and approved by the Commission.

¹⁷ For details of the Scientific Committee's deliberations on this Item see *J. Cetacean Res. Manage.* 6 (Suppl.)

COMMISSION DISCUSSIONS AND ACTION ARISING INCLUDING A PROPOSAL TO AMEND THE SCHEDULE

Australia considered that the review of the Southern Ocean Sanctuary will be a performance review against the objectives given in Resolution 1998-3¹⁸ and not on whether the sanctuary should exist or not. The USA agreed and welcomed the Scientific Committee's plans.

With respect to the two points on which the Scientific Committee proposed should be the focus of external non-IWC affiliated scientists, Norway had no problems with the second point, but considered that the first point was unacceptable. This was in line with its earlier intervention (see 10.1.1). Australia agreed with Norway and suggested that the first point be deleted as it is misplaced with respect to the review of the Southern Ocean Sanctuary. It would be more appropriate in relation to criteria for new proposals. The UK agreed with Australia's suggestion but wondered whether problems with point (1) were due to some misunderstanding. The UK did not interpret point (1) as a suggestion that MPAs are established, but rather that some MPA concepts, such as critical habitats are also relevant to sanctuaries.

The Scientific Committee Chair explained that the sense of point (1) is that the scientific concepts developed for assessing the effectiveness of MPAs could also be used to evaluate sanctuaries.

Given the discussion on this issue, the Chair proposed that the Scientific Committee concentrate on the second point, taking into account other scientific concepts, such as MPAs, where appropriate. The Commission agreed.

PROPOSED AMENDMENT TO SCHEDULE PARAGRAPH 7

Japan recalled that Article V.2.(b) of the Convention indicates that management measures should be based on scientific findings. It considered that the Southern Ocean Sanctuary was not established in accordance with this provision, and as it has for a number of years, proposed an amendment to paragraph 7 of the Schedule designed to make the Sanctuary more consistent with Article V.2. It proposed to delete the 3rd sentence of paragraph 7.(b) (i.e. '*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*') and to add a new sub-paragraph (c) as follows:

7. (c) The prohibition described in sub-paragraph (b) above shall not apply unless there is clear advice from the Scientific Committee that it is required for conservation purposes.

The text for the proposed new sub-paragraph was slightly different to that proposed previously¹⁹.

Norway supported Japan's proposal. It noted that when the Southern Ocean Sanctuary was established in 1994, Norway did not participate in the voting, believing it to be out of order since it did not comply with either Article V.2 (b) or Article V.2.(d) (i.e. that consideration shall be given to the interests of the consumers of whale products and the whaling industry). It considered that these Articles had still not been met.

Australia, Mexico, the USA, Germany, Italy, Monaco, New Zealand, the UK and Sweden found Japan's proposal unacceptable. Australia noted that the purpose of the

Southern Ocean Sanctuary is to provide full protection to whales in the Sanctuary and that Japan's proposal would remove this basic provision. Mexico made a similar comment, stressing that many countries consider sanctuaries as an additional management tool that focus on conservation and the precautionary principle – well-known concepts applied worldwide. The USA disagreed that the sanctuary lacks a scientific basis. In its view, the Southern Ocean Sanctuary:

- (1) safeguards depleted whale stocks in their breeding, feeding and calving grounds;
- (2) complements the protections provided by the Indian Ocean Sanctuary for migratory species;
- (3) facilitates the development of national and international research programmes on depleted stocks and their habitat; and
- (4) promotes biodiversity.

Germany, Italy, Monaco, New Zealand and the UK associated themselves with these earlier statements. New Zealand considered that the proposed amendment raised the question of what action should be taken in the event of scientific uncertainty. It noted that the assumption in Japan's proposed Schedule amendment is that there is an abundance of whales unless the contrary is demonstrated by scientific evidence. New Zealand believed that the opposite assumption should be made in line with the precautionary principle. Sweden supported establishment of relevant sanctuaries, not only from a biological point of view (i.e. in protecting whales and ecosystems) but also because they would provide long-term security from whaling for certain areas even when an RMS is accepted. Sweden believed that this would assure 'whalewatching countries' that their rights would be respected when whaling is made possible and thus facilitate implementation of all objectives of the IWC.

On being put to a vote, Japan's proposal was not adopted. There were 17 votes in support, 26 against and two abstentions.

10.2 South Pacific Sanctuary

10.2.1 Proposal to amend the Schedule to establish a sanctuary

For the fourth year²⁰, Australia and New Zealand proposed to establish a South Pacific Sanctuary as follows:

In accordance with Article V (1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the South Pacific Sanctuary.

This Sanctuary comprises the waters of the Southern Hemisphere enclosed within the following line: starting from the southern coast of Australia at 130°E; thence due south to 40°S; thence due east to 120°W; thence due north to the equator; thence due west to 141°E; thence generally south along the Papua New Guinea – Indonesian maritime boundary to the northern coast of Papua New Guinea at 141°E; thence generally east, south thence west along the coast of Papua New Guinea to the southern coast of Papua New Guinea at 141°E; thence due south to the northern coast of Australia at 141°E; thence generally east, south thence west along the coast of Australia to the starting point.

¹⁸ *Ann. Rep. int. Whaling Comm. 1998:42-43*

¹⁹ For example see *Ann. Rep. int. Whaling Comm. 2000: 14; Ibid. 2001: 17; Ibid. 2002:35*

²⁰ *Ann. Rep. int. Whaling Comm. 1999:10-11; Ibid. 2000:15-17; Ibid. 2001:17-18; Ibid. 2002:33-34*

This prohibition applies irrespective of the conservation status of baleen or toothed whale stocks in this Sanctuary as may from time to time be determined by the Commission. However, this prohibition shall be reviewed ten years after its initial adoption, and at succeeding ten year intervals and could be revised at such times by the Commission.

New Zealand reported that in addition to Australia, the other co-sponsors of the proposal were Argentina, Austria, Brazil, Finland, France, Germany, India, Italy, Mexico, Monaco, the Netherlands, Peru, Portugal, San Marino, Spain, Sweden, the UK and the USA. It noted that the co-sponsors remain convinced that the establishment of a South Pacific Whale Sanctuary is vital to ensure the conservation of whales in the region since it would complement the protection of all the great whale species that breed in tropical and sub-tropical latitudes and migrate each summer to feeding grounds within the Southern Ocean Sanctuary. New Zealand indicated that most of the eleven great whale species found in the proposed sanctuary area remain seriously depleted after the intensive exploitation last century and that protection of their breeding grounds is critical to ensuring the recovery of these populations. New Zealand also referred to a number of recent studies of humpback whales that have provided new evidence: (1) for low abundance and genetic isolation among the breeding grounds of Oceania; (2) that the region of New Caledonia is a reproductively separate breeding ground with low abundance; (3) for a distinct breeding ground in French Polynesia, unrecorded in historical whaling literature. Referring to the Opening Statement from the South Pacific Regional Environment Programme, New Zealand reported that over the last two years, a total of around 12 million square kilometres of Exclusive Economic Zones have been declared as national whale sanctuaries, demonstrating the widespread and growing support in the South Pacific Region for the proposed whale sanctuary. In view of such a strong expression of the region's aspirations, New Zealand believed it was now time for the Commission to vote in favour of the South Pacific Whale Sanctuary.

Australia reported on developments since IWC/54 that support the proposed sanctuary. At a national level, like New Zealand, it drew attention to the network of domestic whale sanctuaries already in place or proposed. At a regional level it noted that: (1) there had been continued discussions with range states and that there is now a clear sense of regional consensus in support of the proposed sanctuary; (2) in September 2002, the Conference of the Parties to the Bonn Convention (the Convention for Migratory Species) had endorsed Australia's proposal to list all great whales found in the proposed South Pacific Sanctuary area; and (3) that the South Pacific Whale Research Consortium decided in February 2003 to increase its commitment to research in the area. Australia also noted that the future economic well-being of small island states in the area depends heavily on tourism, and that growth of whalewatching (an industry currently worth over 1 billion \$US per year) in the South Pacific is dependent on protection of these migratory species. Finally, Australia noted that national steps can go only so far, and that as the body with global responsibility, IWC must take the lead role in creating the South Pacific Sanctuary.

10.2.2 Commission discussions and action arising

Noting that the South Pacific Sanctuary proposal had not changed since last year, the Chair of the Scientific Committee drew the Commission's attention to previous

Committee discussions, i.e. at the 2001 and 2002 Annual Meetings²¹. The Chair reminded the Commission that the Scientific Committee had not been able to reach consensus and had reported arguments both for and against the proposal.

During the discussions, many of the co-sponsors indicated their support for the proposed sanctuary, with several of them noting the importance of recognising the wishes of the local people. It was also suggested that sanctuaries are important tools in strengthening the conservation agenda of IWC.

Denmark noted that there was nothing new in the proposal compared with last year, and in view of the commercial whaling moratorium and restrictions on the use of factory ships (see Schedule paragraph 8) saw no urgent need for the sanctuary. It also reported that if a protected area is established in Denmark, regulations are adopted to ensure that all necessary safeguards are put in place, i.e. not just a ban on hunting/exploitation of the species to be protected. In the case of whale sanctuaries, Denmark believed that in addition to banning whaling, something that is within the competence of IWC, the rationale for creating a sanctuary would suggest that other safeguards be taken into consideration and adopted, e.g. in relation to shipping, fishing activities including fishing gear, whalewatching and oil and gas exploration and exploitation. It considered that such considerations are missing from the proposal.

Iceland recognised the right of individual States to establish protected areas in waters under their jurisdiction, but believed that it goes against the general principles of international law and the ICRW specifically to close vast areas to whaling without regard to the abundance of different whale stocks in those areas. It considered that IWC should work to protect stocks that need it rather than employing a regional ban on whaling, and it believed that the proposal does not meet the requirements of Article V.2 of the Convention. Iceland urged Contracting Governments not to go against the Convention or the principles of sustainable development and use. Norway supported these views. It believed that the only reason for supporting the sanctuary proposal is the fear that the existing commercial whaling moratorium is not sufficiently robust and durable. Creation of the sanctuary would be a devious means of keeping the moratorium alive. The Republic of Palau indicated that its view had not changed since last year. It remained committed to sustainable use based on sound science and felt that there is insufficient evidence that all whales in the proposed sanctuary area require protection. It could not support the proposal. Japan recalled that no advice from the Scientific Committee supporting the proposed sanctuary had been forthcoming. It believed that stocks of large whales were increasing in the area and that prey species such as tuna may be affected with consequential effects on the economies of small island states. Dominica associated itself with the remarks of Iceland, Norway and Japan. It considered the proposal to be another attempt to circumvent the Convention and believed that the objective of the sanctuary agenda is to close off the seas for the selfish motives of the rich to create a paradise for their tourism at the expense of hunger and poverty. Antigua and Barbuda made similar remarks. St. Lucia noted that it has established MPAs in its own

²¹ *J. Cetacean Res. Manage.* 3 (Suppl.): 65-67; *Ibid.* 4 (Suppl.): 65-67

EEZ and was not against conservation, but that it did not believe IWC has the right to establish non-intrusion zones for the rest of the world. It also believed that the proposed sanctuary would have negative implications for shipping and trade and could not support it.

Before allowing the proposed Schedule amendment to be put to a vote, Iceland questioned whether, given its earlier comments, the proposal was admissible. The Chair ruled that it was. Norway challenged this ruling, but the Chair's ruling was upheld when put to a vote, there being 15 votes in support of Norway's challenge, 26 against and 2 abstentions.

The proposed Schedule amendment did not attract the required three-quarter majority when put to a vote. There were 24 votes in support, 17 against and 4 abstentions. Several countries explained their vote. Ireland, who had abstained, indicated that they are supportive of sanctuaries in principle but believed that any new proposals should have maximum consensus and notably support from whaling nations. Referring to its proposed holistic approach put forward some years ago, Ireland indicated that to have voted in favour of the sanctuary would be inconsistent with the 'Irish proposal'. Antigua and Barbuda voted against the proposal as it felt it had been denied a satisfactory explanation. Norway, although it considered the vote out of order, voted against the proposal as it wished its views to be known.

10.3 South Atlantic Sanctuary

10.3.1 Proposal to amend the Schedule to establish a sanctuary

For the third year, Brazil introduced its proposal, co-sponsored by Argentina and others, to create a South Atlantic Whale Sanctuary. The amendment proposed was the same as in previous years, i.e., the inclusion of a new sub-paragraph in Chapter III of the Schedule as follows:

In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the South Atlantic Whale Sanctuary. This Sanctuary comprises the waters of the South Atlantic Ocean enclosed by the following line: starting from the Equator, then generally south following the eastern coastline of South America to the coast of Tierra del Fuego and, starting from a point situated at Lat 55°07,3'S Long 066°25,0'W; thence to the point Lat 55°11,0'S Long 066°04,7'W; thence to the point Lat 55°22,9'S Long 065°43,6'W; thence due South to Parallel 56°22,8'S; thence to the point Lat 56°22,8'S Long 067°16,0'W; thence due South, along the Cape Horn Meridian, to 60°S, where it reaches the boundary of the Southern Ocean Sanctuary; thence due east following the boundaries of this Sanctuary to the point where it reaches the boundary of the Indian Ocean Sanctuary at 40°S; thence due north following the boundary of this Sanctuary until it reaches the coast of South Africa; thence it follows the coastline of Africa to the west and north until it reaches the Equator; thence due west to the coast of Brazil, closing the perimeter at the starting point. This prohibition shall be reviewed twenty years after its initial adoption and at succeeding ten-year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph shall prejudice the sovereign rights of coastal states according to, *inter alia*, the United Nations Convention on the Law of the Sea.'

Brazil began its introduction by noting the importance it gives to the environmental and social dimensions of sustainability and that without adequate environmental safeguards, it believed that social justice can be seriously compromised. It is this concern that underlies Brazil's national policies. Brazil considered the history of whaling to be one of the saddest examples of the violation of the sustainability principle. Not only did whaling cause damage to stocks shared by many coastal nations, the profit

generated was concentrated in a few developed countries to the great disadvantage of most of the global community. Brazilian society's changing attitudes in the late 1980s saw the flourishing of a wide array of sustainable non-lethal uses such as scientific research, public education and awareness and the development of whalewatching that brings direct benefits to local communities. It believed that the prospect of the resumption of large-scale commercial whaling is again on the horizon, but that while it and other nations are willing to consider the views and needs of whaling countries, it wished to make clear that no agreement could be reached if regional conservation policies are not recognised and safeguarded by the Commission. This was what the proposed sanctuary was designed to do but also to ensure that the participation in good faith of Brazil and other countries with similar views in the work of the Commission would not threaten their sovereign rights to use whale resources non-lethally. Brazil reported that it had consulted with all range states, both IWC members and non-members, to ensure that the proposal was well-known and understood, and that it had received wide support. It urged Contracting Governments to support establishment of the South Atlantic Sanctuary and acknowledge the sovereign right of coastal nations to protect their marine resources.

Argentina indicated that creation of the sanctuary would contribute to:

- (1) the recovery of whale populations and the protection of biodiversity;
- (2) research on depleted stocks and their habitats;
- (3) the promotion of modern educational activities; and
- (4) the development of environmentally-friendly tourism activities in its region.

Argentina stressed its commitment to sanctuaries, including opposition to the abolition of current sanctuaries, and believed that co-operation with CCAMLR and CITES (in view of its long history of supporting IWC's management regulations) is important. Noting recent national regulations designed to protect whales, dolphins and porpoises and the development of whalewatching that has made considerable contributions to improved livelihoods of local populations and increased interest in marine mammals by the public, Argentina also called on the Commission to support the proposed sanctuary.

10.3.2 Commission discussions and action arising

The Chair of the Scientific Committee reported that due to a shortage of time, the Committee had been unable to fully discuss an evaluation of the South Atlantic Sanctuary proposal based on the instructions provided by the Commission and the review criteria. He noted however that there were differing views provided by two evaluations of the sanctuary proposal given in Annex P of the Committee's report.

A number of co-sponsors including South Africa, Germany, Australia, the USA, the Netherlands, New Zealand, Monaco, Spain, Sweden, Portugal, Mexico, Italy and France spoke in support of the proposed sanctuary.

Noting Brazil's reference to the sovereign rights of coastal states, Iceland indicated that it was not familiar that this interpretation applies to the high seas. Rather than repeating the same comments as it made in discussions on the South Pacific Sanctuary proposal, Iceland urged the

Chair to allow the proponents of the South Atlantic Sanctuary to answer two questions, i.e. (1) in what way is the sanctuary necessary for the optimum utilisation of whale resources, and (2) in what way does it take into consideration the interests of consumers of whale products and the whaling industry. It considered that not allowing the proponents to answer these questions would give the impression that they have no legal arguments and are simply pushing their opinion through by the force of a vote.

The Republic of Guinea noted the conflicting interests and contradictions within the Commission giving examples of (1) the RMS on the one side and the maintenance and creation of sanctuaries on the other – questioning the value of an RMS if the oceans were to be closed, and (2) the desire to ensure the survival of depleted whale populations while also wanting to protect species not endangered. Noting concerns regarding competition between whales and fisheries, the Republic of Guinea considered that a balance between pelagic fisheries and whales is necessary. It was disturbed by the notion that whales should be conserved without sufficient scientific evidence at the expense of human food requirements. It believed that a well-developed RMS would provide for sustainable whaling and conservation and therefore could not support the proposed sanctuary. While Benin appreciated the proposal, it could not support it if it is not based on science and drew attention to the fact that there is no consensus on this issue among the Scientific Committee. Gabon made similar remarks. Japan considered the proposed sanctuary to have no scientific basis and to be against the Convention as it would deny sustainable use. Norway indicated that its comments on the proposed South Pacific Sanctuary were also equally valid in this case.

New Zealand addressed the issue of admissibility of both sanctuary proposals as questioned by Iceland. In its view, both proposals were not only admissible but also clearly within the terms of the relevant parts of Article V.2 of the Convention and within Article 31 (3) of the Vienna Convention on the Law of Treaties. Noting that Article V.2.(a) refers to the optimum use of whale resources, New Zealand believed that there is no basis either within the Convention or international law to limit this concept to the killing of whales for human consumption. Regarding Article V.2.(b) that requires Schedule amendments to be based on scientific findings, New Zealand referred to the wealth of material and scientific justifications for the Southern Ocean Sanctuary provided in the supporting paper submitted jointly with Australia (IWC/55/5) which would be pertinent also to the South Atlantic Sanctuary. It further noted that this Article does not make a report from the Scientific Committee in favour of a particular proposal a pre-requisite. Finally, regarding Article V.2.(d) stating that Schedule amendments 'shall take into consideration the interests of the consumers of whale products and the whaling industry', New Zealand considered the whaling industry to include whalewatching, an activity that the Commission has taken into account for many years. Spain, Portugal, Mexico, Ireland and Brazil supported these remarks. In addition, Brazil believed that it is in the best interests of the lethal whaling industry to try to accommodate the needs and concerns of other regions and nations with respect to the management of whale resources and considered it entirely appropriate to propose sanctuaries in regions of the world where the vast majority support their establishment. With respect to the issue of the

scientific basis for the proposed sanctuary, Brazil considered it highly unlikely that the Scientific Committee could achieve consensus since government delegations with different policies tend to have different legitimate views on science.

Iceland thanked New Zealand and Brazil for attempting to answer its questions. It did not dispute New Zealand's comment that optimum utilisation does not just refer to hunting, although hunting is included, but it did contest its remark that the whaling industry includes whalewatching and Brazil's notion that whalewatchers were consumers of whale products. Although 'whaling' is not defined in the Schedule, Iceland pointed to the definition of 'small type whaling' in the Schedule that refers to catching operations. Iceland continued to be of the view that the sanctuary proposal was not in accordance with Article V.2 of the Convention.

The Chair concluded that there was no consensus on the proposal or on the interpretation of the Convention and proceeded to a vote. There were 24 votes in support, 19 against and 3 abstentions. The proposed Schedule amendment to create a South Atlantic Sanctuary was therefore not adopted. Brazil thanked those who supported its proposal, regretted the outcome of the vote but noted that it would continue to pursue the establishment of the sanctuary. Ireland referred to its earlier comments on the South Pacific Sanctuary proposal to explain why it abstained.

11. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

11.1 Proposal to amend the Schedule

As background to its proposed Schedule amendment, Japan reported on the Second Summit of Japanese Traditional Whaling Regions held on 11 May 2003, and on the Second Summit of Local Governments of Regional Communities and Whales held on 26 May 2003. Both summits issued Declarations supporting the resumption of Japanese small-type whaling on a sustainable basis. Japan subsequently introduced its proposal to add the following sub-paragraph (f) under paragraph 10 of the Schedule:

(f) Notwithstanding the other provisions of this paragraph, the taking of 150 minke whales from the Okhotsk Sea-West Pacific stock shall be permitted for each of the 2003, 2004, 2005, 2006 and 2007 seasons.

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

Japan noted:

- (1) the Scientific Committee's Comprehensive Assessment of the Okhotsk Sea-West Pacific stock of the North

Pacific minke whales completed in 1991 showed the stock to be robust;

- (2) that although the RMP had been adopted in 1994 it had not been implemented; and
- (3) that effective monitoring and control measures have been discussed exhaustively and have now turned into unrealistic excessive demands to delay completion and implementation of the RMS.

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

Japan went on to give specifics of the proposed whaling operation (whaling ground, season, catch quota) and monitoring and control provisions.

11.2 Commission discussions and action arising

Sweden indicated that it could not support Japan's proposal as it is in contravention of the moratorium and since any catch limit agreed to in the future must be under an RMS agreed by the Commission. It noted that the proposed take of 150 minke whales from the Western North Pacific is in addition to the 150 minke whales taken annually by as part of JARPNII and the 100+ bycaught animals. Sweden considered that the proposal, like that for Bryde's whales (see Item 9.1.3), is not based on the RMP adopted by the Commission but on modifications to it and ignores the phase-out rule and evidence for complex stock structure of minke whales in the North Pacific. It strongly urged Japan to withdraw the proposal and to submit its recent abundance data to the Scientific Committee for use in the in-depth assessment planned for next year. In addition to the problems highlighted by Sweden, Monaco believed that an essential flaw of Japan's proposal was that it would effectively open a new category of whaling and would suffer the same fate as previous proposals in previous meetings. It asked Japan how much of the 150 minke whales taken in JARPNII is despatched to meet the needs of the coastal whaling communities. The UK shared Sweden's views. Recalling that in the past Japan appeared to require only 50 minke whales per year to alleviate the distress of its coastal whaling communities (which it is now taking through expansion of the JARPNII programme), the UK noted that Japan is now requesting a take of a further 150 minke whales per year. It therefore questioned how many whales are actually needed to alleviate distress, taking into account that Japan's coastal communities are harvesting other cetaceans such as Baird's beaked whale

(which it considered should be covered by the moratorium). The UK indicated that it would have more sympathy with Japan if the proposal was on a much smaller scale and if the products derived were distributed to these communities on a non-commercial basis. The USA also agreed with Sweden. It considered the proposal to be for commercial whaling and encouraged Japan to develop an Action Plan consistent with the moratorium and based on advice from the Scientific Committee. Switzerland associated itself with the remarks of Sweden and the USA. It considered Japan's proposal to be premature and supported work to complete the RMS. Germany and Mexico also associated themselves with previous speakers. Indicating that, as a general rule, resumption of commercial whaling should await completion of the RMS, Denmark noted that it had in the past supported Japan's request for an interim relief allocation of 50 minke whales. However, it considered the latest proposed Schedule amendment to be very different (5-year period rather than one year; 200% increase in the number of whales to be taken) and was not able to support it. The Republic of Korea insisted that small-type coastal whaling should not be carried until after completion of the RMS and should be based on scientific advice.

Norway, Iceland, Antigua and Barbuda, Dominica, the Solomon Islands, the Republic of Guinea, Benin and the Russian Federation all supported Japan. Norway referred to Monaco's remark regarding establishment of a new whaling category and agreed that this could be a problem. It did not wish to see another category created but believed that Japan's proposal could be considered as a way of accommodating the legitimate needs of the coastal communities particularly in view of the failure of IWC to meet its management responsibilities. Iceland noted that there are only two types of whaling, sustainable and non-sustainable. Since Japan's proposal was for sustainable whaling, Iceland could support it. Antigua and Barbuda considered the stock in question to be abundant. It noted that Japan had demonstrated the hardship of its coastal communities and considered that it was time to respect their rights. Dominica and the Solomon Islands made similar remarks. The Republic of Guinea and Benin questioned why the Japanese whaling communities were being treated differently to aboriginal subsistence whaling communities. The Russian Federation supported Japan's proposal since it had a serious scientific basis and complies with the principle of sustainable use and acknowledges the traditional needs of the community.

Japan thanked those governments supporting its proposal. In responding to Sweden, Japan believed that modifications to the RMP were scientifically sound and that the phase-out rule had been taken into account. It noted that since the proposal would restrict takes to the 'O' stock, an in-depth assessment is not necessary. With respect to comments from Monaco, Japan recalled that Articles V and VIII of the Convention address whaling and therefore it is not proposing a new whaling category. It reported that 15 of the minke whales currently taken are provided to the coastal communities, commenting that this is not sufficient to meet need. In responding to the UK, it noted that its take of Baird's beaked whales is a legal whaling activity, that its request could not be reduced and that quotas should be based on stock abundance, and that the commercial element is necessary for the livelihoods of the coastal communities.

Japan's proposed Schedule amendment was not adopted when put to a vote. There were 19 votes in support, 26 against and one abstention.

12. SCIENTIFIC PERMITS

12.1 Report of the Scientific Committee²²

12.1.1 Improvements to review procedures

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

The Scientific Committee also agreed to start planning for the review of the final JARPA results, which are expected in 2005, and recommended that a small intersessional Working Group be formed, including *inter alia* some Japanese scientists familiar with the programme.

12.1.2 Review results from existing permits

JAPAN: SOUTHERN HEMISPHERE (JARPA)

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

JAPAN: NORTH PACIFIC (JARNPII)

The Committee reviewed the results of the first full year of the JARNPII programme reviewed last year²³. A total of 100 common minke, 50 Bryde's, 39 sei and 5 sperm whales were taken. It agreed that a more detailed review should be undertaken after the completion of the two years of research under JARNPII. For this review, comprehensive results will be provided, including recalculation of sample sizes.

12.1.3 Review of new or revised proposal

JAPAN: SOUTHERN HEMISPHERE

The Committee briefly discussed the JARPA proposal. This is a continuation (15th year) of a 16-year programme. Progress had been fully reviewed in 1997.²⁴

ICELAND: NORTH ATLANTIC

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

population structure, pollutants, parasites and pathogens, and the applicability of non-lethal methods.

There was considerable disagreement within the Committee over most aspects of this research programme, including objectives, methodology, sample sizes, likelihood of success, effect on stocks and the amount and quality of data that could be obtained using non-lethal research techniques.

12.2 Commission discussions and action arising

Japan gave a short PowerPoint presentation on its JARPA and JARNPII programmes. There was no discussion.

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

Resolution on whaling under Special Permit

Germany introduced a draft Resolution on Whaling under Special Permit on behalf of the other co-sponsors (Argentina, Australia, Brazil, Finland, France, Germany, Ireland, Italy, Mexico, Monaco, Netherlands, New Zealand, Portugal, San Marino, Spain, Sweden, Switzerland, UK, USA). The draft Resolution called on the Commission to:

- (1) express deep concern that the provision permitting Special Permit whaling enables countries to conduct whaling for commercial purposes despite the moratorium on commercial whaling;
- (2) state that the current and proposed Special Permit whaling operations represent an act contrary to the spirit of the moratorium on commercial whaling and to the will of the Commission;
- (3) state that Article VIII of the Convention is not intended to be exploited to provide whale meat for commercial purposes and shall not be so used;
- (4) reaffirm that non-lethal techniques available today will usually provide better data at less cost to both animals and budget; and
- (5) urge any country conducting or considering the conduct of Special Permit whaling to terminate or not commence such activities and to limit scientific research to non-lethal methods only.

Germany specifically referred to the ongoing programmes of Japan (JARPA and JARNPII) and that planned by Iceland and indicated that it did not believe that the scientific arguments used to defend such programmes stood the test of thorough scientific scrutiny. In addition, it noted that it believed that over-fishing is causing declines in fisheries, not the fact that whales eat fish.

The USA associated itself with Germany's remarks. It remained opposed to Japan's lethal research programme in the North Pacific and noted that many Scientific Committee members were of the opinion that there were no quantifiable objectives and reasonable performance standards to legitimise the study. The USA particularly objected to the expansion to takes of sei whales and 50 minke whales in coastal waters and drew attention to the numerous Resolutions adopted noting that the data from permit catches are not critical to management. Regarding

²² For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 6 (Suppl.)

²³ *J. Cetacean Res. Manage.* 5 (Suppl.):63-77

²⁴ *Rep. Int. Whal. Commn* 48:95-105

Iceland's proposed research plan, the USA considered it to be almost the same as its previous feasibility study between 1986 and 1989, noting that data on stomach contents from the fin and sei whales taken remain generally unpublished. The USA believed that the only part of the latest proposal relevant to IWC management is the secondary objective on population structure, but noted that such work is now routinely studied using non-lethal techniques involving genetic analysis from skin biopsies.

New Zealand agreed with the comments of Germany and the USA regarding the JARPNII programme. Regarding Iceland's proposed research plan, New Zealand believed that it was clear from the Scientific Committee report, that many of the scientists had difficulties with the scientific rationale underpinning the proposal, particularly because, like JARPNII, it appeared to be mainly concerned with issues of no direct relevance to the Convention. New Zealand considered Iceland's research plan to be outside the Terms of Reference for such proposals. It also asked how Iceland intended to dispose of any whale products generated from such a study, if implemented. Monaco associated itself with the views of Germany, the USA and New Zealand and considered the lethal research programmes to be rather outdated. The UK, Mexico, Australia, Spain, Sweden, Switzerland and Austria made similar remarks as previous speakers. While the UK recognised that lethal research programmes have provided some useful data, it believed this had been done at considerable cost in terms of the number of whales killed. It was disappointed that Iceland had put forward a research plan and commented that Iceland's ecotourism industry would be damaged if it resumed whaling. As Iceland was not yet committed to when it might implement its plan, the UK urged it to reconsider. Mexico, Switzerland and Australia expressed particular concern regarding the proposed take by Iceland of fin and sei whales. Brazil was concerned regarding the increasing number of whales being taken under Special Permit and considered it an abuse of Treaty rights. Sweden considered that the analysis of the diet of whales is important but believed that such work should await the resumption of commercial whaling. With respect to Iceland's research plan, Austria considered that it should have included information on intended whale killing methods. It also expressed interest in learning of the costs of such a programme. It did not consider Iceland's proposal to be finalised, and hoped that Iceland would submit a final version for review by the Scientific Committee in 2004 or later.

Norway noted that the draft Resolution targeted three different operations. It noted that Japan's JARPA programme had been reviewed by the Scientific Committee and that the Scientific Committee had generally agreed that it had provided new interesting information. Norway further noted that this programme had only two seasons left to run and that consequently there would be no point in stopping it now. With respect to Japan's JARPNII programme and Iceland's proposal, Norway noted that these were designed, *inter alia*, to study feeding ecology and would provide critically important information for the understanding of interactions between species and in the long-term provide information needed for multispecies management. Norway referred to two NAMMCO workshops on this subject. The Republic of Korea considered that ecological data are needed and in view of the limitations of non-lethal research, considered that

appropriate lethal research is needed. Dominica made similar remarks. Denmark drew attention to Article VIII of the Convention regarding the right of Contracting Governments to issue Special Permits for lethal takes for research purposes. While it considered the report of the Scientific Committee on its review of existing and new proposals entirely appropriate, Denmark did not believe it appropriate to establish a Commission policy on scientific permit whaling since this would be contrary to the Convention. It indicated that it would not participate in any vote on the Resolution. Antigua and Barbuda also referred to the rights given under Article VIII and that the Convention requires whales taken under Special Permit to be utilised. It noted that UNCLOS encourages marine scientific research and drew attention to the fact that lethal research on other animals is conducted in many IWC member countries, including those opposed to Special Permit whaling.

In responding to the comments made concerning its proposed research plan, Iceland noted that most of them were of a scientific nature and that the Commission, a political forum, was not the right place to discuss science. It stressed its right under the Convention to conduct lethal research and to utilise the whales taken, but noted that scientific permit whaling is not commercially viable. Iceland drew attention to the different views expressed with the Scientific Committee on the merits of its proposed research plan, and felt that the draft Resolution misrepresented the Committee's discussions. It also considered that the draft Resolution contained incorrect statements. It believed that the bottom line was that there is a fundamental divide among Contracting Governments on how to look at whales and believed that IWC should be guided by law rather than emotion.

Like Iceland, Japan also drew attention to its rights under Article VIII of the Convention and could not understand why these could not be accepted. It referred Contracting Governments to its original research plans for their scientific justification and did not agree that its research is not relevant to management. Japan also noted that the results of its research are published in both domestic and international scientific journals, and asked that papers were not discriminated against merely because they used data obtained from lethal research.

The Resolution was passed when put to a vote (Resolution 2003-2, Annex F). There were 24 votes in favour, 21 against and one abstention.

Resolution on southern hemisphere minke whales and Special Permit whaling

Australia introduced a draft Resolution on Southern Hemisphere minke whales and Special Permit whaling on behalf of the other co-sponsors (i.e. Argentina, Austria, Brazil, Finland, France, Germany, Italy, Mexico, Monaco, New Zealand, Portugal, San Marino, South Africa, Spain, Sweden, Switzerland, UK and USA). Noting, *inter alia*, that Japan continues to issue Special Permits for lethal scientific research on minke whales in the Southern Ocean Sanctuary when there are no valid abundance estimates for this population and when alternative non-lethal techniques are available, the draft Resolution called on the Commission to:

- (1) request the Scientific Committee to provide, after completion of the IDCR/SOWER abundance estimates, all plausible hypotheses to explain any

decline in abundance estimates that may emerge and in doing so to consider fully (a) the possible negative impact of the take of minke whales, including struck and lost data, and (b) the impact of environmental change factors;

- (2) call on Japan to halt the JARPA programme, or to revise it so that it is limited to non-lethal research methodologies; and
- (3) recommend that no additional JARPA programmes be considered until the Scientific Committee has completed (a) an in-depth review of the results of 16 years of JARPA, (b) its review of abundance estimates for Southern Hemisphere minke whales and (c) the actions requested above, and that any such programmes be limited to non-lethal research.

Australia considered the large-scale whaling operation conducted under JARPA that had taken over 6,000 whales from the Southern Ocean Sanctuary to be an affront to the Commission and to the commercial whaling moratorium and believed that the overwhelming purpose of JARPA is to maintain a supply of whale meat to markets for commercial return. Finally, Australia considered that the hypothesis that too many fish are eaten by whales had already been repudiated by respected scientists and that depletions in global fisheries are caused by over-fishing. It urged all members of the Commission to support the Resolution. New Zealand, Germany, the USA, Monaco and Brazil spoke in support of the Resolution. The USA noted that the current JARPA programme has only 2 years remaining. It looked forward to its completion and hoped that there would be no extension. Monaco stressed that the legality of issuing scientific permits was not being challenged, but considered that the numbers of whales now being taken under Special Permit is much larger than envisioned when the Convention was established. Brazil considered JARPA to be a violation of the Southern Ocean Sanctuary.

Japan acknowledged that a new estimate for minke whale abundance in the Southern Hemisphere should be available in two years, but noted that results from JARPA in Areas IV and V have shown minke whale populations to be stable. It re-iterated that some of the information gathered through JARPA cannot be obtained by non-lethal techniques. Responding to Brazil, Japan pointed out that it has an objection to the Southern Ocean Sanctuary with respect to minke whales, and that, while it has a responsibility to report data from JARPA to the Scientific Committee and the Commission, it has a right under Article VIII of the Convention to issue Special Permits. Norway noted that the draft Resolution referenced Scientific Committee reports from 2000 and 2001 and considered that it should have referred to the latest Committee report in which some of the statements are not now so strong. In any case, Norway believed that the number of whales taken under JARPA is insignificant in terms of the size of the stock. Antigua and Barbuda re-iterated its earlier remark concerning other lethal research and Iceland again commented that the Commission was being driven by politics, not science. Monaco disagreed. Dominica commended Japan for its work under JARPA and looked forward to the establishment of a similar programme in future to provide information to allow the sustainable use

of cetacean resources, whether this be whalewatching or for food.

Responding to a question from Monaco, the Scientific Committee Chair clarified that there is currently no agreed abundance estimate for Southern Hemisphere minke whales but that the Committee expects to provide a new estimate in two years time.

The Resolution was adopted when put to a vote (Resolution 2003-3, Annex G). There were 24 votes in favour, 20 against and one abstention.

13. ENVIRONMENTAL AND HEALTH ISSUES

There is an increasing awareness that whales should not be considered in isolation but as part of the marine environment; detrimental changes to their habitat may pose a serious threat to whale stocks. The Scientific Committee has examined this issue in the context of the RMP and agreed that the RMP adequately addresses such concerns. However, it has also emphasised that the species most vulnerable to environmental threats might well be those reduced to levels at which the RMP, even if applied, would result in zero catches. Over a period of several years, the Scientific Committee has developed two multi-national, multi-disciplinary research proposals, one concerning co-operative research in the Antarctic (SOWER 2000) and the other concerning the effect of pollution on cetaceans (POLLUTION 2000+).

13.1 Cetacean-fisheries interactions

13.1.1 Report of the Scientific Committee

The Committee has begun to look at the issues surrounding fisheries and cetaceans. The main long-term objective of the Committee on this topic is to answer the question 'how are changes in abundance of cetaceans likely to be linked (in the short- and long-term) to changes in fishery catches?' A Workshop to address modelling-related issues related to the interactions between cetaceans and fisheries was held in July 2002. Its aim was to evaluate existing modelling approaches, including identifying their constraints and data requirements, in order to identify those approaches most likely to answer the above question. The Workshop reviewed all the available major modelling approaches that deal with top predators and multi-species fisheries interactions.

The Workshop concluded that despite recent advances, most multi-species models are still in the development phase. It therefore agreed that no single approach could be recommended at this stage to provide reliable information of value to consideration of cetacean dynamics in an ecosystem context. However, this does not necessarily rule out the possibility that useful inferences might be drawn if a number of different modelling approaches yield qualitatively similar results. The Workshop also agreed that despite these difficulties, the consideration of ecosystem interactions between fish stocks and cetaceans is a potentially important research topic.

The Committee endorsed the Workshop conclusion that for no system at present are we in the position, in terms of data availability and model development, to provide quantitative management advice on the impact of cetaceans on fisheries, or of fisheries on cetaceans. However, this does not rule out the possibility of providing qualitative advice if a number of different approaches yield qualitatively similar results. It also endorsed the conclusion

that consideration of ecosystem interactions between fish stocks and cetaceans is a potentially important research topic in a general sense; however, there was disagreement as to whether further pursuit of this matter was likely to be helpful to the Committee in providing advice to the Commission regarding the management of whale populations.

13.1.2 Commission discussions and action arising

The USA noted that it had been pleased to host the workshop, thanked the Scientific Committee for its work on this topic and encouraged further discussions to promote the understanding of this issue. The USA remarked that while some countries argue that whale numbers must be reduced to protect commercial fish stocks, the USA considered that the primary reason for declining fish stocks is over-fishing. New Zealand, Australia and Monaco expressed similar views. New Zealand referred to a recent article in the journal *Nature* charting the decline in the world's fisheries over the past 50 years. The article reported, *inter alia*, that industrialised fisheries typically reduce biomass of targeted species by 80% within 15 years of exploitation and that since 1950, some 90% of the world's large tuna has been removed by pelagic long-liners. New Zealand considered this evidence to be at odds with Japan's assertions that whales are responsible for the decline of tuna resources in the South Pacific. Referring to a paper submitted to the workshop by Australian scientists, Australia believed that the modelling of ecosystems required a complexity that took the issue far beyond the 'whales eat fish' argument. Monaco considered that whales should not be used as the scapegoat of irresponsible fisheries. It encouraged developing countries to direct their anger at industrial fishery operations. The UK expressed its regret that Japan had been unable to attend the IWC workshop given the importance it attaches to this issue.

Norway, Japan and Iceland spoke of the importance of research into cetacean-fisheries interactions. Norway noted that it, Iceland and others are performing research in this area but that this would probably be under the auspices of NAMMCO rather than IWC. Japan believed that this issue is one of the most important issues to be addressed by IWC but contested that it had ever stated that whales were entirely responsible for declines in fisheries. Rather it considered the three main reasons to be over-exploitation, habitat degradation and marine mammals. It noted that since Resolution 2001-9²⁵ on interactions between whales and fish stocks was adopted by the Commission at the 2001 Annual Meeting, FAO and a number of regional fisheries organisations had made similar commitments to work in this area. It further recalled that the implementation of an ecosystem approach to fisheries management is one of the goals of the Johannesburg Plan adopted at the 2002 World Summit on Sustainable Development. Japan indicated that this issue continues to be a priority for Japan and that it would continue its research and report the results to the Scientific Committee. Iceland agreed with earlier statements that the main reason for the decline in fish stocks is over-fishing, not whales, but believed that the role whales play in the marine ecosystem should be recognised and not disregarded. It stressed that problems in fisheries are the result of bad management. Iceland believed that referring to declines in fisheries as a global problem is an

oversimplification as there are some well-managed fisheries. Germany appreciated Iceland's statement regarding over-fishing but questioned whether this is sufficient reason to kill whales.

Responding to a remark from Japan, Australia considered that the FAO and regional fishery bodies were being slightly overwhelmed by the issue of cetacean/fishery interactions – an issue that was spilling-over from the debate within IWC. The focus of the work of these bodies is on fisheries management not whales.

The representative from NAMMCO informed the meeting about its ongoing work on marine mammal-fisheries interactions, noting that it welcomed co-operation with others.

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

13.2 High latitude climate change effects on cetaceans

13.2.1 Report of the Scientific Committee

SPECIAL SESSION ON SOUTHERN OCEAN CLIMATE CHANGE AND CETACEANS

The Committee held a special session on Southern Ocean climate change and cetaceans. In particular, it considered two presentations, one summarising work on krill, its physical environment, competitors and predators, and emphasised major findings and current hypotheses. The other focussed on the US SO-GLOBEC programme, and described the integrated study of physical and biological oceanography, krill and krill predators, noting IWC collaboration with respect to cetaceans. The implications of this work (much of which occurs outside the normal timing of Antarctic cetacean research) for other aspects of the IWC's work (e.g. see the Antarctic minke whale section above) was noted.

SO-GLOBEC/CCAMLR

The Committee reviewed a number of papers covering the ongoing collaboration with SO-GLOBEC and CCAMLR. It expressed its strong endorsement of this collaborative work and recommended that this work be continued.

13.2.2 Commission discussions and action arising

The Netherlands supported continuation of the SO-GLOBEC work. No other remarks were made.

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

13.3 Habitat-related issues

13.3.1 Report of the Scientific Committee

POLLUTION 2000+

Many analyses have been completed for the bottlenose dolphin sub-project, while for the harbour porpoise sub-project, progress has been made on immunohistochemistry analyses. The Committee noted that the ability to attract additional funding for this project will ultimately determine the products that are completed and the project's success.

The Committee strongly supported this programme and endorsed its continuation.

STATE OF THE CETACEAN ENVIRONMENT REPORT (SOCER)

Following discussions last year, the Committee reviewed the preliminary version of the State of the Cetacean Environment Report; it originated in response to a request from the Commission for such an overview.²⁶ The SOCER is not intended to be exhaustive, but rather to provide a

²⁵ *Ann. Rep. int. Whaling Comm. 2001:58*

²⁶ *Ann. Rep. int. Whaling Comm. 2001:56-7*

brief 'snapshot' of the cetacean environment for the non-specialist reader. The Committee concluded that the process leading to the current SOCER draft (see Annex K of the Committee's report) had been satisfactory and that a useful product had been produced.

ARCTIC ISSUES

The Committee noted that a new research initiative focused on the sub-Arctic is taking form under the GLOBEC organisational umbrella. The new initiative is called Ecosystem Studies of Sub-Arctic Seas (ESSAS) and will provide opportunities for collaborative studies of cetacean ecology (<http://www.globec.org>).

HABITAT DEGRADATION

Last year, the Committee recommended that: (1) the Commission request information from the Government of Mexico on the specific locations and types of construction comprising the 'Nautical Steps' tourist development; and (2) the Commission request the Government of Mexico to take steps to ensure the maintenance of habitat important to cetaceans. The Committee thanked the Government of Mexico for providing a response (SC/55/O25). After considering the available information, the Committee expressed concern about the potential negative effects of this commercial development on local cetaceans and their habitats. It expressed disappointment that specific information requested last year was not made available in SC/55/O25, and therefore reiterated its request made last year.

The Habitat Degradation Workshop has been under consideration by the Committee for some years²⁷. The workshop proposal was endorsed by the 2001 and 2002 meetings of the Scientific Committee. It was also recognised as important by ACCOBAMS. However, to date, funding has not been made available to conduct the workshop. The Committee reiterated its ongoing support for the workshop and recommended that it be held this year if funds are made available.

ACOUSTIC ISSUES

The Committee spent some time considering noise pollution and cetaceans. It was noted that considerable progress has been made in understanding noise pollution, including the development of tools to quantify exposure levels for individuals and populations. The challenge remains to interpret the biological impact of physiological or behavioural responses to anthropogenic noise exposure.

The Committee expressed concern about the emerging threats to cetaceans from man-made sound, including *inter alia* deliberate deployment of powerful acoustic sources. Noting the emerging role of the US Marine Mammal Commission (MMC) in addressing these issues, the Committee recommended:

- (1) that the Secretariat contact the US MMC with a request for exchange of information and potentially the development of cooperative research in order to combine the expertise of both bodies;
- (2) that workshops generated under the auspices of the US MMC 'noise programme' should include Scientific Committee representation where appropriate; and

- (3) that appropriate representatives of the US MMC should be invited to attend the next Scientific Committee meeting to discuss progress in this field.

13.3.2 Commission discussions and action arising

The Netherlands supported continuation of POLLUTION 2000+.

Australia expressed concern regarding the level of contaminants with human health implications found in whales killed as part of the JARPNI programme as reported in document IWC/55/23 submitted by Japan. It noted in particular the high levels of mercury and cancer-related PCBs found in North Pacific sperm and minke whales. Endorsing these comments, the UK noted that the Japanese authorities now seem to acknowledge that not only are many sources of whale meat contaminated, but that many cetacean species that find their way onto the Japanese market labelled as whale meat are also highly contaminated. The UK further noted that a veterinary institute in Norway has advised that North Atlantic minke whale blubber contains such high levels of contaminants that consumption should not exceed 10g/week for adults, while pregnant women and children should not consume blubber at all. A recommendation to reduce consumption of minke whale meat had also been made because of mercury levels. Germany and Mexico believed that environmental contamination was one of the issues that should be covered by the new Conservation Committee.

Norway considered the UK's remarks to be misleading in the context given. It acknowledged that marine products contain some mercury and that in certain contexts, these have been a concern for Norwegian health authorities. However, it reported that mercury levels in the red meat of minke whales caught in the North Atlantic is of a similar order of magnitude as that in fish species in the region and lower than in tuna and other fish species. It acknowledged that minke whale blubber had been put on a list of food products that pregnant women should not eat but noted that the same list includes many other fish species and marine products.

Regarding SOCER, Austria drew attention to this year's report, indicating that comments would be welcomed. It reported that the focus of next year's report would be the Pacific Ocean.

Austria, the UK, Italy, Argentina, Mexico and Monaco noted the importance of the proposed habitat degradation workshop and hoped that it could be held. The UK suggested that if funds could not be found this year, then they should be made available next year. Italy noted that the University of Sienna had expressed interest in hosting the workshop and that some funding had already been secured through voluntary contributions. Austria called on Contracting Governments to provide voluntary funding to enable the workshop to go ahead.

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

13.4 Reports from Contracting Governments

There were no reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals.

²⁷ *J. Cetacean Res. Manage.* 5 (Suppl.):73

13.5 Health issues

13.5.1 Commission discussions and action arising

Referring to Resolution 1999-4²⁸ on health effects from the consumption of cetaceans, Monaco requested information on the status of the request to the Scientific Committee made by the Resolution to 'receive, review and collate data on contaminant burdens in cetaceans and forward these as appropriate to the WHO competent national authorities, and to report on this matter to the Commission'.

The Scientific Committee Chair reported that the Committee addressed this issue at its meetings in 2001 and 2002²⁹. He explained that a paper prepared for the Committee on WHO's requirements for submission of data regarding contaminants in food had revealed that the required standards for data quality and control were considerably higher than those typically employed in the fish and wildlife community, given the use to which they are put by WHO. He noted that although the Committee had requested papers to be presented on contaminants, none had been received. He believed that the submission of data by the Scientific Committee to WHO is unlikely, because of their extremely high requirements, but did not consider this a reason for information on contaminant levels in a format more typical of peer-reviewed literature in fisheries and wildlife to not be made available.

Monaco considered the response from the Scientific Committee Chair to be a signal that collaboration between IWC and WHO should be reactivated and strengthened.

14. CO-OPERATION WITH OTHER ORGANISATIONS

14.1 Report of the Scientific Committee³⁰

The Scientific Committee received reports of its co-operation with CMS (Convention on the Conservation of Migratory Species), ASCOBANS (Agreement on Small Cetaceans of the Baltic and North Seas), ACCOBAMS (Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area), ICES (International Council for the Exploration of the Sea), IATTC (Inter-American Tropical Tuna Commission); ICCAT (International Commission for the Conservation of Atlantic Tuna), CCAMLR (Convention for the Conservation of Antarctic Marine Living Resources), Southern Ocean GLOBEC, NAMMCO (North Atlantic Marine Mammal Commission), COFI (FAO – Committee on Fisheries), CITES (Convention on International Trade in Endangered Species of Wild Flora and Fauna); PICES (North Pacific Marine Science Organisation); and ECCO (Eastern Caribbean Cetacean Commission).

The Scientific Committee Chair stressed the importance of its co-operation with other organisations and considered them to be of tremendous benefit to IWC. He noted that he would like to see co-operation expanded where appropriate.

14.2 Commission discussions and action arising

The Commission noted the report from the Scientific Committee.

Noting the Memorandum of Understanding agreed between the CMS and IWC Secretariats in July 2000³¹, the representative from CMS highlighted areas of potential synergy between the two organisations, mentioning in particular bycatch and environmental impact and migratory species. He noted the longstanding interaction at a scientific level between the two organisations and the key role of several scientists. He hoped that the good co-operation could continue. Monaco reported that at the last Conference of the Parties to CMS, fin, sei, and sperm whales were added to Appendix I and II and Antarctic minke, Bryde's and the pygmy right whales to Appendix II. Monaco asked that these listings be acknowledged in the Chair's Report. Regarding ACCOBAMS, Monaco hoped that there could be further co-operation with IWC.

Noting that the report from the Chair of the Commission on the Conference of Parties to CITES held in November 2002 had been included in the documentation on co-operation with other organisations (IWC/55/8), Norway suggested that the Chair's report to CITES regarding progress on the RMS should also have been included. The Chair reminded the Commission that his report to CITES had been circulated to all Commissioners in advance of the November meeting. Dominica criticised the Chair for reporting to CITES on his own behalf rather than on the behalf of the Commission. The UK noted however that this would have required the Commission to endorse the report prior to submission to CITES and that the Chair had only acted as had been agreed at the 5th Special Meeting of the Commission on 14 October 2002.

Australia drew attention to the opening statement from the IUCN Secretariat that it believed provided highly specific and tendentious advice to the Commission on how it should manage progress on the RMS. Australia considered it unusual for the Secretariat of one international organisation to give policy advice to another. While Norway wished that this situation was the case, it noted that the IUCN has a record of providing this kind of advice and especially in relation to CITES.

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

15.1 Small cetaceans

15.1.1 Report of the Scientific Committee

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

In 2001, the Government of Japan had indicated that it would no longer co-operate with the Committee on small cetacean related matters. In 2002, the Committee referred to the great value of the information provided by the

²⁸ *Rep. int. Whal. Commn* 1999:53

²⁹ *Rep. int. Whal. Commn* 2000:41-42 and 2001:32-33

³⁰ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 6 (Suppl.)

³¹ *Ann. Rep. int. Whaling Comm. 2000:58-59*

Government of Japan on the status of small cetaceans in previous years and respectfully requested that the Government of Japan reconsider its position on this matter and resume the valuable contribution of Japanese scientists to its work on small cetaceans. Unfortunately, this did not happen in 2003.

At the 2003 meeting, the Committee considered the status of small cetaceans in the Black Sea. The species of concern are the harbour porpoise (*Phocoena phocoena*), the short-beaked common dolphin (*Delphinus delphis*) and the common bottlenose dolphin (*Tursiops truncatus*). All three are found in the Turkish Straits System but only harbour porpoises and bottlenose dolphins are present in the Azov Sea. There is relatively little information on current distribution. With respect to stock structure, it was agreed that the Black Sea harbour porpoises and bottlenose dolphins comprise separate stocks for management and conservation purposes. A similar but provisional conclusion was reached for common dolphins. A number of research recommendations to improve understanding of distribution and stock structure within the region were made. Similarly, the Committee recommended that systematic abundance surveys are required for all three species throughout their range. The Black Sea is one of the most highly modified marine ecosystems in the world and the habitats of cetaceans in this basin have been degraded by numerous human activities. However, for most of these, the effects on cetaceans in the region are unknown and the Committee recommended research into these.

Uncontrolled directed takes were the primary threat to cetaceans in the Black Sea until a ban was imposed in 1983. There is no evidence of continued directed takes. All three species are taken as bycatch, but incidental takes of harbour porpoises are of greatest concern. Illegal, unreported or unregulated (IUU) fisheries are widespread in the Black Sea and may have a significant bycatch. Further quantitative elaboration of bycatches for all species is important, particularly for the bottom-set gillnet fisheries for turbot. After the ban on directed harvest, removals of live bottlenose dolphins has continued and in view of the many other threats faced by this species in the Black Sea, it is recommended that any removals of live cetaceans be preceded by a rigorous assessment of the impacts of such removals.

In conclusion, the Committee was unable to fully evaluate the status of small cetaceans in the Black Sea due to a lack of information. It concluded, however, that all three species probably declined dramatically in the 20th century as a result of large directed catches; fisheries bycatch and habitat degradation pose the most significant current threats to these species.

The Committee also reviewed progress on previous recommendations it had made, particularly those concerning the critically endangered baiji and vaquita. The Committee received some information from China and welcomed the initiatives being taken. However, it reiterated that the prospects for the baiji remain extremely poor. The Committee was informed of some further research that suggested the vaquita's range may have contracted – fishing and bycatches continue. It reiterated its grave concern over the survival of this species. It noted that CIRVA (International Committee for the Recovery of the Vaquita) will meet later in 2003/4 and looked forward to receiving an update of progress.

The Committee reiterated its support for the ASCOBANS recovery plan for harbour porpoises in the Baltic which it hoped would be adopted and implemented by the ASCOBANS parties.

The Committee also reviewed progress on work on the reduction of bycatches in fishing gear. It expressed concern over the number of animals being taken in pelagic trawl fisheries in western Europe and recommended that independent observer programmes be established to document the extent of bycatches in pelagic trawl fisheries of all nations in this region where such programmes do not already exist.

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

Priority next year will be given to addressing the status of the franciscana (*Pontoporia blainvillei*).

15.1.2 Commission discussions and action arising

Several countries welcomed the Scientific Committee's report and shared its concerns. The UK drew particular attention to the status of Dall's porpoise and white whales. It noted that Japan is reportedly taking 16-18,000 Dall's porpoise a year (a level that it considered must be beyond sustainable yield) and that it has consistently ignored requests for information on stock status and requests from the Commission for takes to stop. The UK also believed that the takes of white whales by the Russian Federation and Greenland also appear to be beyond a sustainable yield, as recently acknowledged by NAMMCO. The UK considered that action is now required to prevent further depletion of these endangered stocks. New Zealand also expressed concern about the status of narwhals and urged Greenland to adopt appropriate legislation to manage its small cetacean hunts, including the setting of quotas based on sound science, and to address its high struck and lost rates and under-reporting. It noted that it would like to see a report from Greenland on these issues at next year's meeting. Finland, Switzerland, Germany, Australia, the USA, Sweden and Mexico associated themselves with earlier remarks. Referring to its comment during discussions on aboriginal subsistence whaling (see Section 7.3.2.3), Australia again expressed its concern regarding the overall management of whaling in Greenland and also asked whether Denmark could provide a comprehensive report next year on the issues raised. Austria considered that if the Scientific Committees of NAMMCO and IWC are expressing similar concerns, then action should surely be taken.

The USA noted the emphasis of the Committee this year on small cetaceans in the Black Sea and noted the recommendations on bycatch issues. Sweden reported that it had started to implement action to reduce small cetacean bycatch to less than 1% of the population per year, and urged other Contracting Governments to take similar action. Mexico commended the hard work of the Scientific Committee and encouraged the sharing of information.

Although it considers small cetaceans to be outside the Terms of Reference of the IWC, the Russian Federation noted that it is prepared to provide information on a

bilateral basis and to appropriate fora. It reported that it sets quotas for the white whale harvest that are designed to satisfy the needs of indigenous peoples, adding that some animals are taken for dolphinaria. It stressed that takes are in the dozens, not hundreds. Denmark also referred to its position with respect to IWC competency over small cetaceans and added that it would not be providing information to IWC.

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

15.2 Other activities

15.2.1 Report of the Scientific Committee

STOCK IDENTITY

Of general concern to the assessment of any cetaceans is the question of stock identity. Examination of this concept in the context of management plays an important role in much of the Committee's work, whether in the context of the RMP, AWMP or general conservation and management. In recognition of this, the Committee has established a Working Group to review theoretical and practical aspects of the stock concept in a management context. The Committee has noted that it is important, in any application of stock structure methods, to examine the sensitivity of conclusions to different *a priori* decisions about the definition of initial units, and as to which population structure hypotheses to examine.

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

It was recognised that such a complex project must proceed in an iterative fashion and the Workshop concentrated on specifying the various modular tasks needed for Phase I of the process (*c.f.* *Initial Exploration Trials* in the AWMP process), for which some results might be expected within a year, while also identifying the types of scenarios that would need to be covered in Phase II and beyond. Funding has been provided that will allow Phase I of the TOSSM project (Testing Of Spatial Structure Models) to be completed. The most challenging module is the development and validation of a program to simulate realistic genetic datasets. It is hoped that the first sets of simulated data will become available in February or March 2004. If so, some results for at least some methods may be available for consideration at next year's Scientific Committee meeting

DNA TESTING

This item is discussed in response to Commission Resolution 1999-8.³² Discussion centred on two issues. The first concerned progress on a new method for species identification called SINE (short interspersed repetitive element) insertion analysis. The Committee agreed that it represents an attractive method for whale species identification, which should be especially useful for management and conservation.

The second concerned further information on the implementation of 'DNA Surveillance', a web-based program for molecular genetic identification of cetaceans and cetacean products derived from strandings, fisheries bycatch, regulated exploitation and illegal hunting.

ACCESS TO IWC/SOWER BIOPSY SAMPLES

The Committee agreed to a new protocol the safe archiving of the samples and to a streamlined policy for access to them. All IWC portions of the SOWER genetic samples will now be housed in the Genetics Archives at the Southwest Fisheries Science Centre (SWFSC) in the USA on behalf of the IWC. All existing IWC/SOWER genetic samples will be shipped to SWFSC after obtaining the necessary permits (CITES). SWFSC has an existing CITES import permit in place for these samples. From now, after future SOWER cruises, the IWC portions of all genetic samples will be shipped as a unit to SWFSC.

WORKING METHODS OF THE COMMITTEE

The question of data availability is complex and sensitive. A balance must be struck between the needs of the Committee and the rights of the scientists who have invested considerable time and effort in collecting the data. To reach agreement on this has proved difficult in the past. A major achievement at the 2003 meeting was that consensus was reached on a protocol for data availability. The agreed protocol was based on the principles that:

- (1) data represent a significant temporal and financial investment by scientists and research institutes – use of their data by others should be accompanied by appropriate safeguards;
- (2) the right of first publication is a generally accepted scientific norm;
- (3) if important management decisions are to be made, they should be based on a full scientific review of both data quality and analysis that can be independently verified.

PUBLICATIONS

The year 2002 was another productive year with respect to the IWC's scientific publications.

The website now includes a downloadable file containing almost 6,000 references to documents that have been presented to the Committee since 1969. The file lists all of the documents by meeting and includes information on whether and where they have been published. The Committee reiterated the importance of Committee members urging their respective institutes and colleagues to subscribe to the Journal and to submit high quality papers to it. The success of the Journal will be greatly increased as it becomes established in more institutional libraries.

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

15.2.2 Commission discussions and action arising

Regarding DNA testing and surveillance, New Zealand recalled that it has been a pioneer in the use of DNA techniques in stock identification and management and commended the Auckland University website mentioned in the Committee's report to Contracting Governments. It regretted that Norway and Japan are not making their DNA data available and hoped that they would be more

³² *Ann. Rep. Int. Whaling Comm. 1999:55*

forthcoming in future. The UK associated itself with these remarks. It commended the new DNA extraction method and PCR primers used for species identification of whale products reviewed by the Scientific Committee, noting that the techniques are considerably improved to the extent that products from cetaceans have been detected in pet food.

In response to New Zealand, Norway reported that it is providing information on its DNA register (technical developments and samples included in it) to the Scientific Committee but that the register itself is not yet available via the internet. It noted that at the 11th Conference of the Parties of CITES in April 2000, it had made efforts to enter into a co-operative arrangement with CITES to facilitate transparency of its DNA register under CITES. As this arrangement was contingent upon downlisting of minke whales from Appendix I to II, the arrangement was not pursued. However, Norway indicated that all applications for testing and comparing the registry would be dealt with in an orderly way and that interested scientists could visit Bergen to inspect and discuss the registry with Norwegian scientists.

With respect to the Scientific Committee's recommendation on data availability, the USA endorsed this recommendation, indicating that it would abide with it to the best of its ability and called on other Contracting Governments to do the same. It noted that this had been a difficult issue for the Scientific Committee but that it had been resolved by consensus.

Referring to Item 21 of the Scientific Committee report concerning funding requirements for 2003/2004, and in particular to the paragraph concerning Invited Participants (IPs), Mexico considered that it is time for the Committee and the Commission to review the way in which IPs are selected and funded. It noted that there are a number of funded IPs from countries and institutions that are well-able to pay costs associated with attendance at Scientific Committee meetings, while other IPs are obliged to find the costs themselves. Mexico urged the Commission to request the Committee to review this issue and to take its concerns into account when selecting and funding IPs next year. It also believed that the Scientific Committee should look at the possibility of introducing some 'new blood'. The Russian Federation, Monaco and Brazil supported these remarks. The Russian Federation re-iterated its comment made during the F&A Committee meeting regarding IPs and the Scientific Committee's work on addressing the issue of falsification of past catch data from the USSR (see section 21.2). Monaco believed that the funding of scientists to attend the Scientific Committee, particularly from developing countries, is important and believed that to increase the independence of the Committee, efforts should perhaps be made to increase the ratio of IPs. It was aware that this would require new procedures, but indicated that advice on this could be sought from those organisations already having experience. Monaco requested the view of the Scientific Committee Chair on this matter.

In response to Monaco, the Scientific Committee Chair reported that considerable attention had been given to the issue of IPs at this year's meeting. He noted that this was partly because of the reduced funds available for IWC/55 (i.e. from around £30,000 to £20,000). The Chair informed the meeting that under the Committee's Rules of Procedure, the convenors of each sub-committee are able to submit proposals for IPs, with individuals being ranked in importance for the work of that particular sub-committee.

The proposals from each sub-committee are then reviewed and a final list of IPs drawn up. The Chair reported that this year it was possible to fund 16 IPs through the general fund and a further 7 via the Small Cetaceans Fund. He noted that there had been 11 self-funded IPs, although 10 IPs had not been able to attend because of the absence of funding. The Chair hoped that the IP budget would be restored for IWC/56 which would help to address some of the concerns raised by Commissioners and enable more IPs to attend. He also reported that the Scientific Committee is trying to minimise the number of intersessional meetings in favour of meetings just prior to the Annual Meeting. This was one way to try to increase the participation of scientists from developing countries in the Committee's work. Another might be to create a separate fund.

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

15.3 Scientific Committee future work plan

15.3.1 Report of the Scientific Committee

The Chair of the Scientific Committee described the work plan drawn up by the Convenors, with the agreement of the Scientific Committee, after the close of the meeting. The work plan takes account of: (1) priority items agreed by the Committee last year and endorsed by the Commission and, within them the highest priority items agreed by the Committee on the basis of sub-committee discussions; (2) general plenary discussions on this item and in particular the need to reduce the Committee's workload; and (3) budget discussions in the full Committee. It was agreed to divide the work among 13 sub-committees/working groups as proposed below. The Chair noted that this structure would provide the basis for a draft agenda for the 2004 meeting and a framework for determining invited participants. He stressed that items of lower priority of the agenda of sub-committees would only be discussed if time allowed.

15.3.1.1 RMP

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

- (1) review progress on adjusting convergence criteria for the CATCHLIMIT program;
- (2) review the *Implementation* process in the light of the experience with western North Pacific common minke whales;
- (3) review the level of information required for *pre-implementation assessments* and for proceeding to an *Implementation*;
- (4) work towards implementing the RMP for western North Pacific Bryde's whale.
- (5) comment on whether there is sufficient information on North Atlantic fin whales to begin a *pre-implementation assessment*.

15.3.1.2 AWMP

The Standing Working Group will hold an intersessional workshop to finalise robustness trials for the eastern North Pacific gray whale and consider results from *Evaluation Trials*. At the Annual Meeting it will:

- (1) work towards recommending a gray whale *SLA*;

- (2) review of results from the Greenlandic Research Programme and make recommendations;
- (3) review progress on development of potential *SLA* for Greenland fisheries;
- (4) undertake annual review of catch data and management advice for minke and fin whales off Greenland;
- (5) undertake annual review of catch data and management advice for humpback whales off St Vincent and The Grenadines.

15.3.1.3 BOWHEAD, RIGHT AND GRAY WHALES

At the Annual meeting this sub-committee will:

- (1) complete in-depth assessment of BCB bowhead whales;
- (2) undertake annual review of catch data and management advice for North Pacific Eastern gray whale;
- (3) undertake annual review of catch data and management advice for BCB bowhead whale;

if there is time, it will:

- (4) review new information on small stocks of bowhead, right, and gray whales.

15.3.1.4 IN-DEPTH ASSESSMENT

This sub-committee will establish an *ad hoc* working group during next year's meeting to undertake an In-depth Assessment of western North Pacific common minke whales providing the intersessional steering group determines sufficient progress has been made. In addition, it will:

- (1) consider issues related to the abundance estimation of Antarctic minke whales;
- (2) consider options for future SOWER cruises.

15.3.1.5 BYCATCHES AND OTHER ANTHROPOGENIC REMOVALS

This sub-committee will:

- (1) further review methods to estimate bycatch based on fisheries data and observer programmes;
- (2) further review methods to estimate bycatch based on genetic data, particularly with respect to the proposed workshop;
- (3) review information and methods on estimates of cetacean mortality caused by vessel strikes;
- (4) review information and methods on estimates of cetacean mortality caused by other human activities.

15.3.1.6 ENVIRONMENTAL CONCERNS

Suggested priority topics for this Sub-committee will be developed intersessionally by a working group. The working group will consider input from the Chair following the Commission meetings, as well as input from convenors. The primary objective of this exercise will be to better integrate the mission of the Standing Working Group on Environmental concerns with the priority topics of the other sub-committees. The final decision will be taken by the Chair in consultation with the new convenor.

15.3.1.7 WHALEWATCHING

]The Standing Working Group will:

- (1) review report from intersessional workshop on Whalewatching in South Africa – although this is not being convened by the Committee, it will nonetheless provide an opportunity for furthering the objectives of this standing working group;
- (2) consider further development of the Data Recording System (DRS);
- (3) continue review of whalewatching guidelines and regulations.

If there is time, it will:

- (4) review risk to cetaceans of high speed whalewatching boats;
- (5) review potential impacts of 'swim-with' programs on populations of cetaceans.

15.3.1.8 SMALL CETACEANS

This Standing sub-committee will:

- (1) review of status of franciscana;
- (2) plan and convene a one day workshop on depredation of fisheries by small cetaceans in the Mediterranean region – if possible, this workshop will be held the day prior to the start of the Committee meeting;
- (3) review progress on previous recommendations;
- (4) review incidental catches and takes of small cetaceans by country.

15.3.1.9 STOCK DEFINITION

This Working Group will:

- (1) review progress on the TOSSM (Testing Of Spatial Structure Models) project;
- (2) continue review of statistical and genetic issues related to population structure and unit to conserve;
- (3) consider application of non-genetic data to stock identification.

15.3.1.10 SOUTHERN HEMISPHERE WHALES OTHER THAN ANTARCTIC MINKE WHALES

This sub-committee will:

- (1) complete in-depth assessment of Southern Hemisphere humpback whales;
- (2) investigate data from illegal Soviet catches;
- (3) investigate use of abundance estimates from SOWER and JARPA in population dynamics models.

15.3.1.11 SANCTUARIES

A pre-meeting workshop will be convened to prepare recommendations regarding the review of the Southern Ocean Sanctuary. This Working Group will:

- (1) complete review of SOS;

If there is time it will also:

- (2) review process to facilitate review of future proposals and future sanctuary reviews.

15.3.1.12 SCIENTIFIC PERMITS

This Standing Working Group will:

- (1) review proposals to facilitate the review process of the Committee;
- (2) review research results from existing permits;
- (3) review plans for new and continuing permit proposals.

15.3.1.13 DNA

This Working Group will:

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

15.3.2 Commission discussions and action arising

The Commission noted the proposed work plan.

15.4 Adoption of the Report

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

16. CATCHES BY NON-MEMBER NATIONS

Noting that one bowhead whale had been taken from the Canadian stock by Inuit hunters in August 2002, Austria expressed disappointment with the continued take by Canada from this endangered stock. It also drew attention to differences in the description of the take between the Scientific Committee report and the homepage of the Canadian indigenous peoples. In the former it was indicated that a single strike was used, whereas in the latter it was reported that when a bomb lance proved unsuccessful a traditional bowhead harpoon was used. New Zealand, Spain and Australia associated themselves with Austria's remarks. The Scientific Committee Chair recognised the imprecise language used in the Committee report and indicated that it would be clarified.

17. INFRACTIONS, 2002 SEASON**17.1 Report of the Infractions Sub-committee**

The Infractions Sub-committee met on 10 June 2003 with delegates from 26 Contracting Governments. The Sub-committee's Chair, Sung Kwon Soh (Korea), summarised the group's discussions. The full report is given in Annex H.

As in previous years, despite differences of opinion as to whether the item concerning stockpiles of whale products and trade questions is within the scope of the Convention, the Sub-committee agreed that an exchange of views was useful.

17.1.1 Infractions reports from Contracting Governments

Infractions reports for 2002 were received from Denmark, the USA, the Russian Federation and the Republic of Korea. Disappointment was expressed by one government that St. Vincent and The Grenadines was not present at the

sub-committee meeting³³. Only Denmark and the Republic of Korea reported infractions.

Denmark (Greenland) reported that an adult humpback whale and a humpback whale calf were wounded in separate rifle hunts. In both cases neither whale could be rescued and were killed on the authorisation of the Department of Fisheries, Hunting and Agriculture.

The Republic of Korea reported an illegal deliberate catch of one minke whale by its nationals fishing from a vessel with a longline fishery permit. The whale was killed by a harpoon. The Captain was fined 8 million Korean won (about 7,000 US\$) and the vessel owner had his fishing license revoked permanently. The meat was confiscated and sold publicly by the police. The Government stated that it prohibited whale takes and strives continuously to improve measures for the conservation and management of whales in its jurisdictional waters, in accordance with the ICRW and IWC's decisions.

Referring to reports of killer whales being taken in Greenland, several countries expressed the view that a combination of Schedule paragraph 10(d), that forbids the taking of killer whales by factory ships, and paragraph 10(e), that refers to the ban on commercial whaling, made the Greenlandic catches an infraction. Denmark noted that the animals were not taken by a factory ship and in any event are small cetaceans and thus outside the competence of the IWC and consequently takes of this species are not required to be reported as infractions under the Convention.³⁴

While recognising the different views over competency with respect to small cetaceans, several governments also expressed concern regarding a kill of northern bottlenose whales during 2002 in the Faroe Islands as reported in a letter to the UK from the Faroese authorities. These governments noted that this species is listed as a Protection Stock in Schedule Table 3, and is therefore covered by the moratorium. Denmark was not able to reply in detail since it did not have the letter in question and no representative from the Faroes was present. However, it recalled that northern bottlenose whales frequently strand in certain bays in the Faroes and that such animals are utilised if possible.

Several countries expressed concern that arrangements allowing bycaught animals to be killed and to be landed and sold (e.g. new legislation in Japan), could provide an incentive for killing to occur rather than for attempts to be made to free trapped animals. One country believed there should be a clear distinction between an accidental bycatch and the deliberate killing of whales trapped in fishing gear. Attention was drawn to Resolution 2001-4³⁵ whose purpose was to ensure that those responsible for bycatch should not benefit from it.

Other countries considered that non-deliberate killing, such as bycatches do not constitute an infraction and are thus outside the terms of reference of the Sub-committee. Rather they are an inevitable occurrence in normal fishing operations. These countries considered that what happens to a bycaught animal after its death is the responsibility of national governments – some preferred not to waste the animal whereas others prohibited its use.

³³ St. Vincent and The Grenadines submitted its infractions report after the Sub-committee met. No infractions were reported.

³⁴ This general issue had also been discussed last year (*Ann. Rep. Int. Whaling Comm.* 2002:91)

³⁵ *Ann. Rep. Int. Whaling Comm.* 2001:55-56

The Sub-committee Chair had noted that the issue of whether bycatch comprise infractions had been fully discussed last year and the exchange of views recorded³⁶.

17.1.2 Surveillance of whaling operations

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

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

The following information was provided:

Denmark: Information on date, position, species, length, sex, whether a female is lactating and whether a foetus is present is collected for between 76-100% of the catch, depending on the item. Information on killing methods and struck and lost animals is also collected.

USA: Information on date, species, position, length, sex, killing method and numbers struck and lost is collected for between 90-100% of the catch depending on the item. Other biological information is recorded for about 63% of animals.

Russian Federation: Information provided to the Scientific Committee shows that information on date, species, position, length, sex, whether lactating and hunting methods are collected.

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

17.1.4 Submission of national laws and regulations

A summary of national legislation supplied to the Commission was prepared by the Secretariat. One country observed that the table contained no entry from St. Vincent and the Grenadines since 1986 and noted that at last year's meetings of the Infractions Sub-committee and the Commission, St. Vincent and the Grenadines had assured the sub-committee that they would be enacting new legislation. It hoped that St. Vincent and the Grenadines would not undertake whaling operations until the legislation is in place.

17.1.5 Other matters

The Secretariat had received no reports from Contracting Governments and no comments were made during the meeting.

17.2 Commission discussions and action arising

The UK congratulated the new Sub-committee Chair Sung Kwon Soh for his summary and for his handling of the Sub-committee meeting. It expressed its continued concern regarding the issue of bycatch. While in general it does not consider bycatch an infraction, this is not the case for the indiscriminate killing of animals caught in nets. The UK believed that the ability to commercialise bycatch might act as an incentive not to take measures to limit it. It agreed that utilisation of whales found dead in nets is sensible, but questioned whether such animals should be sold. Australia referred to the recent Japanese legislation allowing the deliberate killing of whales caught in nets and believed these should be counted as infractions. It was also of the view that IWC had competency over killer whales since Schedule paragraph 10(d) regarding the moratorium on the use of factory ships specifically mentions killer whales.

Given paragraph 10(d), Australia considered that paragraph 10(e) also applied. Germany agreed with the UK and Australia.

Norway repeated its remark made in the Sub-committee, i.e. that it held opposite views to the UK, Australia and Germany regarding bycatch and infractions. Iceland and the Republic of Korea made similar comments. The Republic of Korea considered that some level of bycatch is inevitable, mentioned that it has a mandatory reporting system and that this information is reported to the Scientific Committee. Denmark again noted that it considers the management of small cetaceans to be outside the competence of IWC.

Japan stressed that under the Convention and the Schedule, it is not required to identify bycaught animals as infractions. It did not consider the deliberate killing of bycaught animals to be an infraction. Australia did not doubt that the killing of bycaught animals is legal in Japan but believed it to be an infraction under IWC rules. As it did in the Sub-committee, Japan noted that if commercial utilisation is to be discussed, the sale of items at Auckland international airport in New Zealand made by Maori tribes from whale bones and teeth should also be considered in this context. It welcomed the utilisation of whales in this way. In response, New Zealand reported that under its 1978 Marine Mammal Protection Act, the sale of such items is illegal and that action had been taken against the shop in question. It further noted however, that trading of products made from whale bone prior to 1978 is entirely legal and that under the Marine Mammal Protection Act, a number of Maori tribes have entered into protocol arrangements with the Department of Conservation for the use of whale bone for their own cultural purposes.

Austria commented that Table 1 of the Sub-committee's report regarding details of national legislation provided to IWC needed to be updated.

The UK thanked Denmark/Faroe Islands for the information they had now provided bilaterally on the killing of six bottlenose whales as referred to in the Sub-committee.

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

18. LEGAL ADVICE IN RELATION TO THE IWC

18.1 Proposal regarding legal advice in relation to the IWC

As requested by the Chair of the Commission at the 5th Special Meeting of the Commission in Cambridge in October 2002, the Netherlands had developed, in consultation with a number of Contracting Governments, some ideas on how the Commission might better address any legal issues it may face in the future.

In introducing its proposals, the Netherlands noted that they focused on a process for dealing with future legal issues that could contribute to confidence-building between IWC members. It stressed that the proposals were without prejudice to decisions already made. The Netherlands considered that the legal aspects addressed by its proposed process should be limited to institutional issues like adherence to the Convention, voting and responsibility of IWC under the ICRW so as to separate legal issues from policy issues, although it recognised that these can never be fully distinguished.

³⁶ *Ann. Rep. Int. Whaling Comm.* 2002:92

The Netherlands suggested that the IWC should explore the process on how legal advice could be sought, where appropriate. As a first step, it proposed that the Secretariat be requested to explore:

- (a) how other Conventions deal with legal issues; explore if other Conventions use external advice, internal advice (like Convention Secretariats) or other person/bodies that have 'authority' on this issue;
- (b) the sort of legal issues other Conventions have dealt with;
- (c) the type/range of legal issues that the Commission may face. The exploration should include a consideration of how urgently possible legal issues in IWC need to be resolved (at meetings themselves or not time-critical).

The Netherlands recommended that the work on the law of treaties by the United Nations International Law Commission be taken into consideration.

With respect to possible options that could be considered in the future to deal with legal issues, the Netherlands mentioned the following as examples:

- (1) selection of an external legal advisor, for example by:
 - a) contracting out legal services with a law firm, b) using a panel of three international renowned judges or lawyers, proposed by Contracting Governments; c) adoption of other legal advisory group of lawyers of other composition;
- (2) Establishing a legal committee or working group within IWC which could be: a) an ad-hoc legal advisory committee on a certain issue, made up of legal advisors of interested parties; b) a standing legal advisory committee.

18.2 Commission discussions and action arising

A number of countries commended the initiative of the Netherlands.

The USA believed that occasions often arise at meetings when the Chair and/or Secretary require legal advice and considered the proposals by the Netherlands to be a good starting point.

New Zealand welcomed the USA's comments and noted that modern practice is to include comprehensive dispute mechanisms in major international instruments. While it strongly supported such mechanisms, it believed that the development of a dispute settlement mechanism for IWC to be a major undertaking that would require very careful drafting. New Zealand considered the Netherlands' proposal to be an alternative approach and indicated that it could support the initial steps suggested. It did, however, reserve its general legal position on the large international law issues involved.

Sweden believed that legal issues are not easy to handle, but also supported the Netherlands' proposed first step. It was, however, reluctant to involve external advisors at present, but indicated that this could be considered as a possible next step. Monaco agreed with these remarks.

Denmark believed it would be useful to get some background information, but did not believe that the Commission should relinquish its decision-making powers to another body. Rather it should make its own political decisions. It supported proposed first steps (a) and (b) but had some reservations regarding (c).

Norway agreed that from time to time discussions within the Commission give rise to some difficult legal problems. However, it felt it presumptuous to assume that Contracting Governments have problems interpreting their obligations under the Convention and noted that it would not recognise an external body in that regard. Norway reminded the meeting that Contracting Governments can include legal experts on their delegations if they so wish and encouraged them to seek such advice. Regarding the proposed first steps, like Denmark it could agree with collection of information as suggested under (a) and (b) but did not believe the Secretariat has the competency to address item (c). It believed that this would need to be done by Commissioners and was willing to explore how to move forward on this issue through the establishment of an ad hoc group under the Convention.

Japan believed that IWC decisions should be based on the will of Contracting Governments. It therefore would not accept advice from external law firms. Japan did not believe that the work proposed by the Netherlands was needed at present.

The UK understood the concerns that prompted the Netherlands to develop its paper and considered the proposed first steps useful. It did however have sympathy with the comments of Norway and Japan. Australia made similar remarks and supported the comments made by New Zealand. Spain agreed that the Commission has certain gaps in its procedures and welcomed the Netherlands' proposals but cautioned against turning disagreements into legal disputes. Like others, Spain believed that decisions should be made on the will of the Commission. Brazil believed the proposals to be practical. It was however concerned with specific aspects, but could agree to the Secretariat exploring the issues on a very preliminary basis. Iceland supported the remarks of the UK, Brazil and others and considered that the Commission should try to limit itself to how other relevant bodies handle these issues.

In concluding the discussions, the Chair noted that there seemed to be agreement on requesting the Secretariat to tackle items (a) and (b) as proposed by the Netherlands, but not item (c). He suggested that Norway's proposal for an ad hoc group might be revisited at next year's meeting.

19. ADMINISTRATIVE MATTERS

Agenda items 19-23 covering administrative and financial matters were considered first by the Finance and Administration (F&A) Committee that met on Wednesday 11 and Friday 13 June 2003 under the chairmanship of Odd Gunnar Skagestad (Norway). Delegates from 35 Contracting Governments attended the meeting. The F&A Committee report is attached as Annex I.

19.1 Annual Meeting arrangements and procedures

19.1.1 Verbatim record

CD verbatim recordings of the Commission's meetings rather than typed versions have now been produced since IWC/53 in London in 2001. The F&A Committee was satisfied with the procedure now in place and recommended that the current practice should continue.

The Commission agreed.

19.1.2 Document preparation and distribution

The F&A Committee had reviewed current arrangements for document preparation and distribution. At the 2001 Annual Meeting, the Commission agreed to make non-

confidential meeting documents available via IWC's website. Last year, the Commission agreed: (1) that Contracting Governments should be strongly encouraged to submit meeting documents 6 weeks prior to Annual Meetings; and (2) that extensive documents should be provided no less than 6 weeks before the start of the meeting. The F&A Committee agreed that these arrangements are useful and designed to help all by allowing time for proper consideration of issues prior to a meeting. However, there is still room for improvements, particularly in keeping to submission deadlines.

The Commission noted these views.

19.1.3 Need for a Technical Committee

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

The Commission agreed.

19.1.4 Use of simultaneous translation

19.1.4.1 REPORT OF THE F&A COMMITTEE

During a private meeting of Commissioners at IWC/54 in Shimonoseki in 2002, it was agreed that the use of simultaneous translation to improve communication at Annual Meetings should be explored. Noting the high budgetary implications if the Commission was to provide full simultaneous translation facilities, i.e. both the technical facilities (interpretation booths, ear-pieces, multi-channel listening devices etc.) and the interpreters, it was agreed that the Secretariat should investigate the costs and other implications of the Commission providing only the technical facilities with a view to implementation at IWC/55. Engaging and paying for interpreters would continue to be the responsibility of those delegations requiring them. The Commissioners delegated responsibility for making a final decision on the provision of simultaneous translation facilities for IWC/55 to the Chair in consultation with the Advisory Committee.

After consultation with the Advisory Committee, in view of the relatively high cost of providing the technical facilities required and the relatively low level of interest in using simultaneous translation expressed by Contracting Governments, the Chair of the Commission had decided that further discussions within the Commission were necessary before making such facilities available. Consequently, the existing system of consecutive translation was used for IWC/55.

The F&A Committee Chair reported that the Committee had been asked to review and comment on a document prepared by the Secretary that, *inter alia*, gave cost estimates for providing simultaneous translation. He noted that although a number of countries remained concerned about the costs of providing simultaneous translation, the meeting had agreed that it would be appropriate to explore the matter further through establishing a small Working Group to work intersessionally between now and IWC/56 next year by correspondence. Antigua and Barbuda, the Republic of Guinea and Benin subsequently drafted Terms of Reference for this Working Group for review by the Committee. This had prompted an extensive debate during which the importance of the issue was again recognised by many delegations but tempered in some cases by concerns about the potentially substantial strain on the Commission's budget, especially with regard to document translation and

the costs of providing interpreters and translators. Many ideas were considered to include partial or full translation facilities and different possibilities for how these might be financed. After further discussion, Antigua and Barbuda agreed to work with interested countries to prepare a revised proposal for review by the Commission.

19.1.4.2 COMMISSION DISCUSSIONS AND ACTION ARISING

In the Commission, Antigua and Barbuda presented a revised proposal in the form of a draft Resolution on behalf of the other co-sponsors Benin, Dominica, Grenada, Republic of Guinea, Japan, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and The Grenadines and the Solomon Islands. The draft Resolution proposed that:

- (1) The Commission establish a Working Group aiming at exploring the various implications for the provision of technical components for simultaneous interpretation;
- (2) The Working Group shall consider and make recommendations on how provision of technical components for simultaneous interpretation may be provided at the IWC to accommodate the needs of contracting parties for whom English is a second language;
- (3) The Working Group will be guided by the following Terms of Reference:
 - (a) to review and consider the costs as set out in document IWC/55/F&A 2 and to identify ways in which these costs could be apportioned or reduced;
 - (b) to recommend options and scope for the provision of technical components for simultaneous interpretation;
 - (c) to determine the operations and costs of other international organizations providing such components; and
 - (d) to consult with member states on these issues.
- (4) The Working Group, while open to any IWC contracting party, shall ideally remain small, conduct its work by email correspondence in order to limit expenditures, and submit its recommendations to the F&A Committee prior to the 56th Annual Meeting.

The sponsors hoped that the Resolution could be adopted by consensus.

Morocco, the Republic of Guinea and Senegal urged that action be taken on this issue. While cautioning against possible costs involved, France indicated that it would provide French interpreters for IWC/56 and hoped that the host country would be able to provide technical facilities. Monaco thanked the French Government for this kind offer, although the UK expressed the hope that it would not create problems for the Italian Government in arranging for next year's Annual Meeting.

The Resolution was adopted by consensus (see Annex J).

19.1.5 ENB and reporting for plenary meetings of IWC

During the F&A Committee meeting, Germany had introduced a proposal that the Environmental News Bulletin (ENB) be invited to prepare daily reports at future plenary meetings of the IWC. ENB is a private organisation that provides impartial daily reports on meetings in international organisations (e.g. meetings in UN Organisations and in CITES). Germany noted that it

had initially intended to pursue this idea so that ENB could provide reports at IWC/55; ENB had asked to be given the status of a special observer or to be considered as part of the Secretariat to underline its status as an impartial organisation. However, since informal discussions revealed that some members had reservations, Germany had decided to bring the proposal forward to the F&A Committee for consideration.

A number of countries had supported inviting ENB to provide daily reports of Commission plenary meetings believing that they would prepare neutral reports that would serve to increase transparency of IWC. However, other countries, while not disputing that ENB reports on the meetings of other intergovernmental organisations are widely appreciated, had expressed concern about the precedent that would be set by allowing ENB special status beyond that contained in the Rules of Procedure. They considered that the current IWC Rules of Procedure allowing the admittance of NGOs and the press are sufficient. Some concern was also expressed about the possible costs involved, although several delegates confirmed that costs would be borne by sponsors, not by IWC.

The F&A Committee Chair therefore reported that as there was clearly no consensus on giving ENB special status, no recommendations could be made to the Commission on this issue.

The Commission noted the F&A Committee's report. There were no further discussions.

19.2 Amendments to the Rules of Procedure and Financial Regulations

19.2.1 Secretariat proposals

The Commission endorsed the following amendments to the Rules of Procedure and Financial Regulations as recommended by the F&A Committee (new words or moved text is shown in *bold italics*):

OBSERVER FEES

The following revision clarifies that the registration fee is treated as an annual fee for all observers.

Revision to Rule of Procedure C.1.(b)

(b) Any international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer;

- if such international organisation has previously attended any meeting of the Commission,

or

- if it submits its request in writing to the Commission 60 days prior to the start of the meeting and the Commission issues an invitation with respect to such request.

Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.

(c) The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of *observers accredited in accordance with Rule C.1.(a) and (b)*. The registration fee will be treated as an annual fee covering attendance at the Annual Meeting to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next Annual Meeting

VOTING RIGHTS

The following amendments to Rule of Procedure E.2 and Financial Regulation F.2 clarify the situation with regard to

the link between payment of contributions and voting rights with respect to a 'vote by postal or other means'.

Revision to Rule of Procedure E.2

2. (a) The right to vote of representatives of any Contracting Government whose annual payments including any interest due have not been received by the Commission within 3 months of the due date prescribed in Regulation E.2 of the Financial Regulations or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, *or, in the case of a vote by postal or other means, by the date upon which votes must be received*, whichever *date* occurs first, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.

(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.

Revision to Financial Regulation F.2

2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission within 3 months of the due date or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, *or, in the case of a vote by postal or other means, by the date upon which votes must be received*, whichever *date* occurs first, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.

The Commission also agreed to the F&A Committee's recommendation to add the following footnote to Financial Regulation F to clarify what is meant by 'received by the Commission' with respect to financial contributions:

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 Commissions' account or (2) that the Secretariat has in its possession cash, a cheque, bankers draft or other valid instrument of the correct value.

ARREARS OF CONTRIBUTIONS AND WITHDRAWAL FROM THE CONVENTION

The following amendment to Financial Regulation F.5 clarifies that for a government withdrawing from the Convention, the addition of interest ceases to apply from the date of withdrawal.

Revision to Financial Regulation F.5

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.*

GOVERNMENTS ADHERING TO THE CONVENTION WITH DEBTS FROM A PREVIOUS INVOLVEMENT

The following revision to Financial Regulation F.6 addresses an oversight in amendments made last year, i.e. that Governments can incur financial obligations from observing at Annual Meetings as well as from a previous membership.

Revision to Financial Regulation F.6

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.

DETERMINING THE DURATION OF ANNUAL MEETINGS

The following new Rule of Procedure B.2 provides that before the end of each Annual Meeting, the Commission should decide upon the length of the meeting the following year.

New Rule of Procedure B.2

B.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.

SPECIAL MEETINGS OF THE COMMISSION

The following amendments clarify the rules pertaining to Special Meetings and also reflect what has become standard practice for many years in relation to Annual Meetings.

Revision to Rule of Procedure B.1

1. The Commission shall hold a regular Annual Meeting in such place as the Commission may determine etc. Special Meetings of the Commission may be called at the direction of the Chair after consultation with Contracting Governments *and Commissioners*.

Revision to Rule of Procedure F.2(d)

2. The duties of the Chair shall be:

(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.

Revision to title of Rule of Procedure J and Rule of Procedure J.1

J. Schedule amendments and recommendations under Article VI

1. No item of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the *annotated provisional agenda circulated* to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.

19.2.2 Russian Federation proposal to amend Rule of Procedure E

19.2.2.1 REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE

The F&A Committee had reviewed a proposal from the Russian Federation to change the title of Section E of the Rules of Procedure from 'Voting' to 'Decision-making' and to add the following as introductory text rather than as a Rule of Procedure *per se*:

The Commission shall apply every effort to reach all its decisions by consensus, prima facie, on matters related to aboriginal subsistence whaling.

While there had been broad agreement that all decisions, not just those relating to aboriginal subsistence whaling, should be reached by consensus whenever possible, there had been no agreement on the text proposed by the Russian Federation. Some Committee members felt that 'softer' language should be employed (e.g. by replacing 'shall' by 'should') and others considered that the issue might be better dealt with via a Resolution rather than via changes to the Rules of Procedure. While the Russian Federation had been prepared to soften the language, it did not consider that a Resolution would be sufficient since these are one-time events that can be easily forgotten or have to be repeated at intervals. It indicated that it wished to continue wider discussions with a view to introducing a revised proposal directly to the plenary. No further action was therefore taken by the Committee. The F&A Committee Chair had commended the Russian Federation on its willingness to accommodate the concerns expressed within the Committee and others members for their helpful approach.

19.2.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

In the Commission, the Russian Federation introduced the following revised proposal that it hoped could be adopted by consensus:

E. ~~Voting~~ Decision-making

It would be advisable that the Commission should apply every effort in order to reach all of its decision by consensus, prima facie, on matters related to aboriginal subsistence whaling. Should a decision not be reached by consensus then the following rules of procedure shall apply:

Some countries could support the proposed text, but others, while being sympathetic, again indicated that specific reference to aboriginal subsistence whaling should be removed since decisions by consensus on all issues would be preferable.

After further consultation, the following amendment was adopted by consensus:

E. ~~Voting~~ Decision-making

The Commission should seek to reach its decisions by consensus. Otherwise, the following Rules of Procedure shall apply:

At last year's meeting, the Commission agreed that the following proposed revision to Scientific Committee Rule of Procedure A.1 concerning membership and observers be

put forward for formal adoption in Berlin to comply with the required 60-day notice period:

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.

The Commission adopted the revised rule.

20. FORMULA FOR CALCULATING CONTRIBUTIONS

20.1 Report of the Finance and Administration Subcommittee

The F&A Committee received the report of the Contributions Task Force that had met in December 2002 and March 2003. During these meetings, the Task Force had looked afresh at the work to revise the contributions scheme, paying particular attention to the guiding principles previously agreed i.e. openness, stability, fairness and user pays. This 'fresh look' involved some re-examination of certain aspects of the contributions scheme on which there had been broad agreement, but also addressed approaches on how to handle issues related to the treatment of whaling and the inclusion of whalewatching and small cetaceans as requested by the Commission at IWC/54 in 2002. A summary of the status of main agreements reached by the Task Force on each of the four main elements that will comprise the contributions formula was provided, i.e.

Annual Membership

- The Task Force reconfirmed its earlier agreement that one of the elements of the contributions formula should be an annual membership charge that: (1) would be the same for all Contracting Governments (i.e. a flat fee); and (2) should be set at a level to reflect a real commitment to the organisation by Contracting Governments without creating an obstacle to membership by developing countries.

Wealth/capacity to pay

- The Task Force agreed that there are real advantages in terms of stability and fairness in using actual economic data for each Contracting Government rather than to divide Contracting Governments into groups based on a combination of GNI and GNI per capita, i.e. the banding approach proposed earlier and used in the Interim Measure.
- Inclusion of a specific separate factor to take external debt into account was not supported by the Task Force.
- The Task Force agreed not to recommend use of purchasing power parity (ppp) at present in recognition of problems with the quality of some existing ppp data and that new data will be available following a data-collection exercise of the World Bank during 2003. However, the Task Force also agreed that the Finance and

Administration Committee might wish to review the use of 'ppp' at some point in the future.

- The Task Force reaffirmed that the intention is to use the most recent data available from the World Bank and recognised that updating could be critically important, especially for countries whose economies are under strain.
- The Task Force agreed that to ensure transparency, it will be essential that documents defining the contributions scheme and presenting the contributions required from Contracting Governments, state clearly the exact source and effective date of economic data used.

Use

- The Task Force determined that the data available for both whalewatching and small cetaceans are not sufficient or consistent enough to include in a contributions formula, and, in light of the difficulties presented by the question of competence in relation to both issues, agreed that neither should be included in any proposal it might make to the Commission.
- Regarding bycatch, some Task Force members believed that bycatch should not be taken into account while others believed that bycaught animals entering the market should be included, although they recognised the problems with the availability of good data. The Task Force was unable to reconcile these opposing views, and for the purposes of the present work did not include bycatch.
- The Task Force agreed that ship-strikes should not be included as removals.
- At its March 2003 meeting, while some Task Force members re-stated their principled positions with respect to how to treat different types of whaling, in a spirit of compromise and as a way to move forward but without conceding on their positions, the Task Force expressed their willingness to treat all whaling equally (i.e. give equal weighting) in any further simulations.
- The Task Force confirmed that they preferred to use minke whale units rather than actual numbers of whales caught, but agreed that the Scientific Committee should review the conversion factors from time to time (e.g. every 5 years).
- The Task Force, confirmed its previous agreement to use the catches from the previous year (converted to minke whale units).

Meeting attendance

- The Task Force agreed that the use of real data based on the previous year's attendance by each Contracting Government is preferable to the use of bands.
- The Task Force recalled the Commission's agreement at IWC/54 that attendance for the host country should be based on an average of the previous three years and that the Chair of the Commission be excluded for the purposes of calculating financial contributions.
- The Task Force agreed that only delegates should be allowed entry into the Commission meeting

rooms. Support Staff (who do not have access to the meeting rooms) may need distinguishing badges, e.g. to facilitate admission to the conference venue and/or delegation rooms.

Remaining issues focused on the percentage of the total contribution each of the four elements should represent and the development of an appropriate index to represent realistically the capacity to pay of Contracting Governments.

During discussions of the F&A Committee on the report from the Task Force, the Committee Chair had noted that while there was agreement on the importance of completing a new contributions formula as a matter of urgency, views on how to proceed with the work fell into

- (1) those who wished the Task Force to proceed;
- (2) those who thought the Task Force should perhaps be discontinued; and
- (3) those who favoured continuation but with a new or reconstituted Task Force with an augmented membership.

During the meeting, Australia and South Africa had indicated that they were no longer in a position to continue to participate on the Task Force because of budget constraints. Australia also had concerns about the productivity of the Task Force and likely outcomes. Monaco had withdrawn from the Task Force after IWC/54.

The F&A Committee had considered the following five recommendations from the Task Force:

Recommendation 1: That work to develop a revised contributions formula that meets the agreed four guiding principles (openness, stability, fairness and user pays) should continue, taking into consideration that this is the first year in which the Task Force has met since the application of the Interim Measure for calculating contributions.

Recommendation 2: That, via the Finance and Administration Committee, the Commission request existing members of the Task Force to re-affirm their interest in continuing to serve, noting that one member (Monaco) has withdrawn from the Task Force.

Recommendation 3: That a Vice-Chair be appointed to facilitate the effective working of the Task Force.

Recommendation 4: that it would be appropriate to invite the Government of Argentina to be Vice-Chair of the Task Force, considering that: (1) the Government of Argentina co-sponsored with Antigua and Barbuda, the Interim Measure for calculating financial contributions currently in operation; and (2) that Argentina and Antigua and Barbuda may be perceived as broadly representing the different points of view represented within the Commission.

Recommendation 5: That (1) a further intersessional meeting of the Task Force should take place with provisional dates of Tuesday 16 – Thursday 18 September 2003; (2) the meeting take place in Cambridge to facilitate the participation of Secretariat staff as appropriate and ensure ready access to the necessary computing facilities.

The Chair of the F&A Committee reported that the Committee endorsed Recommendation 1 and recommended that it be adopted by the Commission. With respect to Recommendation 2, he had noted that the Task Force was originally constituted on the basis of interested parties

volunteering to serve and suggested that this approach be used again, i.e. that the Commission invites interested Contracting Governments to nominate themselves on to the Task Force to join the remaining members. The Committee agreed and recommended this to the Commission. Regarding Recommendations 3 and 4, the Committee had agreed that it was usual practice for a group itself to decide on whether or not to appoint a Vice-Chair from among its members and that therefore the recommendations needed only to be noted without making a further recommendation to the Commission. Regarding Recommendation 5, the Committee agreed to recommend to the Commission that the meeting go ahead, noting that the Secretariat had suggested that it might be more productive to delay the meeting to allow it time to carry out the further development work required. The Committee agreed that this was a matter for the Task Force.

Finally, the F&A Committee Chair drew attention to the suggestion that a time-limit should be placed on the work of the Task Force.

20.2 Commission discussions and action arising

The Commission noted the F&A Committee report.

St. Vincent and The Grenadines commented that the current formula is not fair and that cost is a constraint to membership for some countries. It called on Contracting Governments to work to develop a more equitable formula.

The USA noted not only its commitment to decreasing the financial burden of IWC membership for developing countries but also to agreeing a new formula that would not jeopardise the financial stability of the organisation. It reiterated its concern expressed at the last Task Force meeting regarding the current membership and composition of the Task Force given the decision by South Africa, Australia and Monaco to withdraw and Spain's expression of concern. In light of this and because of concerns regarding the ability of the Task Force to complete its work, the USA indicated that it might also withdraw if adjustments are not made to the Task Force. It therefore proposed that the Chair of the Commission, in consultation with the Advisory Committee review the membership and composition of the Task Force. Switzerland, the UK, Germany and Monaco associated themselves with these remarks.

Ireland also expressed concern that a number of countries had withdrawn from the Task Force and noted in addition, that since the current Task Force Chair had served for three years, rotation of this position might be needed. However, Ireland was also mindful of the remarks made by the F&A Committee Chair during its meeting that reconstituting the Task Force or establishing a new one would not necessarily resolve the problems. It therefore also supported the proposal from the USA, but suggested that a time limit be set for the Task Force to complete its work, i.e. in time for IWC/56.

Antigua and Barbuda recalled that in Adelaide, membership of the Task Force had been determined by asking for volunteers and that it had been appointed as Chair of both the Task Force and the Contributions Subcommittee. It believed that the Task Force had made significant progress but commented that some members (that it believed had not supported the aim of reducing the financial burden of developing countries) seemed to want to sabotage its work. Antigua and Barbuda noted that it would rather resign from the Task Force than agree to the

USA proposal. Monaco and Australia considered the statement of Antigua and Barbuda to be inaccurate and the language used unhelpful in making progress.

Noting the different views expressed, the Chair drew attention to F&A Committee recommendation that the Commission should invite interested Contracting Governments to nominate themselves onto the Task Force to join the remaining members (i.e. Task Force recommendation 2 as revised by the F&A Committee). He suggested that this be the basis on which to move forward but that the Chair and Advisory Committee should review the nominations received to ensure balance in the Task Force composition. The Commission agreed.

21. 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/55 with Jean-Pierre Plé (USA) as Chair. The Budgetary Sub-committee had reviewed the provisional statement for 2002/2003 and proposed budgets for 2003/2004 and 2004/2005.

21.1 Review of provisional financial statement, 2002/2003

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

The Commission endorsed the F&A Committee's proposal that, to minimise postage costs, Commissioners and Contracting Governments that still request Circulars and documents in hard copy be asked to review whether this is still necessary and, if so, to reduce to a minimum the number of copies they request.

21.2 Consideration of estimated budgets, 2003/2004 and 2004/2005

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

- (1) adopted the budget for the 2003-2004 financial year (Annex K), including the provision for research expenditure (Annex L) .
- (2) agreed that for the 2004 Annual Meeting the registration fee for non-government observers be set at £570 and that the media fee at £30.
- (3) agreed that in relation to the accommodation of the Secretariat and in view of the fact that the current lease expires in 7 years, the Secretariat should explore a range of alternatives including: (1) continuing to rent the Red House; (2) purchase the Red House or another suitable property in Cambridge or elsewhere in the UK; (3) relocation of the Secretariat to another member country; and report back to the Budgetary Sub-committee;
- (4) agreed that the best way to achieve the 5% saving in the Annual Meeting budget for IWC/56 is to reduce the overall length of the meeting by one day.
- (5) with respect to the Budgetary Sub-committee:
 - (a) agreed that the Secretariat should undertake the routine maintenance of the rota for membership of the Sub-committee and that it should confirm

membership of the Sub-committee soon after each Annual Meeting;

- (b) agreed that the Secretariat be asked to review the current rota system with a view to: making it more attractive for countries to serve on the Sub-committee; providing greater continuity; improving the process for selection of the Sub-committee Chair; and reporting back to the Budgetary Sub-committee for further action as appropriate.

The Commission noted the F&A Committee's discussions on the differing views of countries regarding the duration of the Interim Measure for financial contributions. In the Commission, Monaco, who had not been able to attend the meeting of the F&A Committee, noted that its understanding from discussions at IWC/54 was that the Interim Measure had been adopted with a time limit of three years. It asked for clarification from the Secretary. The Secretary noted that following IWC/54, she had sent out a Circular Communication to Commissioners and Contracting Governments indicating that although not explicitly spelt out in the Interim Measure adopted, the Secretariat's understanding was that the intent was the same as the proposal from the Task Force for a similar measure, i.e. that there was a three-year time limit. On receiving a letter from the Commissioner of Antigua and Barbuda indicating that his understanding that its joint proposal with Argentina had been adopted without a time clause, the Secretariat looked again at the documentation available and listened to the verbatim recording of that agenda item. This review revealed that both the documents and the vote on the Interim Measure in Shimonoseki were silent regarding a time clause. The Secretariat therefore concurred that the Commission had adopted the Interim Measure without a termination clause and a Circular Communication was distributed to this effect in December 2002. There were no further discussions.

Japan indicated that it wished to reserve its position regarding the payment of financial contributions for 2003-2004 until it had had time to consider the implications of the outcome of the 55th Annual Meeting.

Norway requested that its view expressed during the F&A Committee that membership of the Budgetary Sub-committee be open to interested countries be included as one of the options under item (5) above.

The Russian Federation re-iterated its comment made during the F&A Committee meeting regarding Invited Participants to the Scientific Committee. While it does not object to the Scientific Committee addressing the issue of falsification of past catch data from the USSR, it is against the use of IWC funds to support the participation in the IWC Scientific Committee or in the planned small technical workshop to be held in 2004 of invited participants who provide non-verifiable data that are not presented for review to the Russian Federation.

22. ARREARS OF FINANCIAL CONTRIBUTIONS

22.1 Report of the Finance and Administration Committee

The Secretariat had reported that the implementation of the Interim Measure for calculating financial contributions had proceeded without significant difficulties and that a positive effect has been that a greater part of the

Commission's revenue now comes from the countries with larger, more developed economies that have established the practice of paying earlier in the annual cycle.

At last year's meeting, the Commission adopted a series of amendments to its Financial Regulations designed to:

- (1) reduce the likelihood of Contracting Governments falling seriously into arrears with their financial contributions;
- (2) minimise the financial consequences for the IWC if they do; and
- (3) provide a mechanism by which any Contracting Government with arrears can arrange to repay them over a period and thus secure the lifting of the penalties of interest and suspension of the right to vote which are automatically imposed when arrears occur.

As the Commission decided to apply these regulations retrospectively, the debts of those Governments that had already incurred substantial arrears were substantially reduced. The Secretariat reported that these Governments had responded positively to the changed regulations and noted that the Commission should ultimately benefit not only from the renewed participation of these governments but also from the possibility of recovering more than £300,000 which would otherwise be irrecoverable.

First indications of linking more closely the right to vote at Annual or Special Meetings with payment of contributions, are that the new measures are having the desired effect and should reduce the likelihood of governments falling into arrears.

The Secretariat had also reported that it tries to maintain contact with all governments with contributions outstanding and that they had been invited, prior to IWC/55, to provide information about their situation and when payment might be expected. In addition, and in accordance with the recommendation of the Finance and Administration Committee last year, the Chair of the Commission had also made 'representations to Governments in arrears ... urging a resolution to the problem'.

22.2 Commission discussions and action arising

The Commission noted the report from the F&A Committee.

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

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

24. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

24.1 56th Annual Meeting, 2004

Italy reported that IWC/56 will be held at the Sorrento Palace Hotel in Sorrento during the period 27 June to 24 July – the exact timing to be decided by the Commission.

The Secretary introduced a provisional schedule for the meeting. The Commission agreed with the timing proposed, i.e. that the Scientific Committee meet from 29 June to 10 July, the Commission sub-groups in the period from 13 to 16 July, and the Commission from Monday 19 to Thursday 22 July 2004.

With respect to the Commission's subgroups, the Secretary had proposed a meeting schedule involving the Budgetary Sub-committee, the Aboriginal Subsistence Whaling Sub-committee, the Infractions Sub-committee, the newly-created Conservation Committee, and the Finance and Administration Sub-committee. Provision for discussions on the RMS was also included. It was suggested that as this year, meetings of the Contributions Task Force and Contributions Sub-committee should not be necessary since the Contributions Task Force can report directly to the F&A Committee. It was also suggested that in view of the in-depth 3-day Workshop on Whale Killing Methods and Associated Welfare Issues held this year, it might not be necessary for the Working Group to meet at IWC/56. Rather Contracting Governments could report directly to the Commission.

Several governments stressed that at least one day should be set-aside for the Conservation Committee. Norway, Antigua and Barbuda, Japan and the Russian Federation commented that this group should not be included in the schedule since it could not be established until Rules of Procedure and Terms of Reference were agreed. Others disagreed. The UK and Brazil were disappointed that a meeting of the Working Group on Whale Killing Methods and Associated Welfare Issues had not been included in the proposed schedule. The UK considered that if there is no meeting of the Working Group, there is a danger that the issue may fall by the wayside.

The Chair noted that given the comments, it would be difficult to reach consensus on the schedule for the Commission sub-group meetings in plenary. The Commission agreed to his suggestion that this issue be left to the Advisory Committee.

24.2 57th Annual Meeting, 2005

The Commission gratefully accepted the invitation from the Government of the Republic of Korea to hold its 57th Annual Meeting probably in May 2005 in the city of Ulsan. The Republic of Korea looked forward to welcoming delegates and observers to Ulsan.

24.3 Other

In the context of possible ways to reduce costs, Norway believed that some thought should be given to reducing the frequency of Annual Meetings. It noted that it might return to this issue next year.

25. ELECTION OF THE CHAIR AND VICE-CHAIR

As Bo Fernholm and Henrik Fischer were completing their three-year terms as Chair and Vice-Chair respectively, new officers had to be elected.

The UK nominated Henrik Fischer as Chair. This was seconded by Japan and endorsed by the Commission. Henrik Fischer thanked Commissioners for their trust, given at a time when the organisation is facing problems in making progress with certain items. Henrik Fischer noted that the answer to difficult questions is rarely black or white and requested Commissioners to work with him with open minds and in a spirit of co-operation and compromise. He stressed that everyone must be flexible and gave assurances that he would offer no-one VIP treatment and that no-one would be neglected. He also thanked the

outgoing Chair for the good co-operation they had experienced over the past three years.

Two nominations were made for the position of Vice-Chair. Claris Charles (Grenada) was nominated by Antigua and Barbuda and supported by St. Lucia and Norway. Carlos Dominguez Diaz (Spain) was nominated by the USA and supported by Mexico. At the request of Monaco, a secret ballot was held. Claris Charles received 19 votes and Carlos Dominguez Diaz 26 votes. There were two abstentions. Carlos Dominguez Diaz was therefore duly appointed as Vice-Chair. The new Vice-Chair noted the great responsibility of this position and hoped that he could be of use to all members of the Commission.

26. ADVISORY COMMITTEE

St. Lucia completed its two-year term on the Advisory Committee at last year's meeting, but was invited to remain for a further year. The USA completed its two-year term at IWC/55. New members therefore needed to be appointed to replace them and to broadly represent the interests within IWC.

The Chair called for nominations. The Commissioner for Dominica was nominated by Iceland to replace St. Lucia and the Commissioner for the UK was nominated by the USA. Both nominations were unopposed and thus both therefore join the Chair and Vice-Chair of the Commission and the Chair of the F&A Committee (Odd Gunnar Skagestad, Norway) on the Advisory Committee.

Denmark drew attention to Rule of Procedure M.9, noting that the appointment of the two Commissioners to broadly represent the interests within IWC is for two years on alternate years. Since St. Lucia had remained on the Advisory Committee for three years, Denmark noted that the term of the Commissioner for Dominica should be for one year only, while that of the UK Commissioner would be for two years. The Commission agreed.

27. SECRETARY'S REPORT

At the 53rd Annual Meeting in London in 2001, the Commission agreed that a Secretary's Report should replace the 'Annual Report' that had been produced in the past, such that the new document: (1) reports the activities from the end of one Annual Meeting to the end of the next, thus making it possible to include a summary of the decisions made at the most recent meeting; (2) contains the audited financial statements for that financial year; and (3) gives a more comprehensive overview of the work of the Commission and the Scientific Committee.

A draft of the first Secretary's Report, i.e. for the year 2000-2001, was produced and circulated to Commissioners and Contracting Governments last year but was never finalised and published in view of some of the comments received expressing concern regarding (1) the limited time given for review; (2) the degree of duplication between the Secretary's Report, the Chair's Report and the Summary of Decisions and Required Actions contained in the Chair's Report; and (3) the omission of items of national interest that some governments felt should be included in the report.

However, at IWC/54 the Commission agreed that the Secretary should continue to produce a report.

A Draft Secretary's Report for the Year 2001-2002 was presented to the meeting. The Secretary noted that once again it was being circulated much later than had been

hoped, the delay being largely a result of the high degree of intersessional activity between the 54th and 55th Annual Meetings. Drawing attention to

- (1) the fact that there is no requirement in either the Convention or the Commission's Rules of Procedure for an Annual Report/Secretary's Report;
- (2) that with the exception of summary of catch data, information in the Secretary's report appears elsewhere; and
- (3) the difficulty experienced in circulating the Secretary's Report in a timely fashion,

the Secretary asked the Commission whether they wished the production of this document to continue.

The Commission decided to discontinue the Secretary's Report on the understanding that information that does not appear elsewhere (e.g. summary of catch data) is made available by other means. The summary of catches by IWC member nations in the 2002 and 2002/2003 seasons is available as Annex M.

28. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

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

Mexico recalled earlier comments by Norway, the Russian Federation, Antigua and Barbuda and Japan referring to the 'so-called' decision to establish the Conservation Committee. Mexico found this attitude unacceptable as it called into question the ability of those Contracting Governments to abide by the rules of the organisation. It noted that the Conservation Committee had been established by adoption of a Resolution, and believed that any attempt to undermine that decision would be seen as a move to undermine the Commission itself and to destroy the integrity of its decision-making process.

29. OTHER MATTERS

On behalf of the Commission, the Chair extended his deep-felt thanks to the Government of Germany for hosting the 55th Annual Meeting and for the excellent facilities and hospitality provided. Germany indicated that it had been an honour and a pleasure and thanked the Secretariat for their support and assistance. The Chair also thanked the Secretariat with whom he had worked closely for the last three years, finding them to be a dedicated and hard-working group of people. In particular, and on behalf of the Commission, he thanked Martin Harvey, Executive Officer, who was leaving IWC for pastures new after 27 years. The Chair indicated that he would miss Martin's wise council and gracious guidance under what had sometimes been trying circumstances. Finally, on behalf of the Commission, Mexico thanked Bo Fernholm for his hard work as Chair over the last three years.

The meeting was closed at 16.00 on Thursday 19 June 2003.

30. AMENDMENTS TO THE SCHEDULE

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

Annex A

Delegates and Observers Attending the 55th Annual Meeting

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

Antigua & Barbuda

Daven Joseph (C)
Colin Murdoch (AC)
Hyrarn Forde (AC)
Sean Cenac

Argentina

Raul Comelli (AC)
Gustavo Bouquet
Miguel Iniguez

Australia

Conall O'Connell (C)
David Kemp (AC)
Peter Poggioli (AC)
Greg French (AC)
Stephen Powell (AC)
Nicola Beynon
Pam Eiser
Uma Jatkar (S)

Austria

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

Belize

Ismael Garcia (C)

Benin

Bantole Yaba (C)
Joseph Ouake (AC)
Amadou Gore

Brazil

Hadil da Rocha Vianna (C)
Regis Pinto de Lima (AC)
Jose Truda Palazzo Jr. (AC)
Marcus Barros
Paulo Cypriano
Karina Groch

Chile

Mariano Fernandez (C)
Veronica Rocha

China

Xiaobing Liu (C)
Sun Guifeng
Wenqiang Yin

Denmark

Henrik Fischer (C)
Amalie Jessen (AC)
Kim Mathiasen
Maj Friis Munk
Kate Sanderson

Dominica

Lloyd Pascal (C)
Andrew Magloire (AC)

Finland

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

France

Jean-Georges Mandon (C)
Martine Bigan (AC)
Vincent Ridoux

Gabon

Guy Anicet Rerambyath (C)
Micheline Schummer Gnandji
(AC)

Germany

Peter Bradhering (C)
Ms. Renate Künast (AC)
Marlies Reimann (AC)
Gerhard Emonds
Petra Deimer-Schütte
Marcus Stadthaus

Grenada

Clariss Charles (C)
Einstein Louison (AC)
Justin Rennie (AC)
Frank Hester (S)

Republic of Guinea

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

Iceland

Stefan Asmundsson (C)
Gunnar Palsson (AC)
Tomas Heidar (AC)
Jon Egill Egilsson

Elin Flygenring
Jon Gunnarsson
Kristjan Loftsson
Gisli Vikingsson

India

Amit Kumar (C)

Ireland

Christopher O'Grady (C)

Italy

Giuseppe Notarbartolo
di Sciara (C)
Paolo Galoppini (AC)
Silvia De Bertoldi (AC)
Fabio Conte
Caterina Fortuna
Domitilla Senni (I)

Japan

Minoru Morimoto (C)
Yoshiaki Ito (AC)
Masayuki Komatsu (AC)
Akira Nakamae (AC)
Shiro Asano
Kiyoshi Ejima
Keishiro Fukushima
Dan Goodman
Kunio Goto
Mutsuo Goto
Yasukazu Hamada
Masaru Hamamura
Noriyoshi Hattori
Yoshimasa Hayashi
Masato Hayashi
Yoshihiro Hayashi
Yasuo Iino
Hajime Ishikawa
Yasuo Isikawa
Makoto Ito
Hidehiro Kato
Chikao Kimura
Hiroko Kimura
Jun Konno
Konomu Kubo
Joji Morishita
Keiichi Nakajima
Shuya Nakatsuka
Masatugu Nishino
Kayo Ohmagari

Seiji Ohsumi
 Keiichi Sakai
 Hirohisa Shigemune
 Hirohiko Shimizu
 Yoshiaki Suda
 Kotaro Tachibana
 Yoshihiro Takagi
 Kazuo Yamamura
 Naohisa Yoshid
 Tetsuya Kimura (S)
 Yasuhiro Kobe (S)
 Tomio Sakamoto (S)
 Mitsuko Shino (S)
 Takao Shinobu (S)
 Nao Tomita (S)
 Kiyo Ubukata (S)
 Rei Kawagishi (I)
 Midori Ohta (I)
 Akiko Tomita (I)

Republic of Korea

Deok-Bae Park (C)
 Joon-Suk Kang (AC)
 Noh-Han Park (AC)
 Dong Ik Choi
 Young Il Choi
 Zang Geun Kim
 Kyo Wan Kim
 Dong Jae Lee
 Duk-Woo Nam
 Hyoung-Chul Shin
 Kyu-Hwa Sim
 Sung Kwon Soh
 Gi-Sik Son
 Dong Yeob Yang
 Hyo-E Yoo

Mexico

Andres Rozental (C)
 Silvia Manzanilla Naim (AC)
 Lorenzo Rojas Bracho
 Francisco Romero Bock (I)
 Alberto Szekely (I)

Monaco

Frederic Briand (C)

Mongolia

T. Damdin (C)
 S. Bold (AC)
 P. Naranbayar

Morocco

Driss Meski (C)
 Abdelmalek Faraj

Netherlands

Giuseppe Raaphorst (C)
 Henk Eggink (AC)
 Annemarie van der Heijden (AC)
 Peter Reijnders
 Sylvia Deepen (S)

New Zealand

Geoffrey Palmer (C)
 Chris Carter (AC)
 Lucy Duncan (AC)
 Mike Donoghue (AC)
 Nigel Fyfe (AC)
 Chris Anderson
 Al Gillespie
 Nick Maling
 Wally Stone
 Andrew Bignell (S)

Nicaragua

Miguel Marengo (C)
 Margaret Sanchez

Norway

Odd Gunnar Skagestad (C)
 Halvard Johansen (AC)
 Ove Midttun (AC)
 Turid Eusébio
 Anne-Kirsti Wendel Karlsen
 Lene Lind
 Egil Ole Øen
 Jørn Pedersen
 Ingrid Schøyen
 Lars Walløe
 Silje Wangen
 Hild Ynnesdal
 Petter Ølberg (S)

Oman

Ibrahim Al-Busaidi (C)

Republic of Palau

Victorio Uherbelau (AC)

Panama

Rogelio Santamaria (C)
 Epimenides Diaz

Peru

Ana Maria Pomar (C)

Portugal

Edgar Afonso (C)
 Marina Sequeira (AC)

Russian Federation

Valentin Ilyashenko (C)
 Valeriy Knyazev (AC)
 Rudolf Borodin
 John Tichotsky (I)
 Aivana Enminkau (I)
 Alexandre Borodin (S)

Saint Kitts and Nevis

Cedric Liburd (C)

Saint Lucia

Calixte George (C)
 Vaughn Charles (AC)

Saint Vincent and The Grenadines

Edwin Snagg (C)
 Raymond Ryan (AC)

San Marino

Dario Galassi (C)

Senegal

Ndiaga Gueye (C)

Solomon Islands

Nelson Kile (C)
 Sylvester Diake (AC)

South Africa

Horst Kleinschmidt (C)
 Herman Oosthuizen (AC)

Spain

Carlos Domingez (C)
 Carmen Asencio (AC)
 Luis Fernando de Segovia (AC)

Sweden

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

Switzerland

Thomas Althaus (C)
 Martin Krebs (AC)

UK

Richard Cowan (C)
 Rob Bowman (AC)
 Geoffrey Jasinski (AC)
 Laurence Kell (AC)
 Jenny Lonsdale
 Mark Simmonds
 Nicola Stewart
 Lynn Shepherd (S)
 Karen Triggs (S)

USA

Rolland Schmitten (C)
 Michael Tillman (AC)
 Nancy Azzam
 Robert Brownell
 Winnie Chan
 Roger Eckert
 Keith Johnson
 Melanie Khanna
 Emily Lindow
 George Noongwook
 Jean-Pierre Ple
 Stanley Speaks
 Chris Yates

George Ahmaogak (S)
 William Brennan (S)
 Harry Brower Jr. (S)
 Steve Ding (S)
 Dennie Ege (S)
 Nicolas Fetchko (S)
 Amy Fraenkel (S)
 Birgit Ladwig (S)
 Kris Lynch (S)
 Maya Nikolovska (S)
 Gary Rankel (S)
 Scott Smullen (S)
 Catherine Ware (S)
 Dave Whaley (S)
 Todd Willens (S)

Chair of Scientific Committee

Doug DeMaster

**NON-MEMBER
 GOVERNMENT OBSERVERS**

Belgium

Alexandre de Lichtervelde

Canada

Patrice Simon

Cape Verde

Manuel Amante Da Rosa

Republique de Côte d'Ivoire

Kouassi Kobenan
 Noël Bombo Blaguet
 Nadjè Dedi
 Kouakou Kouassi

Czech Republic

Jiri Mlikovsky

El Salvador

Edgardo Suarez

Greece

Angelina Metaxatos
 Despina Symonds

**INTERGOVERNMENTAL
 ORGANISATION OBSERVERS**

ACCOBAMS

Marie-Christine Van Klaveren

ASCOBANS

Peter Reijnders

CCAMLR

Hermann Pott

CMS

Arnulf Müller-Helmbrecht

ECCO

Horace Walters
 Nigel Lawrence

IUCN

Justin Cooke

NAMMCO

Grete Hovelsrud-Broda
 Charlotte Winsnes

**NON-GOVERNMENTAL
 ORGANISATION OBSERVERS**

Achiever Yacht Charters Ltd

Gill Sanders

Alaska Cambridge Group

Mary Core
 John Tichotsky (Alt)

All Japan Seamen's Union

Y Fujisawa
 Akira Sato (I)

American Cetacean Society

Katy Penland

**American Friends Service
 Committee**

Harry Brower Jr.

Animal Care International

Georgina Davies
 Denise Wegner (I)

ACOPS

Birgitte Elvetaard

Animal Kingdom Foundation

Margi Prideaux

Animal Welfare Institute

Ben White

**Antarctic and Southern Ocean
 Coalition (ASOC)**

Junko Sakurai
 Yusuke Inoue (I)

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

Gennady Inankeuyas
 Natalia Shevchenko (Alt)

John Tichotsky (I)
 Aivana Enminkau (I)

**Biodiversity Action Network East
 Asia (BANEA)**

Shohei Yonemoto
 Ayako Okubo (I)

Campaign Whale

Andy Ottaway
 Samantha Dawes (I)

**Canadian Marine Environment
 Protection Society**

Annelise Sorg
 Doug Imbeau (I)

**Caribbean Conservation
 Association**

Joth Singh

**Center for Respect of Life and
 Environment**

Kitty Block

Cetacean Society International

Kathleen O'Connell

**Conservacion De Mamiferos
 Marinos De Mexico A.C.**

Beatriz Bugada

Cousteau Society

Clark Lee Merriam

**David Shepherd Conservation
 Foundation**

Sue Fisher

**Dolphin & Whale Action
 Network**

Nanami Kurasawa

Dolphin Connection

Deb Adams

Earthkind

Richard Page

Earthtrust

Andrea Cedarquist

Earth Island Institute

Mark Palmer
 David Rinehart (Alt)

Earth Voice

Betsy Dribben
 Naomi Rose (Alt)

Eastern Caribbean Coalition for Environmental Awareness (ECCEA)

Lesley Suttly
Louise Francis (I)

Ecodetectives

Martina Badidova
Thomas Henningson (Alt)

Environmental Consultants & Associates

Karen Steuer

Environmental Investigation Agency

Clare Perry

European Bureau for Conservation & Development

Ellen Godec

Fauna and Flora International

Cassandra Phillips

Finns for Whales

Kajjaliisa Koomson

First Knowledge Union

Nataha Shevchenko
Alexander Borodin (Alt)

Florida Caribbean Conservation Coalition

Heather Rockwell
Frank Cipriano (I)

Fondation Brigitte Bardot

Brice Quintin
Christophe Marie (I)

Friends of Nature

Li Zhang
Lesley Gidding (I)

Friends of Whalers

Alan Macnow

Fundación Cethus

Lic. Vanessa Tossenburger
Marta Hevia (I)

Gesellschaft zu Rettung der Delphine e.V.

Andrea Steffen
Fabian Ritter (I)

Gesellschaft zum Schutze der Meeressäuger e.V. GSM

Birgith Sloth

Global Guardian Trust

Hiroshi Yagita
Toshikazu Miyamoto (I)

Greenpeace International

John Frizell

Group to Preserve Whale Dietary Culture

Komei Wani
Kouchi Yanagida (I)

High North Alliance

Rune Frovik
Glenn Williams (Alt)
Ivar Aune (I)

Humane Society International

Patricia Forkan
Naomi Rose (Alt)

Indigenous World Association

Jessica Lefevre

Initiative for Social Action and Renewal in Eurasia

Maria Vorontsova

Institute of the North

John Tichotsky
Mary Core (Alt)
Edvard Zdor (Alt)
Aivana Enminkaou (I)
John Tichotsky (I)

International Association for Religious Freedom

Eugene Brower

International Environmental Advisors

Thilo Maack
N. Brandon (Alt)

International Dolphin Watch

Philippa Brakes
Diederik Van Liere (Alt)
Michael Ostheimer (I)

International Fund for Animal Welfare

Christopher Tuite

International Institute for Environment and Development

Volker Homes

International League for the Protection of Cetaceans

Lesley Busby

International Marine Mammal Association

Vassili Papastavrou

International Network for Whaling Research

Klaus Barthelmess
Clemens Jank (Alt)

International Ocean Institute

Sidney Holt

International Primate Protection League

Mia Strickland

International Transport Workers' Federation

Kenji Takahashi
Hideo Kon (I)

International Wildlife Coalition

Daniel Morast
Elsa Yayais Cabrera (I)

International Work Group for Indigenous Affairs

Petra Rethmann

Inuit Circumpolar Conference

Lene Kielsen Holm

IWMC World Conservation Trust

Eugene Lapointe
Jaques Berney (Alt)
Mr. Paul Kerkhoven (Alt)
Helene Lapointe (I)
Janice Henke (Alt)
Martine Bonzon (I)

Japan Fisheries Association

Jay Hastings

Japan Small-Type Whaling Association

Yoshiichi Shimomichi
Hidoko Kimura (I)

Japan Whale Conservation Network

Naoko Funahashi

Japan Whaling Association

Toru Yamamoto
Gabriel Gomez Diaz (I)

Magadan Native Federation

Eduard Zdor
Alexander Borodin (Alt)
Aivana Enminkau (I)

John Tichotsky (I)

Minority Rights Group

Craig George

Natural Resources Defense Council

Joel Reynolds

PANGEA

Karina Rejane Groch

Pro Wildlife e.V.

Sandra Altherr

Robin des Bois

Charlotte Nithart

RSPCA

Laila Sadler

Ben Wilson (Alt)

Safety First

Takehiro Masuyama

Tomoko Kajiki (I)

Sierra Club

Judith Olmer

Sino Cetacean International Institute

Grace Gao

Survival for Tribal People

Taqlik Hepa

TEN

Shigeko Misaki

Vier Pfoten e.V.

Peter Pueschel

Werkgroep Zeehond

Geert Drieman

Whale & Dolphin Conservation Society

Niki Entrup

Frank Cipriano (Alt)

Denise Risch (I)

Whale & Dolphin Watch Australia

Steve Mitchell

Brian Perry (Alt)

Frank Future (Alt)

Whale Cuisine Preservation Association

Maki Noguchi

Yoko Shimozuru (I)

Whales Alive

Mick McIntyre

Women's Forum for Fish

Yuriko Shiraishi

Akiko Sato (I)

Women's International League for Peace and Freedom

Maggie Ahmaogak

Working Group for the Protection of Marine Mammals (ASMS)

Sigrid Lüber

World Society for the Protection of Animals

Leah Garccs (Alt)

Philip Lymbery (Alt)

World Wide Fund for Nature

Sue Lieberman

Annex B

Agenda

1. INTRODUCTORY ITEMS
 - 1.1 Welcome Address
 - 1.2 Opening Statements (IWC/55/OS)
 - 1.3 Secretary's Report on Credentials and Voting Rights
 - 1.4 Meeting Arrangements
 - 1.5 Review of Documents (IWC/55/1)
2. ADOPTION OF THE AGENDA
3. SECRET BALLOTS
(*Chair's Report of the 54th Annual Meeting, Section 3*)
 - 3.1 Proposal to amend Rule of Procedure E.3 (d)
 - 3.2 Commission discussions and action arising
4. STRENGTHENING THE CONSERVATION AGENDA OF THE COMMISSION
 - 4.1 Proposal to strengthen the conservation agenda of the Commission (IWC/55/4)
 - 4.2 Commission discussions and action arising
5. WHALEWATCHING
(*Chair's Report of the 54th Annual Meeting, Section 4*)
 - 5.1 Report of the Scientific Committee (IWC/55/Rep 1)
 - 5.2 Commission discussions and action arising
6. WHALE STOCKS
(*Chair's Report of the 54th Annual Meeting, Section 5*)
 - 6.1 Southern Hemisphere minke whales
 - 6.1.1 Report of the Scientific Committee
 - 6.1.2 Commission discussions and action arising
 - 6.2 Southern Hemisphere blue whales
 - 6.2.1 Report of the Scientific Committee
 - 6.2.2 Commission discussions and action arising
 - 6.3 Southern Hemisphere humpback whales
 - 6.3.1 Report of the Scientific Committee
 - 6.3.2 Commission discussion and action arising
 - 6.4 Other stocks – bowhead, right and gray whales
 - 6.4.1 Report of the Scientific Committee
 - 6.4.2 Commission discussion and action arising
 - 6.5 Other
7. ABORIGINAL SUBSISTENCE WHALING
(*Chair's Report of the 54th Annual Meeting, Section 6*)
 - 7.1 Aboriginal subsistence whaling scheme
 - 7.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee (IWC/55/Rep 3)
 - 7.1.2 Commission discussions and action arising
 - 7.2 Aboriginal subsistence whaling catch limits
 - 7.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee (IWC/55/Rep 3)
 - 7.2.2 Commission discussions and action arising
 - 7.3 Other – proposal to amend Schedule paragraph 13
8. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES
(*Chair's Report of the 54th Annual Meeting, Section 8*)
 - 8.1 Report from the Workshop on Whale Killing Methods and Associated Welfare Issues (IWC/55/Rep 5)
 - 8.2 Commission discussions and action arising
9. REVISED MANAGEMENT SCHEME (RMS)
(*Chair's Report of the 54th Annual Meeting, Section 9*)
 - 9.1 Revised Management Procedure (RMP)
 - 9.1.1 Report of the Scientific Committee (IWC/55/Rep 1)
 - general issues
 - preparation for implementation (North Pacific minke, North Atlantic minke and Western North Pacific Bryde's whales)
 - bycatch
 - implications of restricting catches to EEZs or other waters within 200 miles of the coast
 - 9.1.2 Commission discussions and action arising
 - 9.2 Revised Management Scheme
 - 9.2.1 Intersessional work
 - 9.2.2 Commission discussions and action arising, and possible Schedule amendment proposal
 - 9.3 Other
10. SANCTUARIES
(*Chair's Report of the 54th Annual Meeting, Section 10 and Resolution 2002-1*)
 - 10.1 Reviews of sanctuaries (IWC/55/Rep 1)
 - 10.1.1 Improvements to the review process
 - Report of the Scientific Committee
 - Commission discussions and action arising
 - 10.1.2 Preparations for the review of the Southern Ocean Sanctuary
 - Report of the Scientific Committee
 - Commission discussions and action arising, and possible Schedule amendment proposal
 - 10.2 South Pacific Sanctuary
 - 10.2.1 Proposal to amend the Schedule to establish a sanctuary (IWC/55/5)
 - 10.2.2 Commission discussions and action arising
 - 10.3 South Atlantic Sanctuary
 - 10.3.1 Proposal to amend the Schedule to establish a sanctuary (IWC/55/6)
 - 10.3.2 Commission discussions and action arising
 - 10.4 Other
11. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING
(*Chair's Report of the 54th Annual Meeting, Section 11*)
 - 11.1 Proposal to amend the Schedule
 - 11.2 Commission discussions and action arising
12. SCIENTIFIC PERMITS
(*Chair's Report of the 54th Annual Meeting, Section 12*)
 - 12.1 Report of the Scientific Committee (IWC/55/Rep 1)
 - 12.1.1 Improvements to review procedures

- 12.1.2 Review of results from existing permits
- 12.1.3 Review of new or revised proposals
- 12.1.4 Other
- 12.2 Commission discussions and action arising (IWC/55/7)
13. ENVIRONMENTAL AND HEALTH ISSUES
(*Chair's Report of the 54th Annual Meeting, Section 13*)
- 13.1 Cetacean-fisheries interactions
- 13.1.1 Report of the Scientific Committee (IWC/55/Rep 1)
- 13.1.2 Commission discussions and action arising
- 13.2 High latitude climate change effects on cetaceans
- 13.2.1 Report of the Scientific Committee (IWC/55/Rep 1)
- 13.2.2 Commission discussions and action arising
- 13.3 Habitat-related issues
- 13.3.1 Report of the Scientific Committee (IWC/55/Rep 1)
- State of the Cetacean Environment (SOCER)
 - POLLUTION 2000+
 - Arctic issues
 - SO-GLOBEC/CCAMLR
 - Other
- 13.3.2 Commission discussions and action arising
- 13.4 Reports from Contracting Governments on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals
- 13.5 Health issues
- 13.5.1 Commission discussions and action arising
- 13.6 Other
14. CO-OPERATION WITH OTHER ORGANISATIONS
(*Chair's Report of the 54th Annual Meeting, Section 14*) (IWC/55/8)
- 14.1 Report of the Scientific Committee (IWC/55/Rep 1)
- 14.2 Other reports
- 14.3 Commission discussions and action arising
15. OTHER SCIENTIFIC COMMITTEE ACTIVITIES, ITS FUTURE WORK PLAN AND ADOPTION OF THE SCIENTIFIC COMMITTEE REPORT
(*Chair's Report of the 54th Annual Meeting, Section 15*)
- 15.1 Small cetaceans
- 15.1.1 Report of the Scientific Committee (IWC/55/Rep 1)
- 15.1.2 Commission discussions and action arising
- 15.2 Other activities
- 15.2.1 Report of the Scientific Committee (IWC/55/Rep 1)
- 15.2.2 Commission discussions and action arising
- 15.3 Scientific Committee Future Work Plan
- 15.3.1 Report of the Scientific Committee (IWC/55/Rep 1)
- 15.3.2 Commission discussions and action arising
- 15.4 Adoption of the Report
16. CATCHES BY NON-MEMBER NATIONS
(*Chair's Report of the 54th Annual Meeting, Section 7*)
- 16.1 Commission discussions and action arising
17. INFRACTIONS, 2002 SEASON
(*Chair's Report of the 54th Annual Meeting, Section 16*)
- 17.1 Report of the Infractions Sub-committee (IWC/55/Rep 4)
- 17.2 Commission discussions and action arising
18. LEGAL ADVICE IN RELATION TO THE IWC
- 18.1 Proposal regarding legal advice in relation to the IWC (IWC/55/9)
- 18.2 Commission discussions and action arising
19. ADMINISTRATIVE MATTERS
(*Chair's Report of the 54th Annual Meeting, Section 17*)
- 19.1 Annual Meeting arrangements and procedures
- 19.1.1 Report of the Finance and Administration Committee (IWC/55/Rep 2)
- Verbatim Record
 - Document submission and distribution
 - Need for a Technical Committee
 - Use of simultaneous translation
- 19.1.2 Commission discussions and action arising
- 19.2 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate
- 19.2.1 Report of the Finance and Administration Committee (IWC/55/Rep 2)
- 19.2.2 Commission discussions and action arising
20. FORMULA FOR CALCULATING CONTRIBUTIONS
(*Chair's Report of the 54th Annual Meeting, Section 18*)
- 20.1 Report of the Finance and Administration Committee (IWC/55/Rep 2)
- 20.2 Commission discussions and action arising
21. FINANCIAL STATEMENTS AND BUDGETS
(*Chair's Report of the 54th Annual Meeting, Section 19*) (IWC/55/10)
- 21.1 Review of the provisional financial statement, 2002/2003
- 21.1.1 Report of the Finance and Administration Committee (IWC/55/Rep 2)
- 21.1.2 Commission discussions and action arising
- 21.2 Consideration of estimated budgets, 2003/2004 and 2004/2005
- 21.2.1 Report of the Finance and Administration Committee (IWC/55/Rep 2)
- 21.2.2 Commission discussions and action arising
22. ARREARS OF FINANCIAL CONTRIBUTIONS
(*Chair's Report of the 54th Annual Meeting, Section 20*)
- 22.1 Report of the Finance and Administration Committee (IWC/55/Rep 2)
- 22.2 Commission discussions and action arising
23. ADOPTION OF THE REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE (IWC/55/Rep 2)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 24. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS
24.1 56th Annual Meeting, 2004 (IWC/55/11)
24.2 57th Annual Meeting, 2005
24.3 Other | 27. SECRETARY'S REPORT
<i>(Chair's Report of the 54th Annual Meeting, Section 23)</i>
(IWC/55/12) |
| 25. ELECTION OF THE CHAIR AND VICE CHAIR | 28. SUMMARY OF DECISIONS AND REQUIRED ACTIONS |
| 26. ADVISORY COMMITTEE | 29. OTHER MATTERS |

Annex C

Resolution 2003-1 Adopted during the 55th Annual Meeting

Resolution 2003-1

THE BERLIN INITIATIVE ON STRENGTHENING THE CONSERVATION AGENDA OF THE INTERNATIONAL WHALING COMMISSION

WHEREAS the first objective of the International Convention for the Regulation of Whaling is ‘the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks’;

MINDFUL that, given the depleted status of great whale populations at the inception of the IWC, and that during the last 25 years, the International Whaling Commission has devoted a overwhelming part of its work to the pursuit of that conservation objective;

NOTING that, through the adoption of more than a hundred conservation-oriented resolutions¹, as well as through various Schedule amendments, the Commission has evolved into an organisation internationally recognised, among other things, for its meaningful contributions to the conservation of great whales; furthering that conservation work through those Resolutions and Schedule amendments, the Commission has gradually developed an extensive conservation-oriented agenda²;

NOTING that since the Convention came into force in 1948 several key conventions have been adopted which may affect great whales, including, *inter alia*, UNLOS, CITES, IOC, ICSU, the CBD, CMS, ACCOBAMS and ASCOBANS;

RECOGNIZING the various challenges referred to in previous Resolutions and Schedule Amendments, it is prudent for the Commission to effectively organise its future work in the pursuit of its objective by devising an appropriate agenda that places special emphasis on its benefits to conservation.

NOW THEREFORE THE COMMISSION:

WELCOMES initiatives to assess the achievements and orientation of the cumulative work of the Commission in the pursuit of its conservation objective;

ENDORSES the proposals made by various Contracting Governments to organise, on the basis of that assessment, the future Conservation Agenda of the Commission and to cooperate in its preparation;

DECIDES to establish a Conservation Committee of the Commission, composed of all Contracting Parties, in conformity with Article III paragraph 4 of the Convention;

DECIDES to entrust the Conservation Committee with:

- (1) The preparation and recommendation to the Commission of its future Conservation Agenda, taking full account of this Resolution;
- (2) The implementation of those items in the Agenda that the Commission may refer to it; and
- (3) Making recommendations to the Commission in order to maintain and update the Conservation Agenda on a continuing basis.

INSTRUCTS the Conservation Committee to meet before the Commission’s Annual Meeting in 2004, in order to organise its work, so that the Conservation Agenda can be considered for adoption by the Commission at that Annual Meeting.

DIRECTS the Conservation Committee to explore how the Commission can coordinate its conservation agenda through greater collaboration with a wider range of other organisations and conventions including *inter alia* CMS, CCAMLR, IMO, IUCN and UNEP.

REQUESTS the Scientific Committee to advise the Conservation Committee in the performance of the tasks entrusted to it in this Resolution, and to ensure that the appropriate scientific research items, including *inter alia*, whalewatching, environmental issues and behavioural research, under the responsibility of the Scientific Committee, are incorporated in the Conservation Agenda.

REQUESTS the Conservation Committee to begin exploring the possible establishment, by the Commission, of an appropriate trust fund (including the identification of potential contributors), to make available the necessary financial resources to the Commission and, particularly, to the Contracting Governments committed to implementing specific items of the Conservation Agenda related to conservation-oriented research. To that end, the Committee shall give priority to the question of securing assistance for scientific research and capacity building for scientists and institutions from developing countries, and shall take advantage from the experiences obtained in other international environmental and conservation conventions and treaties, in the establishment of similarly-oriented international funds.

DIRECTS the Secretariat to prepare a report, to be considered by the Commission at its next annual meeting, on the implementation of Resolution 1998-6 regarding the establishment of a dedicated ‘Environment Research Fund’ to facilitate research on environmental change and cetaceans, as well as on the results of the appeal it made in its Resolution 1999-5 ‘to the Contracting Governments, other governments, international organisations and other bodies to contribute financially and in kind’ to research programs, and to include in that report a recommendation

¹ As can be appreciated in the ‘Compiled List of IWC Conservation-Oriented Resolutions’, attached hereto as Annex I.

² As can be appreciated in Annex II of this Resolution, entitled ‘IWC Conservation Work: An Annotated Compilation’.

to the Commission, as to how that Fund could best be considered in the light of the possible establishment of the trust fund referred to in the previous paragraph.

- Resolutions 1983/App.2; 1990/App.5 and 1998-8
- Resolutions 1980/App.8; 1983/App.4; 1984/App.2; 1990/App.3; 1991/App.5; 1992/App.9; 1993/App.4; 1994-2; 1995-4; 1996-4; 1997-8 and 2001-13
- Resolutions 1992/App.10; 1997-4 and 2001-4
- Resolutions 1993/App.9; 1994-14 and 1996-2
- Resolutions 1999-7 and 2000-2
- Resolutions 1993/App.12 and 13; 1994-13; 1995/10; 1997-7 and 1998-5
- Resolutions 1990/App.6 and 2001-9
- Resolutions 1979/App.3; 1992/App.4; 1993/App.6; 1994-3; 1995-8; 1998-3 and 2000-4
- Resolutions 1980/App.6 and 1981/App.6
- Resolutions 1985/App.2; 1986/App.2; 1987/Apps. 1 to 4; 1998/Apps. 1 to 3; 1989/App. 1 to 4; 1990/Apps. 1 and 2; 1991/Apps. 2 and 3; 1992/Apps. 5 and 6; 1993/Apps. 7 and 8; 1994-8 to 11; 1995-8 and 9; 1996-7; 1997-5 and 6; 1998-4; 1999-2 and 3; 2000-5 and 2001-7
- Resolutions 1978/App.D; 1980/App.5bis; 1998-8; 1999-6 and 2000/App.2
- Resolutions 1978-4/1980-11/1982-4/1991-6/1992-1/1993-1/1994-1/1995-App.1/1995-1/1995-2/1997-1/1999-1/2001-2

Annex I

COMPILED LIST OF IWC CONSERVATION-ORIENTED RESOLUTIONS, 1976-2001

Note on Resolution numbering: The Commission did not implement a Resolution numbering system until 1994. Resolutions adopted prior to 1994 are referred to here by the year of adoption and the number of the Appendix to the report of the corresponding meeting in which they are printed.

IWC 28th Annual Meeting

- 1976:4 Resolution on adherence to the convention
- 1976:5 Resolution on the prohibition of transfer of vessels, equipment and assistance
- 1976:6 Resolution on bowhead whales and gray whales

IWC 29th Annual Meeting

- 1977:6 Reporting requests for small-type whaling
- 1977:7 Prevention of importation of whale products
- 1977:8 Prevention of transfer of whaling vessels, etc

IWC December 1978 Special Meeting

- 1978:D Resolution to CITES
- 1978:E Importation of whale products from non-IWC member countries.
- 1978:F Transfer of whaling equipment and expertise, etc

IWC 31st Annual Meeting

- 1979:2 Resolution to consider the implications for whales of management regimes for other marine resources
- 1979:3 Resolution in relation to the establishment of a whale sanctuary in the Indian Ocean.
- 1979:9 Importation of Whale Products from, Export of Equipment to, and Prohibition of Whaling by Non-member Countries.

IWC 32nd Annual Meeting

- 1980:5 Resolution on cooperation and coordination between the International Whaling Commission and the proposed Commission for the Conservation of Antarctic Marine Living Resources
- 1980:6 Resolution aimed at discouraging whaling operations outside IWC regulations
- 1980:8 Resolution concerning extension of the commission's responsibility for small cetaceans
- 1980:10 Resolution on preservation of the habitat of whales and the marine environment

IWC 33rd Annual Meeting

- 1981:3 Resolution on Communication between the IWC and the Indian Ocean Coastal States
- 1981:6 Resolution to implement recommendations of the Technical Committee Working Group on Non-IWC whaling

1981:7 Resolution relating to pollutants in whales

IWC 35th Annual Meeting

1983:2 Resolution on the framework of a comprehensive assessment of whale stocks

IWC 37th Annual Meeting

1985:2 Resolution on Scientific Permits

IWC 38th Annual Meeting

1986:2 Resolution on Special Permits for Scientific Research

IWC 39th Annual Meeting

- 1987:1 Resolution on Scientific Research Programmes
- 1987:2 Resolution on Republic of Korea's Proposal for Special Permits
- 1987:3 Resolution on the Icelandic Proposal for Scientific Catches
- 1987:4 Resolution on Japanese Proposal for Special Permits

IWC 40th Annual Meeting

- 1988:1 Resolution on Norwegian Proposal for Special Permits
- 1988:2 Resolution on the Icelandic Proposal for Scientific Catches
- 1988:3 Resolution on the Issuance of Special Permits for the Purposes of Scientific Research

IWC 41st Annual Meeting

- 1989:1 Resolution on the Icelandic Proposal for Scientific Catches
- 1989:2 Resolution on Norwegian Proposal for Special Permits
- 1989:3 Resolution on the Proposed Take by Japan of Whales in the Southern Hemisphere under Special Permit
- 1989:4 Recommendation on Scientific Coordination in the Indian Ocean

IWC 42nd Annual Meeting

- 1990:1 Resolution on Norwegian Proposal for Special Permits
- 1990:2 Resolution on Special Permit Catches by Japan in the Southern Hemisphere
- 1990:3 Resolution on Small Cetaceans
- 1990:4 Resolution on the Directed Take of Dall's Porpoises
- 1990:5 Resolution on Redirecting Research Towards Non-Lethal Methods
- 1990:6 Resolution in Support of the United Nations General Assembly Initiative Regarding Large-Scale Pelagic Driftnet Fishing and its Impact on the Living Marine Resources of the World's Oceans and Seas.

IWC 43rd Annual Meeting

- 1991:2 Resolution on Special Permit Catches by Japan in the Southern Hemisphere

1991:3 Resolution on USSR Proposal for Special Permit Catches in the North Pacific

1991:5 Resolution on Small Cetaceans

IWC 44th Annual Meeting

1992:2 Resolution on the Need for Research on the Environment and Whale Stocks in the Antarctic Region.

1992:4 Resolution on a Sanctuary in the Southern Hemisphere

1992:5 Resolution on Special Permit Catches by Japan in the Southern Hemisphere

1992:6 Resolution on Norwegian Proposal for Special Permits

1992:9 Resolution on Small Cetaceans

1992:10 Resolution on the Directed Take of Striped Dolphins in Drive Fisheries

1992:11 Resolution on the Directed Takes of White Whales and Narwhals

IWC 45th Annual Meeting

1993:4 Resolution on Addressing Small Cetaceans in the IWC

1993:5 Resolution on Research Related to Conservation of Large Baleen Whales in the Southern Oceans

1993:6 Resolution on a Sanctuary in the Southern Ocean

1993:7 Resolution on Special Permit Catches by Japan in the Southern Hemisphere

1993:8 Resolution on Norwegian Proposal for Special Permits

1993:9 IWC Resolution on Whale-watching

1993:10 Resolution on the Directed Take of Striped Dolphins

1993:11 Resolution on Harbour Porpoise in the North Atlantic and the Baltic Sea

1993:12 Resolution on Research on the Environment and Whale Stocks

1993:13 Resolution on the Preservation of the Marine Environment

1993:18 Resolution on whaling by non-member states

IWC 46th Annual Meeting

1994:2 Resolution on Small Cetaceans

1994:3 Resolution on Biosphere Reserve of the Upper Gulf of California and the Colorado River Delta

1994:7 Resolution on International Trade in Whale Meat and Products

1994:8 Resolution on Scientific Permits

1994:9 Resolution on Special Permit Catches by Japan in the North Pacific

1994:10 Resolution on Special Permit Catches by Japan in the Southern Hemisphere

1994:11 Resolution on Special Permit Catches by Norway

1994:12 Resolution on promotion of Research Related to Conservation of Large Baleen Whales in the Southern Oceans

1994:13 Resolution on Research on the Environment and Whale Stocks

1994:14 Resolution on whalewatching

IWC 47th Annual Meeting

1995:6 Resolution on improving mechanisms to prevent illegal trade in whale meat

1995:8 Resolution on whaling under special permit in sanctuaries

1995:9 Resolution on Whaling Under Special Permit

1995:10 Resolution on the environment and whale stocks

IWC 48th Annual Meeting

1996:2 Resolution on Whalewatching

1996:3 Resolution on Improving Mechanism to Restrict Trade and Prevent Illegal Trade in Whale Meat

1996:4 Resolution on Small Cetaceans

1996:7 Resolution on Special Permit Catches by Japan

1996:8 Resolution on Environmental Change and Cetaceans

IWC 49th Annual Meeting

1997:2 Resolution on Improved Monitoring of Whale Product Stockpiles

1997:4 Resolution on Cetacean Bycatch Reporting and Bycatch Reduction

1997:5 Resolution on Special Permit Catches in the Southern Ocean by Japan

1997:6 Resolution on Special Permit Catches in the North Pacific by Japan

1997:7 Resolution on Environmental Change and Cetaceans

1997:8 Resolution on Small Cetaceans

IWC 50th Annual Meeting

1998:2 Resolution on Total Catches over Time

1998:3 Resolution on the Southern Ocean Sanctuary

1998:4 Resolution on Whaling Under Special Permit

1998:5 Resolution on Environmental Changes and Cetaceans

1998:6 Resolution for the Funding of Work on Environmental Concerns

1998:7 Resolution on Coordinating and Planning for Environmental Research in the Antarctic

1998:8 Resolution on Cooperation Between the IWC and CITES

1998:9 Resolution on directed takes of white whales

1998:11 Resolution on IWC concern about human health effects from the consumption of cetaceans

IWC 51st Annual Meeting

1999:2 Resolution on Special Permits for Scientific Research

1999:3 Resolution on Whaling Under Special Permit

1999:4 Resolution on Health Effects from the Consumption of Cetaceans

1999:5 Resolution for the Funding of High Priority Scientific Research

1999:6 Resolution on Cooperation Between the IWC and CITES

1999:7 Resolution on Small Populations of Highly Endangered Whales

1999:8 Resolution on DNA Testing

1999:9 Resolution on Dall's porpoise

IWC 52nd Annual Meeting

2000:2 Resolution on Whaling of Highly Endangered Bowhead Whales in the Eastern Canadian Arctic.

2000:4 Resolution on whaling under Special Permit in the Southern Ocean Sanctuary

2000:5 Resolution on Whaling Under Special Permit in the North Pacific Ocean

2000:6 Resolution on Persistent Organic Pollutants and Heavy Metals

2000:7 Resolution on Environmental Change and Cetaceans

2000:8 Resolution on Western North Atlantic Right Whales

2000:9 Resolution on the Conservation of Freshwater Cetaceans

Appendix 2 – Memorandum of Understanding Between the Secretariat of the International Whaling Commission (IWC Secretariat) and the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) (UNEP/CMS Secretariat)

IWC 53rd Annual Meeting

2001:3 Resolution on Western North Pacific Gray Whale

2001:4 Resolution on the Incidental Capture of Cetaceans

2001:7 Resolution on Southern Hemisphere Minke Whales and Special Permit Whaling

2001:8 Resolution on Expansion of JARPN II Whaling in North Pacific

2001:9 Proposed Resolution on Interactions Between Whales and Fish Stocks

2001:10 Resolution on the Stockholm Convention on Persistent Organic Pollutants

2001:11 Resolution on the Importance of Habitat Protection and Integrated Coastal Zone Management

2001:12 Resolution on Dall's Porpoise

2001:13 Resolution on Small Cetaceans

Annex II

IWC CONSERVATION WORK

An Annotated Compilation

(1976-2001)

INTRODUCTION: THE PROGRESSIVE DEVELOPMENT OF A CONSERVATION AGENDA IN THE INTERNATIONAL WHALING COMMISSION

A primary objective of the International Convention for the Regulation of Whaling (ICRW), as stated in its Preamble, is to conserve the great natural resources represented by the whale stocks for the benefit of all mankind and for future generations. Although in its first 25 years, the International Whaling Commission (IWC), the main organ of the Convention, remained a relatively exclusive forum of a few whaling nations, over the last 25 years the IWC has gradually expanded its membership and agenda, developing into a broad-based conservation organisation whose focus now extends beyond the mere regulation of whaling, to address the multitude of threats that cetaceans face and will be facing to an increasing degree.

This broader focus is consistent with the original aims, purpose and mandate of the ICRW. To remain effective in a changing world, the IWC must continue to extend and update the scope of its activities, in order to address the most important and current conservation problems facing whales today and in the future.

The threats facing cetaceans in the 21st century can be expected to become more diverse and severe. The fishing effort is projected to continue to increase and to expand into previously unexploited areas, with a parallel increase in the numbers of cetaceans killed incidentally. The potential impacts on whales of the exploitation of other marine living resources are still poorly understood. High and increasing burdens of pollutants in many cetacean populations are a source of concern. Rapid changes to coastal habitat may threaten the populations of several cetacean species. Substantial fisheries for 'small' cetaceans, unregulated by the IWC, exist in many areas. The rapid growth of high-speed shipping may pose a significant new threat to whale populations. The effects on cetaceans of impending climatic change and consequent changes to marine ecosystems, will need to be addressed.

The IWC has already moved some way along the path of expanding the scope of its activity, and enhancing its capacity to cope with the increasing extent and diversity of threats facing cetaceans.

It is particularly important for the IWC to develop its collaboration with other international agencies and with coastal states, to ensure that the conservation needs of cetaceans are not neglected in developments and decisions that affect the marine environment. The strong scientific profile of the Commission makes it well-placed to fulfil this role.

This paper provides a summary of IWC decisions and actions in each of its main areas of activity, that indicate the progress made to date towards developing its new agenda, and provide a perspective for its future development.

The developing conservation inspired activities of the IWC are summarised under the following headings:

1. Scientific Research, including the development of non-lethal techniques
2. 'Small' cetaceans
3. Incidental takes of cetaceans
4. Non-consumptive utilization of cetaceans
5. Highly endangered species and populations
6. Whales and their environment
7. Ecosystem approaches and interactions with other marine living resources
8. Sanctuaries
9. Enforcement and compliance with conservation measures
10. Management of 'scientific whaling'
11. Collaboration with other organisations

1. SCIENTIFIC RESEARCH

A commitment to scientific research is enshrined in Article IV of the ICRW. In the first few decades of its existence, the IWC relied almost exclusively on data collected from whaling operations, and scientific activities of the IWC were limited to the application of traditional stock-assessment methods similar to those used in other fishery management bodies for the determination of whaling quotas.

Over time the scientific activities of the IWC and its Scientific Committee have developed substantially. Science is now a major emphasis of the IWC. Its Scientific Committee gathers unparalleled expertise in the science of cetacean conservation, management and population assessment. The agenda of the Scientific Committee is no longer limited to issues related to the regulation of whaling, but covers the spectrum of conservation issues facing cetaceans.

There follows a brief summary of the historical development of the IWC's current research agenda, and an outline of the new developments that are described further under the subsequent headings.

1. a) International Decades of Cetacean Research

The need for increased whale research was identified in the Declaration of the UN Conference on the Human Environment (Stockholm, 1972). In response, the IWC established the International Decade of Cetacean Research at its 24th Annual Meeting in 1972. The aim of the IDCR was to develop a research programme for whale stocks that would be largely independent of whaling operations.

The IDCR programme did not get underway until 1976, and its main project was the series of annual assessment cruises for baleen whales in the Antarctic, which were conducted each austral summer from 1978/9 to 1995/96. The second IDCR followed on the end of the first in 1985. The cruises initially involved whale marking exercises that

only provide data on subsequent capture by whaling expeditions, but from 1984/85 onwards, exclusively non-lethal methods were used, primarily surveys based on visual sightings. Since 1996/97, the cruises have continued under the Southern Ocean Whales and Environment Research Programme, under which the focus has shifted, from pure population assessment to research aimed at identifying the relationship between the abundance of whales and factors in their environment.

1. b) The Comprehensive Assessment

Until the mid-1980s, the main work of the Scientific Committee had been to provide short-term management advice to the Commission, on the exploitation of the major harvested stocks of economic importance to the whaling industry. Given the limited data available, the urgent nature of the advice required, and the inevitably contentious nature of scientific advice with direct economic consequences, the Scientific Committee had little opportunity to develop a broader and longer-term approach to the scientific assessment of whale populations.

At its 34th Annual Meeting in 1982, the IWC adopted the cessation of commercial whaling from 1986 onwards, with the provision that a Comprehensive Assessment of the effects of this decision be conducted. Resolution **35:2**, adopted by the IWC in 1983, outlined a framework for the Comprehensive Assessment. The concept of the Comprehensive Assessment soon expanded beyond the assessment of the effects of the moratorium decision *per se*, to include an assessment of whale stocks in greater breadth and depth than had been possible, in the context of providing short-term management advice for whaling. A Special Meeting of the Scientific Committee held in April 1986, made recommendations for the scope and conduct of a Comprehensive Assessment, which were adopted by the Commission at its 38th Annual Meeting. The Comprehensive Assessment included the main elements:

- (i) methodological: development and application of new methods, including those independent of whaling operations, to assess the status and trends of whale populations;
- (ii) a series of in-depth assessments of the status and trends of major whale populations;
- (iii) review and evaluation of management objectives and procedures.

The main conclusions of the Comprehensive Assessment with respect to methodology were: the old whaling-based methods of assessment, such as Catch Per Unit Effort and Mark-Recapture methods, were of limited utility. Several existing and new non-lethal methods were found to have promise and their development was given priority, including:

- Visual surveys
- Photo-identification of individual whales
- Telemetry
- DNA methods

These new non-lethal methods have now largely superseded the old whaling-based methods of study, although one member state continues to insist on the killing of whales for scientific purposes (see 'Scientific whaling' below). Resolution **1990:5**, on redirecting research towards non-lethal methods, welcomes this development and calls on members to highlight their use of non-lethal methods in their research reports.

Comprehensive Assessments of major whale stocks were conducted over the subsequent years as follows:

- 1990: Eastern North Pacific gray whales
Southern Hemisphere minke whales
Northern hemisphere minke whales
- 1991: Bowhead whales
North Atlantic fin whales
North Pacific minke whales
- 1995-6: North Pacific Bryde's whales
- 1998: Right whales
- 2001-2: North Atlantic humpback whales

The Comprehensive Assessment of Southern Hemisphere humpback whales is currently in progress, but no date for completion has been set. A reassessment of Southern Hemisphere minke whales, prompted by the possibility of a serious decline since the last Comprehensive Assessment in 1990, is expected to be completed in 2003.

Also included in the Comprehensive Assessment was the development of a Revised Management Procedure (RMP) which was approved by the Commission in Resolution **44:3**, adopted in 1992, as one element of a Revised Management Scheme (RMS). The RMS is aimed at providing a comprehensive and secure basis for the regulation of commercial exploitation of baleen whales, to guarantee protection from overexploitation in the shorter and longer term. The contents of the RMS have been further clarified in subsequent Resolutions (**1994:5**; **1996:6**; **1998:2** and **2000:3**). Most elements are now agreed, and it is anticipated that when the process is complete, the IWC will be able to shift its focus of attention to more forward-looking tasks than the regulation of a legacy industry.

The other main developments in the IWC's scientific agenda include:

1. c) Range of species covered

While the IWC previously focused only on species of direct economic importance for whaling, its coverage now extends to all species for which conservation action is needed or may become so in the future, including species which are too small or too rare to be a target of industrial whaling (see 'Small cetaceans' and 'Highly endangered species' below).

1. d) Geographical scope

While the IWC previously concerned itself mainly with high-latitude regions, where the commercially significant concentrations of large whales have traditionally been exploited, recent years have seen a growth in research in sub-tropical and tropical waters, including the waters of developing coastal states and the adjacent ocean areas.

1. e) Range of threats addressed

Previously the IWC only considered the effects of whaling on whale populations, which was reasonable in the past when this was by far the greatest threat to whales. Over the years, the agenda has expanded to include: incidental catches; pollutants and contaminants; effects of exploitation of other species on which whales depend; effects of environmental change including climate change; habitat alteration and degradation and noise pollution.

1. f) Research collaboration

While the IWC's scientific work was earlier on a stand-alone basis, the expanded agenda has shifted the emphasis towards multi-disciplinary collaborative research with coastal states and other international organisations, because the issues and threats are increasingly of a nature that the IWC cannot address on its own.

1. g) Other new issues on the scientific agenda include:

- Scientific aspects of the management of non-consumptive utilization, including whale watching;
- Scientific aspects of enforcement and verification methods, such as DNA testing of market products;
- Issues associated with the human health risks of contaminated cetacean products.

1. h) Associated with the development of the scientific agenda, has been an expansion of the range of scientific disciplines that the IWC must call upon to address the questions before it, and an expansion of the range of countries from which experts with knowledge of the local cetacean fauna are required, particularly developing countries. This has highlighted the need to develop means to provide the required assistance for scientific research and capacity building, including financial assistance and other measures to enable scientists and other experts from developing countries to participate in the work of the Commission and its Scientific Committee.

2. 'SMALL' CETACEANS

2. a) In its first 30 years of existence, the IWC concerned itself almost exclusively with the species of large whale of most interest to industrial whaling, in particular sperm whales and the larger baleen whales. Over the years, the range of species which the Commission has shown an interest in has been gradually extended as outlined chronologically here.

1974: First meeting of the IWC Scientific Subcommittee on 'Small Cetaceans'.

1975: Establishment of the Standing Scientific Subcommittee on Small Cetaceans. It recommended to the Commission that members report statistics on all direct and accidental takes of small cetaceans to the Commission. Specific management recommendations were provided on spotted dolphins, Dall's porpoise, harbour porpoise and Indus river dolphins.

1976: Adoption of an agreed list of small cetacean species, including 64 species of smaller odontocetes and 2 species of smaller baleen whales (*Rep. int. Whal. Commn.* 27:30-31).

Resolution **1977:6** on reporting requirements for 'small-type' whaling, called on member Governments to submit statistics on all direct and incidental catches of small cetaceans. These are published by the IWC from 1979 onwards.

The northern bottlenose whale was included in the IWC Schedule as a Protected Stock (*Rep. int. Whal. Commn.* 28:35).

Resolution **1980:8** on the extension of the Commission's responsibility for small cetaceans, directed the Scientific Committee to continue to provide scientific advice on

small cetacean stocks to member Governments, coastal States, and other interested governments and inter-governmental organisations.

2. b) During the 1980s, the Scientific Committee conducted an in-depth assessment of major exploited small cetacean species, on a rotating basis as follows:

- 1981: White whales, narwhal, killer whales, pilot whales;
- 1982: Black Sea dolphins; Eastern Tropical Pacific spotted and spinner dolphins (*Stenella* spp.) and striped dolphins (*Stenella coeruleoalba*) in the Western North Pacific;
- 1983: Porpoises: harbour porpoise, vaquita and Dall's porpoise ;
- 1984: *Cephalorhynchus* spp.: Hector's dolphin (New Zealand), Heaviside's dolphin (Southern Africa), black dolphin (Chile) and Commerson's dolphin (Chile, Argentina, Kerguelen)
- 1985: Baird's beaked whale;
- 1986-7: Pilot whales in the North Pacific and in the North Atlantic;
- 1988: All beaked whales;
- 1989: All pilot whales;
- 1990: Porpoises: harbour porpoise, Dall's porpoise, vaquita and spectacled porpoise.

2. c) During the 1990s

Resolution **1990:3** on small cetaceans. The Commission directed the Scientific Committee to prepare a comprehensive report on all stocks of small cetaceans subject to direct and incidental takes, and agreed to present a report of this work to UNCED (Rio 1992).

Resolution **1990:4** called on Japan to reduce its kill of Dall's porpoise as recommended by scientific advice.

Resolution **1991:5** on small cetaceans endorsed the Scientific Committee's report for UNCED and duly forwarded it. The report (published in *Rep. int. Whal. Commn.* Special Issue 15:73-130) includes a revised list of 66 'small cetacean' species recognised by the Committee. In Agenda 21, adopted in 1992 at UNCED, States agreed to recognise the work of the IWC Scientific Committee on all cetaceans (chapter 17.94).

Resolution **1992:9** on small cetaceans, noting the decisions taken by UNCED: called on States with small cetacean populations subject to anthropogenic threats, to seek advice from the IWC; invited other relevant organisations, including ICES and agreements concluded under CMS, to exchange information with the IWC; invited member Governments to provide assistance to States with endangered small cetacean stocks; and instructed the Scientific Committee to continue its work on assessing threats to small cetacean populations.

In view of the long-standing dispute over the extent of the IWC's competence for the management of small cetaceans, the Commission agreed to establish a working group to consider a mechanism to address small cetaceans in the IWC (*Rep. int. Whal. Commn.* 43:50).

Resolution **1992:10**, on the directed take of striped dolphins in drive fisheries, called on Japan to address the problem.

Resolution **1992:11** on directed takes of white whales and narwhals, called on States with white whales and narwhals in their waters to take appropriate conservation measures.

Resolution **1993:4** on addressing small cetaceans in the IWC, adopted by consensus, identified a need to improve mechanisms for handling small cetaceans in the IWC, including mechanisms to: ensure participation of coastal states, including non-members, in small cetacean research; improve availability and quality of data on small cetaceans; secure funding for coastal State participation in small cetacean issues; develop the relationship between the IWC and regional organisations with respect to small cetaceans.

Resolution **1993:10** on the directed take of striped dolphins, again urged Japan to take appropriate action to conserve striped dolphins subject to its drive fishery.

Resolution **1993:11** on harbour porpoises in the North Atlantic and Baltic Sea, called on the range States to meet the Scientific Committee's request for more data on population, abundance, incidental catches, and pollutant levels in harbour porpoises, to take steps to reduce incidental catches, and to report on progress the following year. It also agreed on co-operation with the new Agreement on Small Cetaceans in the North and Baltic Seas (ASCOBANS) established under CMS.

Resolution **1994:2** adopted by consensus: specified efforts to be made to improve collaboration with coastal States on small cetacean issues; established a voluntary fund for the participation of scientists from developing countries in small cetacean work; and agreed to co-operate with UNEP and organisations established under the auspices of CMS.

Resolution **1994:3** on the Biosphere Reserve of the Upper Gulf of California and the Colorado River Delta, commended Mexico on its efforts to protect the vaquita and invited other members to provide assistance.

Resolution **1996:4** reminded members of the previous Resolutions on small cetaceans, and invited member Governments to report on progress with the previous recommendations.

Resolution **1997:8** called for the work of the Scientific Committee on small cetaceans to be continued and for members to co-operate with it.

Resolution **1998:9** on white whales, called on States with beluga populations to collaborate in the Scientific Committee's assessment of beluga.

Resolution **1999:9** on Dall's porpoises, instructed the Scientific Committee to conduct an assessment of Dall's porpoises in 2001, and invited Japan to submit information.

2. d) A Memorandum of Understanding was signed in 1999 with UNEP/CMS to ensure ongoing co-operation between the UNEP/CMS and IWC Secretariats with respect to cetaceans.

2. e) In the 2000s

Resolution **2000:9** on freshwater cetaceans, called on States with freshwater cetaceans to collect and supply information and to ensure that conservation needs of freshwater cetaceans are taken into account in river development plans.

Japan indicated in 2000 that it would cease scientific collaboration on small cetaceans, if the Commission pursues its plan to conduct an assessment of Dall's porpoise in 2001. As from the 2001 Annual Meeting, Japan withdrew its participation in Scientific Committee work on small cetaceans, and declined to supply any data on Dall's porpoise.

Resolution **2001:12** on Dall's porpoise, called for the Scientific Committee to conduct a full assessment of Dall's porpoise and for Japan to supply the required information.

Resolution **2001:13** called on members to respond to Scientific Committee recommendations on small cetaceans and for the Committee to regularly review the implementation of its recommendations. It further encouraged members to provide technical, scientific and financial support to range States to assist their small cetacean conservation measures.

2. f) During the 1990s and beyond, the Scientific Committee continued its assessments of small cetaceans on a rotating basis, as follows:

- 1992: White whales and narwhals; species taken in Japanese drive fisheries;
- 1993: Small cetaceans in Southeast Asia;
- 1994: Small cetaceans in Latin America;
- 1995: Harbour porpoises in the North Atlantic and Baltic Sea;
- 1996: *Lagenorhynchus* spp;
- 1997: Small cetaceans in coastal waters of Africa and striped dolphins throughout the world;
- 1998: Small cetaceans in the Indian Ocean, Red Sea, and coastal waters of the Arabian peninsula;
- 1999: Bycatch mitigation, acoustic devices; white whales and narwhals;
- 2000: Freshwater cetaceans;
- 2001: Dall's porpoise; and
- 2002: Humpback dolphins (*Sousa* spp.).

2. g) IWC Special Issues on small cetaceans have been published as follows:

- 1988: The genus *Cephalorhynchus*;
- 1993: Pilot whales (N. Hemisphere only); and
- 1995: Phocoenids (porpoises).

2. h) Although the issue of its competence to manage small cetaceans has long been a source of contention within the Commission, the attitude of members is gradually changing. Several members who had previously had reservations about the IWC's competence for small cetaceans, have since changed their views.

2. i) Implications for the IWC of small cetacean work

Despite differing views on its competence to manage smaller cetacean species, the scope of the IWC's work has gradually extended over the last 25 years beyond the species of traditional interest to the whaling industry (the large baleen and sperm whales), to cover the full range of cetacean species. This has brought the following shifts of emphasis:

- (1) A shift away from a concentration only on whales in the traditional high-latitude whaling grounds, of interest to relatively few countries, to also include species and populations in temperate and tropical waters, including in particular the coastal waters of

many more countries, and of developing countries in particular;

- (2) A shift away from concern exclusively with direct exploitation, towards addressing the panoply of threats, including accidental entanglement in fishing nets, habitat degradation and exclusion, and so on, that face cetaceans, especially smaller ones.

2. j) For this expansion in scope to be effective, it will be necessary to involve many more coastal States in the work of the IWC, preferably as full members. The need to improve the participation of coastal States, particularly developing countries, in the work of the Commission and its Scientific Committee, has been recognised in several IWC resolutions, including the need for financial assistance.

2. k) The discussions on the competence issue, have revealed that a distinction between cetacean species purely on the basis of body size is no longer the most useful distinction with respect to conservation and management issues. Rather than distinguishing between 'small' and 'large' cetaceans, the IWC should bring its classification into line with UNCLOS and distinguish between (a) highly migratory species of cetacean; and (b) other species. The highly migratory species include those listed in Annex A of UNCLOS, plus any other species subsequently confirmed to be highly migratory.

2. l) While the IWC remains the primary organisation for the management and conservation of highly migratory species, which Article 68 of UNCLOS requires States to co-operate with, primary responsibility for the remaining species rests with coastal States and regional organisations (such as those established under CMS). The IWC's main role here is to contribute in the form of scientific assessments and advice, assistance with the co-ordination of scientific research, and the building of scientific capacity.

3. INCIDENTAL TAKES OF CETACEANS

3. a) In the past, the main catches of cetaceans were direct catches by whaling vessels. Today, more cetaceans are killed incidentally in nets than are captured deliberately. In 2000, approximately 2,000 cetaceans were reported killed incidentally and approximately 2,000 deliberately, but the true number killed incidentally is believed to be much higher (*J. Cetacean Res. Manage.* 4 (Suppl.):387-390, 2002).

3. b) The Scientific Committee originally recommended, in 1975, that data on incidental as well as deliberate catches of all cetaceans be submitted to the Commission. This was agreed by the Commission in Resolution **1977:6**. Statistics on incidental catches have been published in the Scientific Committee report since 1980. Although the number of countries supplying information has increased over the years from 4 in 1979 to 19 in 2000, the information is still very incomplete.

3. c) Resolution **1990:6** supported the UN General Assembly initiative to tackle the problem of large-scale pelagic driftnet fishing, and in October 1990 the Scientific Committee held a Workshop on the Mortality of Cetaceans in Fishing Nets and Traps (*Rep. int. Whal. Commn.*

Special Issue 15:1-71, 1994). The workshop concluded that incidental takes were unsustainable for the highly endangered species vaquita and baiji, and that these face extinction if takes are not eliminated. In addition, incidental takes were estimated to be unsustainable for several other populations, including:

- Hump-backed and bottlenose dolphins on the coast of Natal, South Africa;
- Striped dolphins in the Mediterranean; and
- Harbour porpoises in the western North Atlantic.

3. d) Cases where the level of take was unknown but believed likely to be unsustainable included:

- Dusky dolphins in the eastern South Pacific;
- Northern right whale dolphins in the central North Pacific; and
- Sperm whales in the Mediterranean Sea.

Levels of incidental takes in many other areas were unknown but considered to be significant.

3. e) Partly based on the findings of the IWC workshop, the UN General Assembly adopted Resolution 46/215 in December 1991, which called for a moratorium on pelagic driftnet fishing by the end of 1992.

3. f) In 1991, the Scientific Committee prepared a comprehensive global report on all small cetacean populations subject to incidental takes, that was submitted by the Commission in 1992 to UNCED (*Rep. int. Whal. Commn.* Special Issue 15: 76-130). This contributed to UNCED's recognition of the IWC's role with respect to all cetaceans.

3. g) Following Resolution **1993:11** on harbour porpoises, the Scientific Committee conducted extensive studies during 1994-97 on the assessment of incidental catches of harbour porpoises, the effects on the populations, and means of mitigation. From 1998 onwards, this work was continued by a joint working group of the IWC and ASCOBANS.

3. h) Resolution **1997:4** on cetacean bycatch reporting and bycatch reduction, drew attention to the fact that many members are not fulfilling their obligation to report incidental catches, and called upon them to do so from 1998 onwards. However, the Scientific Committee in 1999 re-iterated its concern that incidental catch figures were still not being submitted from many parts of the world, and called for this deficiency to be remedied (*J. Cetacean Res. Manage.* 2 (Suppl):50).

3. i) Resolution **1998:2** on total catches over time specified, for the first time, that incidental catches, along with collisions with ships and other sources of human-induced mortality, should be considered on a par with deliberate catches, and should be counted towards total allowable removals.

3. j) The Scientific Committee, in 1999, held a special session on acoustic mitigation measures to reduce by-catches ('pingers' that warn cetaceans of the presence of nets). While this method appeared promising in some trials, more studies were identified that needed to be conducted, to determine how effective they would be in practice. It

was concluded that acoustic warning devices would not be a sufficient remedy for the problem of bycatch of the endangered vaquita. A further workshop held in 2000, examined other methods of bycatch mitigation.

3. k) From 2001 onwards, the Scientific Committee has maintained a regular sub-committee on 'Bycatch and other Human-Induced Mortality' that meets annually. So far its main task has been to develop methods for improving estimation of the actual amounts of such mortality occurring.

3. l) Resolution **2000:8** on western North Atlantic right whales, and Resolution **2000:9** on freshwater cetaceans, recognised incidental catch as one of the main factors leading to the predicted extinction of Northwest Atlantic right whales and the baiji respectively.

3. m) Resolution **2001:4** on the incidental capture of cetaceans, noted that incidental catch is also a major concern of other organisations, including organisations under CMS, and supports the Scientific Committee's work on the issue. It further recommended that entangled whales be released alive where possible, but where this is not possible, they should only be used commercially when a DNA sample is submitted to the appropriate register and the bycatch counts towards any catch limit that might be in force. The aim is not to prevent utilization of animals that are already dead, but to help ensure that 'bycatches' do not develop into a form of exploitation outside IWC regulation.

3. n) Implications for the IWC of work on incidental takes

Although the issue of incidental takes has been considered by the IWC for over 20 years, it took some time for incidental takes to be considered on a par with direct takes and in equal need of management. Incidental takes occur in a broader range of countries, regions and fisheries than direct takes, and hence their management will involve a substantial expansion of the IWC's focus. Management of incidental takes will also require more extensive collaboration with other bodies, including coastal States, regional fishery organisations, regional conservation agreements, and global bodies including FAO, UNEP and CMS. The major scientific, technical and legal challenges include:

- Improving methods of monitoring incidental takes;
- Developing technical methods to reduce incidental takes; and
- Developing and implementing regulatory measures.

4. NON-CONSUMPTIVE UTILIZATION OF CETACEANS

4. a) The International Whaling Commission has addressed the subject of whale watching since 1975. As the only global body responsible for the conservation of whales, the IWC has provided a focus for all aspects of the discussion regarding whale watching, including the scientific, legal, socio-economic and educational aspects. The IWC has provided the function of a clearing house for the collation, analysis and dissemination of information on whale watching to both member and non-member Governments.

The IWC has performed a critical function of providing a framework to help coastal States draft regulations and guidelines and peer review of the scientific aspects of issues arising from whale watching. This has contributed to

the overall sustainability of whale watching and is ensuring that the economic and educational benefits are capitalised upon.

4. b) 1975

Concerns were expressed within the IWC Scientific Committee, that excursion boats entering Scammon and other breeding lagoons in Mexico, which had started in 1970, might be detrimental to the whales.

4. c) 1976

IWC Scientific Committee asked the Commission to request the US and Mexican Governments to '...establish regulations to reduce harassment of (gray) whales in all their breeding areas'. The Commission responded by adopting a Resolution, proposed by Denmark, that noted the Committee's recommendation and that 'the gray whales are generally protected', and recommended '... that contracting governments establish such regulations as soon as possible.'

4. d) 1982

The USA proposed at the IWC that there should be a special meeting in the spring of 1983, 'to address the non-consumptive utilization of cetacean resources, giving consideration to research, recreation, education and cultural aspects.' The IWC agreed to co-sponsor such a meeting.

4. e) 1983

The first whale watching conference, 'Whales Alive', was held in Boston, with the participation of the IWC Secretary as an Observer.

4. f) 1984

The outcome of the conference was considered by the IWC, including that the new issue of non-consumptive use should be considered by the IWC.

4. g) Resolution 1993:9

First whale watching resolution adopted by IWC in 1993, establishing a Working Group on Whale Watching to meet prior to the 1994 IWC and, *inter alia*, 'assemble and summarise information about whale watching from both party and non-party states'.

4. h) 1994

Whale Watching Working Group meets just prior to the IWC, under the Chairmanship of F. von der Assen (Netherlands). The main document under consideration was the report prepared by the Secretary on the basis of overviews provided by 11 member Governments, namely: Argentina, Chile, France, Ireland, Mexico, New Zealand, Oman, Spain, Sweden, UK (including British Virgin Islands and Caicos Islands), and the USA. There were in addition late papers from Japan, Brazil, Australia and Norway.

4. i) Resolution 1994:14

Resolution on whale watching adopted which, *inter alia*, requests the submission of information by Contracting Parties on whale watching, requests advice from the Scientific Committee in setting guidelines, and requests the IWC to keep under review all aspects relating to whale watching.

4. j) 1995–Present

The IWC Scientific Committee has addressed a large variety of scientific issues concerning whale watching. A standing whale watching Sub-Committee of the Scientific Committee was set up in 1998 from the Working Group set up in 1995. Matters addressed include:

- Identifying and assessing the possible effects of whale watching operations on cetaceans/whales;
- Examining current status of methods of assessment of impacts, including assessment of behavioural change;
- Providing advice on the management of future whale watching based on assessment of impacts;
- Reviewing information on noise production from vessels and aircraft and its effects on cetaceans;
- To draw up a set of guidelines to assist coastal states in the management of whale watching, based on the experience of member countries;
- Considering the assessment of possible short and long term effects of whale watching, and some special situations such as 'swim-with' programmes and dolphin feeding programmes;
- Utilizing the opportunities for scientific research conducted from whale watching boats; and
- Research on the effectiveness of, and compliance with, management measures.

4. k) Resolution 1996:2

IWC Resolution adopted which, *inter alia*, committed the Commission to discuss educational, economic and social aspects of whale watching at its Annual Meeting in 1997.

4. l) 1997

IWC considers the educational aspects of whale watching. The USA submitted information indicating the potential educational opportunities that are available through whale watching operations, and how to make best use of these opportunities.

4. m) 1998

IWC considers the socio-economic aspects of whale watching, indicating that:

- It offers new development opportunities for coastal communities;
- It can provide substantial economic benefits;
- It is a sustainable, non-consumptive use of cetaceans offering opportunities for non-lethal research; and
- It offers opportunities for education and for development of research methods.

4. n) 1999

IWC considers the legal aspects of whale watching, including a compilation of existing and 'model' legislation and guidelines from around the world.

4. ñ) 2000

IWC considers the increasing value of whale watching to small island developing States, and endorses the continuing work of the Scientific Committee. The Scientific Committee held a special two-day Workshop on Assessing the Long-term Effects of Whale Watching on Cetaceans.

4. o) 2001

IWC continues the discussion regarding the value of whale watching as non-consumptive sustainable use of whales.

New Zealand indicated that whale watching is a global industry worth more than 1 billion dollars per annum.

4. p) 2002

The Scientific Committee continued to address research from whale watch operations; the effects of noise on whales and the effectiveness of and compliance with national whale watching guidelines and regulations.

4. q) Implications for the IWC of work on non-consumptive utilization

When at the 1982 Annual Meeting the USA first proposed that the IWC consider the general issue of whale watching, the matter was dismissed by one Commissioner of a leading whaling nation as 'trivial'. Since that time, whale watching has overtaken whaling as the economically, most significant form of utilization of whale resources on a global level, with an estimated worth of more than \$1,000m per annum. Given appropriate management, it has good prospects for being sustainable in the long term.

4. r) The transition from whaling to whale watching as the prevalent form of economic utilization of whales, impacts the IWC's priorities in several ways. In particular, whale watching industries occur in a much wider range of countries (87 States and territories at the last count) than whaling.

4. s) The development of non-consumptive use is a key plank in the national policies of many IWC members with respect to whales, including Brazil, Mexico, South Africa and Australia, to name just a few.

5. HIGHLY ENDANGERED SPECIES AND POPULATIONS

5. a) In the past, the IWC concerned itself almost exclusively with species and populations of whales that were still abundant enough to be commercially interesting. One species of whale after another was depleted to the point at which it needed complete protection. For example, in the Southern Hemisphere, blue and humpback whales were protected from 1965 onwards, fin whales from 1976 and sei whales from 1979. Right and gray whales had already been seriously depleted before the IWC came into existence: some populations have since recovered, others not. Once protected, previously exploited species tended to be forgotten, as attention turned to currently exploited species.

5. b) In recent years, the IWC has become increasingly conscious of its duty of care towards species and populations that have been seriously depleted by past whaling, and the need to ensure that they are closely monitored and protected from threats that could jeopardise their recovery.

The issue became especially topical in 1993, following revelations that large illegal catches by the former Soviet Union had caused some species to be even more severely depleted than had been previously realised. The following actions were taken.

Resolution **1993:5** recognised the importance of taking appropriate conservation measures for assisting the recovery of severely depleted populations, and adopts a proposal to develop a research programme for Southern Hemisphere blue whales.

Resolution **1994:12** welcomed the work by the Scientific Committee in preparing for such research and invites a full proposal to be submitted the following year.

Recognizing that visual surveys of whales as rare and scattered as blue whales in the Southern Hemisphere are not very practical, the Scientific Committee decided to focus on two items: (i) development of acoustic methods to detect blue whales; and (ii) development of means to distinguish the two types of blue whales (true and pygmy blue whales) at sea. The Commission approved the proposal in 1995.

The priorities of the IWC's Comprehensive Assessment programme have also been modified to shift the emphasis from commercially important species to highly endangered species that require conservation attention. Accordingly, a global Comprehensive Assessment of right whales was conducted by the Scientific Committee in 1998, and a special assessment of the highly endangered North Atlantic right whale was conducted in 1999. The assessments are published in Special Issue 2 of the IWC's new journal, the *Journal of Cetacean Research and Management* (2001).

Resolution **1999:7** on 'Small Populations of Highly Endangered Whales' identified the following small populations that remain highly endangered from previous over-exploitation:

- Bowhead whales in the Okhotsk Sea, Spitsbergen and the eastern Canadian Arctic;
- Gray whales in the western North Pacific and Okhotsk Sea;
- Right whales throughout the Northern Hemisphere; and
- Various blue whale populations in both hemispheres.

The Resolution welcomed the Scientific Committee's decision to give more priority to these populations, and calls on all members and non-members to avoid all takes of these species.

Resolution **2000:2** on the highly endangered bowhead whales in the eastern Canadian Arctic, calls for the hunting of these whales to be ended and urges Canada to rejoin the IWC.

Resolution **2000:8** on the western North Atlantic right whales, noted that this highly endangered population numbers less than 300 and is declining, and identifies entanglement in fishing gear and collisions with shipping as the two main causes of deaths of these right whales. It called for continued work to help ships avoid right whales and for co-operation with the International Maritime Organisation (IMO).

In 2001 the Scientific Committee expressed its serious concerns about the status of the western North Pacific gray whale, including the risk of disturbance from oil seismic exploration in their feeding grounds. Resolution **2001:3** on western North Pacific gray whales adopted by the Commission, notes the critical status of the population and calls for all disturbances to be minimised and for studies of the population to continue. The Scientific Committee held a special Workshop on the western North Pacific Gray Whale in October 2002.

5. c) Implications for the IWC of focus on highly endangered populations of whales

The scientific and management priorities of the IWC have begun to shift in recent years, from whale species and populations of commercial importance for potential

exploitation, to the rarer and more endangered species whose conservation needs are greatest.

Since the main threats to these species are in most cases not direct takes, this change involves a shift in focus towards the kinds of conservation threats most critical for the highly endangered species, including entanglement in fishing gear and collisions with ships, plus possible food shortages, reproductive failure and other dangers. Research methods will also need to be adapted accordingly, to cover small and sparse populations.

6. WHALES AND THEIR ENVIRONMENT

6. a) When the ICRW was concluded in 1946, few of those involved suspected that protection of whales' habitat and environment would eventually become the greatest challenge in conserving whale populations for future generations.

6. b) Following the first UN Conference on the Human Environment in 1972, a regular item ('Effect of pollution on whale stocks, including small cetaceans') was placed on the agenda of the Scientific Committee, but action was initially limited to noting the information received.

6. c) In response to the Scientific Committee's concern about the lack of information, Resolution **1980:10** on the preservation of the habitat of whales and the marine environment, notes the issue in general terms and calls upon governments to submit reports on environmental threats to whales as they become aware of them, and on remedial measures taken. The IWC then proceeded as follows.

Resolution **1981:7** on pollutants in whales repeated the call for information, mentioning explicitly the increasing levels of heavy metals, organochlorines and PCBs in whales, especially sperm whales, and the effects of shipping and offshore mining and drilling activities.

In 1982, Denmark tried to get the IWC to take action on the matter of icebreakers and the opening of regular shipping lanes in ice-covered areas, because of the threat to cetaceans from sonic pollution, but at the time IWC members were reluctant to accept Commission competence for such matters.

From 1977, the Committee recommended that tissue samples be collected from all stranded cetaceans for pollutant analysis.

In 1979, the Committee reviewed the possible effects on cetaceans, especially bowhead whales, beluga and narwhal, of industrial developments in the North American Arctic. Concern was expressed that pollution could be the cause of the decline in the harbour porpoise in the Baltic and North Seas.

In 1981 the Scientific Committee again recommended that regular sampling for pollutants of stranded and other animals be conducted, especially for toothed whales, and that the IWC co-operate with ICES and IOC in this.

Over the next few years, sampling for pollutants was undertaken in many coastal States, and gradually the level of information improved, but little further collective action was taken by the Commission, until the 1992 UNCED Earth Summit put environmental issues back into the centre of the global agenda with the adoption of Agenda 21.

Resolution **1992:2** on the need for research on the environment and whale stocks in the Antarctic region, noted the adoption of the precautionary approach by

UNCED with respect to environmental threats, and established the impact of environmental changes on whale stocks as a regular item on the agenda of the Scientific Committee. It directed the Scientific Committee to collaborate with CCAMLR and SCAR, to research the probable effect of global environmental change on whales in the Antarctic region.

Resolution **1993:12** on research on the environment and whale stocks, extended this mandate to cover environmental issues through the world's seas, and directed the Committee to convene a special workshop on the effects of global change on cetaceans before the 1996 meeting. Resolution **1993:13** on the preservation of the marine environment contained a further statement of policy, but did not identify specific action.

The Scientific Committee noted that work on environmental issues required expansion of the range of expertise available to it, and also the need to collaborate with other organisations, including WMO, IOC, ICES and UNEP. Given the enormity of the topic, the Committee decided to split it into several main areas:

- (a) Climate change;
- (b) Chemical pollution (contaminants);
- (c) Direct (e.g. bycatch) and indirect (e.g. competition for food) effects of fisheries on cetaceans; and
- (d) Noise and other disturbance by human activities.

Resolution **1994:13** on research on the environment and whale stocks, endorsed the plans of the Scientific Committee and called on Governments to co-operate by providing information and appropriate experts.

The Workshop on Chemical Pollutants and Cetaceans was held in March 1995, with the financial support of Norway and the Environmental Investigation Agency (EIA). The workshop recommended that systematic sampling programmes for chemical pollutants in cetaceans be established, and that comparative studies of more and less polluted cetacean populations be conducted, with a view to determining cause/effect relationships.

Resolution **1995:10** on the environment and whale stocks, endorsed the scientific recommendations and directed the Secretary to consult with members to facilitate the execution of the proposed research and sampling.

The Workshop on Climate Change and Cetaceans, held in March 1996 in Hawaii, considered the possible effect of the various climate change scenarios on cetaceans, and how this could be assessed. Three main areas of work were recommended:

- (i) Collaboration with other organisations, especially CCAMLR and South Ocean GLOBEC on ecological research, to examine the relationship between cetacean distribution and changes in prey distribution;
- (ii) Investigation of the influence of climatic and other environmental factors on whale population dynamics for all populations with available data; and
- (iii) Special attention to possible effects of climate change on Arctic cetaceans given the predicted loss of sea ice.

The Scientific Committee established the Southern Ocean Whale and Environment Research Programme (SOWER), as the successor to the earlier IDCR series of research cruises, to reflect the change in emphasis away from the

assessment of whale populations for commercial purposes, towards the understanding of the relationship of whales with their environment.

Resolution **1996:8** on environmental change and cetaceans, endorsed the establishment by the Scientific Committee of a Standing Working Group on Environmental Concerns, and instructed them to continue to address the main areas of concern on an ongoing basis:

- (i) Development of methods to predict effects of climate change on cetaceans;
- (ii) Sampling of contaminant burdens in cetacea and development of cause-effect (dose-response) relationships;
- (iii) Impact of noise;
- (iv) Effects of habitat degradation on cetaceans; and
- (v) Direct and indirect effects of fisheries.

The Resolution further instructed the Committee to collaborate with other organisations, particularly SCAR, CCAMLR, GLOBEC, IPCC and IOC, noting that few of the issues can be tackled by the IWC alone.

Resolution **1997:7** on environmental change and cetaceans, endorsed two major research programmes involving two long-term collaborative multi-disciplinary multinational research programmes, developed by the Scientific Committee, one on contaminants in whales, which became the Pollution 2000+ project, and one, in collaboration with CCAMLR and SO-GLOBEC, on field research in the Southern Ocean, to understand the relationship between whales and food supply, that could be affected by environmental change, the main item of which became the SOWER 2000 project. Workshops to plan the research activities for each of these two programmes, were held in March 1999. The Scientific Committee identified in 1998 two further priority areas for research:

- (i) Effect on cetaceans of habitat degradation; and
- (ii) Effects of environmental change on Arctic cetaceans.

Resolution **1998:5** endorsed the Committee's choice of projects and priority areas and directed the Committee to:

- (i) Give high priority to implementation of the proposed research on environmental factors, and to continue to produce costed scientific proposals for non-lethal research, to identify and evaluate the effects of environmental change on cetaceans in all priority areas;
- (ii) Ensure the participation of experts with the necessary expertise in environmental change; and
- (iii) Include, in its ongoing programme of Comprehensive Assessments of whale stocks, an assessment of the impacts of environmental change, and other non-whaling human influences, on the dynamics of cetacean populations.

The Resolution also established 'Environmental Concerns' as a regular item on the Commission's agenda.

Resolution **1998:7** on coordinating and planning for environmental research in the Antarctic, urged members with Antarctic whale research programmes to co-operate towards realizing the field research activities envisaged in the Scientific Committee's project on whales and their environment in the Southern Ocean.

Resolution **1998:6** on the funding of work on environmental concerns agreed in principle to the use of the Commission's reserves to fund this work, and

Resolution **1999:5** on the funding of high priority scientific research explicitly authorised the use of these funds.

Resolution **1998:11**, about human health effects of the consumption of cetaceans, noted the mandate of the Convention that the Commission shall take 'into consideration the interests of the consumers of whale products', and for the first time addressed in the IWC context the issue of the health implications of the consumption of certain cetacean products, in the light of current knowledge of the levels of chemical contaminants in cetaceans. It called for collaboration between the IWC and WHO on this issue.

Resolution **1999:4** on the same topic took the health issue further, by agreeing to keep the matter under regular review, and directed the Scientific Committee to collate and forward information on toxic contaminant burdens in cetaceans to the WHO and competent national authorities.

The first Special Issue of the Commission's new *Journal of Cetacean Research and Management* is devoted to chemical pollutants and cetaceans (1999), and contains the finalised proposal for the Pollution 2000+ project. The project focuses on PCBs in harbour porpoises and bottlenose dolphins, these being the substances and species for which meaningful conclusions might be obtainable in the shorter term.

The first joint IWC and CCAMLR field research under the SOWER 2000 project, took place in the 1999/2000 Antarctic season.

Resolution **2000:6** on persistent organic pollutants and heavy metals, urged members to ratify the protocol on Persistent Organic Pollutants of the Convention on Long Range Transboundary Air Pollution (LRTAP), with a view to reducing the rate of entry of these contaminants into the marine food chain. Resolution **2001:10** on the Stockholm Convention on Persistent Organic Pollutants (POPs), urged members to ratify the new Convention.

Resolution **2000:7** on environmental change and cetaceans, directed the Scientific Committee to produce an annual 'State of the Cetacean Environment Report' (SOCER), and endorsed the Committee's plans for workshops on habitat degradation and cetacean/fishery interactions.

6. d) Implications for IWC of work on environmental concerns

Research into whales and their environment is the fastest-growing area of the IWC's range of activities. It is a large topic that in future will occupy a large part of the Commission's attention.

The increasing attention to environmental issues will affect the character of the IWC in several ways. It will greatly expand the breadth of expertise needed to carry out its work, which will in turn necessitate substantially more collaboration with other agencies, whose focus of activities and expertise complement those of the IWC.

The past focus of the IWC on short-term and tightly circumscribed management questions, will gradually be replaced by an emphasis on longer-term programmes and policies of a more open-ended nature.

7. ECOSYSTEM APPROACHES AND INTERACTION WITH OTHER MARINE LIVING RESOURCES

7. a) Resolution **1979:2** on the implications for whales of management regimes for other marine resources, drew

attention to the potential impact on whales of a krill fishery in the Southern Ocean, and calls for IWC involvement in the proposed convention, then under negotiation, of Antarctic marine living resources, to ensure that the possible effects on whales are taken into account.

7. b) Resolution **1980:5** on co-operation and co-ordination between the IWC and the proposed Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), called for formal relations to be established between the IWC and CCAMLR as soon as the latter comes into existence. This was subsequently implemented and the scientific collaboration relationship between the IWC and CCAMLR continues.

7. c) In 1978 the Scientific Committee noted the problems arising when fishermen believe that cetaceans are responsible for declining coastal fish stocks, leading to killing of the cetaceans involved, in the absence of scientific evidence of an actual relationship. Examples cited were false killer whales and bottlenose dolphins at Iki Island in Japan, and killer whales along the coast of Norway. The Committee called for research by member nations, into cases of actual or alleged cetacean-fishery interactions, and this request was endorsed by the Commission (*Rep. int. Whal. Commn.* 29:26-27). Reports on interactions were reviewed annually until 1983, and information supplied to FAO which published a World Review of interactions between marine mammals and fisheries (*FAO Fish. Tech. Pap.* 251, 1984). The main interactions were the incidental take of cetaceans in fisheries: losses by fisheries to cetaceans occurred but not to a widespread extent.

7. d) The issue of cetacean/fishery interaction returned to the IWC agenda in 1999, following Japanese claims that cetaceans were consuming five times as much fish as the entire world fish catch. The Scientific Committee prepared a proposal for a workshop to address the issue, which the Commission endorsed in principle in Resolution **2000:7**, for further development as part of its programme of work on environmental change and cetaceans. A revised proposal for the workshop was endorsed by the Commission in Resolution **2001:9** on interactions between whales and fish stocks, proposed by the USA and Japan, which also called for the participation of FAO. Regrettably, Japan subsequently refused to participate in the Workshop, which was held in June 2002.

7. e) In 2000, Japan announced the expansion of its scientific whaling in the North Pacific, to encompass Bryde's and sperm whales as well as minke whales, giving as the main motivation a desire to study whale diets for the purpose of determining the impact of whales on fisheries. In 2002, the programme was further expanded to include sei whales as well, with the same motivation given.

8. SANCTUARIES

8. a) Article V of the ICRW provides for the fixing of open and closed waters, including the designation of Sanctuary areas.

A sanctuary (known as 'The Sanctuary') was in effect from 1938 to 1954 in the eastern South Pacific sector of the Southern Ocean, having originally been designated by the ICW, the ICRW's predecessor. The Sanctuary applied only to pelagic baleen whaling, which it effectively closed for

the area in that sector south of 40°S. From a current standpoint, it would be more appropriately described as a closed area than a sanctuary, because it lacked ecologically coherent boundaries and was only of limited effectiveness in protecting the whales, which passed through the area.

8. b) Indian Ocean Sanctuary

The first sanctuary in accord with modern concepts of whale sanctuaries was the Indian Ocean Sanctuary, proposed by the Republic of the Seychelles in 1979, and adopted by the Commission. The Sanctuary covers the entire Indian Ocean north of 55°S, plus adjacent waters including the Red and Arabian Seas and the Gulf of Oman (*Rep. int. Whal. Commn.* 30:27). The provision was to last for 10 years, subject to a review after 5 years.

The aim of the proposal was to provide an area where whale populations could be studied in the absence of disturbance from whaling, to provide an opportunity for depleted populations to recover, and to provide a reserve in case other populations elsewhere in the world of the species occurring in the Indian Ocean were lost.

The sanctuary was originally intended as an ecologically coherent area, but the boundary at 55°S was adopted as a compromise, to accommodate the interests of those countries conducting pelagic whaling in the Indian Ocean sector of the Antarctic, whaling which continues to this day.

The Scientific Committee's views on the sanctuary proposal were mixed. At that time, the main source of data on whale populations was from whaling, and many scientists had concerns that a sanctuary could lead to a lack of data on the whale populations in the region, although it was noted that whaling under scientific permits would not be prohibited.

In any event, the years following the sanctuary designation saw a rapid development in non-lethal techniques for the study of whales, including those developed on the pioneering *Tulip* cruises in the Indian Ocean, sponsored by the World Wildlife Fund and other bodies. Knowledge of the cetacean fauna of the Indian Ocean is now much more extensive than it was in 1979, but there is still much to be learned.

Resolution **1979:3** in relation to the establishment of a whale sanctuary in the Indian Ocean, called on the Scientific Committee to investigate the kinds and level of research that would be needed in the Indian Ocean Sanctuary, to address the questions of interest to the Commission, and to report back by 1981. This advice was provided to the Commission (*Rep. int. Whal. Commn.* 32:132-135), which also received and endorsed the recommendations from a meeting of Indian Ocean States held in the Seychelles in 1980, including the proposal to hold a scientific meeting to plan research in the Sanctuary. This took place in 1981, under the sponsorship of the Seychelles and the Netherlands.

Resolution **1981:3** on communication between the IWC and Indian Ocean Coastal States, proposed by Oman, directed the Secretary to keep Indian Ocean States, including non-member States, informed of the Commission's work on the Sanctuary.

The accession, after the Sanctuary was adopted, of India, Kenya, Oman, Egypt, and Mauritius to the ICRW, increased the representation of Indian Ocean States within the IWC.

In view of the provision for a review after 5 years, the Scientific Committee in 1983 drew up an agenda for a scientific review meeting on the Sanctuary (*Rep. int. Whal. Commn.* 34:167), to be held in collaboration with FAO, IOC and UNEP, who were asked to provide assistance for the participation of representatives of IWC non-members.

Other priorities of the Commission delayed the review, but at the insistence of the Seychelles, Kenya, India, Oman, Australia, France and South Africa, the Commission agreed in 1985 to appoint a sub-committee of Indian Ocean member States, to prepare a proposal for a review to be held in 1987 (*Rep. int. Whal. Commn.* 36:13). At its 1986 meeting, the Commission approved the plans for a scientific review meeting on the sanctuary to be hosted by the Seychelles, and noted UNEP's offer to fund the participation of representatives from non-IWC Indian Ocean coastal States.

The scientific meeting held in 1987, found that cetacean research in the Indian Ocean Sanctuary had taken some time to get underway, mainly due to economic factors, and because of a shortage of expertise in the countries bordering the sanctuary. The situation was, however, improving thanks to support from UNEP and others. An administrative meeting on the Sanctuary held just before the 1987 Annual Meeting, made a number of recommendations to promote and co-ordinate research in the Indian Ocean Sanctuary, and the Commission established a sub-committee to implement these recommendations (*Rep. int. Whal. Commn.* 38:16-17). The general review of the prohibition of whaling in the Sanctuary, provided for in the original decision to be held by 1984, was re-scheduled for 1989, when the decision on whether or not to renew the Sanctuary would be taken. In 1988, the Commission endorsed the recommendation of the Sub-Committee, that the Scientific Committee compile a review of all research conducted in the Sanctuary since its establishment (*Rep. int. Whal. Commn.* 39:16-17). This was published by UNEP.

The Scientific Committee found that approximately up to half the published research was directly related to the Sanctuary designation, while the remainder would probably have occurred anyway (*Rep. int. Whal. Commn.* 40:72-73). The Committee noted further that the pause in commercial whaling, in force since 1986, had reduced the importance of the sanctuary designation, relative to the situation when it was adopted in 1979, but that this could change if commercial whaling were resumed.

After considerable debate on the merits of the Indian Ocean Sanctuary, the Commission adopted Recommendation **1989:4**, which noted that fulfilment of research objectives in the Indian Ocean Sanctuary is a long-term process, and depends on: (1) assistance to countries with little previous experience in cetacean research to develop their skills and capacity; (2) co-ordination of methods and exchange of materials, data and results and (3) facilitation of access [for research in waters under national jurisdiction]. The recommendation empowered the Secretary to work with UNEP, IOC and appropriate regional bodies to help achieve these goals.

Considering that a decision on the longer-term future of the Sanctuary should await the results of the Comprehensive Assessment, the Commission agreed by consensus to extend the Indian Ocean Sanctuary for three years (to 1992).

When the Commission returned to the matter in 1992, it took account of developments in the interim, both political and scientific. At a meeting of IOMAC (Indian Ocean Marine Affairs Committee), the Indian Ocean States, including the members and the non-members of the IWC, had passed a resolution calling for the declaration of the Indian Ocean as a Sanctuary for whales for all time. On the scientific front, one of the main results of the global Comprehensive Assessment was the draft Revised Management Procedure (RMP) which was to replace the previous management procedure of the IWC. The draft RMP, which was accepted by the Commission in Resolution **1992:3**, did not envisage exploitation of baleen whales in their breeding grounds such as in the Indian Ocean Sanctuary. The Commission agreed by consensus to extend the Indian Ocean Sanctuary indefinitely, without any changes to its boundaries, but with a provision for review after 10 years (2002).

When the issue came up for review in 2002, the Scientific Committee reviewed extensive compilations of the research conducted in the Sanctuary to date. The Committee attempted to address the questions contained in the tentative evaluation guidelines for sanctuaries that were drawn up by the Commission in 2001. Although the Committee was able to provide substantive advice on many of the questions posed, no consensus conclusions could be reached as to the implications of this advice for the merits or otherwise of continuing the sanctuary. The Committee drew attention to the need to make the scientific objectives of sanctuaries clearer, and for the evaluation criteria themselves to be made more precise and operational (see below).

8. c) Southern Ocean Sanctuary

France first presented its proposal for a Sanctuary for great whales in all waters south of 40°S to the 44th Annual Meeting of the IWC in 1992. France appreciated that many members needed more time to consider it. Resolution **1992:4** on a Sanctuary in the Southern Hemisphere, adopted by consensus, agreed to consider the proposal fully at the 45th Meeting in 1993. It called on member Governments to submit comments and questions in the meantime, and for the Secretary to seek comments from CCAMLR, SCAR and other relevant international organisations. The Scientific Committee was instructed to review and advise on the scientific comments and questions raised.

Considerable support for the proposal was apparent at the 45th Annual Meeting. The Technical Committee endorsed the proposal by a majority vote. However, many members felt that more time was needed to fully consider all the implications of such a far-reaching proposal. Countries whose own exclusive fishery or economic zones might overlap with the proposed sanctuary, such as Chile, needed time to consider the implications especially carefully, and in particular the boundaries of the proposed sanctuary.

Resolution **1993:6**, adopted by a majority vote, endorsed the concept of a sanctuary in the Southern Ocean, and resolved to address the outstanding legal, ecological, geographical, management, financial and global environmental issues relating to such a sanctuary. It accepted the offer by Australia to host a working group meeting to address these outstanding issues, and to make recommendations with a view to enabling the Commission

to take a decision on the sanctuary at its 46th Meeting in 1994.

The Working Group met at Norfolk Island in 1994, and made an extensive set of recommendations which were endorsed by the Commission. In particular, it noted that there are no irreconcilable objections among the members of the Working Group and that a sanctuary could be created if the Commission so decided.

In 1994 the Commission adopted, by 24 votes to 1, an amended version of the French proposal, put forward by Mexico, whose boundary was at 60°S in the SE Pacific and far SW Atlantic sectors, thereby not overlapping the EEZ's of Argentina and Chile. In the Indian Ocean sector, the amended proposal had a boundary at 55°S, thereby adjacent to but not overlapping the Indian Ocean Sanctuary. The boundary was set at 40°S in the central and eastern South Atlantic and the western South Pacific. The sanctuary overlaps with the EEZ's of Australia and New Zealand, and with the fishery conservation zones of overseas territories of France and the UK.

The decision contained a provision that it be reviewed at 10-year intervals. The first review is due in 2004, but the Scientific Committee has proposed, and the Commission agreed, that its review of the scientific aspects should start in 2003, to be completed in 2004.

Japan lodged an Objection under the ICRW within the prescribed 90-day period, to the Sanctuary with respect to minke whales. No general objections to the Sanctuary were lodged, but Norway, and subsequently Japan, questioned the legality of the sanctuary decision, on the grounds that it was not 'based on scientific findings' as Article V of the ICRW requires.

Some of the recommendations from the Norfolk Island Working Group related to scientific research in the sanctuary, and thus remained relevant after its adoption. These were considered by a Workshop to Outline a Programme of Non-lethal Research in the Sanctuary, held in 1995 with the co-sponsorship of WWF, Greenpeace and IFAW. The IWC Scientific Committee reported that most of the research recommendations from Norfolk Island were addressed in the Scientific Committee's ongoing Comprehensive Assessment of southern hemisphere baleen whales, and in its work on environmental concerns.

In 1995, 1996, 1997 and 1998, Japan presented legal opinions to the Commission which challenged the legality of the Sanctuary decision, but the Commission did not find it necessary to take any action on this, with many members commenting that the decision had been properly taken, that Japan had exercised its right to object with respect to one of the species affected, and that the proper way to call for a revision of the decision would be to propose a Schedule amendment. Accordingly, Japan in 1999 proposed amendments to the Sanctuary decision, including the exclusion of minke whales from the Sanctuary provision, but this was not adopted by the Commission. In 2000, 2001 and 2002, Japan submitted further proposals for Schedule amendments, which aimed at qualifying the prohibition on whaling in the Sanctuary, to make it dependent on advice from the Scientific Committee. All these proposals were withdrawn or voted down by the Commission. In 2002, Japan also submitted a proposal to abolish the Southern Ocean and Indian Ocean Sanctuaries, packaged with a proposal to adopt some elements of the Revised Management Scheme (RMS), but this was also voted down.

Resolution **1995:8** on whaling under Special Permit in Sanctuaries, called on members to conduct research in the Sanctuary using non-lethal methods and to refrain from issuing Special Permits for catches of whales in the Sanctuary.

In response to a request from the Scientific Committee for clarification of the scientific objectives of the Sanctuary, the Commission adopted Resolution **1998:3** on the Southern Ocean Sanctuary. The Resolution affirmed that the agreed objectives are to provide for: (1) recovery of whale stocks, including research and monitoring of depleted stocks; (2) the continuation of the Comprehensive Assessment of the effects on whale stocks of zero catch limits; and (3) the undertaking of research on the effects of environmental change on whale stocks. It further directed the Scientific Committee to provide the Commission with a long-term framework for non-lethal research, including multi-disciplinary research on the impact of environmental changes on cetaceans in the Sanctuary, and in particular to give priority to non-lethal research that will be relevant to the review of the Sanctuary in 2004 and beyond.

In 1999 the Scientific Committee reported back on its work in this regard. This include its SOWER 2000 project in collaboration with CCAMLR and SO-GLOBEC, its ongoing blue whale research programme under SOWER, and its ongoing comprehensive assessments of southern hemisphere baleen whales.

A new development relevant to the Sanctuary was the Scientific Committee's finding in 2000, that its earlier estimates of minke whale abundance in the Sanctuary from the 1990 Comprehensive Assessment appeared no longer to be current, and that abundance appeared to have declined substantially. A programme of work was initiated to investigate this further. Resolution **2000:4** noted the concern and renewed the call on Japan to refrain from scientific whaling in the Sanctuary.

8. d) South Atlantic Sanctuary

In 1999 Brazil developed a proposal for a South Atlantic Sanctuary, to cover the waters of the South Atlantic bounded in the North by the equator, in the west by the Atlantic coast of South America, in the South by the boundary of the Southern Ocean Sanctuary, and in the east by the coast of Africa and the boundary of the Indian Ocean Sanctuary. It includes coastal waters of Argentina, Uruguay, Brazil, South Africa, Namibia, Angola, Dem. Rep. Congo, Congo, Gabon, Equatorial Guinea and São Tomé and Príncipe. In order to allow time for more consultations with member countries bordering the Sanctuary, Brazil asked for consideration by the Commission to be deferred to 2001.

Brazil and Argentina formally proposed the South Atlantic Sanctuary to the Commission in 2001, emphasising their rights as coastal states to utilise whale resources non-lethally, and that this be respected and protected by the Commission against the threat from a possible resumption of commercial whaling. With 19 votes for and 13 against, the proposal did not achieve the required $\frac{3}{4}$ majority. Some members indicated that they had not voted for it because of the lack of information on whether non-member countries in the region endorsed the proposal. Brazil consulted with non-members and reported their responses to the Commission in 2002, and re-proposed the Sanctuary. It failed again with 23 votes for to

18 against. Gabon had in the meantime joined the Commission, and voted against the Sanctuary in 2002.

Brazil, Argentina and South Africa have already established whale sanctuaries in their coastal waters.

8. e) South Pacific Sanctuary

Australia and New Zealand tabled a proposal in 1999 for a sanctuary covering the western and central South Pacific, between the equator and the Southern Ocean Sanctuary, adjoining the Indian Ocean Sanctuary in the west. The proposal was referred to the Scientific Committee, which could not give a definitive recommendation, but listed general arguments for and against sanctuaries.

The sanctuary was formally proposed to the Commission in 2000. The proponents, Australia and New Zealand, believed that it would:

- (1) protect whale stocks that have been severely depleted in the 19th and 20th centuries and allow their recovery;
- (2) complement and improve the effectiveness of the Southern Ocean Sanctuary in protecting migratory whale species;
- (3) foster long-term ecosystem-based research on whale stocks that are not being harvested; and
- (4) enable management of whale stocks in accordance with the goal of long-term conservation of biodiversity and the precautionary principle.

Despite considerable support, the South Pacific Sanctuary proposal failed to gain the required $\frac{3}{4}$ majority (18 votes for to 11 against). The proposal was resubmitted in 2001 and 2002, with similar voting results (approx. 60% for to 40% against, not counting abstentions).

The Commission was informed that meetings of the South Pacific Regional Environmental Programme (SPREP), and the Pacific Island Leaders' Forum, where most countries in the region were represented, had expressed support for the Sanctuary. Australia and New Zealand stressed the importance of recognizing the non-consumptive relationship of the people in the region with whales.

Many South Pacific countries have now declared their Exclusive Economic Zones (EEZs) to be whale sanctuaries, or zones of protection for whales. Environment Australia indicates that the waters of New Zealand and Vanuatu are *de facto* sanctuaries as a result of whale protection legislation. In addition the EEZs of French Polynesia, the Cook Islands, Niue, Tonga and Australia have been declared sanctuaries.

8. f) Other sanctuaries

Various other sanctuaries have been mooted, including the NW Atlantic (by Jamaica), a proposal from the UK for a NE Atlantic sanctuary, and the Mediterranean sanctuary which was agreed by all the Parties to ACCOBAMS (the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area), but is yet to be brought forward to the IWC, though Italy announced its intention to do so at the 2002 IWC Commission meeting.

8. g) General criteria for sanctuaries

At the 1981 and 1982 Commission meetings, Australia noted the desirability of the Commission drawing up

general guidelines on the matter of sanctuaries, to facilitate evaluation of future sanctuary proposals. A Technical Committee Working Group was established, which drew up criteria that a sanctuary should satisfy, and information that should be supplied in order for a sanctuary proposal to be evaluated.

The Technical Committee proposals were not formally adopted, because questions were raised by several countries about coastal State jurisdiction in sanctuaries. The Commission directed the Secretary to collect information from member Governments on areas of protection for whales in waters under their jurisdiction. The Secretary presented a list of these areas in 1984, based on the responses received from members, and additional information from FAO and UNEP on protected areas in the waters of non-member countries.

Over the 1980s and 1990s, consideration of sanctuaries by the IWC was entirely in the specific contexts of the Indian Ocean Sanctuary and the Southern Ocean Sanctuary, that was adopted in 1994. The issue of generic criteria for sanctuaries was raised by the Scientific Committee again in 2000, when it was asked to review the proposal for a South Pacific Sanctuary.

In 2001, the Commission adopted a set of 'Instructions from the Commission to the Scientific Committee for Reviews of Sanctuaries', and directed the Committee to use them for the review of the Indian Ocean Sanctuary in 2002, and for any new sanctuary proposals, and to report back to the Commission on the utility of these guidelines.

In 2002 the Scientific Committee used the guidelines for its review of the Indian Ocean Sanctuary, but found that they needed to be made more precise and operational. It agreed to develop a proposal for a more precise set of criteria to be presented to the Commission in 2003 (IWC/54/4, p.98).

8. h) Conclusions on sanctuaries

Whale sanctuaries represent an opportunity for all aspects of the emerging expanded agenda of the IWC, to be realised in an ecologically coherent region. This is especially evident in the Southern Ocean Sanctuary, and to some extent in the Indian Ocean Sanctuary, although in the latter case it is clear that more assistance is needed to help coastal States develop their capacity and expertise for cetacean research and conservation. The Indian Ocean Sanctuary is, however, a good example of how the IWC can support a regional consensus, that uses of whales be strictly non-lethal.

The cases of the proposed South Pacific and South Atlantic sanctuaries, show that the IWC has a potential role to play in providing international support to coastal States who seek to develop exclusively non-lethal uses of their cetacean resources. They seek support and protection from the IWC, as the only body capable of giving protection to the whales in their waters, while they are passing through High Seas areas.

It is therefore important to explore within the IWC context, the concept of sanctuaries as regions of special protection for whales, in which the IWC could declare a policy of supporting coastal States' desires for exclusively non-lethal use of the cetaceans migrating into their waters. The pillars of such an approach could include:

(1) Collaboration with coastal states;

- (2) Co-operation with other regional conservation organisations, including agreements established under the auspices of CMS (Bonn Convention); and
- (3) A policy of not relaxing current ICRW protection measures for whales in these regions (for example the zero catch limits in effect since 1986).

9. ENFORCEMENT OF CONSERVATION MEASURES AND MONITORING OF COMPLIANCE

9. a) In the IWC's first 30 years or so, large-scale catches of whales were authorised by the IWC, and the debates focused on what conservation measures were necessary. As the Commission gradually moved to a more conservation-oriented and precautionary approach to management, and has steadily extended the scope of its conservation measures, the importance of ensuring that the Commission's conservation measures are actually complied with, has gathered in importance relative to the adoption of new measures.

9. b) Non-member whaling: In the 1970s the main compliance problem was considered to be non-member whaling. In 1974 the IWC sought the assistance of UNEP in persuading non-member countries engaged in whaling to join the IWC. Resolution **1976:4** on adherence to the Convention called on non-members engaged in whaling to join the Commission, while Resolution **1976:5** resolved that members should prohibit the transfer of whaling vessels, equipment, or expertise to non-member countries or entities. Resolutions **1977:2, 3 and 4** on specific whale stocks called on specific non-member whaling countries to join the Commission. Resolution **1977:8** repeated this call and resolved that members report on the steps taken to implement it. Resolution **1977:7** on the prevention of importation of whale products, required members to prohibit the import into their countries of whale products, as did Resolution **1978:E** on the importation of whale products from non-IWC countries. Resolution **1978:F** on the transfer of whaling equipment and expertise, repeated the call not to export whaling technology or expertise to non-members. Resolution **1979:9** on the importation of whale products from, export of whale products to, and prohibition of whaling by non-member countries, reiterated these requirements with more force, and further called on members to prohibit non-member whaling within their fishery conservation zones, the precursors to the EEZ's that would be recognised under the emerging Law of the Sea.

9. c) Partly as a result of the resolutions, whaling countries Korea, Spain, Chile and Peru became members of the IWC in 1979.

9. d) The Commission in 1979 established a register of whaling vessels, to help members take action against whaling by vessels flying flags of convenience (*Rep. int. Whal. Commn.* 30:32).

9. e) Resolution **1980:6** on discouraging whaling operations outside IWC regulations, established a Working Group to consider all questions relating to whaling operations outside the ICRW, and called for consideration of Schedule amendments to enforce the measures relating to prohibitions of imports from, and exports of technology

to, non-member whaling countries or entities. Resolution **1981:6** adopted the recommendations of the Working Group, including the endorsement of procedures to enable the IWC to gather information on whaling vessels, via insurance records and inspection visits to non-member countries (subject to the latter's agreement).

9. f) Resolution **1993:18** on whaling activities by non-member states, returned to the issue, and directed the Secretary and members to gather and submit information on whaling by non-member States.

9. g) International trade in whale products and co-operation with CITES

CITES (Convention on International Trade in Endangered Species of Flora and Fauna) came into force in 1975. From the beginning, it supported the conservation efforts of the IWC by including in its Appendix I those species which were fully protected from commercial whaling by the IWC, namely blue, humpback, right and gray whales. By prohibiting international commercial trade, or introduction from the sea, in these species, it provided a legal means to assist with the implementation and enforcement of IWC conservation measures.

9. h) In 1977, the IWC offered to CITES to be its adviser on cetaceans, to provide scientific information on whale populations in relation to the CITES listing criteria, information on the explanation of species listed on CITES appendices, and advice on the identification whale products (*Rep. int. Whal. Commn.* 28:23). The IWC offer was accepted by the CITES Special Working Session in 1977, where it was provisionally agreed that CITES would provide protection to whale populations, not just whole species, that were protected by the IWC. This request was formalised in IWC Resolution **1978:D**, addressed to CITES. CITES in turn adopted Resolution 2.9 at its 2nd Conference of Parties (COP) in 1979, which called on its members not to issue permits for imports or exports of products from whale populations protected from commercial whaling by the IWC. The populations were added to Appendix I of CITES, and all other cetaceans were placed on Appendix II.

9. i) Subsequently, when all remaining large whale populations became protected from commercial whaling by the IWC in 1986, CITES transferred them to Appendix I. The policy of CITES adopted in Resolution 2.9 remains in effect, having been consolidated into Resolution 11.4, adopted at the 11th CITES COP in 2000.

9. j) The IWC did not follow up on its original offer to assist with the identification of cetacean products in trade, until new DNA analysis technology became widely available in the 1990s, that made it practical to identify cetacean species from samples of meat and blubber on the market.

9. k) Following discoveries of various illegal shipments of whale products, and the identification of various prohibited species on domestic whale meat markets, Resolution **1994:7** on international trade in whale meat and products, requested members to provide information on whale products in their domestic markets, and their source; information on intercepted shipments; and information on national laws and regulations relating to trade in whale meat. CITES reciprocated with Resolution 9.12, that requested its members to forward any information on

illegal trade in whale meat to the Secretariat, and for the CITES and IWC Secretariats to exchange any information received.

9. l) Resolution **1995:6** on trade in whale meat, called on members to prohibit domestic sales of whale products that could not have come from whales obtained in accordance with IWC and CITES regulations; to conduct random sampling of whale products on their markets; to determine the species on sale; and to establish measures to monitor the composition of whale meat stockpiles, and report this to the Commission.

9. m) Resolution **1996:3** on improving mechanisms to restrict trade in whale meat, called on members to report annually, from 1997 onwards, on stockpiles of whale products, and on domestic regulations to control illegal trade in whale meat and on the actions taken to enforce them.

9. n) Resolution **1997:2** on improved monitoring of whale meat stockpiles, called on members to maintain registries of DNA samples of each individual whale entering into commerce and to make these databases available to the Commission.

9. ñ) Resolution **1998:8** on co-operation between the IWC and CITES, reaffirmed the long-standing relationship between the IWC and CITES, and called on members to fully comply with the previous resolutions relating to trade in whale products.

9. o) Resolution **1999:8** on DNA testing, added a regular item to the agenda of the Scientific Committee relating to the collection, archiving and analysis of DNA samples from direct and incidental catches, frozen stockpiles, and seized or impounded products, and to provide advice on a system for tracking and verifying all legal whale products.

9. p) Resolution **1999:6** on co-operation between the IWC and CITES, notes the valuable contribution of CITES to the enforcement of IWC conservation measures, by including on its Appendix I all whale species subject to zero catch limits under the ICRW, and informs CITES that the IWC is not yet ready to amend such zero catch limits.

10. MANAGEMENT OF LETHAL SCIENTIFIC RESEARCH ('SCIENTIFIC WHALING')

10. a) The ICRW is a science-friendly convention. It empowers the IWC to co-ordinate and conduct scientific research, and requires it to base its decisions on scientific findings. It also gives members the right, under Article VIII, to issue permits for the take of cetaceans for scientific purposes.

10. b) Unfortunately, some members have interpreted this provision as a licence to bypass the IWC's conservation measures, and to issue scientific permits for catches of whales on a similar scale to ordinary commercial whaling. Although Article VIII does indeed exempt whales taken for scientific purposes from the specific regulations of the Convention, it does not authorise members to ignore the general obligation to conserve whales for the benefit of future generations. Nor does it exempt members from general requirements under international law, including the Law of the Sea, to ensure that marine resources are not

overexploited and to co-operate with the appropriate international organisations.

10. c) The (ab)use of the scientific permit provision to conduct commercial-scale whaling on protected species and stocks, has long been an issue of contention within the Commission. For example, in the 1970s some members issued permits for the take of commercial quantities of Bryde's whales in the Southern Hemisphere, despite the Commission's decision to set a precautionary zero catch limit for Bryde's, pending a satisfactory estimate of stock size (*Rep. int. Whal. Commn.* 27:34).

10. d) In 1979, the Commission obtained legal advice that it was permissible under the Convention, Article VIII notwithstanding, to require prior review of Scientific Permits by the Scientific Committee, and a Schedule amendment to that effect was adopted (*Rep. int. Whal. Commn.* 30:31).

10. e) In 1985, some members submitted plans for the issuance of scientific permits, which implied that they would continue whaling after the coming into effect of the moratorium in 1986, at a level similar to their (then) current commercial whaling activities. Resolution **1985:2** drew attention to the risk that scientific whaling could assume the characteristics of commercial whaling during the moratorium period, and established a Working Group to address the problem. These discussions resulted in Resolution **1986:2**, which recommended that Scientific Permits only be issued when the research objectives cannot be met by non-lethal methods, and when the research is structured to provide information that is essential for the rational management of the stock.

10. f) Resolution **1987:1** further recommended that the Scientific Committee review each proposed permit against the above criteria, and determine whether it addresses questions that need to be answered, to conduct the Comprehensive Assessment or meet other critically important research needs. The Resolution mandated the Commission to review annually the Committee's advice on Scientific Permits and to inform the governments concerned when a permit or proposed permit is found not to meet the guidelines. On this basis, Resolutions **1987:2, 3 and 4** called on those members with scientific whaling programmes to end them (in one case) or suspend them pending clarification of some questions (in two cases).

10. g) Resolution **1988:3** on the issuance of scientific permits, recommended that no permits be issued until members of the Commission had had at least 60 days to consider the Scientific Committee's evaluation of the proposed permit. Resolutions **1988:1-2** found that one proposed and one ongoing scientific whaling programme did not meet the criteria established in the above Resolutions, and notified the relevant governments accordingly. Resolutions **1989:1-3** called for the reconsideration of three members' scientific whaling programmes. In 1990, two of these programmes were still continuing, and Resolutions **1990:1-2** repeated the call to reconsider them. One of these programmes (Japanese scientific whaling in the Antarctic) continued in 1991 and Resolutions **1991:2, 1992:5, 1993:7** and **1994:10** called again for it to be reconsidered. Resolution **1991:3** called for a proposed new programme by the then USSR, not to commence until it had been brought into line with Commission's guidelines and reviewed anew by the

Commission. Resolution **1992:6** called for a new scientific whaling programme announced by Norway to be reconsidered. This request was not complied with, and was repeated in Resolutions **1993:8** and **1994:11**.

10. h) In 1994, Japan announced a new scientific whaling programme for minke whales in the North Pacific. The Commission, on the advice of the Scientific Committee, found that the objectives of the research did appear to meet the Commission's criteria, but recommended that they be achieved by non-lethal methods (Resolutions **1994:8 and 9**).

10. i) The continuation of scientific whaling in the Antarctic, despite its designation as a sanctuary in 1994, introduced a new dimension into the scientific whaling problem. Resolution **1995:8** on whaling under scientific permit in sanctuaries, called on members to collaborate on a programme of research in the Southern Ocean Sanctuary using non-lethal methods, and to refrain from issuing scientific permits for the take of whales in the Sanctuary.

10. j) Resolution **1995:9** on whaling under special permit, replaced Resolutions **1986:2** and **1987:1**. It recommended that scientific research to assist in the Comprehensive Assessment be conducted by non-lethal means, and that the killing of cetaceans for scientific purposes only be permitted in exceptional circumstances, where the research addresses critically important issues which cannot be answered by the analysis of existing data or the application of non-lethal methods. It further instructed the Scientific Committee to reassess all existing and new scientific whaling to identify what critically important questions, if any, are addressed by the lethal takes and whether these could be met by non-lethal means. This resolution is still in effect and represents current IWC policy with respect to scientific whaling.

10. k) Based on these criteria, Resolution **1996:7** called on Japan to end its scientific whaling in the Southern Ocean and the North Pacific. This request was repeated in Resolutions **1997:5 and 6**.

10. l) Resolution **1998:4** notes that other scientific organisations now have ethical guidelines as to under what circumstances the killing of animals for scientific research is justified, and instructed the Secretariat to compile information on the policies of other international scientific organisations in this regard. Resolution **1999:3** noted the finding of this review that the legislation, guidelines and codes of conduct that exist, generally require that research be conducted so as to minimise the stress, distress, pain and suffering caused to the animals, and that non-lethal means or fewer animals be used where possible. Accordingly, Resolution **1999:2** instructed the Scientific Committee to determine, in each case, whether the information obtained from scientific permits is (a) required for management and (b) obtainable by non-lethal means.

10. m) In 2000, Japan announced the expansion of its scientific whaling in the North Pacific to encompass Bryde's and sperm whales, as well as minke whales, giving as the main motivation a desire to study whale diets for the purpose of determining the impact of whales on fisheries. In 2002, the programme was further expanded to include sei whales as well, with the same motivation given. Resolutions **2000:5** and **2001:8** stated the Commission's view that this is not a sufficient justification for the takes of whales.

10. n) In 2000 and 2001, the Scientific Committee noted that recent data indicate that the abundance of minke whales in the Southern Ocean, appears to have declined substantially since the last Comprehensive Assessment of these populations was conducted in 1990. It initiated a thorough reassessment of Southern Ocean minke whale abundance to be completed in 2003. Resolutions **2000:4** and **2001:7** asked Japan to cease catches of minke whales in the Southern Ocean Sanctuary, pending the results of this review.

10. ñ) Conclusions on the scientific whaling problem

The non-compliance with the Commission's policy on scientific whaling is now a greater conservation problem than official commercial whaling. Current definitions of non-compliance with respect to marine conservation, such as that in the draft FAO compliance agreement, define non-compliance to include any action that undermines the effectiveness of conservation measures adopted by the competent regional or international organisation, regardless of whether or not the action is technically legal. Thus, even countries which take the view that Article VIII of the ICRW legalises all scientific takes, however excessive, cannot claim to be in compliance with the ICRW so long as they continue to ignore IWC decisions in this regard.

Given the limited success in obtaining compliance with the IWC decisions to date with respect to scientific whaling, it is clear that a new approach is needed. However, it is important that any difficulties encountered in tackling this problem do not delay progress in the many other areas where the IWC needs to move forward.

11. COLLABORATION WITH OTHER ORGANISATIONS

11. a) In its first few decades, most conservation actions of the IWC related purely to the regulation of whaling: at that time the impact of whaling on the whale populations dwarfed the other conservation issues relating to whales. Consequently, most of the actions taken by the IWC could be taken in isolation with little reference to other organisations.

11. b) However, the mandate of the IWC is not limited to the regulation of whaling. Article IV of the ICRW empowers the Commission to collaborate with agencies of the member Governments or with other public or private agencies, establishments or organisations, to encourage, recommend or, if necessary, organise studies and investigations relating to whales. Article VI empowers the Commission to make recommendations on any matters relating to whales and to the objectives of the ICRW.

11. c) As the emphasis of the IWC's activities shifts away from its traditional focus on the regulation of whaling, and more towards the conservation of whale populations with respect to the whole panoply of new threats which they face, so will the extent to which the IWC can achieve its objectives working alone diminish. The multi-faceted nature of the new threats to cetaceans are such, that they impinge on the responsibilities of States and numerous international and regional agencies, such that the Commission's work will inevitably be characterised by increasing collaboration with States and other agencies.

11. d) Over the years the IWC and its Scientific Committee have co-operated with a number of other international

organisations whose fields of competence or activity overlap with those of the IWC, or relate to matters that have implications for whale conservation. The specifics of this collaboration are listed under the relevant subject items in this document.

11. e) Interactions between cetaceans and fisheries, including incidental catch, have necessitated co-operation with FAO, ICCAT, and IATTC.

11. f) The dependence of many whales on the Southern Ocean ecosystem, and the possible effects of exploitation of other resources there, and of environmental change, has motivated collaboration with CCAMLR, SCAR, and SO-GLOBEC.

11. g) Co-operation with CITES is described in the section on trade in whale products.

11. h) There has long been collaboration with UNEP and IUCN on a variety of cetacean conservation issues.

11. i) Co-operation with ICES has been on sampling of pollutants in cetaceans, and more recently on multi-species modelling and management issues involving cetaceans.

11. j) The IWC has on occasions provided direct input to the UN, for example in 1990 on the issue of cetacean bycatch in large pelagic driftnets, on the question of Antarctica, and input to UNCED in 1992.

11. k) The Convention on Migratory Species (CMS) and regional cetacean conservation agreements negotiated under CMS, such as ASCOBANS in the North and Baltic Seas, and ACCOBAMS in the Black and Mediterranean seas, provide a framework for conservation measures for cetaceans that complement those of the IWC, and scientific collaboration on issues of population status and threats is clearly advantageous. A Memorandum of Understanding between the IWC and CMS was signed in 2000.

11. l) The increasing attention of the IWC to the effects of global ocean change on cetaceans, motivates the increased collaboration with the Intergovernmental Oceanographic Commission (IOC).

11. m) The co-operation with IOMAC (Indian Ocean Marine Affairs Co-operation) has been in the context of implementation and renewal of the Indian Ocean Sanctuary.

11. n) Implications for the IWC of increased collaboration

The increased emphasis on collaborative actions will in turn involve changes to the structure and working methods of the IWC and its subsidiary bodies, such as the Secretariat and Scientific Committee.

An increasingly important role of the IWC is not only to take actions itself, but to ensure that cetacean conservation needs are taken into account in decisions by other bodies that impact cetaceans and their environment. With its strong scientific profile the IWC, together with its new proposed Conservation Committee, is well-placed to fulfil this role, provided that it is successful in developing its standing as a world scientific, technical and management authority for cetaceans. Its Conservation Agenda will be instrumental to this end. The IWC has much scientific expertise at its disposal that is mutually complementary to that of other agencies. It is important that the IWC works to 'put itself on the map' in the perception of States and agencies involved in marine affairs.

Annex D

Report of the Aboriginal Subsistence Whaling Sub-Committee

The meeting took place at the Estrel Hotel and Conference Centre, Berlin on 12 June 2003. Participants are given in Appendix 1. The terms of reference of the Aboriginal Subsistence Whaling Sub-committee are to consider relevant information and documentation from the Scientific Committee, and to consider nutritional, subsistence and cultural needs relating to aboriginal subsistence whaling and the use of whales taken for such purposes, and to provide advice on the dependence of aboriginal communities on specific whale stocks to the Commission for its consideration and determination of appropriate management measures (*Rep. int. Whal. Commn* 48: 31).

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Andrea Nouak (Austria) was appointed as Chair of the Sub-Committee.

1.2 Appointment of Rapporteurs

Alexander Gillespie (New Zealand) was appointed as Rapporteur.

1.3 Review of Documents

The documents available to the sub-committee are listed in Appendix 2.

2. ADOPTION OF AGENDA

The Agenda was adopted without alteration and is given as Appendix 3.

3. ABORIGINAL SUBSISTENCE WHALING SCHEME

3.1 Aboriginal Whaling Management Procedure (AWMP)

3.1.1 Report of the Scientific Committee

The Chair of the Scientific Committee's Standing Working Group on the development of an Aboriginal Whaling Management Procedure, Greg Donovan, (hereafter, Chair of the SWG) summarised the Scientific Committee's report on this issue (*J. Cetacean Res. Manage.* (Suppl.) 6).

He noted that with the adoption and endorsement of the Commission for the *Bowhead SLA* last year (*Ann. Rep. Int. Whaling Comm.* 2002: 15), the Committee's efforts focussed on the completion of an *SLA* for eastern North Pacific gray whales (Item 8.2 of the Committee's report) and furthering the Greenland Research Programme to enable the ultimate development of an *SLA* for those fisheries (Item 8.3 of the Committee's report).

EASTERN NORTH PACIFIC GRAY WHALES

Progress was slower than expected during the past year, as the burden on the Secretariat's computing section meant that the proposed intersessional workshop had to be postponed. At the Annual Meeting, work focused on examining preliminary results from two potential *SLAs* and reviewing the simulation trial structure to allow progress to

be made. Simulation trials are used to ensure that potential *SLAs* meet the Commission's objectives on both conservation and need, under a wide range of circumstances. An intersessional workshop will be held in Seattle early in 2004 and it is hoped that the Committee may be in a position to recommend an *SLA* for gray whales at the next Annual Meeting if all goes well.

GREENLAND RESEARCH PROGRAMME

The need for a Greenland Research Programme had been first identified in 1998. The Committee had informed the Commission that it would be extremely difficult, if not impossible, to develop an *SLA* for the Greenlandic fisheries that will satisfy all of the Commission's objectives. This is particularly important in the light of the Committee's inability to provide management advice for these stocks.

The Committee reviewed three important areas of information required: stock structure; abundance and trends; and *SLA* development.

With respect to stock structure, the Committee knows that the animals of West Greenland do not comprise complete stocks but the range and extent of the full stocks are unknown. The Committee had stressed the importance of the collection of samples from the hunt for genetic and other analyses but was disappointed to hear that many fewer animals (30) were sampled in 2002 than in 1998 (110).

The Committee therefore strongly recommended the collection of genetic and other biological material from the catch that can be used to elucidate stock structure. It requested the Commission to encourage the Government of Denmark and the Greenland Home Rule authorities to assist with logistical and, if necessary, financial support. The value of such material will be greatly enhanced if material can be obtained from neighbouring waters, particularly to the south and west. It also encouraged cooperation amongst scientists from these areas and requested that the Commission encourages the USA and Canada to assist in any such efforts to the extent possible.

The Commission has also funded satellite tagging work off West Greenland and it strongly recommended that this work continue, focussed on minke and fin whales.

With respect to abundance, the Committee received results from a survey carried out last year using a new photographic method. It is unclear whether the very poor results represent the true situation or a problem with the technique as no calibration study had been undertaken. The Greenland Institute of Natural Resources (GNRI) had planned to undertake an experimental survey this year but in light of the present situation (the most recent fin whale abundance estimate dates from 1987/88 and the common minke whale from 1993), the Committee strongly recommended that a traditional aerial cue-counting survey be carried out this summer in Greenland if logistically and financially possible. It recognised that the most critical factor in a survey resulting in an acceptable population estimate was the weather and that there was no guarantee that a survey will provide an estimate this year. It urged the relevant authorities to ensure that sufficient funds are made

available to allow surveys to be attempted until a successful survey occurs.

Work on *SLA* development has been severely hampered by the lack of data but an intersessional group has been established to carry out preliminary work that may also provide more information on data needs.

3.1.2 Discussion and Recommendations

With regard to the above discussion pertaining to the 'Greenlandic Fishing Situation' Denmark stipulated that they viewed this issue as of the uppermost importance. Moreover, the Greenland Home Rule Government was advancing fiscal resources to address these research needs. Australia, in seeking to clarify the funding of such research sought to ascertain how much the IWC contributed towards these costs. The Chair of the SWG responded that £45,000 had been allocated over the last three years, with £18,000 of this remaining to be spent in the coming financial year mainly on satellite tracking. He further noted that while this may seem a substantial sum, it represents only a small fraction of the money needed to carry out a full-scale survey which would require a suitable plane and three observers for 4-6 weeks.

Australia asked an additional question relating to the fully government owned enterprise NUKA Ltd which had made purchases of minke whale meat from hunters of 37.2 tonnes (2201), 43.5 tonnes (2000) and 64.1 tonnes (1999) and made payments to hunters for minke whale meat of approximately DKK 557,000 (2001), DKK 678,000 (2000) and DKK 960,000 (1999),

In that context, Australia said that there appears to be significant market elements to the whaling of Greenland. Apart from the issue of the commercial component of this enterprise, which would be contrary to aboriginal subsistence whaling (ASW), Australia asked whether any levy was taken from these payments to support the necessary scientific research. Denmark responded that the issue was not that straightforward, and needed to be examined on two levels. Firstly, it was pointed out that modern ASW has become very expensive (due to associated costs ranging from modern weaponry and the necessary ordinance, through to insurance levies placed upon the AS whalers). Secondly, with regard to budgetary issues, the Denmark contribution to the Greenlandic economy is in a block grant, and is not tagged for any specific purpose. This is entirely in keeping with the Danish policies of seeking as much fiscal autonomy for Greenland as possible. In furtherance of this point, the UK asked Denmark if it had thought of providing extra finance for Greenland to meet the costs of the necessary surveys. Denmark explained that even if they increased the funding for Greenland, it is for the Greenlandic Home Rule Government to establish its own priorities on how such monies should be spent.

New Zealand enquired of Denmark how this situation, with regard to the semi-autonomous actions of Greenland could be reconciled with the Danish obligations as a sovereign nation with specific obligations as a signatory to the International Convention for the Regulation of Whaling (ICRW). Denmark explained that they have never had any suspicion that the obligations it has incurred by the ICRW have been infringed by the acts of the Greenlandic Home Rule Government. Moreover, such constitutional questions have no place in the discussions of this Sub-Committee, as they are clearly not in its terms of reference. Norway

concurred with Denmark on this point, reiterating that there has never been any reason to doubt the ability of the Danish Government to fulfil its treaty obligations. Moreover, it was pointed out that New Zealand also has a domestic treaty with its indigenous inhabitants (the Treaty of Waitangi) and, likewise, there is no reason to suggest that these are not met either.

After this exchange of views, the Sub-Committee endorsed the recommendations of the Committee on these items.

3.2 Aboriginal Whaling Scheme (AWS)

3.2.1 Report of the Scientific Committee

The Chair of the SWG noted that last year the Committee had recommended a number of scientific aspects of an eventual AWS, noting that this formed an integral part of the long-term use of an *SLA*. It again recommends them to the Commission. They can be found in *Ann. Rep. Int. Whaling Comm.* 2002: 74-5. In closing, he stressed that he was available to discuss any aspect of the AWMP or AWS with interested delegations or individuals.

3.2.2 Discussion and Recommendations

The USA noted that the Committee again has recommended that the Commission adopt other aspects of an AWS developed by the Committee. In their view, the AWS appears to offer a very promising tool for management of the bowhead whale subsistence hunt. However, the USA will only support adoption of an AWS when all components are completed; they cannot accept piecemeal adoption of the AWS.

Based upon the review of the AWS provisions, the USA particularly favoured the carry-forward provision of the AWS, which provides that, in any given year, an aboriginal quota can add previously unused strikes to that year's strike quota. Of course the concept of carrying unused strikes forward has been applied for a number of years in the IWC's block quota formulation for the bowhead hunt. The USA noted that the carry-forward provision provides for more flexibility in the management of the hunt. This can be very important given the uncertainties created by ice and other environmental conditions. The USA commented that, on the other hand, it was not happy with the phase out provision of the AWS. In its view, this provision did not provide sufficient flexibility to deal with the impact of ice and other environmental conditions upon research, and could result in the start of a phase-out despite good faith efforts.

In response, the Chair of the SWG noted that they have placed great emphasis throughout the process on co-operation with the Commission and the end-users, the hunters. As explained last year (*Ann. Rep. Int. Whaling Comm.* 2002: 63), they had tried to find a balance between the needs of the hunters in often difficult environments and the inability to manage safely in the absence of data. He stressed that as in previous years, he was available to discuss any aspect of the SWG's work, including the concept and practice of the 'grace period', with interested parties and to listen to suggestions for improvements.

Austria wished to know if there was any mechanism under the present system of catch limits for a phase-out if abundance estimates were not available within a specified time frame. The Chair of the SWG explained that there is no such provision in the Schedule but such considerations can be taken into account each time catch limits are set.

4. ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

4.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

4.1.1 Report of the Scientific Committee

The Chair of the SWG noted that there will be an in-depth assessment of this stock in 2004. Given the adoption of the *Bowhead SLA* as the best scientific tool for providing advice, the emphasis within the assessment will be slightly different. It will concentrate on information needed by the *SLA* (i.e. catch and abundance) and information needed to ensure that the current situation was within the parameters that the *SLA* had been tested for. Focus will primarily be on stock structure and aspects of age-related parameters as described in Item 9.1 of the Committee's report.

A total of 50 bowhead whales were struck, resulting in 39 animals landed in Alaska. Two animals were landed and 1 struck and lost during Russian ASW.

The Committee appreciated the fact that in Alaska, landed whales are measured and sampled in cooperation with local hunters. This data will be valuable in the forthcoming in-depth assessment.

This year, the Committee received a new population estimate from the 2001 census (10,020; 95% CI of 7,800 - 12,900) and an associated rate of increase of 3.4% (95% CI 2.1% - 4.8%) for the period 1978-2001.

The Committee agreed that there is no reason to change its previous management advice, namely that it is very likely that a catch limit of 102 whales or less annually would be consistent with the requirements of the Schedule.

4.1.2 Discussion and Recommendations

The USA underscored the new point estimate of 10,020 whales, with an estimated annual rate of increase of 3.4%. It noted that for the first time the Committee's point estimate for the BCB stock had exceeded 10,000. The new estimate clearly shows that this stock is healthy and continuing to increase in the presence of aboriginal subsistence hunting. The USA noted that the Committee had repeated its previous management advice, that the take of 102 whales per year is consistent with the requirements of the Schedule.

The USA agreed with the Scientific Committee on the use of the *SLA* as the basis for the 2004 in-depth assessment. The USA noted the new data reporting requirements for the Scientific Committee and stated that it intended to provide the requested data on stock identification and to comply with the new data reporting requirements to the best of its abilities.

4.2 North Pacific Eastern stock of gray whales

4.2.1 Report of the Scientific Committee

The Chair of the SWG reported that the Committee had received revised recent abundance estimates: 1997/8: 27,958 (95% CI=22,901-34,131); 2000/1:18,246 (15,195-21,910); 2001/2:16,848 (13,995- 20,283).

The latter two estimates were well below the estimate in 1997/98, which was the highest estimate since the census began in 1967/68. These low estimates might have been caused by an unusual number of whales that did not migrate as far south as Granite Canyon in these seasons, or the abundance may have declined following high mortality rates observed in 1999 and 2000. The important factor is that these issues are being taken into account in the trial

structure for gray whales under the AWMP (see Item 8.2 of the Committee's report).

A total of 131 gray whales were taken by Russian aboriginal subsistence hunters.

Last year, the Committee agreed that a take of up to 463 whales per year is sustainable for at least the medium term (~30 years) and no information was presented this year to change that advice. It was encouraged to hear that strandings have returned to pre-1999 levels and that calf production has improved to approximately the mid-range of pre-1999 levels (after low levels in 1999, 2000 and 2001).

The Committee also supported a project to archive valuable photo-identification data.

4.2.2 Discussion and recommendations

The Sub-Committee noted the Committee's report.

4.3 Minke whale stocks off Greenland &

4.4 West Greenland stock of fin whales

4.3.1 & 4.4.1 Report of the Scientific Committee

The Chair of the SWG reiterated the need for more information on these stocks.

He stressed that the Committee has never been able to provide satisfactory management advice for either stock off West Greenland. This inability to provide any advice on safe catch limits is a matter of great concern, particularly in the case of fin whales where the best available abundance estimate dates from 1987/88 and is only 1,096 (95% CI 520-2,100); that for West Greenland common minke whales dates from 1993 and is 8,371 (95% CI 2,400-16,900). The Committee strongly recommended that an abundance survey be carried out this year if at all possible.

The Committee stressed that obtaining adequate information for management must be seen as of very high priority by both the national authorities and the Commission. Without this information, the SWG will not be able to provide safe management advice in accord with the Commission's management objectives, or develop a reliable *SLA* for many years, with potentially serious consequences for the status of the stocks involved.

4.3.2 & 4.4.2 Discussion and Recommendations

The UK, in agreement with the Committee expressed its concern about the absence of any real knowledge of population limits and abundance for this stock. They asked the Chair of the SWG - if the research programme went ahead, how soon would the Committee be able to provide advice on these stocks? The Chair of the SWG replied that it was difficult to predict when the Committee might be able to provide advice; even if a survey took place this year, the difficult weather conditions in Greenland meant that there was no guarantee that an abundance estimate could be obtained. It was also hard to predict when the stock structure could be clarified as it was dependent on information from Greenland and elsewhere. If all goes well, he would hope that the Committee could at least give interim advice in 2-3 years.

Australia also shared the concerns of the Committee and asked Denmark what management responses beyond further studies they were intending to take, given the long period since the previous abundance estimate. Denmark responded that they regretted problems in this area as they considered the issue as one of uppermost importance. Accordingly, they were diverting both manpower and financial assistance, both domestically and in co-operation with the IWC, to address the scientific shortcomings.

Austria, Brazil, the UK and Germany pointed out that the Committee could not issue any stronger words of warning, and in such instances, caution – if not precaution – should be the way forward. Argentina then directed a specific question to Denmark on the sex ratio of the Greenland minke hunt, noting it is heavily female biased. In particular, since 1996 92% of the whales taken from the East Greenland waters have been female. Argentina noted that this preferential removal of females could seriously impair the reproductive capacity of the stock and accordingly asked Greenland if it could explain the justification for this sex-bias in its hunts and how it proposed to address the problem. Denmark responded by stating that it is not easy to see the sex of whales when they are in the water, and only a few highly skilled hunters can do this. Nevertheless, they did not believe it was necessary to make stronger recommendations to encourage the hunting of one sex over another, as to do so could result in infractions. The large number of females reflected the segregation by sex often seen in common minke whales. Germany concluded this item on the agenda with their expression of very strong concern, calling for an improvement in this situation, replete with better management advice.

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

4.5.1 Report of the Scientific Committee

The Chair of the SWG reported that the Committee had endorsed a research programme (MoNAH) that was a follow-up to the highly successful YoNAH project that had greatly increased our knowledge of North Atlantic humpback whales.

With respect to the hunt off St. Vincent and The Grenadines, the Committee agreed that it was most plausible that these animals are part of the West Indies breeding population (over 10,000 animals in 1992/3) although further data to confirm this are desirable. It repeated its previous recommendations that every effort be made to obtain photographs and genetic samples from St. Vincent and The Grenadines. In this regard, it particularly welcomed news that for the first time, genetic analyses of three samples from the hunt (1 in 2001, 2 in 2002) are being undertaken, in a collaborative study. It looked forward to receiving the final report at next year's meeting.

The Chair of the SWG noted that there was no report of catches occurring since the two whales taken on 27 March 2002 and reported last year, but there was no scientist from St. Vincent and The Grenadines present and no national progress report.

In terms of management advice, the Committee agreed that if the humpback whales are part of the West Indies breeding population, a take of up to four animals per annum will not harm the stock.

4.5.2 Discussion and Recommendations

The Sub Committee noted the Committee's report.

5. OTHER MATTERS

5.1 The Russian Federation proposal

In the annotated Agenda for this meeting, the Russian Federation had indicated that it wished to propose an amendment to Paragraph 13 of the Schedule regarding

baleen whale catch limits. It proposed a new sub paragraph as follows:

'13.(c). Notwithstanding any other provision of the Schedule, the meat and products of whales taken by the aborigines are not to be sold or offered for sale, with the exception of blood, plasma, endocrine glands used for biomedical purposes or authentic native articles of handicrafts, including clothing, made wholly or in some respect of whale products.'

The Russian Federation introduced this item by explaining that it had already had serious discussions with many governments about this issue, and now sought to place the issue for discussion before the Committee. However, before moving to the proposed amendment they pointed out that there was a clear anomaly in the way that the limits imposed upon the ASW of the Chukotka peoples is different from the conditions imposed upon other aboriginal groups operating under the ASW auspice. In particular, they pointed out that the conditions imposed upon the Chukotka peoples, specifically, '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 whose traditional aboriginal subsistence and cultural needs have been recognized.' (Paragraph 13b(2) of the Schedule), are not consistently applied to other indigenous communities performing ASW. The Russian Federation proposed to remedy this inequity by deleting the following words from this paragraph: 'whose traditional aboriginal subsistence and cultural needs have been recognized.' The Russian Federation contended that such differences amounted to discriminatory behaviour against the native peoples of Chukotka. Moreover, they suggested that such conditions prevent the important practice of cultural exchange of goods among indigenous peoples. Accordingly, this prohibition should be stopped.

Following this presentation there were a series of questions (UK, Australia, NZ) seeking further clarification of exactly what the Russian Federation was seeking and what it believed the material effect of its proposed change of words would be. In particular, the Chair pointed out that it would not be possible to agree on their proposal at this meeting as it involved a Schedule Amendment, although the Committee could discuss it. The Russian Federation responded that their objective was to achieve consistency among all indigenous groups acting under the ASW auspice, and to create a provision for the exchange of handicrafts among indigenous peoples, as required by some of their religious festivals. Without the appropriate change of the IWC rules on this matter, the Russian Federation explained that due to the high importance they place upon international law, they would be unable to change their domestic law. Grenada and Japan expressed its support for the Russian initiative. Australia suggested if this is only a stylistic question, a possible solution would be to insert the same language as highlighted by the Russian Federation in each of the Aboriginal Subsistence quota provisions in the Schedule. The USA noted that it could not support the original Russian Federation Schedule amendment proposal of Paragraph 13(c), as it considered the sale of some of those products such as blood, etc. to be commercial activity. The USA stated that it believes that the sale of handicrafts is a legitimate subsistence activity as it furthers

traditional cultural practices. On the new proposal the USA stated that they understood that removal of the clause in the gray whale quota would not allow commercial activity and that they would like to have the opportunity to discuss the proposal with other aboriginal subsistence whaling countries.

Denmark added that although they wished to accommodate the goals of the Russian Federation, what they were proposing was a Schedule Amendment and this was not the correct forum to do this. Moreover, the matter they were raising related primarily to trade and the ASW working group needed to be cautious in this area. Norway concurred with these views. The UK added that due to such problems, it was not possible for this Sub-Committee to meet the Russian objectives, and the best the Sub-Committee could do was to reflect upon the matter until it arose in the Plenary. In response to this possible procedural difficulty, the Russian Federation explained that they were only seeking a recommendation from this body, that the discussion be noted, and that the recommendation and discussion be put forward to the Commission. They then asked the IWC-Secretariat what the legal situation was with regard to what action the Sub-Committee could take. The Secretariat responded that a Sub-Committee can make recommendations to the Plenary on items on its agenda and/or it can note an exchange of views and refer these to the Plenary.

The Chair added that the Russian Federation's new proposal is a Schedule Amendment and has to be officially proposed in the Plenary.

The Russian Federation took note of these points and requested that their position be clearly reflected in this report. In particular, the Russian Federation agreed with the general opinion to consider the issue concerning Paragraph 13 at the Plenary Session. As for the issue concerning Paragraph 13b(2), the Russian Federation expressed an intent to continue consultations with the Contracting Governments.

5.2 St. Vincent and The Grenadines and Denmark

Australia expressed regret that St. Vincent and The Grenadines was not present at the meeting. It referred to Schedule Paragraph 13(4) adopted in 2002 with respect to humpback whales to be taken by the Bequians of St. Vincent and the Grenadines and the provision '... such whaling must be conducted under formal legislation that accords with the submission of the Government of St. Vincent and The Grenadines (IWC/54/AS 8 rev2).'

Australia noted that in papers presented to the Commission there was no indication that any new national legislation had been transmitted to the IWC and asked whether the Secretariat could confirm this. The Secretariat informed the meeting that there were no new developments. Australia then asked Denmark whether the minke and fin whale purchases of NUKA were sold exclusively within the aboriginal communities involved; more broadly within Greenland; or were they exported to Denmark or beyond? Denmark replied that the exchange of whale meat was done in complete accordance with the Schedule. Only a small amount was transferred to Denmark, and this was utilized strictly for personal, non-commercial use, i.e. hospitals and elderly people in an absolutely non-commercial context. The UK welcomed this information but sought further clarification on the export of sperm whale teeth and the bones of fin and minke whales. Denmark then informed the Committee that an investigation of such an illegal trade between Indonesia and Denmark of sperm whale teeth was currently being undertaken. The UK then asked Denmark to further clarify the information from the World Conservation Monitoring Centre which showed that between 1983-2001 over 3,800 carvings (of carved sperm whale teeth) were exported for personal use but a further 3,500 were reported to be for commercial purposes.

Denmark was unable to explain these figures but gave the meeting its assurance that it would investigate them. Moreover, in their desire to further transparency and combat all forms of illegal activity they assured the meeting that the issue would receive priority. Norway added that even though they had no reason to doubt the integrity of Denmark over these questions, this was a discussion better suited to CITES than the IWC. Both the UK and Germany strongly disagreed with Norway that trade was not within the purview of the ASW Sub-Committee, since according to the Schedule takes by aboriginal peoples are only permitted when the meat and other products are to be used for local consumption. Thus, trade is integral to considerations of this issue. Finally, the UK added that it had no reason to suspect any lack of regulation on the part of Denmark or the Greenland Home Rule Government, and following the Danish request was happy to provide them with what information the UK possessed on the matter.

6. ADOPTION OF THE REPORT

This report was adopted at 7:20pm on 12 June 2003.

Appendix 1**LIST OF PARTICIPANTS**

(I = Interpreter)

Antigua & BarbudaDaven Joseph
Colin Murdoch
Sean Cenac**Argentina**

Miguel Iniguez

AustraliaConall O'Connell
Stephen Powell
Pam Eiser**Austria**Andrea Nouak
Michael Stachowitsch**Brazil**Regis Pinto de Lima
Jose Truda Palazzo, Jr.**Denmark**Henrik Fischer
Amalie Jessen
Kim Mathiasen
Maj Friis Munk**Dominica**

Andrew Magloire

Finland

Esko Jaakkola

GermanyPeter Bradhering
Marlies Reimann**Grenada**Justin Rennie
Frank Hester**Republic of Guinea**Ibrahima Sory Toure
Amadou Telivel Diallo
Morike Kamara
Sidiki Diane (I)**Iceland**Stefan Asmundsson
Axel Nikulasson**Japan**Minoru Morimoto
Masayuki Komatsu
Hidehiro Kato
Seiji Ohsumi
Kayo Ohmagari
Chikao Kimura
Naohisa Yoshida**Mexico**Andres Rozental
Silvia Manzanilla Naim
Lorenzo Rojas Bracho**Netherlands**

Henk Eggink

New ZealandGeoffrey Palmer
Mike Donoghue
Chris Anderson
Philippa Brakes**Norway**Odd Gunnar Skagestad
Ove Midttun
Turid Eusébio
Silje Wangen
Hild Ynnesdal
Egil Ole Øen
Jørn Pedersen**Oman**Sayeed Ibrahim Bin Said Al
Busaidi**Panama**Rogelio Santamaria
Epimenides Diaz**Russian Rederation**Valentin Ilyashenko
Rudolf Borodin**Saint Lucia**

Jeanine Rambally

Solomon IslandsNelson Kile
Sylvester Diake**South Africa**

Herman Oosthuizen

SpainCarmen Asencio
Santiago Lens**Sweden**

Bo Fernholm

Switzerland

Thomas Althaus

UKRichard Cowan
Geoffrey Jasinski
Laurence Kell
Rob Bowman
Jenny Lonsdale
Mark Simmonds
David Stowe**USA**Rolland Schmitt
Michael Tillman
Robert Brownell
Jean-Pierre Ple
Roger Eckert
Chris Yates
Winnie Chan
George Noongwook
Keith Johnson
Nancy Azzam
Gary Rankel
George Ahmaogak
Harry Brower, Jr.**Secretariat**

Greg Donovan

Appendix 2**LIST OF DOCUMENTS**

IWC/55/AS

1. Revised Draft Agenda.
2. Documentation to IWC on Greenland whaling, 1979-2002.

Appendix 3**AGENDA**

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none">1. Introductory Items<ol style="list-style-type: none">1.1 Appointment of Chair1.2 Appointment of Rapporteur1.3 Review of Documents2. Adoption of the Agenda3. Aboriginal Subsistence Whaling Scheme<ol style="list-style-type: none">3.1 Aboriginal Whaling Management Procedure (AWMP)3.2 Aboriginal Whaling Scheme (AWS)4. Aboriginal Subsistence Whaling Catch Limits | <ol style="list-style-type: none">4.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales4.2 North Pacific Eastern stock of gray whales4.3 Minke whale stocks off Greenland4.4 West Greenland stock of fin whales4.5 North Atlantic humpback whales off St. Vincent and The Grenadines <ol style="list-style-type: none">5. Other matters6. Adoption of the Report |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Annex E

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

The Workshop took place at the Estrel Hotel and Conference Centre, Berlin from 7-9 June 2003.

1. INTRODUCTORY ITEMS

1.1 Appointment of Chair

Joe Geraci, National Aquarium in Baltimore, was appointed as Chair. He welcomed the participants (see Appendix 1) and observers.

1.2 Appointment of Vice-Chair

In his opening remarks the Chair explained that he would only be able to attend the Workshop for the two first days and that therefore it would be necessary to appoint a Vice-Chair to chair the meeting on the third day. Norway proposed Nick Gales (Australia) as Vice-Chair. This was supported by Japan and New Zealand, and Gales was appointed Vice-Chair.

1.3 Appointment of rapporteurs

Laila Sadler (UK) and Sidsel Grønvik (Norway) were appointed as rapporteurs.

1.4 Review of documents

All documents submitted for consideration by the Workshop had been submitted by or through Contracting Governments. The Chair referred participants to the list of documents (Appendix 2). A total of 25 documents had been submitted for discussion. Additional documents that were available as background and for information are also listed in Appendix 2. The Chair went through the document list to indicate which documents should be discussed under which agenda items.

2. TERMS OF REFERENCE AND BACKGROUND TO THE WORKSHOP

At its 43rd Annual Meeting in May 1991, the Commission adopted the following Terms of Reference for a Workshop on Whale Killing Methods (*Rep. int. Whal. Commn* 42:49) that was subsequently held in Glasgow in June 1992 prior to the 42nd Annual Meeting. The relevant parts of these Terms of Reference are shown below:

‘That a Workshop including but not limited to veterinarians, weapons explosive experts, physiologists, forensic pathologists experienced with trauma and practicing whalers be convened.

The purpose of the Workshop would be to:

- (1) Consider all methods currently in use in whaling or known to be in development;
- (2) Assess the methods, their efficacy and physiological effects;
- (3) Evaluate the times to death achieved by the various methods;
- (4) Evaluate progress since 1980; complete a comparative analysis of the methods.’

These Terms of Reference were slightly extended for the 1995 Workshop (*Rep. int. Whal. Commn* 45:16), i.e.:

‘To:

- (1) Consider all methods currently in use in whaling or known to be in development;
- (2) Assess the methods, their efficacy and physiological effects;
- (3) Evaluate the times to death achieved by the various methods;
- (4) Review and evaluate all data, relevant to the Workshop, available through the IWC or held by national governments or organisations;
- (5) Complete a comparative analysis of the methods and consider revision of the Action Plan as appropriate, with a view to improving the humaneness of whale killing techniques while paying proper regard to the safety of the crew.’

The Chair referred to last year’s meeting of the Working Group on Whale Killing Methods and Associated Welfare Issues (*Ann. Rep. Whal. Comm. 2002:76-82*) when an *ad hoc* task force was appointed to develop a proposed draft agenda for this Workshop. He noted that the items proposed by the task force and included on the draft agenda are:

- (1) a review and assessment of killing methods in use and under development for commercial whaling, aboriginal whaling, whaling under scientific permit, and for the euthanasia of stranded and entrapped cetaceans;
- (2) a review of times to death and evaluation of criteria for death; and
- (3) hunter safety and associated problems.

He noted that the Workshops held in 1995 and 1999 had resulted in Plans of Action and that an important part of the present Workshop would be a review of the most recent Plan, including recommending changes where necessary. The Chair noted that previous Workshops have considered relevant comparative data from the killing of other large mammals (*Ann. Rep. Whal. Comm* 2001: 54-55, Resolution 2001-2).

The Chair drew attention to the fact that at a private meeting of Commissioners/Alternate Commissioners on the Revised Management Scheme held in Cambridge in October 2002, it was agreed to ask the Workshop Steering Committee to include on the Workshop agenda:

- (1) a review of current and proposed requirements for the collection of animal welfare data;
- (2) development of a consolidated list of data that might be collected by international observers (should the Commission so choose); and
- (3) recommendations of appropriate analyses of such data.

These items would be addressed under proposed Agenda item 7, Collection of animal welfare data.

The Chair requested that individuals refrain from taking the floor unless they had new points to add to discussion, thus avoiding interventions intended simply to support the statement of another speaker.

Japan stated that it participates in, and provides information (obtained through considerable research effort over the years) to, the Workshop on a voluntary basis. However, this Workshop is not an appropriate forum to

discuss welfare issues to be incorporated into an RMS because these matters are outside the Terms of Reference of the IWC. Japan further stated that significant improvements in killing methods and a corresponding reduction in times to death had been achieved and encouraged scientific exchange and constructive discussion at the Workshop.

The UK welcomed Japan's willingness to take part in the Workshop, but did not share Japan's position regarding the collection of animal welfare data. Germany and New Zealand expressed similar views. The Secretary recalled that at the private meeting of Commissioners on the RMS it had been agreed to include the item on data collection on the understanding that it was addressing only the scientific aspects.

Norway stated that it had on a voluntary basis collected and presented data on whale killing matters to the IWC since 1980. In regard to Resolution 2001-2, it indicated that it would like to see killing data from other large mammals presented.

In a reply to Norway, the UK stated that it had provided information regarding the hunting of deer in Scotland to the Whale Killing Workshop in 1999 (IWC/51/12, Appendix 4). The UK was, however, doubtful of the relevance of comparison with data from terrestrial animals.

3. ADOPTION OF THE AGENDA

The Chair asked if the Workshop would adopt the agenda including Item 7, Collection of animal welfare data.

Japan reiterated its position that animal welfare issues are outside the Terms of Reference of the IWC and should not be included in an RMS and that Item 7 should be deleted.

The Chair noted that the Commission had asked the Workshop to include this item and that it therefore would be inappropriate not to deal with it. Australia, UK and USA supported the Chair and said that comments in the discussions should be kept to strictly technical matters.

The Workshop adopted the Agenda (Appendix 3).

4. DESCRIPTION OF KILLING METHODS IN USE AND UNDER DEVELOPMENT

4.1 Commercial whaling

IWC/55/WK17 (Improvements in hunting and killing methods for minke whales in Norway 1981-2003)

Øen (Norway) presented paper IWC/55/WK17. The paper describes improvements in hunting and killing methods for minke whales in Norway during 1981-2003. The minke whale hunt is carried out on small fishing boats which are rigged for hunting in the seasons. It is a part time occupation, and the license holder must own the boat or the main part of it to get a license. A 50 or 60mm harpoon gun is mounted in the bow and the harpoons are equipped with penthrite grenades. Rifles of minimum calibre 9.3mm are used as back-up weapons. When these small guns and harpoons were first introduced to minke whaling in the 1920s the grenade was not filled with explosives. The reason was probably that the fuse and trigger system of the black powder grenade was difficult to adjust to the

relatively small minke whale and would not be particularly effective. However, the empty grenade housing (cold grenade) was continued used on the harpoon head until it gradually was replaced with a pointed iron head (cold harpoon).

A five-year programme to improve the weapons and hunting methods used in the Norwegian minke whale hunt started in 1981. Norway was encouraged to investigate the possible use of high-velocity projectiles (IWC, 1980) in the minke whale hunt. The programme included a more comprehensive study of possible alternatives and also the design and adaptation of new equipment and training of personnel.

Field trials were performed on high-velocity projectiles, traditional and modified cold harpoons and penthrite grenades and a new penthrite grenade was developed and introduced in the Norwegian hunt in 1984. The cold harpoon was simultaneously banned. Prior to the whaling season of 1992 the harpoons on each boat were required to be consistent in weight, and specific instructions concerning shooting and catching routines were given to the gunners. The recommended maximum range for harpoon shots was 30m. Animals were to be shot from the side whenever possible, and then hauled in to the boat immediately to determine whether re-shooting with the rifle was needed. During the active hunt the rifle had to be kept beside the gunner at all times.

Before the traditional hunt was resumed in 1993, the 60mm harpoon guns were modified by the introduction of a new trigger mechanism. The required tensile strength of harpoons, fore-runners, wires, winches and braking devices was increased from 1,500 to 5,000kg. The harpoons were standardised in weight, and the harpoon claws were modified and reinforced. Gunners and licence-holders were required to take part in obligatory training courses covering issues like safety and maintenance of weapons, weapons ballistics, hunting techniques, shooting with rifle, etc. Each gunner was required to pass a shooting test using harpoon gun and rifle. The obligatory courses for the licence holders and gunners continued in the following years.

In late 1996 a new penthrite grenade was designed and constructed in a co-operation between the Norwegian School of Veterinary Science and the Norwegian Defence Research Establishment. Field trials were carried out in 1997, 1998 and 1999. After the 1999 season some minor changes were made on the trigger hooks and the grenade was subjected to the official testing regime for Competent Authority Approval as set by the Directorate of Fire and Explosion Prevention. All these tests were issued on the basis of evaluation of tests carried out in accordance with UN recommendations. The tests were passed and the new grenade was approved under the name 'Whale grenade-99' in January 2000. The surplus stock of the former penthrite grenade was simultaneously banned.

COMMENTS AND DISCUSSION

The Netherlands expressed its appreciation for the valuable and interesting information provided in IWC/55/WK17 which showed the efforts by Norway to improve whale killing techniques and asked a question about the interpretation of the data. The Chair ruled that it was more appropriate to take this up under Agenda Item 5.1.

4.2 Aboriginal subsistence whaling

IWC/55/WK1 (Report on Alaska Eskimo Whaling Commission Progress Concerning Improvement of Whale Killing Methods)

IWC/55/WK2 (Report of the Makah Tribe on Whale Killing Methods)

In presenting IWC/55/WK2, the USA commented that the Makah Tribe's hunting methods are designed to preserve traditional hunting methods in a manner that is consistent with the goal of minimising time to death. The whale is first struck from a whaling canoe with a hand-thrown harpoon, and is then killed as quickly as possible with a high-powered rifle fired from a motorised chase boat. The preferred weapon is a .577 calibre rifle, with a .50 calibre rifle carried as a reserve. The USA reported that in 2001 the Makah Tribe implemented changes to its hunting methods to increase the safety of the hunt which include a safety officer to supervise the hunt and authorise the discharge of the rifle.

The USA then gave a PowerPoint presentation related to document IWC/55/WK1, outlining efforts to improve hunting efficiency and time to death in the Alaskan Eskimo bowhead aboriginal subsistence hunt (see Agenda Item 5.2). This presentation covered the continuing field trials of the penthrate projectile in Barrow, production of a new darting gun barrel for the penthrate projectile, improved hunting efficiency, methods for estimated time to death (TTD) determinations, and examination of landed whales.

With respect to hunting efficiency over the past 20+ years, the data demonstrate improved efficiency during the 1990s. These data are annually reported to the IWC Scientific Committee and show a 4-year 'running average' of 76.2% for the past four years. Factors that can affect hunt efficiency include sea ice conditions, wind speed and direction, weather (i.e. fog), ocean current speed and direction, and hunt coordination and communication.

Efforts to further improve this efficiency were detailed, the most important being the receipt of 160 new penthrate projectile barrels for use beginning in fall 2003. The presentation gave details of the weapons improvement programme, including a review of the 2000-2001 hunts in Barrow using the penthrate projectile. It was reported that during spring 2001 five whales were landed using penthrate-containing projectiles; and in autumn 2001 one penthrate projectile was used secondarily to land a whale. In spring 2002 a single whale was struck with a penthrate projectile and landed but abandoned (strong current and unstable shorefast ice prevented butchering), and during fall 2002 two penthrate projectiles were used to land a single whale (possible detonation problem with one). The present sample size for evaluating the performance of the penthrate projectile and associated TTD is very limited due to confounding variables such as body site struck, depth of penetration, size of whales, sequence used, site of secondary weapon detonation and projectile failure or unusual detonation.

The presentation also indicated that Alaska hunters would like to present TTD, but that the best data that can be reliably presented is an estimated time to death. The AEWC has introduced a new data form for use by crews landing a whale to help in the collection of this data. The time to prayer occurs at a recognisable moment when the crews have traditionally confirmed the death of the whale; but it is recognised that this is not the same as TTD. The USA noted that for hunters in a small boat, it is dangerous

to remain close to the whale following the strike thus affecting the ability to immediately assess death. The crew must monitor the whale from a distance for at least 5-10 minutes post strike and then crews gradually approach and secure the whale to prepare it for towing once it is confirmed dead. The traditional prayer is conducted when the whale is confirmed dead (i.e. lack of movement, no response to touch).

COMMENTS AND QUESTIONS

The Netherlands noted that the Makah Tribe's hunt is suspended when visibility is less than 500 yards and asked why this distance is chosen. The USA stated that it was based upon a procedure established by the US Coastguard and their decision process was not known.

IWC/55/WK8 (Greenland Home Rule Government: Efficiency in the Greenlandic hunt of minke whales and fin whales 1991-2002)

IWC/55/WK9 (Greenland Home Rule Government: A note regarding information encouraged in the IWC-Resolution 1999-1)

IWC/55/WK10 (Greenland Home Rule Government: Report on improvements in ASW in Greenland)

IWC/55/WK11 (Greenland Home Rule Government: Status for Greenland action plan on whale hunting methods, 2002)

IWC/55/WK12 (Greenland Home Rule Government: Times to death in the Greenlandic minke and fin whale hunt in 2002)

Jessen (Denmark) gave an overview of whaling off West and East Greenland. She began by referring to all documents that have been submitted to IWC and earlier workshops on Whale Killing Methods, in which detailed descriptions have been given on whale hunting methods. In the old days, whale hunting was conducted from umiaqs and qajaqs with handheld harpoons in near coast areas and at the ice edge. Nowadays, whale hunting is very different. The first vessel with a harpoon cannon was introduced in 1948, mounted with the Norwegian Kongsberg 50mm cannon which used cold harpoons. The cold harpoon was used until the introduction of the penthrate grenade in 1990-1991.

There are three types of hunting methods used in Greenland for large cetaceans:

- (a) Minke whale hunting from vessels mounted with Kongsberg 50mm harpoon cannons and the new penthrate grenade, imported from Norway. As secondary weapons, 30.06 or 7.62mm or .375 or .458 rifles are used. Vessel sizes are between 30 feet and 72 feet long. There are no vessels with harpoon cannons in East Greenland.
- (b) Minke whale hunting from small boats with rifles, with the above-mentioned calibres, is used both in West and East Greenland, mostly in settlement areas, where there are no vessels with harpoon cannons. The secondary weapon is the handheld harpoon with float, which is also used in order to secure the whale.
- (c) Fin whale hunting is conducted in West Greenland from vessels 36 feet to 72 feet long with Kongsberg 50mm harpoon cannon and an especially constructed penthrate grenade for fin whales with a longer trigger line compared to that used in the minke whale hunt.

Greenland Home Rule has conducted, and will continue to conduct, hunter/user instruction courses regarding the use, handling and storing of the penthrite grenades. The courses include the maintenance of harpoon cannons and other hunting gear and improvements of routines in general. The courses include instructions in data collection, training in the safe handling and effective use of killing equipment and shooting distance. In most of the instruction workshops that have been conducted since 1991, Greenland Home Rule has invited weapons experts from Norway.

Denmark then made reference to documents IWC/55/WK8-12.

COMMENTS AND QUESTIONS

The Netherlands asked whether killing methods differed between West and East Greenland. Denmark clarified that 71 vessels with harpoon cannon operate in West Greenland whereas small boats with only rifles operate in East Greenland. The Netherlands then suggested separating rifle data for West and East Greenland and New Zealand suggested separating rifle data from cannon data for minke whales. Denmark stated that IWC/55/WK12 would be revised, and later presented the revised document to the Secretariat. When asked whether the large variation in efficiency of fin whale killing was due to the method used, Denmark replied it was likely to be a result of weather and practical conditions.

IWC/55/WK13 (Report on whale killing methods employed in the aboriginal subsistence harvest of the Russian Federation, 2002)

Borodin (Russian Federation) presented a summary of data, indicating that at IWC54 they had presented an analysis of the efficiency of their aboriginal whaling, so this paper (IWC/55/WK13) was for one season only. Their aboriginal whaling uses three methods: harpoon, darting gun and rifles. On gray whales, all three methods were used. Times to death were provided by the captains. The hunter group has a captain responsible for reporting and an inspector on the coast at the start and end of a hunt. Every whale has a record. All harvested whales are inspected by inspectors and 25% of these are inspected by scientific advisors. Whaling captains provide 100% of the data.

In 2002, 131 gray whales (70 male and 61 female) and 3 bowhead whales (1 male, 1 female, 1 struck and lost) were harvested during the aboriginal subsistence harvest season. A harpoon and float was used during the harvest of all whales. A darting gun was used during the harvest of 94 whales. 'Tiger' (125), 'Vepr' (25) and 'Carabine CKS' rifles were also used during the harvest of whales.

In the harvest from 3 to 100 bullets were used per whale. In the 2002 harvest season, an average of 52 bullets were used per whale, an improvement over the 2000 harvest (average 64 bullets per whale) and 2001 harvest (average 54 bullets). In 2002, the average number of darting gun projectiles used on the gray whales was 2.7 projectiles per whale shot by darting gun. The maximum estimated TTD for gray whales was 56 minutes, and for bowhead whales 53 minutes. Mean TTD for gray whales was 32 minutes, and for bowhead whales 41 minutes.

It was noted that the large number of bullets and darting gun projectiles are used in the gray whale hunt for two major reasons. First, the gray whale is aggressive, the hunt is very dangerous, and is carried out from a moving boat. Hunters, particularly new hunters, sometimes shoot but miss the whale, even though they count these toward the

overall number of bullets and/or projectiles. Second, the aboriginal hunters tend to overuse bullets to make absolutely sure that the gray whale is actually dead and the whale is harvested as quickly as possible. Hunters may also overestimate the time to death because they consider death to be when they are absolutely sure that the whale is not moving. It is extremely dangerous for the hunters to approach a gray whale until there is no chance that the animal may be merely wounded and could become enraged. All of the above subjective factors tend towards an overestimation of the time to death.

The aboriginal subsistence harvest is regulated by federal fish inspectors and officials from the Chukotka Special Marine Inspectorate. Additionally the hunters self-regulate their harvests and scientists are present.

COMMENTS AND QUESTIONS

New Zealand asked why the hunters continue to use a small calibre rifle and relatively low powered cartridges when significantly more powerful cartridges were available. The Russian Federation replied that they use those weapons they have available. In response to a question from South Africa on struck and lost animals, the Russian Federation responded that no data were available on gray whales however the data on bowhead whales had been reported.

The UK noted that data from Greenland, the USA and the Russian Federation were useful and asked that data on times to death, number of rounds etc. for each animal be provided in order to aid discussion. Mexico noted the difficulties for hunters and asked whether the Russian Federation planned to address the long TTD in another way. The Russian Federation replied that there had been increases in efficiency and that they would continue to try to introduce darting guns more widely. The Netherlands questioned whether sole use of a CKS rifle as the killing method could be called aboriginal subsistence whaling. The Russian Federation noted that harvesting regulations permit use of these weapons and they were used approximately ten times. Norway explained that the harpoon is not the primary killing method in the Chukotka hunts but is used to secure the whale. Rifle or darting gun are used to kill the whale.

Summarising the discussions, the Chair noted that killing efficiency had improved although more could still be achieved, and noted the inconsistencies in data collection and presentation, indicating that uniformity is important.

The USA indicated that differences in information provided from aboriginal whaling reflect the different cultural traditions and the different stages of weapons improvement in the different hunts. Denmark supported this comment, noting that it had no veterinary or expert assistance in data collection. Dominica stated that there were cultural differences in the way people lived and although moves should be made to improve techniques, this should not force cultural change.

4.3 Whaling under scientific permit

IWC/55/WK23 (Report of experiments to compare Norwegian and Japanese penthrite grenades and improvement of the Japanese grenade in the Japanese Whale Research Programs)

IWC/55/WK23 presented by Ishikawa (Japan) was a report of experiments to compare Norwegian and Japanese penthrite grenades and improvements to the Japanese

grenade in the Japanese Whale Research Programs. The comparative experiment using Norwegian and Japanese penthrite grenades started under the Revised Action Plan on Whale Killing Methods. To mount the Norwegian grenade that was designed for 50/60mm harpoon onto the Japanese 75mm harpoon, a special connector was developed. The experiments were conducted in the three seasons of JARPA from 2000 to 2003 and in the 2002 JARPNII. All imported grenades have been used for minke whales only. Norwegian grenades showed superiority in every experiment. TTD of Norwegian grenades in every experiment were shorter than Japanese grenade and Instantaneous Death Rate (IDR) of Norwegian grenades in every experiment were higher than for Japanese grenades. Norwegian grenades showed excellent results especially for small individuals. However, financial concerns may be the most important factor related to the decision on whether or not to introduce them to Japan. In parallel with experiments on the Norwegian grenade, Japan began improvement of the Japanese penthrite grenade especially in regard to reducing misfiring of the fuse. It showed good results, matching those for the Norwegian grenade in the first experiment. Japan will continue the experiments to test and improve this grenade.

COMMENTS AND QUESTIONS

Comments were made that it was good to see the development that had taken place. Australia noted that data on struck and lost animals were not presented and that these data would be important in evaluating the performance of the three different grenades.

As Japan had stated that one of the most important factors for not introducing the Norwegian grenades in the Japanese hunt was cost, Germany commented that though this might be a consideration in commercial whaling activities, scientific whaling operations should use the best available techniques irrespective of their cost. Japan replied that in principle it agreed that one should always use the best available alternative and had therefore tested the Norwegian grenade. However if an alternative device could show the same results, they would adopt the less expensive one even if it is scientific research.

IWC/55/WK25 (Report on whale killing methods in the 2002/2003 JARPA and improvement of the time to death in the Japanese Whale Research Programs (JARPA and JARPN))

Ishikawa (Japan) presented IWC/55/WK25 which reported on whale killing methods in the 2002/2003 JARPA and improvement of TTD in the Japanese (Japan) Whale Research Programs (JARPA and JARPN). In the 2002/2003 JARPA 440 Antarctic minke whales were taken. Both the TTD and the instantaneous death rate (IDR) were significantly improved from the previous JARPA. From 1993, post-mortem examinations have been carried out by experienced researchers on a research base ship for all whales taken in JARPA and JARPN. The results are reported to gunners on sighting/sampling vessels as quickly as possible. This 'Necropsy Information Feedback System' has successfully contributed to shorten TTD. Both TTD and IDR in JARPA have improved significantly over these four seasons. Improvement of both TTD and IDR in minke whales taken in the JARPN is also notable. In the first year of the catch of Bryde's whales, both TTD and IDR showed unsatisfactory results. To improve them, analysis of the post-mortem examination data was conducted carefully.

The gunners were recommended to shoot harpoons at a shorter distance. The difference of the shape of the head between minke and Bryde's whales were illustrated with the position of the brain for appropriate secondary killing method. Furthermore, larger calibre (.458) rifles with 500GR bullets were introduced. These measures improved TTD and IDR of Bryde's whales significantly.

COMMENTS AND QUESTIONS

New Zealand asked whether it would be possible to get more detailed data on the Bryde's whales taken and also whether any data on sperm and sei whales from JARPN would be available. Japan answered that it had already stated its policy with regard to individual data and that the necessary data had been submitted on a voluntary basis and JARPN is conducted in accordance with Article VIII of the Convention. The improvements in TTD and IDR were the important points. The UK asked whether any regression analysis had been carried out to determine whether these trends were statistically significant as without such analysis interpretation of the data is difficult. Japan replied that although regression analysis was not conducted, non-parametric comparison detected a significant difference when comparisons were made between recent TTD/IDR data and those of the past. In reply to a question from the Netherlands on TTD data, Japan stated that the median is suitable for comparison when the sample size for each year is small. Norway stated that when the distribution of the data is so skewed then the median is the preferable statistic for comparison. The Netherlands also suggested video or slide information might be useful.

4.4 Euthanasia of stranded and entrapped cetaceans

IWC/55/WK5 (Euthanasia of stranded cetaceans in New Zealand)

Donoghue (New Zealand) informed the Workshop that New Zealand has one of the highest rates of whale strandings in the world. The Department of Conservation (DOC) is the government agency with the legal responsibility for the management of strandings, usually with the active involvement of local Maori and other volunteers. Wherever possible, attempts are made to refloat stranded cetaceans, but many animals are in poor condition when they strand or by the time they are found. DOC officers often need to make a choice between humane euthanasia and leaving stranded cetaceans to die.

The New Zealand Department of Conservation has developed Standard Operating Procedures (SOPs) for a number of the tasks undertaken by its staff. IWC/55/WK5, Annex 1 is an extract dealing with euthanasia, taken from the SOP on marine mammal strandings. Euthanasia of stranded cetaceans is only undertaken by the use of a firearm, handled by a competent and trained DOC officer. Target points have been identified for the euthanasia of toothed and baleen whales. A specialised firearm has been developed for use on stranded sperm whales. The use of explosives, barbiturates or other chemicals, and the severing of blood vessels to euthanase stranded cetaceans are all prohibited. New Zealand is confident that if SOP procedures are followed, euthanased whales will die instantly.

IWC/55/WK7 (Euthanasia of a stranded sperm whale with calibre .458 round nose full-metal jacket rifle bullets)

Øen (Norway) reported on a 12.5m male sperm whale observed in a bay in the Lofoten Islands (IWC/55/WK7)

that was shown to be in distress, listing and swimming in circles. When it finally stranded in shallow water euthanasia was decided upon. A small whaling vessel was unable to reach it so a rifle had to be used for euthanasia from a smaller vessel. The first bullet hit at an oblique angle and passed over the skull due to lack of elevation for the shooter. There was still a corneal reflex so another round was fired perpendicular to the side of the animal at a point about 65cm behind the eye and 30cm above a line between the flipper and the eye. This shot caused the whale to shiver and it immediately expired, the flippers relaxed after a few seconds and there was no corneal reflex. The whole process took some five minutes and three rounds were fired in total from the .458 calibre rifle with full-jacketed round nosed bullets.

COMMENTS AND QUESTIONS

The Chair asked what public reaction was like in New Zealand to shooting a whale on the beach. New Zealand responded that communication with the public is an important element in managing strandings, and that grief counselling is an integral part of people management when whales are euthanased. Responding to a question about the target area for sperm whales, New Zealand commented that the sperm whale skull is very different from baleen whales and the target spot differs from that selected for the sperm whale whose euthanasia is reported in IWC/55/WK7.

4.5 Review papers and Other

IWC/55/WK3 (Sea and weather conditions in Area V region in the Southern Ocean Sanctuary with special reference to whale killing methods)

Van Liere (Netherlands) provided data about sea condition, weather state and ship motions for a region in area V of the Southern Ocean Sanctuary, where Japanese whaling takes place (IWC/55/WK3). A review of temperature, wind speed, precipitation and fog was presented and used to generate a model to predict the characteristics of a Japanese catcher boat on the water. It suggested that 6 sways averaging 1.2 metres, 2 heaves averaging 3.4 metres and 4 surges of 0.6 metre can be expected each minute at the level of the harpoon. In December there is a 50% reduction of the sway and surge and an average heave of 1.8 metres. However the numbers per minute are doubled compared to March, weather and sea conditions in the studied area can be severe. It would be helpful to know how current Japanese operations solve the problems related to low temperatures and poor visibility and how these relate to the proportion of immediate kills, in particular in March and November. Minimum visibility requirements should be agreed upon. The paper also suggests that it would be important to receive direct observations of time and location, depth, wave height, period and direction, on board measurements of the sways, heaves and surges of the harpoon, the ship's speed and time to death data. It would also be important to extend similar research in other geographical areas and types of whaling. The paper encouraged IWC Contracting Governments to:

- (i) submit data about sea and weather conditions and practical difficulties related to these, in all areas where whale observations or whale killings occur; and
- (ii) (develop criteria related to weather condition, sea state and the sway, heave and surge responses of the ship and harpoon on

the basis of which some operations should not be allowed and the proportion of immediate kills could be significantly enhanced.

COMMENTS AND QUESTIONS

Norway asked if the Netherlands had tried to obtain and analyse data from the North Pacific, pointing out that data on IDR and TTD are the same in Japanese North Pacific and Antarctic hunts, suggesting that weather may not play an important role. The Netherlands answered that depending on resources it would be happy to provide these data in the North Pacific. Japan indicated that sighting surveys are an integral part of their research and so require certain conditions, as described in the cruise reports. The Netherlands noted that Japan had in the past stated that TTD was affected by weather conditions.

IWC/55/WK20 (Evaluation of current methods used to kill whales in relation to species taken)

In introducing IWC/55/WK20, Bowman (UK) stated that it attempts to evaluate morphological and physiological differences between species taken under the auspices of the IWC and determine the extent to which the differences can influence the effectiveness of different killing methods. Factors considered include mass, length and tissue thickness. This becomes particularly important when primary or secondary killing methods are used for other (especially larger) species for which they are not designed or tested. When considering methods for killing and determining the onset of insensibility, due consideration should be given to adaptations such as hypoxia. It is also relevant to consider the welfare implications of how whales caught in fishing nets are killed. In summary, with one or two exceptions, killing methods are not well adapted to the specific requirements of the species to which they are applied.

COMMENTS AND QUESTIONS

The UK commented that, for example, IWC/55/WK1 recognised that depth of penetration is closely linked to the size of the whale. IWC/55/WK23 and IWC/55/WK25 showed that instantaneous death rate in Japanese hunts was significantly higher for smaller animals (less than 7.5m) and that TTD and body length are positively related.

Norway provided clarification for various comments made stating that in its development work, the whales' anatomical features are mapped before a new hunting device is designed, and hunters are taught external 'landmarks' on the animal to understand the targeting requirements of different killing methods.

When asked by The Netherlands, Japan clarified that the harpoon used to kill sperm whales is a 75mm harpoon with a penthrite charge 1.7 times that used on minke whales (30g). Upon questioning from the UK and The Netherlands, Denmark also clarified various points, stating that it only imports the new penthrite harpoon from Norway, that sei whales are unusual in Greenland so an accidental misidentification was understandable, and that gunners' skill and weather have an important influence on killing result so it is not always easy to compare one year to the next. Also, the difference between the harpoons used on the fin and minke whales was the length of the line on the grenade.

Norway clarified a point on diving physiology, agreeing that diving mammals (seals and whales) have much larger

oxygen stores in the blood vessels and muscles than terrestrial mammals, and that a special physiological mechanism – the dive response – operates during dives, shunting blood away from most organs except the brain and some endocrine glands¹. However the brain has no extra store of oxygen nor, with the exception of one minor mechanism, any means of making it more resistant to hypoxia. (The mechanism possibly cools the brain by ~2°C so reducing metabolic rate.²) The consequence of this is that a whale entangled in fishing gear may suffer for a long time before dying, however a whale harpooned in a way that damages the heart or ruptures major vessels in the cardiovascular system will die within a few minutes due to lack of oxygen to the brain (as in terrestrial mammals), if not killed instantaneously by the blast.

Australia noted that IWC/55/WK20 indicates that behaviour, physiology and anatomy must be incorporated into the consideration of killing methods and the developments by Norway and others should be encouraged.

5. ASSESSMENT OF METHODS INCLUDING REVIEW OF TIMES TO DEATH, HUNTER SAFETY AND ASSOCIATED PROBLEMS

IWC/55/WK22 (Review of secondary killing methods employed for whales hunted under special permit, commercial whaling and aboriginal subsistence whaling)

Stachowitsch (Austria) presented IWC/55/WK22 that examines secondary killing methods, an issue that has received less attention than primary killing methods. Secondary killing methods in the three categories of whaling are neither as uniformly conducted nor is their application as clearly defined. IWC/55/WK22 attempted to extract some commonalities. The relatively low level of instantaneous kills and the frequent use of secondary killing methods highlights the inefficiency of some primary killing methods. Moreover, the efficiency of secondary killing methods often remains unsatisfactory.

IWC/55/WK22 therefore calls for: more information to be provided on variables that will influence the efficacy of secondary killing methods; these data to be provided separately to enable a more detailed assessment; establishing criteria for determining when to apply a secondary killing method; the use of sufficiently powerful secondary killing methods that render an already wounded animal irreversibly insensible to pain or dead as swiftly as possible, with emphasis on targeting the brain; qualitative aspects of the injuries to be considered (i.e. providing details of extent of wounding, as opposed solely to time to death). This approach would help to establish procedures that would improve times to death.

COMMENTS AND QUESTIONS

The USA pointed out that in the bowhead hunt, the primary strike is immediately followed by the secondary kill method, so the basic premise that the primary method is ineffective in this hunt is flawed. It also noted that the data in IWC/55/WK22 should be corrected to reflect that the

secondary weapon was used on all 49 animals landed in the 2001 bowhead hunt.

5.1 Commercial whaling

IWC/55/WK17 (Improvements in hunting and killing methods for minke whales in Norway 1981-2003)

The part of IWC/55/WK17 relevant to this agenda item was presented by Walløe (Norway). No data on the efficiency of the killing of minke whales with cold harpoon by Norwegian whalers had been collected prior to 1981. It was therefore necessary to start to collect data on the cold harpoon to serve as a reference data bank. Data obtained from the hunt in the years 1981 to 1983 showed that 17% of the whales were killed instantaneously (IWC death criteria fulfilled <10s) with cold harpoons. The first penthrite grenade harpoon was used in the hunt in 1984-86, and the percentage instantaneous death increased to 45%. This penthrite grenade became from 1985 onwards the only permitted killing method used for minke whales until 2000 when a new penthrite grenade (Whale grenade-99) took over. Small technical improvements were, however, introduced in the 1990s.

The collection of data on killing efficiency started again with the resumption of Norwegian whaling in 1993. From this year on a number of covariates have also been recorded and analysed. The influence of the covariates year, whale size, shooting range and shooting angle on survival time for the traditional hunt were studied by Cox regression (proportional hazard) and by a combination of logistic regression for whales killed instantaneously and Cox regression for whales surviving >10s. The analyses showed that year and size of the animal did not significantly influence the percentage of whales that died instantaneously (<10s) or survival times for whales that survived for more than 10s. The shooting range and shooting angle, however, had a significant influence on survival time. Based on the results of the analyses whalers were advised how to improve their hunting methods. This in combination with technical improvements of the weapon resulted in a steady increase in the percentage of instantaneous kills during the 1990s to 60% for the period 1996-98.

The new penthrite grenade harpoon has been used in the years 2000-2002. Preliminary analysis shows that the percentage of instantaneous kills has increased to 80%. Covariates have been recorded, but not yet analysed.

COMMENTS AND QUESTIONS

The Netherlands asked whether there were differences in the results between the different boats. Norway replied that the data analyses had not yet been finalised and that a definite answer therefore could not be given at this stage, but that the observation had been made that in several boats, all whales were killed immediately, and that others were not that efficient. Japan commented that the improvement in IDR over the last two decades had been impressive and asked whether this was due only to the new

¹ Blix, A.S. and Folkow, B. 1983. Cardiovascular adjustments to diving in mammals and birds. pp. 917-945. In: J.T. Shepherd and F.M. Abboud (Eds.). *Handbook of Physiology, Section 2: The Cardiovascular System*. American Physiology Society, Bethesda.

² Blix, A.S., Folkow, B. and Walløe, L. 2002. How seals may cool their brains during prolonged diving. *J. Physiol.* 543:7 [Abstract].

penthrite grenade. Norway answered that the improvement probably was a combination of different factors including higher skills of the whalers and better ballistics and larger penthrite charge in the grenade.

5.2 Aboriginal subsistence whaling

IWC/55/WK1 (Report on Alaska Eskimo Whaling Commission Progress Concerning Improvement of Whale Killing Methods)

IWC/55/WK2 (Report of the Makah Tribe on Whale Killing Methods)

Referring to its earlier presentation of IWC/55/WK1, the USA reported that it had no reliable TTD data to report for the bowhead hunt. The USA stated that the Eskimo hunters wished to be responsive to the request for TTD data and noted that, as described in the document, the AEWK had embarked on a programme to develop a set of visual and post-mortem examinations, including of brains similar to Norwegian efforts. These would serve as key indicators of time to unconsciousness and death with the goal of further enhancing the humaneness of the hunt.

With respect to the Makah hunt for gray whales, the USA noted that TTD had been previously reported for the single animal landed in 1999. As reported in IWC/55/WK2, this whale was struck by a harpoon and killed within eight minutes following two shots from a .577 calibre rifle. A necropsy performed after the hunt indicated that the first shot hit the skull and stunned the whale, while the second shot penetrated the whale's brain and likely killed the whale instantly.

The USA also commented that, while this Workshop was focusing on data reporting, it should not lose sight of the considerable efforts many aboriginal subsistence groups had gone through to implement weapons improvements programs. For example, in the bowhead hunt, the AEWK has brought the development of the penthrite bomb to such a stage that it plans to begin implementation of its usage during the fall 2003 hunt. Consequently, whereas the requested data or analyses could not or had not been submitted, the Workshop should pay due regard to the practical solutions being implemented to address the issues of efficiency and humaneness in these hunts.

QUESTIONS AND COMMENTS

Clarification of 'instantaneous death' was requested by Sweden, as in the USA bowhead hunt five to ten minutes was considered instantaneous, but in the Norwegian hunt instantaneous was defined as less than ten seconds. Discussion followed on the time taken to assess whether a whale is dead and the need to ensure hunter safety whilst attempting to kill whales efficiently. Australia pointed out that estimates of TTD could be presented with a clear definition of how the estimation process was carried out.

Some discussion on whether different species and hunts should have different requirements for TTD were clarified by Australia, which reminded the Workshop of the IWC definition of humane killing: Death brought about without pain, stress or distress to the animal by aiming to render an animal insensitive to pain as quickly as possible.

IWC/55/WK8 (Greenland Home Rule Government: Efficiency in the Greenlandic hunt of minke whales and fin whales 1991-2002)

Jessen (Denmark) indicated that information from Greenland is anecdotal as there are no vets or statisticians available to collect the data, and presented information on

Greenland's progress (IWC/55/WK8). Whaling regulation states that the hunters are obliged to complete a questionnaire regarding TTD, hunting methods used, and so on. The municipal office then sends the questionnaire to the department that puts the data into figures. It is required that for each struck large whale, a hunter is obliged to make a report. In 2002 there was a quota of 139 minke whales in West Greenland for vessels with mounted harpoon cannons. There were 131 returned questionnaires - a very high percentage (see IWC/55/WK12). The Greenland Home Rule stated that it has no manpower or resources to analyse the collected data and is very aware of that problem. They also noted the importance of the safety aspect of the present methods. In choosing new hunting methods or equipment, safety questions were taken into consideration. Space on board is very limited both in the vessels mounted with harpoon cannons and also in the small boats used in the rifle hunt. Safety for the crew and practicality of the hunt has to be taken into account, but also the effectiveness of the whale killing.

The size of the harpoon cannon boat in minke whaling has to be from 30 feet long (from 36 feet in fin whaling). Considering weather and ice conditions in some areas, it has been decided to start minke whale hunting on 1 April. The hunters have also to take the tide into consideration, because a whale has to be flensed during low tide in order for the hunters to turn the whale during the flensing. Flensing is mostly carried out on small islands.

IWC/55/WK12 (Greenland Home Rule Government: Times to death in the Greenlandic minke and fin whale hunt in 2002)

Denmark stated that it would provide data subdivided by species (IWC/55/WK12Rev). They also commented that a seminar on whale killing had not been held due to lack of funds however courses were held for whale hunters and rifle hunters. The Workshop was referred to the NAMMCO report of 2001. The change to high calibre rifles is slow as these rifles are prohibitively expensive on a hunter's income. The Government does not have the money to pay for the rifles. Denmark also clarified that the hand held harpoon is still used in the collective hunt of minke whales.

IWC/55/WK13 (Report on whale killing methods employed in the aboriginal subsistence harvest of the Russian Federation, 2002)

Borodin (Russian Federation) stated that harvest efficiency in the Russian Federation has increased over recent years (IWC/55/WK13), although each year new hunters join who lack experience. It is difficult to increase efficiency whilst guaranteeing hunter safety, as gray whales are aggressive.

COMMENTS AND QUESTIONS

Argentina asked, as it was stated that the percentage cover by hunters and inspectors is the same, whether this means they are the same person. Russia repeated its point from Agenda Item 4.1 about the captain of the hunter group being different from the inspector.

It was agreed that great efforts are being made to improve whale killing methods by a number of countries. However the Workshop noted the importance of struck and lost data for the management of stocks and encouraged that this be reported. Some countries noted that valuable data were not forthcoming from, for example, St Vincent and the Grenadines, the Faroes and from Greenland's narwhal and beluga hunts.

Some countries stated their belief that small cetaceans are outside the competency of the IWC. Other countries stated their belief that IWC does have competency.

Denmark stated that a representative of the Faroe Islands would be available the following week and would answer questions on a bilateral basis.

5.3 Whaling under scientific permit

Aspects of IWC/55/WK23 and IWC/55/WK25 relevant to this Agenda Item were presented and discussed, in combination with aspects relevant to Agenda Item 4.3. Much of the discussion is given under Agenda Item 4.3. Additionally, the Netherlands was not convinced by the conclusions of these papers as it was not clear how the statistical analysis had been done. They also indicated that they were not convinced by the explanation of the results and referred to IWC/52/WKM and IWC/52/AWI10 where in the 1999/2000 season, due to fair weather, comparable results were collected as in the 2002/2003 season. In reply, Ishikawa (Japan) stated his belief that it is less important to compare single year samples statistically, as what is important is to reduce TTD as much as possible continuously.

5.4 Euthanasia of stranded and entrapped cetaceans

IWC/55/WK5 (Euthanasia of stranded cetaceans in New Zealand)

Donoghue (New Zealand) presented IWC/55/WK5 which stressed the importance of people management, because widespread public interest in the welfare of whales raises issues of public safety at a stranding. On a few occasions when strandings are on rocky shores and use of firearms would be hazardous, the animals are left to die naturally - although the prime objective is to put the animal out of its suffering, human safety comes first.

COMMENTS AND QUESTIONS

The Netherlands asked Japan to provide information to next year's meeting on the killing methods for minke whales caught in fishing nets. However Japan stated that this was outside the IWC Terms of Reference so they would submit information only on a bilateral basis if they thought it appropriate. In response to a question about traditional utilisation of stranded whales by Maori, New Zealand stated that the Department of Conservation had agreements with a number of tribes regarding access to the bone of stranded whales for cultural purposes. It was further stated that stranded whales were left to die when it was unsafe to euthanase them, e.g. on rocky shorelines. In response to a query about the provision of material from stranded whales for handicrafts, New Zealand said that while there were no problems with the use of whalebone for cultural purposes, there were legal difficulties in permitting trade in whale products, especially internationally.

5.5 Relevant information from other hunts

IWC/55/WK19 (The potential stress effects of whaling operations and the welfare implications for hunted cetaceans)

Maas (UK) commented that whaling is not limited to the application of primary or secondary killing methods, but includes the process of approach and pursuit from the time an animal is spotted and selected for killing, as cetaceans are unlikely to be evolutionarily adapted to prolonged forced exercise (IWC/55/WK19). Pursuit by whaling vessels can have pathological consequences associated with

stress that can lead to disease and unobserved mortality in animals that evade harpooning. Such effects can include impaired immune defence, reduced fecundity, failure to grow and a disease called exertional myopathy (EM). EM is characterised by pathological changes, such as necrosis and lesions in the cardiac and skeletal muscles which tend to be irreversible and fatal and can take days, weeks or months to manifest. Pursuit time is recognised as a major factor in the development of EM, which can occur in cetaceans. Whaling vessels can exceed a minke whale's swimming speed and chase times of 30 minutes are not unusual. Longer chases up to seven hours can occur. Lethal research will be unable to address this issue because blood measurements will vary widely according to inevitable technical sampling constraints during whaling, and because EM develops slowly over time. In addition, pursuit and sampling procedures are recognised stressors that can influence analytes within minutes and any stress effects of pursuit will be masked by the effects of harpooning. Thus, whaling has the potential to impose considerable stress well before the harpoon has been fired. It is therefore recommended that details of unsuccessful hunts should be provided, additional observer data on hunts (e.g. species, pursuit details, breathing rate and surfacing patterns, etc.) should be included in the RMS and that the IWC should consider setting agreed maximum limits for pursuit times. Furthermore all available data should be submitted to the IWC for consideration at the next WKM Meeting.

COMMENTS AND QUESTIONS

Norway questioned the assumptions of IWC/55/WK19 in relation to the Norwegian hunt. They stated that the assumption that whales do not have natural predators and so are unable to withstand chasing, is not true as evidence for killer whale attacks is commonly seen as bite scars on the flippers and flukes of hunted minke whales.

The UK replied that it had not made such claims. Instead it had raised concerns about the evolutionary adaptation of whales to prolonged pursuit. In addition, the UK pointed out that even species that have evolved for efficient 'running', either for predator avoidance or for predation, may develop EM following intensive or prolonged muscular activity associated with extreme stress during pursuit, and that fear too is an important factor. Norway commented that whilst a whaling vessel may sometimes follow a whale for some hours, it does not mean that whales are being chased at high speed. In the Norwegian hunt it is the whale that determines the speed and many whales actually come towards the boat. There is a common misinterpretation that the Norwegian word 'jaging' used in whaling is a chase at high speed. The word 'jag' should more correctly be translated as 'stealthy hunt'. In reply to a question on whether any real cases have been found that demonstrate the premise of IWC/55/WK19, the UK drew attention to research on small cetaceans from the Eastern Tropical Pacific purse-seine fishery that shows minor EM after a 10 to 20 minute chase. Japan asked the author's view on biopsy sampling, recommended by IWC as a nonlethal research method, as Japan believes that it requires a longer chase time than harpooning. The UK replied that biopsy may also skew data as handling can affect sampling efficiency for stress indicators and it is also difficult to get baseline data in field conditions with which to compare. Iceland raised the issue that the points made in paper IWC/55/WK19, to the extent they apply at all, would

apply to whalewatching rather than to whaling. Iceland commented that whalewatching may repeatedly induce stress in the same individual animals for long periods of time.

IWC/55/WK21 (Welfare implications for 'struck and lost' cetaceans)

The UK presented IWC/55/WK21, stating that the ICRW has clear requirements for the reporting of the number of animals struck and lost but detailed information on the number of animals and the extent of injury is not adequately reported. Consequently an informed assessment of the potential welfare implications for these individuals and the scale of struck and lost incidents for different hunting techniques is difficult to make. IWC/55/WK21 highlights the possibility of protracted TTD and extensive suffering of wounded animals and notes that the long-term prognosis of a struck and loss cetacean depends on the location of strike, the device used and age/sex. It also notes that struck and lost whales are an inherent part of whaling. Furthermore, it also notes that the IWC does not consistently document whether a cap is set on 'taking' or 'striking' whales in aboriginal subsistence hunts. IWC/55/WK21 therefore recommends that the IWC: (1) specify the total allowable landings and strikes for each hunt and (2) include struck and lost figures in total catches over time. In addition, Contracting Governments should provide data in accordance with the Schedule to the Working Group on Whale Killing Methods and Associated Welfare Issues and the Commission should develop an action plan regarding practical measures to avoid and reduce struck and loss, and set 'strike' and 'take' limits in the Schedule for each ASW hunt.

COMMENTS AND QUESTIONS

In commenting on the recommendations given by IWC/55/WK21, the USA noted that it already was reporting the required information on strikes and losses to the IWC, where it is discussed in the Infractions Sub-Committee. With regard to the recommendation that information be collected on types of injuries sustained by struck and lost animals and on the injuries sustained and time to 'apparent' death for animals believed to be dead when they are lost, the USA believed that such information would be highly speculative and thus an inappropriate basis for possible management actions. Regarding the recommendation that the IWC develop an action plan, the USA noted that it could not wait upon the development of such a plan and that indeed the AEWC had embarked upon a weapons improvement plan as a matter of high priority to address the issues of improving the efficiency and humaneness of the bowhead hunt. Furthermore, the USA reminded the Workshop that the AEWC planned to implement the use of the penthrite grenade in the 2003 fall hunt.

Australia stated that in both management and welfare contexts struck and lost data were important. Norway indicated that since 1992 all losses had been recaptured and killed, leading to some long TTD but no struck and lost. At times a whale pronounced dead by the vet on board is then lost when the forerunner snaps because of the swell as the whale is hanging alongside the boat. Japan stated that struck and lost data are in its cruise reports which are submitted to the IWC Scientific Committee.

The Chair summarised that excessive stress pursuit in some species can be harmful, and muscle damage may be

manifested over long periods, and possibly may be fatal long-term. Whilst it is not currently known whether the whales being considered at the Workshop experience this physiological stress, it is plausible that they may. He noted that the issue at hand is whether techniques can be improved to reduce stress. New Zealand noted that it was important also to ensure that struck animals are not lost.

The UK stated that data from all animals in the order Cetacea are relevant to this Workshop and were pleased that the agenda recognises that technical data on other cetaceans are also relevant. The UK expressed gratitude to the Government of Japan for the data it has presented to date, and stated that data relating to the following matters from all relevant Contracting Governments would also be helpful: Dall's porpoise hunt with hand harpoons; drive hunting of dolphins and small whales; Baird's beaked whale hunt; the increasing numbers of cetaceans caught in nets and methods to kill them. The UK appreciated that the information may not be immediately available. It requested that a list of questions relating to killing techniques used on small cetaceans be appended to the workshop report. There was no response or discussion to this request when it was raised, as the general discussion moved quickly on to other issues. The United Kingdom understood this lack of comment to indicate a positive response to their question, but when discussion on this point arose again during the process of adopting the report, several countries objected to the inclusion of such questions in an appendix, noting that they did not recall agreement to any such a request in the meeting. During the discussion of this mis-understanding the United Kingdom, as a way to move forward, kindly offered to withdraw the appendix from the report, and the Chair accepted their offer. The United Kingdom noted that they would engage bilaterally with various countries to pose their particular questions. Japan stated that it would provide information regarding small cetaceans, which are outside the Terms of Reference of the IWC, on a bilateral basis on request. Russian Federation also noted that the issue of small cetaceans is not within the competency of the IWC.

5.6 Other information

The observer from NAMMCO informed the Workshop about recent work on hunting methods. NAMMCO has so far held two hunting method workshops. The first reviewed existing marine mammal hunting methods and examined technical innovations. The second focused on the details of ballistics, weapons and ammunition. The report from this workshop is available to this meeting as a background document. A third workshop on seal and walrus hunting methods will be held in 2004. The objectives of the NAMMCO workshops are to provide technical evaluation of different hunting methods, and to examine possibilities for innovations and further enhancement of efficiency and safety of hunting methods. The NAMMCO observer wished to draw attention to the fact that the NAMMCO workshops fully involve the hunters in the presentation of methods, in the evaluation and discussions for improvement and in drafting recommendations. NAMMCO has found that it is essential that these workshops are held in close collaboration with the hunters and that the hunters not only are directly involved in the process of improving hunting methods, but also in securing the safety of the hunters themselves.

6. EVALUATION OF CRITERIA FOR DEATH

6.1 Patho-physiological changes in the central nervous system and other vital organs of whales caused by intra body detonation of the penthrite grenade

IWC/55/WK6 (A novel method for in situ fixation of whale brains)

IWC/55/WK6³ presented by Knudsen (Norway), described a new method of *in situ* fixation that had been developed, as the traditional ways of fixing brains are poorly suited to the collection of whale brains. The *in situ* method proved to be suitable for preserving these large brains, where excision of undamaged fresh brains is almost impossible. Both the gross and microscopic architecture of the brains were adequately preserved. The method is however time consuming, as the brain has to be fixed *in situ* for at least 70 hours prior to excision.

IWC/55/WK16 (Blast-induced neurotrauma in whales)

IWC/55/WK16⁴ on blast-induced neurotrauma in whales, was also presented by Knudsen (Norway). Both observational and experimental studies have clarified that exposure to blast waves and overpressure energy induces changes in neuronal as well as non-neuronal cells in the CNS. The aim of the present study was to answer the questions: depending on where the grenade detonates which pathological changes do the penthrite blast cause in the CNS and what is the role of blast-induced neurotrauma in loss of consciousness and death of hunted minke whales? The study included 37 minke whales killed by a single penthrite grenade detonation. The brains were fixed *in situ*, the animals were examined shipboard and the brains were later subjected to gross and histological examination. Before further examination all fixed brains were randomised so further analyses were conducted blind. Brain damage attributable to the grenade detonation was evident in 35 of the 37 brains. The neuropathological alterations varied from very severe brain tissue laceration with skull fractures and massive gross evident bleedings in meninges and brain substance, to histologically evident intracerebral haemorrhages in central brain areas.

The results demonstrated that intra-body detonation of 30g penthrite causes severe and fatal neurotrauma in minke whales. Depending on the detonation site the neurotrauma produced was similar to either severe traumatic brain injury (TBI) associated blunt trauma or acceleration-induced diffuse traumatic brain injury (dTBI), in which the cardinal symptoms are immediate loss of consciousness without any lucid interval and very high mortality rate. The detonation also caused severe damage to other vital organs that obviously were fatal for some of the whales. In some animals these injuries were not so extensive that an immediate or very rapid death should be expected. The authors therefore considered neurotrauma caused by the blast-generated pressure waves as being the primary cause of the very rapid loss of consciousness.

COMMENTS AND QUESTIONS

Several comments were made on the importance and value of the work reported by Norway. The UK asked whether

TTD had been found to be related to pathological changes in individual animals, to which Norway noted that all analyses had not been completed yet so an answer could not be given at this point. The Netherlands asked why a paper by Blix *et al.* (2000)⁵ on the use of shrapnel explosive in pigs was not referred to. That paper concluded that the shock effect of a blast is relatively minor. In response, Norway commented that the decision was made not to discuss it due to difficulties in scaling, as the results in that paper were from an animal of a much smaller size.

6.2 The effect of large calibre round-nose bullets used for euthanasia (secondary weapons) in minke whales

IWC/55/WK15 (Euthanasia of whales: Wounding effect of rifle calibre .375 and .458 round nosed metal jacketed bullets on minke whale nervous system)

Øen and Knudsen (Norway) presented IWC/55/WK15. Knudsen noted that the effect of the 9.3mm 15g/232gr round-nosed, full jacketed bullets used in the Norwegian hunt of minke whales had been reported in previous Workshops showing that the bullets are capable of penetrating the skull of the whales and severely damage the brain (IWC, 1997; 1999). The studies on bullet performance on the CNS of minke whales were continued in Norway with the two larger calibres of .375 and .458, and the present study included examination of 29 minke whales that had been hit with full metal jacketed round-nosed rifle bullets of calibre .375, 19.4g/300gr and calibre .458, 32.4g/500gr, respectively. The whales were examined shipboard and 22 of the brains were fixed *in situ* and later subjected to gross and light microscopy examination. The other brains were examined in the fresh state. The principal gross and histopathological features in the brains of minke whales after impact from a round-nosed full jacketed ammunition .375 or .458 calibre rifle were that direct hits in the brain caused skull fractures, severe brain parenchyma laceration, in-driven bone fragments and in some cases total destruction of the brain. When the projectile penetrated the cranium near the brain (<20 cm) or the upper cervical spinal canal, extensive gross intracranial haemorrhages were generally produced as well as displaced skull fractures in some cases. The brainstem and central areas of the brain were frequent sites of haemorrhages.

The results showed that one single round with round-nosed full metal jacket bullets was fully capable of penetrating the skull and causing severe and massive damage to the central nervous system of minke whales. Whales hit in the brain, in close vicinity to the brain (< 20 cm) and in the upper spinal cord will immediately lose consciousness and die from the shot. It was concluded that only ammunition of minimum calibre 9.3 mm with round nosed, full jacketed bullets or bullets of similar quality should be used for euthanasia of whales the size of a minke whale.

COMMENTS AND QUESTIONS

It was commented that this was a very valuable and interesting paper. In reply to a question about the possible use of these bullets at shooting ranges of up to 50-100m, Øen answered that they had no experience of longer

³ Knudsen, S.K., Mørk, S. and Øen, E.O. 2002. A novel method for *in situ* fixation of whale brains. *J. Neurosci. Methods* 120:35-44

⁴ Knudsen, S.K. and Øen, E.O. In press. Blast-induced neurotrauma in whales. *Neurosci. Research*. [Available at www.sciencedirect.com].

⁵ Blix, A.S., Folkow, L.P. and Sørleie, D.G. 2000. Simulation of the effect of currently used grenade harpoons for the killing of whales using a pig model. *Acta Vet. Scand.* 41: 237-242

distances since all the whales in Norway were shot at a much shorter distance. In the present study the mean shooting distance was 9.3m.

6.3 Behavioural observations on whales killed with penthrite and/or high calibre bullets

IWC/55/WK14 (Criteria of insensibility and death in hunted whales. A comparative review)

IWC/55WK14 presented by Knudsen (Norway), was a review of the literature regarding criteria of death and diagnosis of insensibility in various species, and a review of the progress made concerning determination of insensibility and death in whales since 1995. Official criteria of death only exists for human beings and whales. The human criteria are controversial, the kernel of the debate being the definition and diagnosis of brain death. Neurophysiological techniques used to assist diagnosis of brain death in humans and to assess insensibility in food animals have limitations and require some degree of subjective interpretation. They demand skill and appreciation of the technique and relatively sophisticated apparatus. All methods are extremely sensitive to recording artifacts and such advanced and invasive procedures are obviously not suited for regular measurements of slaughter animals, nor for field or ship-based studies. They are only applicable in the experimental phase.

Experimental studies have tried to assess when insensibility commences after stunning in livestock, but unanswered questions and welfare problems still exist. In slaughter animals the time of death is not recorded regularly. An important challenge relates to evaluating stunning efficiency in practice. In slaughter plants, efforts are therefore largely put into periodic controls of the equipment in use and how it is applied, rather than checking the stun efficiency and time to death of each individual animal.

Experimental studies on cetaceans of brain activity after impact of either grenades or rifles might be a valuable contribution to understanding the neurophysiological basis of insensibility and death in hunted whales. However, due to practical and logistical reasons such studies would probably have to be performed on smaller cetacean species. Several of the proposals for such data collection during regular whale hunts would violate the welfare of the animals. Some of the proposed procedures would also endanger hunters' safety.

In the Norwegian minke whale hunt similar control procedures to slaughterhouses are applied. Authorised personnel control all the hunting gear and the hunters must pass practical shooting tests prior to each whaling season. In addition, since 1993 the TTD of each whale hunted in Norway has been recorded as a part of a research programme. The programme has now ended and preliminary results show that according to IWC criteria about 80% of the animals are recorded as instantaneously dead. These studies include *inter alia* neuropathological investigations of hunted minke whales, which have shown that the weapons in current use in Norway are highly effective in causing permanent brain damage of sufficient severity to account for a rapid loss of sensibility. The study has also confirmed that the IWC criteria are not always met in animals that are unconscious or dead. However, from an animal welfare point of view the current criteria of death in whales seem to function well in practice, as the hunters will not hesitate to re-shoot the animal if any doubt exists that it

may still be conscious or alive. Some hunters use this procedure as a matter of routine. Consequently, some animals will be re-shot after insensibility and death has supervened. This is uncontroversial from an animal welfare point of view. In the scientific sense the IWC criteria will, however, not be fully adequate and data collected during regular use of the IWC criteria may underestimate the number of whales that lose sensibility and die instantaneously.

COMMENTS AND QUESTIONS

IWC/55/WK14 was regarded by the Netherlands as a response to its paper (IWC/51/WK15) at the last Workshop, and suggested that Norway had misunderstood the intention of that paper, in which the point was made that a set of factors, including cranial reflexes, had to be used to assess death. Netherlands further noted that the existing IWC criteria may apply for the Norwegian minke whale hunt, but not for all other whaling operations. In her answer the author said that a strict division should be made between the criteria that could be used in experimental situations and those that could be practically used in hunting operations. The UK questioned the assertion made in the paper that more attention was given to the use and control of equipment in slaughterhouses than to assessment of insensibility or death. Norway replied that it did not criticise the competence of authorised slaughterhouse personnel, but emphasised that in certain forms of stunning of livestock, especially electrical stunning, it is regarded as more important to control the equipment in use and its application than checking reflexes, as the animal is in the convulsive state.

IWC/55/WK24 (Case study of the over-estimation of TTD detected by post-mortem examinations in Japanese Whale Research Programs)

Ishikawa (Japan) presented IWC/55/WK24 and gave a case study of the over-estimation of TTD detected by post-mortem examinations in Japanese Whale Research Programs. Comparison of post-mortem examination results with the judgments made by gunners showed that the gunners judged 76.4% of the cases where the researchers for post-mortem examination recorded a 'fatal wound' as 'instantaneous death'. Although the judgment of the gunners are not in principle changed by the results of the post-mortem examination, the researchers conducting post-mortem examination sometimes find cases where whales must obviously be dead or unconscious prior to the time of death judged by the gunner. These examples suggest that the whales sometimes move unconsciously even when the CNS or the heart was destroyed. According to the record of the JARPA, 90.8% of gunner's judgments of the time of death were based on the criterion of being 'motionless'. Many cases of the over estimation of TTD which were proved by the post-mortem examination had also been judged by the criterion of 'motionless'. Safety of crew seems to be an important reason why gunners tend to apply the criterion 'motionless'. Because the gunners command retrieval of carcasses, they have to wait until harpooned whales are motionless for safe operation. In conclusion, the author assumes that there are more cases of overestimation than underestimation of TTD.

COMMENTS AND QUESTIONS

Australia stated that the last few presentations had shown that the estimation of TTD is often not correct. Pathological

examinations in these papers have shown that TTD in many cases are shorter than had been estimated. But it could also be the other way around, and that is not so easy to measure as the pathology will be much harder to interpret. The UK sought clarification as to whether post mortem results showed that gunners had over estimated TTD in 23.6% of cases. Japan explained that the gunners judged instantaneous death in 76.4% of the cases where post mortem examination recorded 'fatal wound'. The Netherlands referred to a Japanese whaling report (SC/32/O24) that showed that in 8 out of 50 minke whales the heart continued to beat after the whale was considered dead, suggesting therefore that underestimation of TTD could be significant. Japan commented that in 1979-1980 in the Antarctic, 50 whales had been subjected to ECG examination and that to avoid the overestimation of TTD, it had been thought that death should be judged not by cessation of heartbeat, but by unconsciousness. Three criteria to judge unconsciousness were used in that study: open jaw, slack flippers and no movement, and have since been used as the IWC criteria for death. In Japan it is the supervisor of the hunt that decides whether a whale is dead and reports TTD and, as he is also responsible for the safety of the crew, he is reluctant to declare that a whale is dead too early. Norwegian hunters act in the same way and Norway pointed out that although errors in the estimation of TTD could go in both directions, there is currently no evidence that Japan and Norway do grossly underestimate TTD.

6.5 Revision of criteria for death

IWC/55/WK4 (Evaluating possible indicators of insensibility and death in cetacea)

Butterworth (UK) began by reporting that a recent independent meeting held by the RSPCA in London assessed existing measures of sensibility in Cetacea, and proposed a series of 34 potential tests which might be applicable in this area. As a precursor to assessing these tests in the field, conjoint analysis, a statistical technique which ascribes weighting or rank to independent measures, was employed to census expert opinion and to identify tests deemed most suitable for establishing valid criteria of sensibility. A ranking of these 34 measures was provided by conjoint analysis of the responses of 30 scientists with cetacean or animal physiological background. The results of IWC/55/WK4 indicated that there was most support for five potential indicators (sensibility, breathing, electrical cardiac activity, heart rate, coordinated swimming and ocular temperature), whilst respondents did not have highest confidence in the IWC criteria. Additionally, respondents indicated that they believed that multiple (rather than single) criteria were important to give confidence in the state of sensibility of the animal. Validation of these tests may enable better assessment of sensibility in stranded and beached Cetacea.

IWC/55/WK18 (A preliminary evaluation of possible indices of sensibility and vitality in captive cetaceans)

Butterworth (UK) reported that following the work reported in IWC/55/WK4, a subsequent study was carried out on captive small, toothed cetacean at Sea World, San Diego, USA (IWC/55/WK18) which evaluates the practical application of tests identified in the previously presented paper. A number of possible indicators of vitality were evaluated for ease of application and reliability in 26

animals of 6 species, and from this preliminary evaluation on captive animals, 12 parameters were determined to be of practical value under captive conditions, these being: jaw tone, pupillary reflex, palpebral reflex, throat reflex, water jet in eye, vestibulo ocular reflex, capillary refill time, ocular/skin temperature differential, heart rate (with stethoscope). After further evaluation in unconscious or compromised (stranded) animals, these measures may prove to be of value for determining the state of sensibility of cetaceans in many environments, including in whaling.

COMMENTS AND QUESTIONS

The Chair recalled current IWC criteria for assessing whether a whale is dead: relaxed lower jaw, no flipper movement, sinking without active movement. Norway stated that these criteria should be used in conjunction with post mortem examination if possible. For example, a whale with rigid pectoral flippers (this is usual when the whale is concussed then dies) may be regarded by the whalers as alive but subsequent post mortem analysis reveals that the whale was dead.

New Zealand commended the UK on this study and enquired as to the feasibility of using the tests in strandings and whaling operations. Butterworth stated they were appropriate for stranded or captive cetaceans, however some of the tests would be inappropriate in the whaling context. Norway recognised the value of such studies to increase knowledge of the physical reactions to stimuli and recommended that further studies be carried out on stranded animals to be euthanased, agreeing with Butterworth that such parameters are not currently suitable for whalers to use.

There was then discussion on whether all three criteria had to be met, or if only one was sufficient to determine death. Norway pointed out some problems with trying to meet all three criteria for all whales, in that dead whales often roll over onto their backs so the jaw will be closed; when held in close to the boat by a rope they are not going to sink; and sometimes the flippers stick out in rigour even if the animal is dead, concluding therefore that sometimes all three criteria will not be met.

The Workshop agreed that, considering operational, logistic and safety constraints associated with examining a struck whale, to determine its vital status the current IWC criteria are currently collectively regarded as best practice. However further research, particularly on stranded animals initially, to determine if other tests might provide an operationally practical approach to determining point of death or insensibility, was strongly supported.

7. COLLECTION OF ANIMAL WELFARE DATA

Japan restated their belief that this Agenda Item was inappropriate for this Workshop. They stated they would not participate in any discussion and accordingly would not join any agreement under this Agenda Item. The Japanese delegation left the room during the presentation and discussion of the paper under this agenda item.

Extract from Document IWC/01/EDG4: (Information on Whale Killing Methods and Associated Welfare Issues)

In introducing an extract from IWC/01/EDG4, Bowman (UK) stressed that collection and provision of data was integral to this Workshop and to future Working Groups. He explained that the information was presented in a series of tables listing proposed reporting requirements needed to assess whale killing methods and associated welfare issues.

The data were categorised as Preliminary data (data categories prior to commencement of the chase), data on Primary Killing Method and (where appropriate) Secondary Killing Method, data on the Target Whale, and Post Mortem data. The UK noted the relevance of the various data to an improvement in understanding of the efficacy of whale killing methods and associated welfare issues.

COMMENTS AND QUESTIONS

In the absence of Japan, the UK questioned why Japan did not want to participate in discussions of data collection that it felt were fundamental to this Workshop.

A lengthy discussion followed with several countries expressing their concern that the paper was presented in such a way that the data were categorised as requirements under an RMS, and that on that basis there would be no consensus as to the value of the data itself. The Chairman reminded the group that the Workshop's Terms of Reference were to discuss technical issues in relation to whale killing methods and associated welfare considerations, and that any link to an RMS was beyond these Terms of Reference. The UK fully agreed, noting that the paper was an extract from a previous Commission document, and that the intent of the presentation at this Workshop was to discuss the usefulness and need of the data themselves, without any reference to an obligation to collect the data, or any inclusion in an RMS.

The USA noted the value of going through each data element as there had never been a formal presentation explaining the relevance of each item. The UK then linked the various data fields in IWC/01/EDG4 to papers and discussions at the Workshop, noting that many of these data were collected routinely, that standardisation would make data presentation more consistent, and that some information was only to be requested where the opportunity arises and appropriate experts are present.

Norway stated that it already provides many of these data on a voluntary basis and, with the exception of the first five bullet points under the Preliminary Data category, it believed that the various data are valuable. However, it noted that the usefulness of the data depends on the background and qualifications of the people collecting and analysing them and the conditions under which they are collected, *inter alia* whether the collection of data is on a voluntary basis or required (which might result in punishment if not provided). Netherlands requested that weather data be considered. The UK stated that any data collection is an iterative process, so that the list could be refined as techniques and expertise improve.

In the context of aboriginal subsistence whaling it was acknowledged that collection of some of the data would be difficult or impossible. It was also pointed out that attempting to fulfil such a data list should not impose a financial burden or impact negatively on the economy of an aboriginal harvest. Additionally, the nature of aboriginal whaling may preclude carrying a scientist in a small boat to collect information.

The Workshop acknowledged the difficulty in collecting some types of data, in particular conditions, and there was no consensus on the usefulness of the data listed under the Preliminary category. However the Workshop agreed that all other data presented by the UK would be useful to better assess whale killing methods and associated welfare issues.

8. REVISED ACTION PLAN

The Chairman presented the Action Plan from the previous Workshop in Grenada in 1999 and proposed some minor modifications. The Workshop agreed that the revised Action Plan represented a positive and constructive framework on which to encourage further improvements in whale killing methods and accepted the minor revisions. The Revised Action Plan is attached as Appendix 4.

9. OTHER MATTERS

Iceland was asked to comment on the killing methods it would use for the minke, sei and fin whales that it proposes to take as part of its Scientific Permit application. Iceland responded that they had not made a final decision on when to implement the plan and so had not decided on killing methods.

New Zealand indicated that the research presented to this Workshop suggested a current level of best practice for determining the minimum specifications of rifles used to kill whales (being a minimum calibre of .375 inches with round nosed full metal jacketed bullets) and that it would be appropriate to consider a broad implementation of these best practice standards. While there was general agreement that all countries should be encouraged to use the best available techniques to kill whales, it was acknowledged that there were substantial practical and financial constraints for aboriginal subsistence whalers. It was agreed that the Workshop had been constructive in striving to improve whale killing methods and the encouragement of the adoption of such measures would be warmly welcomed.

10. ADOPTION OF THE REPORT

The Report was adopted on 9 June 2003.

Appendix 1

LIST OF PARTICIPANTS

(I = interpreter)

Antigua and Barbuda

Hynam Forde

Argentina

Miguel Iniguez

Australia

Conall O'Connell

Nick Gales

Stephen Powell

Pam Eiser

Austria

Andrea Nouak

Michael Stachowitsch

Benin

Joseph Ouake

Denmark

Kim Mathiasen
Amalie Jessen

Dominica

Lloyd Pascal
Andrew Magloire

Germany

Peter Bradhering
Marlies Reimann
Karl-Hermann Kock

Grenada

Justin Rennie

Iceland

Stefan Asmundsson
Kristjan Loftsson
Axel Nikulasson

Japan

Joji Morishita
Shuya Nakatsuka
Masayuki Komatsu
Midori Ohta
Seiji Ohsumi
Dan Goodman
Yoshihiro Hayashi
Hajime Ishikawa
Tomita Akiko (I)

Republic of Korea

Zang Geun Kim
Eui Cheol Jeong

Mexico

Silvia Manzanilla Naim
Lorenzo Rojas-Bracho

Netherlands

Peter Reijnders
Diederik van Liere

New Zealand

Geoffrey Palmer
Mike Donoghue
Simon Childerhouse
Craig Bamber
Phillipa Brakes

Norway

Ove Middtun
Lars Walløe
Egil Ole Øen
Sidsel Gronvik
Halvard Johansen
Siri Knudsen

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Aivana Enmyinkaou (I)

Saint Kitts and Nevis

Joseph Simmonds

Saint Lucia

Jeanine Rambally

Solomon Islands

Sylvester Diake

South Africa

Herman Oosthuizen

Spain

Santiago Lens

Sweden

Bo Fernholm

UK

Richard Cowan
Geoff Jasinski
Rob Bowman
David Stowe
Colin Spedding
Edward Varley
Andrew Butterworth
Laila Sadler
Barbara Maas
Mark Simmonds
Jennifer Lonsdale

USA

Michael Tillman
Chris Yates
George Ahmaogak
Todd O'Hara
Nancy Azzam
Naomi Rose
Robert Brownell
Harry Brower Jr.
George Noongwook

Appendix 2**LIST OF DOCUMENTS****IWC/55/WK**

1. Report on Alaska Eskimo Whaling Commission progress concerning improvement of whale killing methods (submitted by the USA)
2. Report of the Makah Tribe on whale killing methods (submitted by the USA)
3. Sea and weather conditions in Area V region in the Southern Ocean Sanctuary with special reference to whale killing methods (submitted by the Netherlands)
4. Evaluating possible indicators of insensibility and death in Cetacea (submitted by the UK)
5. Euthanasia of stranded cetaceans in New Zealand (submitted by New Zealand)
6. A novel method for *in situ* fixation of whale brains (submitted by Norway)
7. Euthanasia of a stranded sperm whale with calibre .458 round nosed full-metal jacketed rifle bullets (submitted by Norway)
8. Greenland Home Rule Government: Efficiency in the Greenlandic hunt of minke whales and fin whales 1991-2002 (submitted by Denmark/Greenland)
9. Greenland Home Rule Government: A note regarding information encouraged in the IWC-Resolution 1999-1 (submitted by Denmark/Greenland)
10. Greenland Home Rule Government: Report on improvements in ASW in Greenland (submitted by Denmark/Greenland)
11. Greenland Home Rule Government: Status for Greenland action plan on whale hunting methods, 2002 (submitted by Denmark/Greenland)
12. Greenland Home Rule Government: Times to death in the Greenlandic minke and fin whale hunt in 2002 (Submitted by Denmark/Greenland)
- 12 rev. Greenland Home Rule Government: Times to death in the Greenlandic minke and fin whale hunt in 2002 (submitted by Denmark/Greenland)

13. Report on whale killing methods employed in the aboriginal subsistence harvest of the Russian Federation, 2002 (submitted by the Russian Federation)
 14. Criteria of insensibility and death in hunted whales: A comparative review (submitted by Norway)
 15. Euthanasia of whales: Wounding effect of rifle calibre .375 and .458 round nosed full-metal jacketed bullets on minke whale central nervous system (submitted by Norway)
 16. Blast-induced neurotrauma in whales (submitted by Norway)
 17. Improvements in hunting and killing methods for minke whales in Norway 1981-2003 (submitted by Norway)
 18. A preliminary evaluation of possible indices of sensibility and vitality in captive Cetacea (submitted by the UK)
 19. The potential stress effects of whaling operations and the welfare implications for hunted cetaceans (submitted by the UK)
 20. Evaluation of current methods used to kill whales in relation to species taken (submitted by the UK)
 21. Welfare implications for 'struck and lost' cetaceans (submitted by the UK)
 22. Review of secondary killing methods employed for whales hunted under special permit, commercial whaling and aboriginal subsistence whaling (submitted by Austria and co-sponsored by New Zealand)
 23. Report of experiments to compare Norwegian and Japanese penthrite grenades and improvement of the Japanese grenade in the Japanese Whale Research Programs (submitted by Japan)
 24. Case study of the over estimation of TTD detected by postmortem examinations in Japanese Whale Research Programs (submitted by Japan)
 25. Report on whale killing methods in the 2002/2003 JARPA and improvement of the time to death in the Japanese Whale Research Programs (JARPA and JARPN) (submitted by Japan)
- IWC/55/INF
5 rev Greenland Home Rule Government: Quota monitoring on minke and fin whale hunting in Greenland, 2002
- IWC/O1/EDG
4. Extract from Document IWC/O1/EDG 4 prepared for the Revised Management Scheme Expert Drafting Group meeting in Oct/Nov 2001. Part 2. Information on Whale Killing Methods and Associated Welfare Issues

Appendix 3

AGENDA

1. Introductory items
 - 1.1 Appointment of Chair
 - 1.2 Appointment of Vice Chair
 - 1.2 Appointment of rapporteur(s)
 - 1.3 Review of documents
2. Terms of Reference and background to the Workshop
3. Adoption of the Agenda
4. Description of killing methods in use and under development
 - 4.1 Commercial whaling
 - 4.2 Aboriginal subsistence whaling
 - 4.3 Whaling under scientific permit
 - 4.4 Euthanasia of stranded and entrapped cetaceans
5. Assessment of methods including review of times to death, hunter safety and associated problems
 - 5.1 Commercial whaling
 - 5.2 Aboriginal subsistence whaling
 - 5.3 Whaling under scientific permit
 - 5.4 Euthanasia of stranded and entrapped cetaceans
 - 5.5 Relevant information from other hunts
6. Evaluation of criteria for death
 - 6.1 Patho-physiological changes in the central nervous system and other vital organs of whales caused by intra body detonation of the penthrite grenade
 - 6.2 The effect of large calibre round-nose bullets used for euthanasia (secondary weapons) in minke whales
 - 6.3 Behavioural observations on whales killed with penthrite and/or high calibre bullets
 - 6.4 Other information
 - 6.5 Revision of criteria for death
7. Collection of animal welfare data
 - 7.1 Objectives of data collection
 - 7.2 Review of current and proposed requirements /guidelines for the collection of animal welfare data
 - 7.3 Consideration of development of a consolidated list of data that might be collected by international observers (taking into account practical considerations) and proposed analyses of such data
8. Development of a Revised Action Plan
9. Other matters
10. Adoption of the Report

Appendix 4

REVISED ACTION PLAN ON WHALE KILLING METHODS

A. Equipment and methods

- (1) Encourage continued co-operation among Contracting Governments to refine the design of penthrite grenades as far as possible.
- (2) Continue improving accuracy of delivery of penthrite grenade harpoons, including assessment of refined sighting equipment suitable for rapid action under conditions encountered at sea. Support and encourage the development and implementation of programmes to provide training in the safe handling and effective use of killing devices including the penthrite grenade and in other aspects of the hunt.
- (3) Continue to review constraints on shooting distance and relative orientation of vessel and whale and encourage reducing times to death.
- (4) Continue to review effectiveness of secondary killing methods with a view to reducing times to death in whales and encourage the application of the most effective methods.

B. Indication of insensibility and death

- (5) Develop better criteria for determining the onset of permanent insensibility in whales, using physiological and behavioural observations.

C. Assessment of cause of death in relation to observed time to death

- (6) Where possible, examine the effects of trauma, and its consequences, caused by harpoons and other devices used to capture whales, and its relationship to the reactions of the captured whale. Develop standardised guidelines for recording major indications of death.

D. Collection and provision of information on time of death

- (7) Encourage collaboration between technical and scientific experts with a view to suggesting evidence based guidelines for the collection and dissemination of information in relation to both primary and secondary killing methods in forms that allow the effectiveness of different methods to be compared. The data should be presented to the maximum extent possible with statistical analysis that allows independent appraisal and analysis.
- (8) Encourage collection and presentation of struck and lost rates and standardised estimated time to death records in all aboriginal subsistence catches of whales and undertake assessment of requirements for controls on the use of rifles to kill unsecured whales.
- (9) Encourage the incorporation of data collection and reduction of struck and lost rates in initiatives in Greenland relating to the beluga and narwhal hunts.

E. Assessment of physiological status of hunted animals

- (10) Develop suggested guidelines for, and where possible implement collection of representative biological samples from whales in extremis with an aim to determine reliable indices of stress for animals killed in whaling operations.

F. Next steps

The Workshop participants encourage the IWC to hold a further scientific and technical Workshop in 3-5 years and to call for further improvements in data collection, analysis and reporting in order to evaluate progress made in improving whale killing methods. In the meantime, information should continue to be provided to the appropriate technical Working Group.

Annex F

Resolution 2003-2 Adopted during the 55th Annual Meeting

Resolution 2003-2

WHALING UNDER SPECIAL PERMIT

AWARE that Article VIII of the ICRW allows contracting Governments to grant Special Permits for purposes of scientific research on whales;

NOTING that Article VIII of the ICRW was drafted and accepted by States Parties in 1946, at a time when few alternatives to lethal investigations existed, a situation drastically different from today;

RECALLING that since the adoption of the moratorium on commercial whaling in 1985/1986, the IWC has adopted over 30 resolutions on Special Permit whaling in which it has expressed its opinion that Special Permit whaling should: only be permitted in exceptional circumstances (1995-8 and 9); meet critically important research needs (1987); satisfy criteria established by the Scientific Committee; be consistent with the Commission's conservation policy (1987/1); be conducted using non-lethal research techniques (1995-9); and ensure the conservation of whales in sanctuaries (1995-8);

RECALLING in particular that the Commission has expressed serious concern at the possibility of whaling for scientific purposes assuming the characteristics of commercial whaling (1985/2);

RECALLING also that the Commission has stated that the meat and products of Special Permit whaling should be utilised entirely for domestic consumption (1994-7) and that any commercial international trade in whale products obtained from research whaling undermines the effectiveness of the IWC's conservation programme (1994-7);

CONCERNED that over 7,500 whales have been taken in Special Permit whaling operations since the moratorium on commercial whaling entered into force and there is no complete record as to how many whales have been struck and lost;

AWARE that whales caught in Japan's Special Permit operations provide over 3,000 tonnes of edible products per year that are sold for commercial purposes;

NOTING that Iceland has presented a programme to the Commission which would allow the killing of 250 whales (100 minke, 100 fin and 50 sei whales) a year for two years

in a Special Permit whaling operation that would provide over 4,000 tonnes of edible products;

NOTING that there has never been a formal assessment of sei whales in Icelandic waters, that considerable concern was expressed during the discussions of the Scientific Committee with regard to the status of this population, and that the take of 50 sei whales under the Icelandic feasibility programme would likely threaten its recovery;

RECOGNISING that considerable information on feeding ecology collected by Iceland under its previous Special Permit suggests that fin and sei whale diet is comprised principally of krill and that genetic analysis of whale scats would provide an ideal non-lethal method for determining prey shifts in their diet;

NOTING with concern that most of the data collected under Iceland's previous Special Permit has not yet been published; that most whales killed under that previous permit were exported; and that thousands of archival tissue samples are currently available which could enable the completion of this feasibility programme.

NOW THEREFORE THE COMMISSION:

EXPRESSES deep concern that the provision permitting Special Permit whaling enables countries to conduct whaling for commercial purposes despite the moratorium on commercial whaling;

STATES that the current and proposed Special Permit whaling operations represent an act contrary to the spirit of the moratorium on commercial whaling and to the will of the Commission;

STATES that Article VIII of the Convention is not intended to be exploited in order to provide whale meat for commercial purposes and shall not be so used;

REAFFIRMS that non-lethal techniques available today will usually provide better data at less cost to both animals and budget;

URGES any country conducting or considering the conduct of Special Permit whaling to terminate or not commence such activities and to limit scientific research to non-lethal methods only.

Annex G

Resolution 2003-3 Adopted during the 55th Annual Meeting

Resolution 2003-3

SOUTHERN HEMISPHERE MINKE WHALES AND SPECIAL PERMIT WHALING

NOTING that the Government of Japan continues to issue Special Permits, under the provisions of Article VIII of the Convention, for lethal scientific research on minke whales in the Southern Ocean Sanctuary (Japan's Whale Research Programme under Special Permit in Antarctica – JARPA);

RECALLING that the Scientific Committee agreed in 2000 that there was no valid estimate for Southern Hemisphere minke whales and that there is still no agreed estimate for Southern Hemisphere minke whales;

FURTHER RECALLING concerns expressed in Resolution 2000-4 regarding appreciably lower preliminary abundance estimates for Southern Hemisphere minke whales;

CONCERNED that the Scientific Committee report of 2001 did not rule out that the Southern Hemisphere minke whale population may have suffered a precipitous decline over the past decade;

NOTING Resolution 2001-7, which requested that the Scientific Committee provide to the Commission at IWC 54:

- (i) a list of plausible hypotheses that may explain this apparent population decline,
- (ii) the possible implications that such a decline in abundance may have for the management of minke whales in the Southern Hemisphere, and for ecologically-related species, in particular other cetaceans, and the state of the Antarctic marine ecosystem;

FURTHER NOTING that the list of plausible hypotheses reported by the Scientific Committee (IWC/54/4 – Report of the Scientific Committee) mostly focused on explanations for a decline in abundance estimates rather than an actual decline in population; and concluded it was most appropriate to fully address the request contained in

Resolution 2001-7 after completing its work on reviewing the IDCR/SOWER abundance estimates, which in 2003 remains incomplete;

RECOGNISING the emerging importance of alternative non-lethal research methodologies such as scat DNA sampling and biopsy samples;

NOW THEREFORE THE COMMISSION

REQUESTS the Scientific Committee to provide to the Commission, after the completion of the IDCR/SOWER abundance estimates, all plausible hypotheses to explain any decline in abundance estimates that may emerge, and in doing so to consider fully:

- (i) the possible negative impact of the take of minke whales under Japan's Research Programme in the Antarctic, including struck and lost data, on the decline in minke whales population estimates; as well as
- (ii) the impact of environmental change factors;

CALLS ON the Government of Japan to halt the JARPA programme, or to revise it so that it is limited to non-lethal research methodologies;

RECOMMENDS that no additional JARPA programmes be considered until the Scientific Committee has completed:

- (i) an in-depth review of the results of sixteen years of JARPA;
- (ii) its review of the abundance estimates for Southern Hemisphere minkes; and
- (iii) the actions requested above

and that any such programmes should be limited to non-lethal research.

Annex H

Report of the Infractions Sub-Committee

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

The meeting took place at the Estrel Hotel and Convention Centre, Berlin, Germany on 10 June 2003. A list of participants is given in Appendix 2.

1.1 Appointment of Chairman

Sung Kwon Soh (Korea) was elected Chair.

1.2 Appointment of Rapporteur

Cherry Allison (Secretariat) was appointed rapporteur, assisted by Greg Donovan (Secretariat).

1.3 Review of Documents

The following documents were available to the Sub-Committee.

IWC/55/INF

1. Revised Draft Agenda.
2. Secretariat: Expanded Annotated Agenda.
3. Secretariat: National Legislation Details Supplied to the Commission.
4. Draft Secretariat: Summary of Infraction Reports for 2002 Received by the Commission.
5. rev Quota monitoring on minke and fin whale hunting in Greenland, 2002.
6. Entanglements in fishing gear in 2002. Greenland Home Rule Government.

2. ADOPTION OF THE AGENDA

The Chair noted that in the past, Norway and Japan had referred to the terms of reference of this Sub-Committee and had stated their belief that Item 7.1, covering stockpiles of whale products and trade questions, was outside the scope of the Convention. Consequently, they had proposed that this item be deleted. Other delegations, including the USA and New Zealand had not agreed with this view. Nevertheless, as in previous years, it was agreed that an exchange of views might be useful and the draft agenda was adopted unchanged (Appendix 1).

3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2002

The Secretariat introduced IWC/55/Inf 3, the draft summary of infraction reports received by the Commission in 2002, which is given as Appendix 3 to this report. Austria requested clarification from the Government of Korea in relation to information supplied regarding an infraction involving minke whales. The Republic of Korea confirmed that the licence of the vessel owner involved was revoked permanently, and that the value of the fine imposed was about 7,000 US\$.

The UK expressed disappointment that the Government of St. Vincent and the Grenadines was not present at the Sub-Committee, and recalled the discussion at last year's meeting about the take of a humpback calf. The UK stressed the importance of this work to the Commission.

The UK referred to reports of 32 killer whales taken in Greenland in 2002. In their view a combination of Schedule Paragraph 10d, that forbids the taking of killer whales by factory ships, and Paragraph 10e, that refers to the ban on commercial whaling made the Greenlandic catches an infraction. Germany, Australia and Switzerland shared this interpretation. Denmark noted that the animals were not taken by a factory ship and in any event are small cetaceans and thus outside the competence of the IWC. Therefore takes of this species are not required to be reported as infractions under the Convention. Australia noted that Schedule Paragraph 10d explicitly applies a management prescription to killer whales and accordingly asserts competency over killer whales. This general issue had also been discussed last year (*Ann. Rep. Whaling Comm. 2002: 91*).

The UK also referred to a letter it had received from the Faroese authorities stating that a substantial kill of northern bottlenose whales had occurred in 2002. Although the UK recognised the different views over competency, it noted that this species is listed as a Protection Stock in Schedule Table 3, was covered by the moratorium and therefore considered this to be a matter of concern. Switzerland and Germany also concurred. Denmark commented that it was unable to reply in detail as it did not have the letter in question and there was no representative from the Faroes present. However, it recalled that northern bottlenose whales frequently strand in certain bays in the Faroes and that such animals are utilised if possible.

Australia regretted that Japan had not submitted an infractions report, as since Japan's new legislation came into force in 2001 authorising, under certain circumstances, the deliberate killing of whales bycaught in fishing operations, the bycatch of minke whales had increased five-fold. Australia suggested that the new regulations meant that animals which might be released alive were now killed and hence should be reported as infractions. Japan replied that the utilisation of incidental catches is allowed and the numbers had been reported in their progress report. If further information on this bycatch was desired, Japan would provide information on a bilateral basis but it did not consider this Sub-Committee appropriate for such discussions as the matter was outside the terms of reference of the Convention.

Germany stated that a humpback whale had been entangled in fishing nets in Iceland, and the meat was later apparently advertised for sale in supermarkets. Germany considered that if bycatch occurs, the aim should be to free the whale and not to land it, and asked why the matter had not been reported. Iceland responded that bycatches are not infractions and that it is appropriate for such animals to be used rather than wasted.

The UK advised of reports of significant bycatches in Korea and suggested this might be a response to an increase in demand for whale meat. The Republic of Korea stated that, although a substantial bycatch of minke whales occurred in Korean waters, this was an inevitable consequence of human activities in the sea such as fishing. It was misunderstanding the situation to suggest that the bycatch was deliberate. It has a mandatory bycatch reporting system under which all bycaught animals are reported to the marine police and their biological data collected by scientists, as reported to the Scientific Committee. Otherwise any catches are illegal and, if discovered, measures are taken in accordance with fisheries law. Following the two illegal cases reported last year, the marine police enhanced its inspection activity on suspected vessels entering port and on board operating fishing vessels in order to prevent any further cases. It agreed that information on bycatches is of value to management, and such information was discussed during the Scientific Committee meeting (IWC/55/Rep 1). It believed that the Scientific Committee was the appropriate forum for such discussions. It did not believe that utilisation was an appropriate issue to deal with in this forum.

Several nations (UK, Australia, Germany) expressed concern that arrangements allowing bycaught animals to be killed and to be landed and sold, could provide an incentive for killing to occur rather than for attempts to be made to free trapped animals. Australia believed there should be a clear distinction between an accidental bycatch and the deliberate killing of whales trapped in fishing gear. New Zealand drew attention to Resolution 2001-4 whose purpose was to ensure that those responsible for bycatch should not benefit from it.

Other nations (Norway, Japan, Iceland and Republic of Korea) rather considered that non-deliberate killing, such as bycatches do not constitute an infraction and are thus outside the terms of reference of the Sub-Committee. They are an inevitable occurrence in normal fishing operations. What happens to a bycaught animal after its death was the responsibility of national governments – some preferred not to waste the animal whereas others prohibited its use.

In response to an intervention by Germany concerning Norwegian fishing regulations, it was noted that, according to Norwegian national regulations, bycatches have to be landed and are consumed in order not to waste valuable resources. In the EU however, bycatch can only be landed if a quota is available for it. Norway also stated that under its fishing regulations, the problems of bycatch are dealt with by a series of technical measures, including the suspension of fishing in designated areas when bycatch reaches unacceptable levels.

Japan noted that if commercial utilisation is to be discussed, the Sub-Committee should also consider items for sale in New Zealand at Auckland international airport that are made by Maori tribes from whale bones and teeth. Japan further stated that they welcomed the utilisation of whales in this way.

The Chair closed the item noting that the issue of whether bycatches comprise infractions had been fully discussed last year and the exchange of views recorded (*Ann. Rep. Whaling Comm. 2002: 92*).

4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Reports submitted by the USA and the Russian Federation stated that 100% of their catches were under direct national inspection. Denmark (Greenland) reported on quota monitoring in IWC/55/Inf 5 Rev.

The USA submitted a verbal report on an informational basis. It stated the Alaska Eskimo Whaling Commission (AEWC) had reported that, this spring, a female bowhead whale was taken which was accompanied by a calf. The USA reported that this is prohibited in both IWC and AEWC regulations. The AEWC immediately convened a special meeting and suspended the whaling privileges of the captain and crew for a minimum of two years. The USA will report this as an infraction next year when infractions from the 2003 season will be reviewed.

5. CHECKLIST OF INFORMATION REQUIRED OR REQUESTED UNDER SECTION VI OF THE SCHEDULE

This Checklist was developed as an administrative aid to the Sub-Committee in helping it to determine whether obligations under Section VI of the Schedule were being met. It is not compulsory for Contracting Governments to fill in the Checklist although, of course, they do have to fulfil their obligations under this Section of the Schedule.

The available information is summarised below.

Denmark: Information on date, position, species, length, sex, whether a female is lactating and whether a foetus is present is collected for between 76-100% of the catch, depending on the item. Information on killing methods and struck and lost animals is also collected.

USA: Information on date, species, position, length, sex, killing method and numbers struck and lost is collected for between 90-100% of the catch depending on the item. Other biological information is recorded for about 63% of animals.

Russian Federation: Information provided to the Scientific Committee (SC/55/BRG22) shows that information on date, species, position, length, sex, whether lactating and hunting methods are collected.

Norway: The required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/55/Rep 1).

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of national legislation supplied to the Commission is given in Table 1. The UK observed that the table contained no entry from St. Vincent and the Grenadines since 1986 even though during the last meetings of the Infractions Sub-Committee and the Commission, St. Vincent and The Grenadines had assured that they would be enacting new legislation. The UK expressed the hope that St. Vincent and the Grenadines would not undertake whaling operations until the legislation is in place.

Table 1
National legislation details supplied to the IWC.¹

Country	Date of most recent material	Country	Date of most recent material
Antigua & Barbuda	None	Kenya	None
Argentina	1984	Korea, Republic of	1985
Australia	2000	Mexico	2001
Austria	1998	Monaco	None
Brazil	1987	Morocco	None
Chile	1983	Netherlands, The	1978
China, People's Republic of	1983	New Zealand	1992
Costa Rica	None	Norway	2000
Denmark (including Greenland)	1998	Oman	1981
Dominica	None	Peru	1984
Ecuador	None	Russian Federation	1998
Finland	1983	Saint Kitts & Nevis	None
France	1994	Saint Lucia	1984
Germany	1982	Saint Vincent & the Grenadines	1986
Grenada	None	Senegal	None
Guinea	None	South Africa	1998
India	1981	Spain	1987
Italy	None	Sweden	1987
Ireland	1982	Switzerland	1983
Japan	1983	UK	1981

¹Up to the middle of May 2003. Dates in the table refer to the date of the material not the date of submission. ²Member states of the European Economic Community are subject also to relevant regulations established by the Commission of the European Community. The date of the most recent EEC legislation supplied to the International Whaling Commission is 1983. ³Information on which pieces of legislation have been provided by the member countries is available on request from the Secretariat.

7. 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
- 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 issues were raised under this item.

8. ADOPTION OF REPORT

The Report was adopted 'by post' on 12 June 2003.

Appendix 1

AGENDA

1. Introductory items
 - 1.1 Appointment of Chair
 - 1.2 Appointment of Rapporteur
 - 1.3 Review of documents
2. Adoption of the agenda
3. Infractions reports from contracting governments, 2002
4. Surveillance of whaling operations
5. Checklist of information required or requested under section VI of the Schedule
6. Submission of national laws and regulations
7. Other matters
 - 7.1 Reports from Contracting Governments on availability, sources and trade in whale products
 - 7.2 Other
8. Adoption of the report

Appendix 2**LIST OF PARTICIPANTS**

(I = interpreter)

Antigua and Barbuda

Daven Joseph
Colin Murdoch
Hyrarn Forde
Sean Cenac

Argentina

Miguel Iniguez

Australia

Conall O'Connell
Pam Eiser

Austria

Andrea Nouak
Michael Stachowitsch

Brazil

Regis Pinto de Lima
Jose Truda Palazzo Jr.

Denmark

Henrik Fischer
Amalie Jessen
Kim Mathiasen
Maj Friis Munk

Dominica

Andrew Magloire

Finland

Esko Jaakkola

Germany

Peter Bradhering
Marlies Reimann

Iceland

Stefan Asmundsson
Axel Nikulasson

Japan

Minoru Morimoto
Masayuki Komatsu
Joji Morishita
Shuya Nakatsuka

Seiji Ohsumi

Yasuo Iino
Kayo Ohmagari
Chikao Kimura
Naohisa Yoshida
Midori Ohta (I)
Akiko Tomita (I)

Republic of Korea

Sung Kwon Soh
Dong Yeob Yang
Eui Cheol Jeong
Zang Geun Kim
Dong Jae Lee
Kyo Wan Kim

Mexico

Silvia Manzanille Naim
Lorenzo Rojas Bracho

Netherlands

Henk Eggink

New Zealand

Geoffrey Palmer
Mike Donoghue
Al Gillespie
Chris Anderson
Philippa Brakes
Craig Bamber

Norway

Odd Gunnar Skagestad
Halvard Johansen
Ove Midttun
Turid Eusébio
Silje Wangen
Hild Ynnesdal
Jørn Pedersen

Oman

Ibrahim Bin Said Al-Busaidi

Russian Federation

Valentin Ilyashenko
Rudolf Borodin

Saint Kitts and Nevis

Joseph Simmonds

Saint Lucia

Jeanine Rambally

Solomon Islands

Nelson Kile
Sylvester Diake

South Africa

Herman Oosthuizen

Sweden

Bo Fernholm

Switzerland

Thomas Althaus

UK

Richard Cowan
Geoffrey Jasinski
Laurence Kell
Rob Bowman
Jenny Lonsdale
Mark Simmonds
David Stowe

USA

Rolland Schmitt
Michael Tillman
Robert Brownell
Roger Eckert
Chris Yates
Winnie Chan
Keith Johnson
Nancy Azzam
Nicolas Fetchko

Secretariat

Nicky Grandy
Greg Donovan
Cherry Allison

Appendix 3

SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION IN 2002

Under the terms of the Convention, each Contracting Government is required to transmit to the Commission full details of each infraction of the provisions of the Convention committed by persons and vessels under the jurisdiction of the Government. Note that although lost whales are traditionally reported, they are not intrinsically infractions.

Scientific permit catches were reported to the Scientific Committee (IWC/55/Rep 1). Catch and associated data for commercial and scientific permit catches were submitted to the IWC Secretariat (see IWC/55/Rep 1). Norway reported no infractions from her commercial whaling operations. Aboriginal subsistence catches and infractions are summarised in the following Table.

Country	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/ comments
Denmark							
West Greenland	Fin	5	8	13		13	None
	Minke	33	88	134 ¹	5	139	None
	Humpback			2			2 ^{3,4}
East Greenland	Minke	0	10	10		10	None
St Vincent and The Grenadines ⁵							
	Humpback	1	1	2	0	2	None
USA							
	Bowhead	16	21	39 ²	11	50	None
Russian Federation							
	Gray	70	61	131		131	None
	Bowhead	1	1	2	1	3	None
Republic of Korea							
	Minke			1			1 ⁶

¹ Includes 13 animals of unknown sex.

² Includes 2 animals of unknown sex.

³ On 8 July 2002, the wildlife officer in the municipality of Sisimiut informed the Greenland Home Rule of a humpback whale wounded due to a rifle hunt. The whale could not be rescued. After authorisation from the Department of Fisheries, Hunting and Agriculture the whale was killed by harpoon vessel and meat, blubber and Qiporaq distributed to institutions in Sisimiut. The incident was reported to the police in Sisimiut who are investigating the incident.

⁴ On 21 October 2002, the municipal officer in the municipality of Qasigiannuit informed the Greenland Home Rule of a humpback whale calf wounded due to a rifle hunt. The whale could not be rescued. After authorisation from the Department of Fisheries, Hunting and Agriculture the whale was killed by harpoon vessel and meat, blubber and Qiporaq distributed to institutions in Qasigiannuit. The incident was reported to the police in Qasigiannuit who are investigating the incident.

⁵ Report received after the Infractions Sub-Committee meeting.

⁶ The Government of the Republic of Korea reported an accident of an illegal direct catch of one minke whale by its nationals in Korean waters in 2002. It certified this as an infraction. The fishing vessel involved had a longline fishery permit and the accident happened 15 n. miles off Ulsan City on 12 May 2002. The investigation of this incident verified that the animal was deliberately killed using a small harpoon, 6m in length. It also stated that the meat was confiscated and sold publicly by the police. The national involved in the illegal catch was prosecuted and penalised. The Government could not verify the length and sex of the whale but was told that it was about 4m. The Government stated that it prohibited whale takes and continuously strives to improve measures for the conservation and management of whales in its jurisdictional waters, in accordance with the ICRW and IWC's decisions. The Captain was fined 8 million Korean won (7,000 US\$) and the vessel owner had his fishing license revoked.

Annex I

Report of the Finance and Administration Committee

1. INTRODUCTORY ITEMS

The meeting took place at the Estrel Hotel and Conference Centre, Berlin, on Wednesday 11 June (afternoon) and Friday 13 June 2003 (afternoon). The list of participants is given in Appendix 1.

1.1 Appointment of Chair

Odd Gunnar Skagestad (Norway) was appointed as Chair of the Committee.

The Chair noted that attendance at the Finance and Administration Committee was limited to delegates and that observers were not permitted to attend.

1.2 Appointment of Rapporteur

The Secretariat agreed to act as rapporteurs.

1.3 Review of documents

The Chair indicated that most documents had been pre-circulated but that some additional papers were newly available. The Chair briefly reviewed all the documents available to the Committee (Appendix 2). Document IWC/55/F&A4 on possible improvements to the Rules of Debate was not available as the Secretariat had not had time to prepare it.

2. ADOPTION OF THE AGENDA

The Chair noted that in the absence of Document IWC/55/F&A 4 there would be no discussion of the Rules of Debate under Item 3.2.1. He also indicated that Items 5.1.2 and Item 6 both referred to the same document (IWC/55/F&A 7 'Secretariat's report on collection of financial contributions 2002-2003') and would be taken under item 6 'Arrears of contributions'.

Germany requested that a new item, 'Reports of ENB (Earth Negotiations Bulletin) for the Plenary Meeting of IWC' be added as Item 3.1.5. The USA asked that a sub-item 'Interim Measure for Financial Contributions' be included under Item 7. Noting all the above changes the Finance and Administration Committee adopted the revised agenda (Appendix 3).

3. ADMINISTRATIVE MATTERS

3.1 Annual Meeting arrangements and procedures

3.1.1 Verbatim Record

The Chair reminded the Committee that it was at the 53rd meeting in London that the Commission decided to cease production of a written verbatim report. The CD verbatim recording of IWC/53 had been distributed to all Contracting Governments.

At IWC/54, the Commission had noted the substantial benefit from the move to CD as transcribing the verbatim record took 2-3 person weeks. Although some countries had questioned whether any form of verbatim record is necessary, the Secretariat had

reported that it is useful for its own records. The Commission had agreed that the CD should continue to be produced but that it would be made available in future only on request. CDs are free of charge to Contracting Governments. Others are charged £10.

Three CD verbatim recordings have been now been produced; i.e. for IWC/53, IWC/54 and the 5th Special Meeting of the Commission.

In the absence of comment from the floor the Chair concluded that there was general satisfaction with the procedure now in place, that the CD version served a useful purpose and that the current practice should continue. The Committee agreed.

3.1.2 Document submission and distribution

The Chair recalled that at last year's meeting it was agreed that Contracting Governments should be strongly encouraged to submit meeting documents 6 weeks prior to Annual Meetings. For *extensive* documents, the Commission agreed that these *should* be provided no less than 6 weeks before the start of the meeting. This year was the second in which documents have been made available in advance via the IWC's website.

When asked by the Chair to comment on the success of document submission deadlines, the Secretary indicated that, with the exception of the Workshop on Whale Killing Methods and Associated Welfare Issues, there had not been many documents submitted – or indications that they would be submitted – to either the Commission sub-groups or the Commission. She noted that some were available sufficiently far enough in advance to be put onto the website, but in general they were not received 6 weeks prior to the meeting. As far as she was aware, no extensive documents were being submitted this year.

The USA stated that it found the deadlines reasonable and the website very useful. The UK shared these views and added that an additional improvement would be the circulation of a summary document from time to time to indicate what was available on the web. The Secretary agreed, pointing out that this is already the practice but that problems with the Secretariat's ISP shortly before the meeting meant that messages had not always reached the intended recipients.

The Committee agreed with the Chair's observation that the distribution arrangements are useful, designed to help all by making time for proper consideration of the issues prior to the meeting, but that there is still room for improvements.

3.1.3 Need for a Technical Committee

The Chair reminded the Committee that no provision had been made for the Technical Committee to meet at Annual Meetings since IWC/51. However, the Commission had agreed to keep the need for a Technical Committee under review. He suggested that it would be appropriate to maintain the status quo, i.e. keep this item

on the agenda since, as previously noted, the Technical Committee may have a role to play when the RMS is completed and catch limits set. The Committee agreed.

3.1.4 Use of simultaneous translation

The Chair reminded the Committee that during a private meeting of Commissioners in Shimonoseki, it was agreed that the use of simultaneous translation to improve communication at Annual Meetings should be explored. Noting the high budgetary implications if the Commission was to provide full simultaneous translation facilities, i.e. both the technical facilities (interpretation booths, ear-pieces, multi-channel listening devices etc.) and the interpreters, it was agreed that the Secretariat should investigate the costs and other implications of the Commission providing only the technical facilities with a view to implementation at IWC/55. Engaging and paying for interpreters would continue to be the responsibility of those delegations requiring them. The Commissioners delegated responsibility for making a final decision on the provision of simultaneous translation facilities for IWC/55 to the Chair in consultation with the Advisory Committee.

In view of: (1) the relatively high cost of providing the technical facilities required and the relatively low level of interest in using simultaneous translation expressed by Contracting Governments in response to Circular Communication IWC.CCG.291; and (2) after consultation with the Advisory Committee; the Chair of the Commission decided that further discussions within the Commission were necessary before making such facilities available. Consequently the existing system of consecutive translation is being used for IWC/55.

The Chair invited the Secretary to introduce document IWC/55/F&A 2 that reported the interest expressed by Contracting Governments in using simultaneous translation and gave estimates for providing such facilities at IWC/55. She noted that only four countries had expressed interest in using these facilities and that the estimated costs are from £5,600 for covering just the plenary to £18,000 if both the plenary and the Commission sub-groups were covered.

The Chair then invited delegates to review and comment on document IWC/55/F&A 2 and then to recommend to the Commission whether or not simultaneous translation facilities should be provided at future Annual Meetings (and if so, for which parts of the Annual Meeting), noting the budgetary implications involved.

A number of countries commented that they had not received the Circular Communication requesting information and expressions of interest.

The strain placed upon delegations for whom English is not their first, or even second, language of not providing simultaneous translation at IWC was widely appreciated and acknowledged as were the potential costs involved.

While recognising that this is a budgetary sensitive issue, Antigua and Barbuda noted that an increasing number of non-English speaking countries are joining IWC and that some effort should be made to ensure that

these countries are not at a disadvantage with respect to their ability to participate fully. The Republic of Guinea, Dominica, St. Lucia and Benin made similar remarks.

With respect to covering costs of providing simultaneous translation, Denmark indicated that they would have to be met either through an increase in financial contributions or through a decrease in the Commissions activities (thus making money available). Germany suggested that a third possibility would be for the host country to pay for the technical facilities (as it had been prepared to do for IWC/55). To avoid costs being too high in this case, Germany suggested that simultaneous translation be available for the plenary meeting only. The USA supported Germany's proposal but suggested that the provision of such facilities be flexible according to the financial and technical capacity of host nations. Denmark reminded the meeting that in the case of meetings having to be held in the UK, costs would have to be borne by IWC. It also noted that the cost would depend on the number of languages provided and that since important business is conducted by the Commission's sub-groups, it would not make sense not to provide simultaneous translation for these also. Denmark was also concerned that (1) host governments should not be criticized if full facilities could not be provided and (2) that provision of simultaneous translation would lead to the requirement to translate documents, which would be very costly.

Although a number of countries remained concerned about the costs of providing simultaneous translation, the meeting agreed that it would be appropriate to explore the matter further through establishing a small Working Group to work intersessionally between now and IWC/56 by correspondence. Antigua and Barbuda, the Republic of Guinea and Benin agreed to draft Terms of Reference for this Working Group for review by the Committee.

Subsequently, Antigua and Barbuda introduced document IWC/55/F&A 10 'Use of Simultaneous Translation at Annual Meetings of the International Whaling Commission' (see Appendix 8).

The Chair thanked Antigua and Barbuda for having worked diligently in a short space of time to produce this discussion document.

An extensive debate followed in which the importance of the issue was again recognised by many delegations but tempered in some cases by concerns about the potentially substantial strain on the Commission's budget, especially with regard to document translation and the costs of providing interpreters and translators. Many ideas were considered to include partial or full translation facilities and different possibilities for how these might be financed.

The Chair reminded delegates that some of the more ambitious ideas might require amendment of the Rules of Procedure and noted that whilst many delegations wished to contribute to the discussion, no consensus was emerging. This was a pity as there was genuine and general agreement that the issue needs to be addressed.

South Africa wondered whether Antigua and Barbuda

would be willing to consider to consult with other interested parties with a view to bringing forward a re-drafted proposal to the plenary.

Antigua and Barbuda stated that it was willing to continue to work constructively with any delegation to this end. Korea signalled its interest in participating because of its hope to be the host government for IWC/57.

The Chair thanked Antigua and Barbuda for this helpful approach and encouraged it to proceed.

3.1.5 Other

3.1.5.1 ENB AND REPORTING FOR PLENARY MEETINGS OF IWC

The Chair invited Germany to introduce Document IWC/55/F&A9. Germany explained that ENB is a private organisation that provides impartial daily reports on meetings in international organisations (e.g meetings in UN Organisations and in CITES). A number of IWC Contracting Governments are sponsors of ENB.

In preparing for this Annual Meeting in Berlin some Contracting Governments and institutions suggested having ENB provide daily reports for plenary sessions, convinced that it would be beneficial for all participants in the meeting. The Federal Government of Germany was ready to cover the costs involved for the Plenary meeting in Berlin.

Since this issue had not been previously discussed by the IWC, Germany intended to ask the Secretariat to circulate a note seeking the consent of all Contracting Governments with the status of a special observer or as part of the secretariat to underline its status as an impartial organisation at the service of all participants of the meeting. Consultation with other Contracting Governments indicated that some had reservations. Therefore Germany did not pursue the matter further at that stage.

Germany still believed it would be helpful to have ENB reports in the plenary meetings of the IWC and that the issue should be considered for upcoming meetings. Therefore they brought it forward for initial consideration by the F&A Committee.

A number of countries supported inviting ENB to provide daily reports of Commission plenary meetings believing that they would prepare neutral reports that would serve to increase transparency of IWC. Austria explained that ENB did not want to participate as an NGO or as a member of the press since it believed this

would compromise their status in other organisations. Mexico remarked that in the context of CITES, ENB was an asset to smaller developing countries that could not attend the numerous concurrent committees that are a feature of CITES as an organisation with a much larger membership.

Other countries, while not disputing that ENB reports on the meetings of other intergovernmental organisations are widely appreciated, expressed concern about the precedent that would be set by allowing ENB special status beyond what is contained in the Rules of Procedure. They considered that the current IWC Rules of Procedure allowing the admittance of NGOs and the press are sufficient. Some concern was also expressed about the possible costs involved, although several delegates confirmed that costs would be borne by sponsors, not by IWC.

Norway, in particular, stated that the Secretariat of the IWC should not be compromised by the inclusion of external agencies.

In response to a question on what facilities ENB would need, the Secretary reported that in the case of CITES (with whom she had been in contact), the Secretariat simply provides facilities such as a room and web access. When asked by the Chair to comment on how ENB might impact upon the work of the Secretariat, the Secretary explained that due to the high workload of Commission's meetings, IWC Secretariat staff would not be able to provide support in terms of facilities, advice or information.

The Chair concluded that a range of views had been expressed and that as it was clear there was no consensus on giving ENB a special status, no recommendations could be made to the Commission on this issue.

3.2 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate

3.2.1 Secretariat proposals

The Secretariat introduced a series of amendments to the Rules of Procedure and Financial Regulations, noting that the former were in response to requests from the Commission last year; the changes to the Financial Regulations were designed to improve the consistency of those amended last year, as well as plug a few minor gaps which had been identified in the course of the practical application of the amended regulations.

Commission Rule of Procedure C.1.(b) Observer fees

At IWC/53, the Commission agreed to the addition of the third sentence in C.1.(b) below (left hand column). The intention was to indicate that a registration fee would be treated as an annual fee for all observers. However, by incorporating this sentence into paragraph C.1.(b), the impression is given that it applies only to observers from international organisations. The proposed amendment clarifies the situation.

The Committee agreed with the proposed changes and **recommends** to the Plenary that the Commission adopt the amended text below.

Existing text

(b) Any international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer, if such international organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the

Amended text (new words or moved text in **bold type**)

(b) Any international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer;

- if such international organisation has previously attended any meeting of the Commission,

Commission 60 days prior to the start of the meeting and the Commission issues an invitation with respect to such request. The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of such observers. 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. Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.

or

- if it submits its request in writing to the Commission 60 days prior to the start of the meeting and the Commission issues an invitation with respect to such request.

Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.

(c) The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of **observers accredited in accordance with Rule C.1. (a) and (b)**. The registration fee will be treated as an annual fee covering attendance at the Annual Meeting to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next Annual Meeting

Rule of Procedure E.2 and Financial Regulation F.2 Voting rights

The Secretariat observed that the amendments adopted last year to tighten-up the link between payment of contributions and voting rights for existing and new Contracting Governments had already proved effective. Mention of 'a vote by postal or other means' was included in the amended Rule of Procedure E.2.(b) in relation to new Contracting Government, but omitted unintentionally from Rule of Procedure E.2.(a) and Financial Regulation F.2. The proposed amendment would correct this omission.

The Committee agreed with the proposed changes and **recommends** that the Commission adopt the amended text below.

Existing text

Rule of Procedure E.2

2. (a) The right to vote of representatives of any Contracting Government whose annual payments including any interest due have not been received by the Commission within 3 months of the due date prescribed in Regulation E.2 of the Financial Regulations or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, whichever occurs first, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.

(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.

Financial Regulations F.2:

2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission within 3 months of the due date or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, whichever occurs first, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.

Amended text (new words or moved text in **bold type**)

2. (a) The right to vote of representatives of any Contracting Government whose annual payments including any interest due have not been received by the Commission within 3 months of the due date prescribed in Regulation E.2 of the Financial Regulations or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, **or, in the case of a vote by postal or other means, by the date upon which votes must be received**, whichever **date** occurs first, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.

(b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.

2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission within 3 months of the due date or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, **or, in the case of a vote by postal or other means, by the date upon which votes must be received**, whichever **date** occurs first, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.

Mexico questioned exactly what is meant in Financial Regulation F.2 by the expression 'payment is received', commenting that there was some confusion associated with this point on the occasion of the 5th Special Meeting. Mexico thought that, to avoid inconsistency and ambiguity, an appropriate entry should be included in the Rules of Procedure.

The Secretariat explained that its practice has always been to consider that a payment had been received when either (1) it received confirmation from the Commission's bank that the correct amount had been credited to the Commission's account or (2) the Secretariat had in its possession a valid cheque, banker's draft or equivalent, or cash to the full value of the amount required.

In response to a question from the UK as to how the Secretariat could be certain that a cheque would clear, the Secretariat replied that it would never wish to make a judgement as to the validity of a cheque submitted by a Contracting Government.

The Secretariat suggested that it might help to meet the concern raised by Mexico to insert a footnote into the Financial Regulations indicating the customary practice. The Committee agreed that this would be helpful and recommends that the following be added as a footnote to 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.

Financial Regulation F.5 Arrears of contributions and withdrawal from the Convention

The Secretariat explained that Financial Regulation F.5 was adopted by the Commission at IWC/54 to limit the extent of the financial burden of governments falling into arrears. The original wording stated 'interest applied to arrears will continue to accrue indefinitely'. The Secretariat noted that this is a sensitive area and that there may be reasons for maintaining the existing language. However, from a financial and administrative point of view there seems little value in adding further to the burden of debt of a country seriously in arrears, especially when the recoverability of the debt is very doubtful. The proposed amendment to F.5(f) would clarify that for a government withdrawing from the Convention, the addition of interest ceases to apply from the date of withdrawal.

The Committee agreed with the proposed changes and **recommends** that the Commission adopt the amended text below.

Existing text	Amended text (new words or moved text in bold type)
<p>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;</p> <p>(a) no further annual contribution will be charged;</p> <p>(b) interest will continue to be applied annually in accordance with Financial Regulation F.1.;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(f) interest applied to arrears in accordance with this Regulation will accrue indefinitely.</p>	<p>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;</p> <p>(a) no further annual contribution will be charged;</p> <p>(b) interest will continue to be applied annually in accordance with Financial Regulation F.1.;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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.</p>

Financial Regulation F.6 Governments adhering to the Convention with debts from a previous involvement.

The Secretariat explained that Financial Regulation F.6 was adopted by the Commission at IWC/54 but only applied to debts from a previous membership. However, Governments can also incur financial obligations from observing at Annual Meetings. The proposed amendment to F.6 addresses this oversight.

The Committee agreed with the proposed changes and **recommends** that the Commission adopt the amended text below.

Existing text

6. Unless the Commission decides otherwise, a Government which adheres to the Convention without having paid to the Commission all its financial obligations incurred during a previous membership 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.

Amended text (new words or moved text in **bold type**)

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.

Proposed new Rule of Procedure B.2 Determining the duration of Annual Meetings

The Secretariat explained that during the meeting of the F&A Committee at IWC/54, the Chair had drawn attention to the fact that although Rules of Procedure H.2 state that the Secretary ‘shall make arrangements for all meetings of the Commission and its committees...’ it does not provide explicit guidance on who has responsibility for determining the duration of the Annual Commission and associated meetings. The Commission had agreed that explicit guidance should be developed and requested the Secretariat to draft Rules of Procedure for consideration this year, to provide that before the end of each Annual Meeting, the Commission decide upon the length of the meeting the following year.

The Committee agreed with the wording proposed by the Secretariat and **recommends** that the Commission adopt the following new Rule of Procedure:

B.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.

Proposed amendments to clarify the Rules of Procedure pertaining to Special Meetings of the Commission (B.1, F.2 and J.1)

The Secretary referred to comments by Norway at the 5th Special Meeting (and previously submitted to the Chair of the Commission in writing (Circular Communication IWC.CCG.266)) that it considered that the Special Meeting had been called in contravention of the Rules of Procedure F.2.(d) which states that a provisional agenda should be circulated at least 100 days in advance. In response, the Chair had referred to the circulation to Contracting Governments of the Norwegian letter and one from New Zealand on this issue (Circular Communication IWC.CCG.266), and his own letter referring to the ambiguity of the Rules of Procedure (Circular Communication IWC.CCG.268). The Chair of the Commission had asked the Secretary to try to clarify the rules pertaining to Special Meetings and to develop a paper for review at this Annual Meeting.

The Secretary had accordingly developed proposed amendments to the Rules of Procedure as shown in the following table. An explanation for the proposed changes is also given in the table, noting that some changes simply reflect what has become standard practice for many years.

With respect to the proposed amendment to B.1, Mexico questioned the distinction made between Contracting Governments and Commissioners stating that Commissioners are appointed by and act on behalf of Contracting Governments. It suggested that the inclusion of both could be confusing and was unnecessary, and preferred that the text refer only to Commissioners.

In the ensuing discussion the following views were offered.

- The requirement to communicate with both Commissioners and Contracting Governments might involve some redundancy but might still serve a useful purpose.
- Some governments explicitly request that official communications are sent to two separate addresses for Commissioners and Contracting Governments. The proposed rule would therefore merely reinforce current practice.
- This matter is not entirely straightforward and it might be wise to leave well alone.
- In accordance with the Convention, the Depository Government makes official notifications to Contracting Governments but material such as agenda issued by the Secretariat could be communicated just to Commissioners.
- The Secretary could/should be asked to review all the Rules of Procedure and associated documents to ensure clarity and consistency on this matter.
- The review indicated the previous point could be complicated and time-consuming.
- Sometimes a Government department fails to pass on documents to a Commissioner who, in any event, is not always in the government’s employ. There is therefore value and a degree of security in sending communications to both.
- There will be occasions when no Commissioner is in post. The Contracting Government concerned still needs to be informed on IWC business.

On consideration the Committee agreed to endorse the proposal as drafted by the Secretary and accordingly **recommends** that Rule of Procedure B.1 be amended as shown in Table 1.

Table 1

Proposed amendments to Rules of Procedure relevant to Special meetings and rationale.

Existing Rules of Procedure relevant to arrangements for Special Meetings	Proposed amendments (new words in bold type)	Comments/Rationale
<p>B. Meetings</p> <p>1. The Commission shall hold a regular Annual Meeting in such place as the Commission may determine etc..... Special Meetings of the Commission may be called at the direction of the Chair after consultation with the Contracting Governments.</p>	<p>B. Meetings</p> <p>1. The Commission shall hold a regular Annual Meeting in such place as the Commission may determine etc..... Special Meetings of the Commission may be called at the direction of the Chair after consultation with Contracting Governments and Commissioners.</p>	<p>It is appropriate that the Chair consult with Commissioners as well as Contracting Governments prior to calling a Special Meeting.</p>
<p>F. Chair</p> <p>2. The duties of the Chair shall be:</p> <p>.....</p> <p>(d) to determine after consultation with the Commissioners and the Secretary the provisional order of business so that the Secretary may despatch it by the most expeditious means available not less than 100 days in advance of the meeting;</p>	<p>2. The duties of the Chair shall be:</p> <p>.....</p> <p>(d) to develop, with appropriate consultation, draft agenda for meetings of the Commission.</p> <p>(i) for Annual Meetings:</p> <ul style="list-style-type: none"> • 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; <p>(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.</p>	<p>Amendments to Rule (d) (i) are proposed to reflect the actual practice that has been used for many years to develop both the initial draft agenda (provisional order of business) and the annotated provisional agenda (mention of the latter being absent in the existing rules describing the duties of the Chair). Contracting Governments and Commissioners are consulted in that they are asked to comment on the draft agenda circulated 100 days in advance of the meeting. It is proposed to replace the phrase 'provisional order of business' with 'draft agenda' to make Rule F.2 (d)(i) consistent with Rule H.2.(d)(i) describing the duties of the Secretary¹. It is also proposed to delete reference to despatching the 'provisional order of business' by the most expeditious means available since this is covered by Rule H.2.(d).</p> <p>The provision in the Rules of Procedure for Special Meetings separately from and in addition to Annual Meetings (Rule B.1), implies that the Commission has recognised the possible need for non-routine or exceptional business to be dealt with on a contingency basis. While the procedural pattern for Annual Meetings would be preferred, in some circumstances an abbreviated process may be unavoidable. Proposed new Rule (d)(ii) is intended to stress the preferred approach while maintaining some flexibility. Note however, that the strict 60-day rule would still apply to items of business involving Schedule amendments or recommendations under Article VI of the Convention as required under Rule of Procedure J.1.</p>
<p>J. Order of Business</p> <p>1. No order of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the provisional order of business which has been despatched by the most expeditious means available to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.</p>	<p>J. Schedule amendments and recommendations under Article VI</p> <p>1. No item of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the annotated provisional agenda circulated to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.</p>	<p>It is proposed to:</p> <ul style="list-style-type: none"> • change the heading of section J since this Rule refers to the notice period required for decisive action by the Commission on Schedule amendments or recommendations under Article VI of the Convention rather than to the order of business/draft agenda.; • Replace 'order of business' with 'item' of business, since this Rule relates to a particular issue and not to the order of issues; • Replace 'provisional order of business' with annotated provisional agenda to bring this rule in line with proposed amended Rule F.2(d)(i) and existing Rule H.2.(d)(ii); <p>Delete reference to despatching the 'provisional order of business' by the most expeditious means available since this is covered by Rule H.2(d).</p>

¹Rule H.2 states that 'The Secretary is the executive officer of the Commission and shall:

..... (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;

In relation to Rule of Procedure F.2, Mexico drew attention to a serious problem arising from the fact that at the 5th Special Meeting, Contracting Governments were faced with difficult issues which were not on the draft agenda circulated in advance. Mexico noted that a number of Contracting Governments were not present which might have attended had they been aware that important decisions were to be taken. It therefore considered that the rules for Special Meetings should be more specific. South Africa and Australia supported this view, noting that they had been disadvantaged by the absence of advice which they would have obtained if notice had been given of the issues in question.

The Chair commented that the inclusion in the Rules of Procedure of a provision for Special Meetings showed foresight, indicating that the Commission recognises that unexpected situations could occur where, despite every effort, the usual and desirable procedures could not be followed. He suggested that the Secretary's proposal seemed appropriate in providing for best practice to be followed to the maximum extent possible while retaining some flexibility and that it might be prudent to adopt that approach. The Committee agreed and accordingly recommends that Rule of Procedure F.2 be amended as shown in Table 1.

There were no comments regarding the proposed changes to Rules of Procedure J. The Committee therefore recommends that it be amended as shown in Table 1.

3.2.2 Russian Federation proposal to amend Rule of Procedure E

The Russian Federation commented that its proposal represented a conceptual/strategic principle and noted that the Commission has to take into account the realities and difficulties encountered in the IWC. It believes that decisions should be achieved on the basis of consensus and pointed out that the Commission is unusual in being one of the few conventions that sets voting as a principle. It introduced its proposal to change the title of Section E of the Rules of Procedure from 'Voting' to 'Decision-Making' and to add the following as introductory text to that section rather than as a rule of procedure *per se*.

'The Commission shall apply every effort to reach all its decisions by consensus, *prima facie*, on matters related to aboriginal subsistence whaling'

Members expressed full support for the idea behind the proposal and agreed that consensus is always desirable. However, it was noted that it is not always possible to achieve consensus and Contracting Governments cannot be compelled to reach consensus. The Convention determines how the IWC may adopt catch limits.

Many members commented that whilst they could support the principle and possibly the use of language such as that proposed in a preambular fashion, its inclusion as a formal Rule of Procedure would be likely to create only confusion and frustration.

The USA supported the principle of seeking consensus and indicated that legal advice it had sought as to the placement of such preambular text confirmed that E.0 was the correct place. It suggested that it would be preferable to replace the word 'shall' by 'should' and that the word 'all' was redundant and should be deleted, or, they stated, the phrase 'desires to make' in lieu of 'shall apply' was also an option. They urged parties representing aboriginal subsistence whalers to consult on this matter.

Denmark agreed that it was important that text of an introductory nature should not employ words which implied mandatory conditions and that the use of 'softer' language such as that indicated by the USA should make it more widely acceptable.

Norway questioned why the proposal was directed only towards Aboriginal Subsistence whaling and

considered that consensus is desirable in all decision-making.

The Chair summarised the discussion thus far as broad agreement on reaching decisions by consensus whenever possible, some positive support for the Russian Federation proposal, some qualified support and some opposition. In response to a request from the Chair, the Russian Federation indicated that it would accept the USA's suggestion about placement of the text as preambular to Section E.

Germany pointed out that the issue of voting is a matter of the Convention (Article III) and cannot therefore be regulated in the Rules of Procedure. It suggested that it might be more appropriate to consider this as material for a resolution rather than for the Rules of Procedure. Denmark supported this idea.

The Russian Federation reiterated its conviction that it is essential to work on the basis of consensus, recognised the general agreement on this point and appreciated the general understanding exhibited on the special and delicate relationship involving Aboriginal subsistence whaling and indigenous peoples.

The Russian Federation had considered the USA's comments and believed that a preambular text would not create any legal conflict nor a barrier to decision-making by voting if necessary. It was willing to accept the modifications suggested by the USA.

With regard to the suggestion that the matter be dealt with by resolution the Russian Federation appreciated the helpful intent but did not consider that it would be sufficient as a resolution is a one-time action which will become lost over time or have to be repeated at intervals.

Russia indicated that it wished to continue wider discussions with a view to introducing its proposal directly into plenary incorporating all the points raised in the Finance and Administration Committee.

The current text is as follows (**bold** text indicates changes from the initial wording):

E. ~~Voting~~ Decision-making

~~E-0~~ **It would be advisable that** the Commission ~~shall~~ **should** apply every effort in order to reach all of its decisions by consensus, *prima facie*, on matters related to aboriginal subsistence whaling. **Should a decision not be reached by consensus then the following Rules of Procedure shall apply.**

The Russian Federation also explained that the phrase '*prima facie*' should be understood to mean 'first of all'.

In view of the Russian Federation's statement the Chair commended the Russian Federation for its willingness to accommodate the concerns expressed within the Committee and other members for their helpful approach and noted that no further action by the Committee was envisaged.

4. FORMULA FOR CALCULATING CONTRIBUTIONS

4.1 Report of the Contributions Task Force

Daven Joseph (Antigua and Barbuda), Chair of the Contributions Task Force introduced document IWC/55/F&A 5, the Report of the Contributions Task Force Intersessional Meetings, December 2002 and March 2003.

He noted that the Task Force had looked afresh at the work to revise the contributions scheme, paying particular attention to the guiding principles previously agreed i.e. openness, stability, fairness and user pays. This 'fresh look' involved some re-examination of certain aspects of the contributions scheme on which there had been broad agreement, but also addressed approaches on how to handle issues related to the treatment of whaling and the inclusion of whale watching and small cetaceans as requested by the Commission at IWC/54.

The Chair of the Task Force recalled the agreement that a new formula would be constructed on the basis of the four main elements of membership, capacity to pay, user pays and Annual Meeting attendance.

Annual Membership

The Task Force reconfirmed its earlier agreement that one of the elements of the contributions formula should be an annual membership charge that: (1) would be the same for all Contracting Governments (i.e. a flat fee), and (2) should be set at a level to reflect a real commitment to the organisation by Contracting Governments without creating an obstacle to membership by developing countries.

The Task Force is not yet in a position to recommend what percentage of the total contribution the annual membership element should represent. It examined ranges of between 10 and 25% for membership alone and also agreed that a combination of membership and meeting attendance of up to 35% including two 'free' delegates would seem reasonable.

Wealth/capacity to pay

The 'Fresh Look' introduced the concept that while the use of bands has an attraction of simplicity, it may result in problems of stability and fairness when countries are near the border, and unfairness when the bands are broad, and that with modern computers, the need for the banding approach for simplicity is largely unnecessary. The Task Force noted that the economic groupings currently in use and others proposed could cause instability in view of the number of countries close to a border (e.g. within 10%).

In view of: (1) the potential for instability by using bands; (2) the fact that the use of bands lends itself to

concerns being raised by countries unhappy with the band in which they have been placed; and (3) that good economic data are available for most countries from an independent source (i.e. the World Bank), the Task Force agreed that there were real advantages to using actual data in terms of stability and fairness and proceeded to investigate this further (see below).

The Task Force understood that the World Bank updates data on country GNI and GNI/*capita* annually. The Task Force **reaffirmed** that the intention is to use the most recent data available and recognised that updating could be critically important, especially for countries whose economies are under strain (e.g. from external debt). It also recognised that updates may occur between the time the Secretariat develops estimates of financial contributions prior to an Annual Meeting and finalises the assessment of the contributions after the meeting. The Secretariat undertook to find out from the World Bank how frequently updates take place, whether there is a regular target date for publication of these data, and to what extent the target date is consistently achieved. The Task Force agreed that to ensure transparency, it will be essential that documents defining the contributions scheme and presenting the contributions required from Contracting Governments, state clearly the exact source and effective date of economic data used.

However, none of the indices explored at either meeting gave satisfactory 'performance', and the Task Force agreed that this element required still further exploration.

The Chair of the Task Force emphasised that this component is intended to realistically represent the capacity to pay of member governments. Under the 'old' contributions scheme, the ratio between the lowest and highest participating payers was 1 – 3.7, under the third year of the Interim measure it will be 1 – 10. Most members pointed to the UN scale of assessments that is based on a comprehensive and sophisticated analysis and encompasses a ratio of 1 – 22,000. In their view this represents a true reflection of the differing scales of economies and capacities to pay and stressed that, in the IWC context, a spread much greater than 1 – 10 should be used. Two members expressed the view that in the context of the IWC contributions formula, the UN scale of 1 – 22,000 is excessive and not appropriate.

Use

The Task Force had considered at length the Commission's request to consider ways in which proposals including and excluding whale watching and small cetaceans might be developed. However, the discussions re-emphasised the divisions within the Commission on these issues. The Task Force determined that the data for both whalewatching and small cetaceans are not sufficient or consistent enough to include in a contributions formula, and, in light of the difficulties presented by the question of competence in relation to both issues, agreed that neither should be included in any proposal it might make to the Commission.

With respect to bycatch, views were again polarised. The Task Force was unable to reconcile these opposing

views, and for the purposes of the present work did not include bycatch.

The Task Force **agreed** that ship-strikes should not be included as removals.

The Chair of the Task Force commended the members for the professional way in which they had approached their task and, as an example, reported that, as a way to move forward but without conceding on their positions, members had expressed a willingness to treat all whaling equally (i.e. give equal weighting to all types of whaling). This constructive approach was facilitated by the understanding within the Task Force that, 'nothing is agreed until everything is agreed'.

The Chair of the Task Force drew attention to a concept developed from the 'Fresh Look' – that of 'beneficiaries' rather than 'users', noting that all of the members of the Commission receive benefits from their membership and that the issue of paying for consumptive use would be addressed by the RMS Working Group on costs.

Meeting Attendance

The Task Force had explored the use of real data for delegation size at Annual Meetings (rather than banding, as has been used in the past) and agreed that the use of real data based on the previous year's attendance is preferable.

The Task Force agreed that only delegates should be allowed entry into the Commission meeting rooms. Support Staff (who do not have access to the meeting rooms) may need distinguishing badges, e.g. to facilitate admission to the conference venue and/or delegation rooms.

The Task Force was not able to agree on how the elements of the contributions scheme should be weighted, but the Task Force Chair drew attention to the following table from its report indicating the degree of convergence existing in relation to membership and meeting attendance.

	Spain	USA	Japan, Norway, Antigua and Barbuda	Argentina
Membership	25%	25%	20% 2 'free' delegates	25% 2 'free' delegates
Meeting attendance	10%	1%	5%	
Wealth	40%	25%	65%	75% spread of 1-25 for wealth
Whaling	25%	40%	10%	

Selection of a model

The Chair of the Task Force noted that all simulations run were based on the structure of Model 7 (see IWC/54/TF1) and that it appeared that the group is converging on this model as the model to put forward to the Commission.

Table 2 summarises the main agreements reached by the Task Force to date and the remaining issues.

4.2 Finance and Administration Committee discussions and recommendations

The USA commended the Chair and the Task Force for their hard work but noted that the Chair's reference to

the Task Force moving away from the concept of 'use' to the concept of 'beneficiaries' was, in fact, a view expressed by only one member of the Task Force and was not endorsed by the Task Force as a whole. Other delegations also commended the Chair and the Task Force but differences of opinion existed about the extent and speed of progress that had been made and a number commented upon a perceived lack of balance within the group occasioned by the withdrawal initially of one member and, at this meeting, two others. Australia pointed out that it had contributed substantially to the work of the Task Force but budget constraints as well as concerns about productivity and likely outcomes prevented its further participation. South Africa regretted that, due to financial constraints it would have to withdraw from the Task Force.

Spain indicated it had concerns about continuing to serve on the Task Force and the USA noted that it was considering withdrawing from the Task Force based on the decisions of South Africa and Australia and the comments made by Spain.

Dominica congratulated the Task Force and its Chairman for the report presented and the quality of the work it had achieved in such a short space of time but lamented that some parties were prepared to undermine that kind of good work by withdrawing from the Task Force and calling for its reconstitution. This was being done in order to reverse the gains made by the Task Force on behalf of developing countries, particularly the Interim Measure which had eased the burden of membership fees.

Australia noted Dominica's suggestion with concern and drew attention to the commitment shown by Australia to the Task Force process and to the principle of equitably reducing the burden on developing countries. Australia reiterated that its withdrawal from the Task Force was purely on the basis of budgetary constraints and the likelihood of an agreed outcome.

The UK congratulated the Chair and members but stressed the need to finish this work, preferably by IWC/56. It noted that the financial position of the IWC could become unstable if the majority of the budget were funded by a very small group of countries. Germany and the USA associated themselves with concerns expressed by Australia and the UK and suggested it was time to explore alternative ways of moving forward. Norway drew attention to the initial objective, i.e. to reduce the financial burden on developing countries and Japan noted that the wealth factor should be the main factor in determining contribution levels. Norway reiterated its willingness to continue to serve in the Task Force or in any other group or committee the Commission might set up to work on this matter.

The Chair detected that, while different views were being expressed, they appeared to be coalescing into two or three groups which comprised those who wished to proceed, those who thought the Task Force should perhaps be discontinued and those who favoured continuation but with a new or reconstituted Task Force with an augmented membership. The Committee was in accord, however, on the importance of completing a new contributions formula as a matter of urgency.

Referring to the summary of the status of main agreements and issues remaining (Table 1), Switzerland and South Africa drew attention to the fact that the number of items that remain outstanding is small but urged that a finite time limit be applied to the deliberations of the Task Force. The Chair also believed that the Task Force had come a long way towards meeting its objectives and that the remaining issues could be overcome given the political will and with the assistance of the Secretariat to facilitate the technical aspects of the work. The Chair noted that a new or reconstituted Task Force might not be able to take up where the other had left off and may have to start again from scratch, and, in any event, the same difficult problems existing now would still be there.

After some preliminary discussions on procedural aspects of the Task Force recommendations to the Committee, the Chair invited the Committee to address each recommendation in turn.

Recommendation 1: That work to develop a revised contributions formula that meets the agreed four guiding principles (openness, stability, fairness and user pays) should continue, taking into consideration that this is the first year in which the Task Force has met since the application of the Interim Measure for calculating contributions.

The Committee endorsed this recommendation and **recommends** that it be adopted by the Commission.

Recommendation 2: That, via the Finance and Administration Committee, the Commission request existing members of the Task Force to re-affirm their interest in continuing to serve, noting that one member (Monaco) has withdrawn from the Task Force.

The meeting noted that Australia and South Africa had now also withdrawn from the Task Force. The Chair recalled the different views expressed earlier on the composition of the Task Force. He also recalled that the Task Force was originally constituted on the basis of interested parties volunteering to serve, and suggested that this approach could be used once again, i.e. that the Commission invite interested Contracting Governments to nominate themselves onto the Task Force to join the remaining members. The Committee agreed and **recommends** this course of action to the Commission.

Recommendation 3: That a Vice-Chair be appointed to facilitate the effective working of the Task Force, and

Recommendation 4: that it would be appropriate to invite the Government of Argentina to be Vice Chair of the Task Force, considering that: (1) the Government of Argentina co-sponsored with Antigua and Barbuda, the Interim Measure for calculating financial contributions currently in operation; and (2) that Argentina and Antigua and Barbuda may be perceived as broadly representing the different points of view represented within the Commission.

The Chair noted that it was usual practice for a group itself to decide on whether or not to appoint a Vice Chair from among its members. He therefore suggested that the Committee simply note these two recommendations without making a further recommendation to the Commission. The Committee agreed.

Recommendation 5: That (1) a further intersessional meeting of the Task Force should take place with provisional dates of Tuesday 16 – Thursday 18 September 2003; (2) the meeting take place in Cambridge to facilitate the participation of Secretariat staff as appropriate and ensure ready access to the necessary computing facilities.

After confirmation that, provided the size of the Task Force continues to enable it to meet at the Commission's offices, there will be no cost to the Commission in holding the intersessional meeting, the Committee agreed to **recommend** to the Commission that this meeting go ahead. The Secretariat suggested that it might be more productive to delay the meeting to allow the Secretariat time to carry out the further development work required.

The Committee agreed that this is a matter for the Task Force.

South Africa and others suggested that a time limit should be placed on the Task Force's work. The Chair suggested that this issue be set aside for now, but reflected in the report.

5. FINANCIAL STATEMENTS AND BUDGETS

5.1 Review of the Provisional Financial Statement, 2002/2003

The report of the Budgetary Sub-committee (IWC/55/F&A 6) was introduced by its Chair, Jean-Pierre Plé.

The Sub-committee had discussed intersessionally the Provisional Financial Statement presented in IWC/55/10. Comments and questions addressed included costs and other aspects of the Commission's office accommodation at the Red House and the possibility of re-location, the consequences of ceasing to pay employer's social security contributions, means of maximising revenue from bank interest, consequences of reducing Annual Meeting costs, research expenditure, Secretariat costs and efficiency savings.

The Secretariat had provided updated tables for IWC/55/10 and reviewed the changes that had occurred, which altogether resulted in an anticipated increase in the surplus for the year of £38,700. This produces a projected year-end balance on the General Fund of £771,428, approximately 98% of the target level.

The Sub-committee noted that this was a generally satisfactory situation and accordingly **recommended** to the Finance and Administration Committee that the Provisional Financial Statement (Appendix 4) be forwarded to the Commission with a recommendation that it be approved subject to audit.

The Secretariat had drawn attention to expenditure on 'postage and telecommunication' noting that:

'Basic costs are increasing to provide and maintain enhanced electronic communications, including the web-site. New contracts have been implemented to reduce call-charges significantly but so far the volume and costs of postage are not declining as expected, despite significantly increased use of electronic communication'

The Finance and Administration Committee **recommends** that Commissioners and Contracting Governments which still request circulars and documents in hard copy be asked to review whether this is still necessary and, if it is, to reduce to the minimum the number of copies they have requested.

Table 2 Summary of the status of (1) main agreements ² reached by the Task Force and (2) remaining issues after its meetings in December 2002 and March 2003.		
Issue	Main agreements reached by the Task Force	Remaining issues
Elements of the contributions formula		
Annual Membership	<ul style="list-style-type: none"> The Task Force reconfirmed its earlier agreement that one of the elements of the contributions formula should be an annual membership charge that: (1) would be the same for all Contracting Governments (i.e. a flat fee); and (2) should be set at a level to reflect a real commitment to the organisation by Contracting Governments without creating an obstacle to membership by developing countries. 	<ul style="list-style-type: none"> The % of the total contribution this element should represent.
Wealth/capacity to pay	<ul style="list-style-type: none"> The Task Force agreed that there are real advantages in terms of stability and fairness in using actual economic data for each Contracting Government rather than to divide Contracting Governments into groups based on a combination of GNI and GNI <i>per capita</i>, i.e. the banding approach proposed earlier and used in the Interim Measure. Inclusion of a specific separate factor to take external debt into account was not supported by the Task Force. The Task Force agreed not to recommend use of purchasing power parity (ppp) at present in recognition of problems with the quality of some existing ppp data and that new data will be available following a data-collection exercise of the World Bank during 2003. However, the Task Force also agreed that the Finance and Administration Committee might wish to review the use of 'ppp' at some point in the future. The Task Force reaffirmed that the intention is to use the most recent data available from the World Bank and recognised that updating could be critically important, especially for countries whose economies are under strain. The Task Force agreed that to ensure transparency, it will be essential that documents defining the contributions scheme and presenting the contributions required from Contracting Governments, state clearly the exact source and effective date of economic data used. 	<ul style="list-style-type: none"> Development of an appropriate index that will represent realistically the capacity to pay of Contracting Governments. Confirmation of how frequently the World Bank updates its data, whether there is a regular target date for publication of these data, and to what extent the target date is consistently achieved. The % of the total contribution this element should represent
Use	<ul style="list-style-type: none"> The Task Force determined that the data available for both whalewatching and small cetaceans are not sufficient or consistent enough to include in a contributions formula, and, in light of the difficulties presented by the question of competence in relation to both issues, agreed that neither should be included in any proposal it might make to the Commission. Regarding bycatch, some Task Force members believed that bycatch should not be taken into account while others believed that by-caught animals entering the market should be included, although they recognised the problems with the availability of good data. The Task Force was unable to reconcile these opposing views, and for the purposes of the present work did not include bycatch. The Task Force agreed that ship-strikes should not be included as removals. At its March 2003 meeting, while some Task Force members re-stated their principled positions with respect to how to treat different types of whaling, in a spirit of compromise and as a way to move forward but without conceding on their positions, the Task Force expressed their willingness to treat all whaling equally (i.e. give equal weighting) in any further simulations. The Task Force confirmed that they preferred to use minke whale units rather than actual numbers of whales caught, but agreed that the Scientific Committee should review the conversion factors from time to time (e.g. every 5 years). The Task Force, confirmed its previous agreement to use the catches from the previous year (converted to minke whale units). 	<ul style="list-style-type: none"> The % of the total contribution this element should represent
Meeting attendance	<ul style="list-style-type: none"> The Task Force agreed that the use of real data based on the previous year's attendance by each Contracting Government is preferable to the use of bands. The Task Force recalled the Commission's agreement at IWC/54 that attendance for the host country should be based on an average of the previous three years and that the Chair of the Commission be excluded for the purposes of calculating financial contributions. The Task Force agreed that only delegates should be allowed entry into the Commission meeting rooms. Support Staff (who do not have access to the meeting rooms) may need distinguishing badges, e.g. to facilitate admission to the conference venue and/or delegation rooms. 	<ul style="list-style-type: none"> The % of the total contribution this element should represent Whether there should be any free delegates and if so, how many.

Cont.

² The Task Force noted that in the context of developing a revised contributions formula, 'nothing is agreed until everything is agreed.'

Issue	Main agreements by the Task Force	Remaining Issues
Performance criteria		
	<ul style="list-style-type: none"> • The Task Force identified a number of statistics that may prove useful in characterising the performance of different simulations and that could be used to assess them in terms of the general principles of stability and fairness, i.e.: <ul style="list-style-type: none"> ○ The average, median (i.e. middle), maximum and minimum contribution; ○ The standard deviation from the 'average' contribution; ○ The 5th and 95th percentiles of contributions; <ul style="list-style-type: none"> ○ The 5th percentile means that 95% of countries are paying more than this particular value ○ The 95th percentile means that 5% of countries are paying more than this particular value ○ The ratio of maximum to minimum contribution; ○ The percentage of the budget contribution allocated to the top 5, 10, 15, 20 paying countries. • The Task Force focused on two of these, i.e. the ratio of maximum to minimum contribution and the percentage of the budget allocated to the top 5 paying countries. 	<ul style="list-style-type: none"> • Which performance criteria to use and what the acceptable ranges of the criteria selected might be.
Selection of a model		
	<ul style="list-style-type: none"> • The Task Force noted that all recent simulations were run based on the structure of Model 7 (see IWC/54/TF1) and that it appeared that the group is converging on this as the model to put forward to the Commission. 	

5.2 Consideration of proposed and forecast budgets, including research expenditure

5.2.1 Review of Proposed Budget 2003-2004 and forecast 2004-2005

REPORT OF THE BUDGETARY SUB-COMMITTEE

The Chair of the Budgetary Sub-committee recalled that at the 54th Annual Meeting in Shimonoseki last year, the Sub-committee had worked extremely hard on measures to deal the urgent need to eliminate deficits and the Commission had agreed to the following measures relating to the budgets for 2002-03 and 2003-04.

- (1) Adopt a process, beginning with the year commencing 1 September 2002, to bring income and expenditure into better balance, eliminate budget deficits as soon as possible by considering both increases in the level of Contracting Government and NGO contributions and short-and long-term reductions in the level of expenditure;
- (2) Take action on one or more of the short-and long-term proposals to reduce expenditure, with particular emphasis on the duration and frequency of meetings;
- (3) Increase the registration fee for non-government observers from £525 to £550 for the Annual meeting in 2003;
- (4) Ensure that for the 2003-04 budget individual contributions should increase no more than necessary to maintain approved budget levels and that overall reductions in expenditures for the 2002-03 and 2003-04 budgets should be at least 5% annually.

The Sub-committee noted that the proposed budget for 2003-2004 responded to each of these points and recognised the Secretariat's observation that the expenditure reductions were not without some undesirable consequences and possible risks. The Secretariat considered that the situation after 2 years of

budget cuts was tolerable but that further reductions could not be achieved without significant adverse consequences.

The Sub-committee noted the Secretariat's further comment that the already inadequate meeting budget had twice been cut and that the proposed budget contains no provision whatsoever for 'Other Meetings' (e.g. intersessional activity like intersessional private Commissioners meetings on the RMS). Therefore, the forecast for the 2004-2005 year had been developed on the basis of cost increases, where appropriate, generally in line with UK inflation (2.5%) except where there were reliable indicators otherwise.

The proposed budget for 2003-2004 required no increase in the level of a single share³ for most member contributions. But, as described in the previous paragraph, the forecast for 2004-2005 allows for some cost to increase and accordingly provided for an increase in Contracting Government contributions.

The Secretariat again introduced revised tables reflecting the updated information now available. These produced some improvements mainly in projected income for the proposed budget for 2003-2004. When carried through to the forecast for the following year, and in combination with the anticipated redistribution of shares following the adherence of a new member and changes in notified sizes of delegations at the forthcoming 55th Annual Meeting, these had the effect of requiring the value of an individual share for projected Contracting Government contributions for 2004-2005 to increase by only a little over 1%.

The Chair of the Sub-committee reminded the Finance and Administration Committee that it was required to make a specific recommendation on the level of NGO and media fees for 2004. The Secretariat had used levels of £570 and £30 respectively. There is no

³ The basic unit of the calculation of the contribution to be requested of each Contracting Government.

set procedure for determining the level of increase in these fees and the Chair of the Sub-committee had considered the suggestion that it might be appropriate and easier to justify to NGOs in particular, if the increase were linked to the rate of UK inflation. In the ensuing discussion different opinions were expressed and, as a result, the Sub-committee had agreed that the levels originally outlined by the Secretariat should be adopted.

FINANCE AND ADMINISTRATION COMMITTEE DISCUSSION AND RECOMMENDATIONS

The USA noted that it was not the amount of the increase which was at issue so much as the absence of a rational and transparent mechanism for determining the increase and proposed linking to the UK rate of inflation with provision for review every 5 years.

Japan drew attention to the relative number of participants from NGOs to Contracting Governments commenting that there needs to be a well-balanced cost-sharing of the meeting budget. It indicated that it would revert to this next year.

The UK supported the USA's suggestion but questioned which rate might best represent UK inflation and questioned whether it was entirely appropriate considering the world-wide origin of NGOs.

Norway could accept the link to UK inflation provided the starting fee was set at the right level. This could be determined by market-forces, i.e. willingness to pay, rather than being related to the cost of services and/or facilities. Norway noted that administration of NGOs involved expenditure of administrative resources for the organisation and the Secretariat.

The Chair concluded that, again, a range of different views existed and that it would be best to proceed on the basis of the clear recommendation from the Budgetary Sub-committee. Accordingly the Finance and Administration Committee **recommends** that for 2004 the NGO fee be set at £570 and the media fee at £30.

5.2.2 Research expenditure proposed by the Scientific Committee for 2003-2004

The Chair of the Budgetary Sub-committee noted that it had benefited from the advice of Doug DeMaster, Chair of the Scientific Committee, in understanding the rationale behind the package of research items which the Scientific Committee had recommended for funding in 2003-2004.

DeMaster had reviewed the relevant extracts from the Scientific Committee's report, (IWC/55/Rep 1, item 21) noting that the 5% cuts already imposed for this year which resulted in a day being cut from the Scientific Committee meeting had caused severe difficulties for the Committee and involved members working unreasonably long hours to complete the Committee's agenda. He had pointed out that everything which the Scientific Committee undertook was directly related to the work requested and priorities set by the Commission.

The Scientific Committee had identified projects totalling £391,700 which it considered necessary to properly carry out the Commission's requirements. However, the Committee recognised the financial constraints which applied and accordingly had prepared

a reduced list of items to get as near as possible to the target which had been set of £231,071. It had not proved possible to hit the target exactly but the Scientific Committee had developed a reduced budget of £242,800 and had '*strongly recommended that, at a minimum, the Commission accepts its reduced budget of £242,800, although it recognises that this is about £11,000 over the projected amounts available.*' With regard to this reduced budget, DeMaster emphasised the Scientific Committee's comment that progress will not be possible in some important areas and requested that the Commission or individual member governments provide additional funding in these areas. Some members of the Sub-committee supported this suggestion and indicated that the request could be extended to include IGOs, NGOs and others. Other members expressed the view that accepting significant amounts of voluntary funds for research purposes other than from Contracting Governments, may change the perception of the organisation and may not be in the Commission's best interests.

The Secretariat had indicated that there had been some misunderstanding between itself and the Scientific Committee about the existence of some unexpended monies which are already available in the Research Fund because the projects in question occurred in two financial years. The realignment of income and expenditure to the proper accounting periods, meant that the Scientific Committee's reduced request (i.e. £242,800) could be met without incurring any need to raise revenue from Contracting Governments additional to the £231,072 included in the proposed budget. The Budgetary Sub-Committee then agreed to include the Scientific Committee's £242,800 'package' in its recommended the proposed budget for 2003-2004 (Appendix 5).

Whilst not opposing this procedure, Japan commented in the Sub-committee that it had serious concerns about the nature of an increasing portion of research expenditure which it did not believe constituted key activity in the context of the Commission's work. Moreover, Japan noted that the Interim Measure for financial contributions has the effect of increasing the payments from developed countries and developments in the Commission's work, notably in association with the RMS, would create further substantial costs which were likely to fall mainly on the developed and whaling countries. For these reasons, whilst acknowledging that progress had been made to balance the budget including the research expenditures, Japan wished to see further reductions in the whole budget. Norway had indicated that an immediate reduction could be achieved in the proposed research budget for 2003-2004 by reducing or eliminating the provision against overruns/balance carried forward (£9,196).

Noting these comments the Budgetary Sub-committee **recommended** that the Finance and Administration Committee consider and forward the proposed budget for 2003-2004 (Appendix 5) to the Commission with a recommendation that it be adopted, together with the indicated level of financial contributions from Contracting Governments.

FINANCE AND ADMINISTRATION COMMITTEE DISCUSSION AND RECOMMENDATIONS

Japan, noting that its contribution will rise by about 40% in 2003-2004, reiterated its concerns that an increasing proportion of the research budget is being devoted to non-core activity.

South Africa expressed disappointment that the Scientific Committee had not included in its 'reduced budget' the small amount of funds (£5,000) requested by the Whale watching Sub-committee to support the attendance of the representative of the Scientific Committee's Whale watching Sub-committee at the Whale Watching Management Workshop to be held in South Africa next year. He pointed out that the Workshop was critical to the work of the Scientific Committee and that the Workshop itself was being organised and funded outside the IWC. South Africa regretted the omission and hoped that a re-allocation of funds might be possible to support this important activity.

The Secretariat referred to the process of setting priorities which the Scientific Committee adopted when having to pare down its preferred programme to the level of the available funds and the Chair of the Scientific Committee confirmed that the Whale watching Sub-committee's proposals had been subject to that process.

Brazil recognised the difficulties facing the Scientific Committee in having to try to make the best use of the limited funds available to meet the Commission's priorities and commended the Scientific Committee on the spirit of cooperation with which it had tackled this task. Nevertheless it fully supported South Africa's request, as did Australia, Germany and the UK, the latter indicating that it will contribute funds toward the Whale Watching Management Workshop which it considered would be very valuable. The UK also expressed regret that, for the third year in succession the Scientific Committee had endorsed the proposed Habitat Degradation Workshop as worthy of support but had not allocated any funds to it. The UK did not seek to overturn the Scientific Committee's or Budgetary Sub-committee's recommendations but wished its comments to be recorded.

Brazil referred to the possibility of making use of the provision in the research budget of £9,916 against overruns.

There were expressions of views indicating support for funding the Whale Watching Management Workshop and others stressing the imperative to stay within the financial constraints. Denmark pointed out that this was by no means an unusual situation and that any decision to adjust the Scientific Committee's priority selection would (a) provide money to some project(s) at the expense of others and (b) subvert the work of the Scientific Committee after its meeting had finished when it had no opportunity to reconsider. This was not a desirable way of working. Dominica supported what Denmark had pointed out. Differences of opinion also existed between governments which considered that undue emphasis was being placed on environment research at the expense of, e.g., Antarctic research and vice versa.

The Chair recognised what appeared to represent an almost equal division of views and considered that the only way forward was to proceed on the basis of the Budgetary Sub-committee's recommendation but note the difference of views expressed. Japan indicated that, as the largest contributor, it could accept the Chair's compromise but suggested that the Committee should look for future reductions of £30,000 - £40,000 in the Research Budget.

The Finance and Administration Committee **recommends** that the Commission adopt the proposed budget for 2003-2004 (Appendix 5) including the provision for research expenditure (Appendix 6) and the financial contributions required of Contracting Governments (Appendix 7).

5.2.3 Red House Lease and rent

The Chair of the Budgetary Sub-committee noted that some concern had been expressed intersessionally arising from the initial estimate made by the Secretariat for an increase in rent on the Red House (the location of the Secretariat) the rent review due in June 2005. The Secretariat had explained that, in fact, the lease on the Red House, which provides for 5-yearly rent reviews, has another 7 years to run and clarified that it now expects the increase in rent from June 2005 to be at the lower range of 5-10% rather than the initial 20% estimated. The current annual rental for the Red House is £69,500 giving an anticipated increase in the range £3,500 - £7,000 in a full year. Nevertheless the initial concern had led to discussion on the future provision of office accommodation at the Commission's Headquarters.

The Sub-committee agreed that it is not too soon to start considering alternatives and had therefore recommended to the Finance and Administration Committee that the Secretariat explore the issue. The Finance and Administration Committee agreed and accordingly **recommends** that the Secretariat explore a range of alternatives, including: (1) continuing to rent the Red House; (2) purchasing the Red House or another suitable property in Cambridge or elsewhere in the UK; (3) relocation of the Secretariat to another member country; and report back to the Budgetary Sub-committee.

5.2.4 Cost and length of Annual Meetings

The Budgetary Sub-committee drew attention to the fact that in the proposed budget for 2003-2004 and in accordance with the requirement to reduce expenditures by 5%, financial provision for IWC/56 is reduced from £307,000 for this year to £300,000 for IWC/56. Noting that although conditions and costs vary considerably from venue to venue, a crude estimate of the daily cost saving available for an Annual Meeting is about £7,000 to £9,000, the F&A Committee **recommends** that the best way to achieve this saving is by reducing the overall length of IWC/56 by one day. It noted that the Secretariat will take this recommendation into account when developing a proposed schedule for IWC/56 for discussion and decision under item 24.1 of the Commission agenda.

The Secretariat again drew the Finance and Administration Committee's attention to the fact that the current financial provisions for Annual Meetings are inadequate to meet the cost of the usual series of meetings if held in the UK.

South Africa felt strongly that the Scientific Committee meeting could not be reduced without damaging the Committee's work. Japan felt equally strongly that it could. Delegations acknowledged the reality of the situation and did not object to reducing the overall meeting period by 1 day. However, there were interventions from delegations who insisted in turn that it was imperative that the reduction not be made from the Scientific Committee, the Working Groups and from the Plenary respectively. In the circumstances the Committee accepted the Chair's advice that it would be prudent to maintain the recommendation as it stands but note the difference of views which exists.

6. SECRETARIAT'S REPORT ON COLLECTION OF FINANCIAL CONTRIBUTIONS

The Secretariat introduced IWC/55/F&A 7 'Secretariat's report on Collection of Financial Contributions' noting that it was primarily an information paper although it was designed to respond to the Commission's agreement last year to provide rather more prominence to an examination of the situation regarding arrears but still within the privacy of a closed meeting. If the Committee determined that any action was appropriate which related to the situation of one or more Contracting Governments it could be carried forward to the private meeting of the Commissioners.

The Secretariat reported that the implementation of the Interim Measure for calculating financial contributions had proceeded without significant difficulties.. No practical difficulties were encountered. A positive effect has been that a greater part of the Commission's revenue now comes from the countries with larger, more developed economies which have established the practice of paying earlier in the annual cycle.

The following gives some measure of the improvement:

Contributions outstanding at 28 February

Financial Year:	2001-2002	2002-2003
	£307,711	£129,505

The Secretariat recalled that the 54th Annual Meeting of the Commission adopted a series of amendments to its Financial Regulations designed to (1) reduce the likelihood of Contracting Governments falling seriously into arrears with their financial contributions; (2) minimise the financial consequences for the IWC if they do; and (3) provide a mechanism by which any Contracting Government with arrears can arrange to repay them over a period and thus secure the lifting of the penalties of interest and suspension of the right to vote which are automatically imposed when arrears occur.

With regard to (1), the benefits of linking more closely the right to vote at Annual or Special Meetings with payment of contributions was proved effective in

connection with the 5th Special Meeting in October 2002, and the risk of losing the right to vote at the 55th Annual Meeting in Berlin appears to have prompted some governments to act more quickly than would otherwise be the case. First indications, therefore, are that the new measures are having the desired effect and should reduce the likelihood of governments falling into arrears.

If the measures do have the intended effect, there will be no need or opportunity to measure the effect of (2).

Any assessment of the effect of (3) must take account of the Commission's further action in Shimonoseki when it decided to apply the new regulations retrospectively for those Governments that had already incurred substantial arrears. Their financial contributions due and the interest accruing have been recalculated from the point at which they first fell into arrears. The debts have thereby been substantially reduced.

Peru, Kenya and Senegal all responded positively to the changes in the regulations. Peru is continuing to pay off its arrears and Kenya and Senegal have indicated that they intend to, although their ability to do so is constrained at the present. The Commission should ultimately benefit not only from the renewed participation of these governments but also from the possibility of recovering more than £300,000 which would otherwise been irrecoverable.

The Secretariat reviewed a statement on Contracting Governments and former members with outstanding contributions and indicated that several of the governments included had indicated that arrangements for payments were in hand. An updated statement would be provided to the private Commissioner's Meeting.

The Secretariat reported that it always tries to maintain contact with all governments with contributions outstanding and had invited them in advance of the 55th Annual Meeting to provide information about their situation and when payment may be expected. In addition, and in accordance with the recommendation of the Finance and Administration Committee last year, the Chair of the Commission has also made 'representations to Governments in arrears ... urging a resolution to the problem'. (*Ann. Rep. int. Whaling Comm., 2003:50, item 20.1*).

The Finance and Administration Committee took note of the report.

7. OTHER MATTERS

7.1 Budgetary Sub-Committee membership

The Chair of the Budgetary Sub-committee reminded members that last year, the Commission adopted a rota for membership of the Budgetary Sub-committee. The Sub-committee recognised that, now that the principle of the rota has been established, its maintenance and revision to take account of further changes in membership of the Commission is essentially administrative and should be undertaken by the Secretariat.

At the same time the Sub-committee identified some difficulties with the operation of the rota as presently constructed and thought the Secretariat should be asked to explore ways of making improvements.

The Finance and Administration Committee accepted these proposals and therefore recommends to the Commission that the Secretariat should undertake the routine maintenance of the rota for membership of the Budgetary Sub-committee and that it should confirm membership of the Sub-committee soon after each Annual Meeting.

The Finance and Administration Committee further **recommends** to the Commission that the Secretariat be asked to review the current rota system with a view to:

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

Norway asked for its proposal for open participation of interested countries in the Budgetary Sub-committee to be reflected in the report.

7.2 Interim Measure for Financial Contributions

The USA made the following statement:

'The USA noted that it does not accept the view expressed by the Secretariat in circular IWC.CCC.296 that the Interim Measure proposal, adopted at the 54th Annual Meeting, is silent with respect to its duration, and that therefore the IWC made no decision with respect to what happens if the IWC fails to adopt a new contributions scheme by 31 August 2005. The USA drew attention to subsection 2 of the 5th paragraph of IWC/54/TF1, and noted that it reads, "any interim measure should be of a temporary nature. In this regard the Task Force considers that any interim measure only be in place for a maximum of three years or until the Commission agrees to the adoption of a new formula, whichever occurs the soonest." The USA then noted that in IWC/54/59, adopted at the IWC's 54th Annual Meeting, paragraph four provides (in part) that one of the main differences between this proposal and the illustrations provided by the Task Force is a two-stage process of redistribution, the first lasting 2 years, the second for a further 1 year. In addition, the last paragraph emphasizes the temporary nature of any interim scheme. The USA further commented that in its view, the plain reading of IWC/54/59 provides for an Interim Measure that is to operate from 1 September 2002 to 31 August 2005, unless the IWC adopts a new contributions formula during this period. The USA emphasized its hope that a new formula is adopted by consensus as soon as possible so the IWC need not reconsider the duration of the measure.'

Japan noted that the USA had expressed its own interpretation regarding the duration of the Interim Measure with which it did not agree. Japan's own interpretation was that the Interim Measure will stand indefinitely until the new formula is agreed as indicated by the Secretary in Circular Communication IWC.CCG.296 of 20 December 2002, the last paragraph of which reads:

'On reflection, since both the Interim Measure proposed by Antigua and Barbuda and Argentina and the Commission was silent with respect to the duration of the Interim Measure, the Secretariat concurs with Antigua and Barbuda that '... the Commission adopted an interim measure without any termination clause'. It follows therefore, that the Commission took no decision with respect to what will happen if the Commission fails to adopt a new contributions scheme by the end of financial year 2004-2005.'

The UK, while tending to support the view of the USA, considered that the most important thing now was to work optimistically to agree a new contributions formula as quickly as possible.

The Chair noted that there were obviously different views on this matter and that the report should reflect this. While not disagreeing with this approach, Switzerland wished to leave open the fact that other countries may share the understanding of the USA but, in response to a question from the Chair, confirmed that it did not wish to re-open the debate. No further discussion took place.

7.3 Invited participants to the Scientific Committee 2003

The Russian Federation indicated that while it did not object to the Scientific Committee addressing the issue of falsification of past catch data from the USSR, it is against the use of IWC funds to support the participation of invited participants who provide non-verifiable data that are not presented for review to the Russian Federation, in the IWC Scientific Committee or in the planned small technical workshop to be held in 2004. It asked that its comments be noted in the report.

8. SUMMARY OF RECOMMENDATIONS RELATED TO FINANCE AND BUDGETS

To summarise, the Finance and Administration Committee recommends to the Commission:

- (a) that the Provisional Financial Statement (Appendix 4) be forwarded to the Commission with a recommendation that it be approved subject to audit;
- (b) that it endorse the Secretariat's suggestion that Commissioners and Contracting Governments which still request circulars and documents in hard copy be asked to review whether this is still necessary and, if it is, to reduce to the minimum the number of copies they have requested;
- (c) that the best way to achieve the required 5% saving in the Annual Meeting budget for 2003-2004 is by reducing the overall length of IWC/56 by one day;
- (d) that for 2004 the NGO fee be set at £570 and the media fee at £30;
- (e) that it forward the proposed budget for 2003-2004 (Appendix 5) to the Commission for its consideration and with a recommendation that it be adopted;
- (f) that the Commission takes note of the Forecast for 2004-2005 (Appendix 5);
- (g) that, in relation to the accommodation of the Secretariat and in view of the fact that the current lease expires in 7 years, the Secretariat should explore a range of alternatives including: (1) continuing to rent the Red House; (2) purchase of the Red House or another suitable property in Cambridge or elsewhere in the UK; (3) relocation of the Secretariat to another member country; and report back to the Budgetary Sub-committee;

(h) that the Secretariat should maintain and revise the Sub-committee membership rota to take account of further changes in membership of the Commission and confirm membership of the Sub-committee soon after each Annual Meeting; that the Secretariat review the current Budgetary Sub-committee membership rota system with a view to: (1) making it more attractive for countries to serve on the Sub-committee; (2)

providing greater continuity; (3) improving the process for selection of the Sub-committee Chair; and (4) reporting back to the next meeting of the Budgetary Sub-committee with recommendations as appropriate.

9. ADOPTION OF REPORT

The report was adopted at 20.20 on 14 June 2003.

Appendix 1

LIST OF PARTICIPANTS

(I) = Interpreter

Antigua & Barbuda

Daven Joseph
Colin Murdoch
Hiram Forde
Sean Cenac

Australia

Conall O'Connell
Pam Eiser
Stephen Powell

Austria

Andrea Nouak

Benin

Bantole Yaba
Joseph Ouake

Brazil

Regis Pinto de Lima
Jose Truda Palazzo Jr.

Denmark

Henrik Fischer
Amalie Jessen
Maj Friis Munk
Kate Sanderson

Dominica

Lloyd Pascal
Andrew Magloire

Finland

Esko Jaakkola

France

Jean-Georges Mandon

Gabon

Guy Anicet Rerambyath
Micheline Schummer Gmandji

Germany

Peter Bradhering
Marlies Reimann

Rudiger Müller

Grenada

Justin Rennie

Republic of Guinea

Amadou Telivel Diallo
Sidiki Diane (I)

Iceland

Stefan Asmundsson
Axel Nikulasson

Ireland

Christopher O'Grady

Italy

Silvia De Bertoldi

Japan

Minoru Morimoto
Masayuki Komatsu
Shuya Nakatsuka
Hidehiro Kato
Dan Goodman
Naohisa Yoshida
Midori Ohta (I)
Akiko Tomita (I)
Hajime Ishitawa

Republic of Korea

Sung Kwon Soh
Dong Yeob Yang
Zang Geun Kim

Mexico

Andres Rozental
Lorenzo Rojas Bracho

Netherlands

Giuseppe Raaphorst
Henk Eggink

New Zealand

Geoffrey Palmer

Mike Donoghue

Al Gillespie
Chris Anderson
Nigel Fyfe

Norway

Odd Gunnar Skagestad
Halvard Johansen
Ove Midttun
Turid Eusébio
Silje Wangen
Hild Ynnesdal
Jørn Pedersen

Oman

Ibrahim Al-Busaidi

Panama

Rogelio Santamaria
Epimenides Diaz

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Evgeny Soldatkin
Aivana Ennyinkaou (I)

Saint Kitts and Nevis

Joseph Simmonds

Saint Lucia

Vaughn Charles
Jeanine Rambally

St. Vincent & the Grenadines

Raymond Ryan

Solomon Islands

Nelson Kile
Sylvester Diake

South Africa

Herman Oosthuizen

Spain

Carmen Asencio
Felix Garrido

Sweden

Bo Fernholm

Switzerland

Thomas Althaus
Martin Krebs

UK

Richard Cowan
Geoffrey Jasinski
Rob Bowman
Jenny Lonsdale
Mark Simmonds
David Stowe

USA

Rolland Schmitt
Michael Tillman

Robert Brownell

Jean-Pierre Plé
Melanie Khanna
Roger Eckert
Chris Yates
Winnie Chan
Nancy Azzam
Gary Rankel

Appendix 2**LIST OF DOCUMENTS**

IWC/55/F&A

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Revised Draft Agenda 2. Use of Simultaneous Translation at Annual Meetings (prepared by the Secretariat) 3. Secretariat's Proposed Amendments to the Rules of Procedure 4. [No document] 5. Report of the Contributions Task Force 6. Report of the Budgetary Sub-committee | <ol style="list-style-type: none"> 7. Secretariat's report on collection of financial contributions 2002-2003 8. Invited Participant to the Scientific Committee 2003 9. Reports of ENB (Earth Negotiation Bulletin) for the Plenary Meetings of IWC 10. Use of Simultaneous Translation at Annual Meetings of the IWC <p>IWC/55/Rep1 (Extracts from the) Report of the Scientific Committee</p> <p>IWC/55/10 Financial Statements</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Appendix 3**AGENDA**

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Appointment of Chair 1.2 Appointment of Rapporteur 1.3 Review of Documents 2. Adoption of the Agenda 3. Administrative matters <ol style="list-style-type: none"> 3.1 Annual Meeting Arrangements and Procedures <ol style="list-style-type: none"> 3.1.1 Verbatim Record 3.1.2 Document submission and distribution 3.1.3 Need for a Technical Committee 3.1.4 Use of simultaneous translation 3.1.5 Other 3.2 Amendments to the Rules of Procedure, Financial Regulations and Rules of Debate <ol style="list-style-type: none"> 3.2.1 Secretariat proposals 3.2.2 Russian Federation proposal to amend the Rules of Procedure 3.2.2 Finance and Administration Committee discussions and recommendations 4. Formula for calculating contributions <ol style="list-style-type: none"> 4.1 Report of the Contributions Task Force 4.2 F&A Committee discussions and recommendations 5. Financial statements and budgets | <ol style="list-style-type: none"> 5.1 Review of the provisional financial statement, 2002/2003 <ol style="list-style-type: none"> 5.1.1 Report of the Budgetary Sub-committee 5.1.2 Secretary's report on the collection of financial contributions 5.1.3 F&A Committee discussions and recommendations 5.2 Consideration of estimated budget 2003/2004 and Forecast 2004/2005, including research expenditure <ol style="list-style-type: none"> 5.2.1 Report of the Budgetary Sub-committee 5.2.2 F&A Committee discussions and recommendations 6. Arrears of financial contributions <ol style="list-style-type: none"> 6.1 Report from the Secretariat 6.2 F&A Committee discussions and recommendations 7. Other matters <ol style="list-style-type: none"> 7.1 Membership rota for the Budgetary Sub-committee 7.2 Interim Measure for Financial Contributions 7.3 Invited Participants to the Scientific Committee 2003 8. Summary of recommendations 9. Adoption of the report |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Appendix 4**PROVISIONAL FINANCIAL STATEMENT 2002-2003**

Income	Approved Budget		Projected Out-turn	
	£	£	£	£
Contracting Government Contributions:		1,177,080		1,279,073
Recovery of arrears		75,800		28,400
Interest on late contributions		0		33,090
Voluntary contributions		0		38,143
UK tax recoverable		33,900		31,500
Staff Assessments		132,900		134,800
Annual Meeting attendance fees		54,700		60,200
Sales (IWC and Sponsored Publications)		30,000		18,000
Bank Interest		41,800		41,000
Sundry income		0		400
		1,546,180		1,664,606
Expenditure				
Secretariat	968,200		937,700	
Annual Meeting	307,000		307,000	
Commissioners Meeting (RMS)	17,000		29,000	
5th Special Meeting of the Commission				
Other Meetings				
IWC & Sponsored Publications costs	69,400		60,750	
Research	243,445		323,456	
Small Cetaceans	7,600		24,935	
	1,612,645		1,682,841	
Provisions				
Severance Pay	-31,858		-29,900	
Unpaid contributions	0		68,250	
Unpaid interest			25,482	
		1,580,787		1,746,673
Excess of expenditure over income		-34,607		-82,067
Net Transfers from or to (-):				
Sponsored Publications Fund		10,850		8,000
Small Cetaceans Fund		7,250		-6,865
Research Fund		55,422		125,593
Surplus/Deficit (-) for the year after transfers		38,915		44,661

Appendix 5**APPROVED BUDGET 2003-2004 AND FORECAST 2004-2005**

See Annex K of Chair's Report

Appendix 6**APPROVED RESEARCH BUDGET FOR 2003-2004 AND FORECAST BUDGET FOR 2004-2005**

See Annex L of Chair's Report

Appendix 7

PROVISIONAL FINANCIAL CONTRIBUTIONS 2003-2004¹

		B/fwd from 'old' scheme	Group	% reduction	£ reduction	Add-on			Contrib. £
						Group	Whaling	Total	
1	Antigua and B.	20,460	1	50	-10,230	0	0	0	10,230
2	Argentina	20,460	2	25	-5,115	0	0	0	15,345
3	Australia	27,280	3	0	0	4,808	0	4,808	32,088
4	Austria	20,460	3	0	0	4,808	0	4,808	25,268
5	Benin	20,460	1	50	-10,230	0	0	0	10,230
6	Brazil	27,280	2	25	-6,820	0	0	0	20,460
7	Chile	20,460	2	25	-5,115	0	0	0	15,345
8	China, P.R of	20,460	2	25	-5,115	0	0	0	15,345
9	Costa Rica	13,640	2	25	-3,410	0	0	0	10,230
10	Denmark	40,920	3	0	0	4,808	4,007	8,815	49,735
11	Dominica	20,460	1	50	-10,230	0	0	0	10,230
12	Finland	20,460	3	0	0	4,808	0	4,808	25,268
13	France	20,460	4	0	0	24,041	0	24,041	44,501
14	Gabon	20,460	1	50	-10,230	0	0	0	10,230
15	Germany	27,280	4	0	0	24,041	0	24,041	51,321
16	Grenada	20,460	1	50	-10,230	0	0	0	10,230
17	Guinea	20,460	1	50	-10,230	0	0	0	10,230
18	Iceland	34,100	3	0	0	4,808	0	4,808	38,908
19	India	20,460	2	25	-5,115	0	0	0	15,345
20	Ireland	20,460	3	0	0	4,808	0	4,808	25,268
21	Italy	27,280	4	0	0	24,041	0	24,041	51,321
22	Japan	75,020	4	0	0	24,041	4,007	28,048	103,068
23	Kenya	20,460	2	25	-5,115	0	0	0	15,345
24	Korea, Rep of	27,280	2	25	-6,820	0	0	0	20,460
25	Mexico	20,460	2	25	-5,115	0	0	0	15,345
26	Monaco	20,460	3	0	0	4,808	0	4,808	25,268
27	Mongolia	20,460	1	50	-10,230	0	0	0	10,230
28	Morocco	20,460	2	25	-5,115	0	0	0	15,345
29	Netherlands	27,280	3	0	0	4,808	0	4,808	32,088
30	New Zealand	34,100	3	0	0	4,808	0	4,808	38,908
31	Nicaragua	20,460	1	50	-10,230	0	0	0	10,230
32	Norway	54,560	3	0	0	4,808	4,007	8,815	63,375
33	Oman	20,460	2	25	-5,115	0	0	0	15,345
34	Palau	20,460	1	50	-10,230	0	0	0	10,230
35	Panama	20,460	1	50	-10,230	0	0	0	10,230
36	Peru	20,460	2	25	-5,115	0	0	0	15,345
37	Portugal	20,460	3	0	0	4,808	0	4,808	25,268
38	Russian Fed.	34,100	2	25	-8,525	0	4,007	4,007	29,582
39	St Kitts and N.	20,460	1	50	-10,230	0	0	0	10,230
40	Saint Lucia	27,280 ²	1	50	-13,640	0	0	0	13,640
41	St Vincent & G.	34,100	1	50	-17,050	0	4,007	4,007	21,057
42	San Marino	20,460	3	0	0	4,808	0	4,808	25,268
43	Senegal	20,460	1	50	-10,230	0	0	0	10,230
44	Solomon Is.	20,460	1	50	-10,230	0	0	0	10,230
45	South Africa	20,460	2	25	-5,115	0	0	0	15,345
46	Spain	20,460	3	0	0	4,808	0	4,808	25,268
47	Sweden	27,280	3	0	0	4,808	0	4,808	32,088
48	Switzerland	20,460	3	0	0	4,808	0	4,808	25,268
49	UK	34,100	4	0	0	24,041	0	24,041	58,141
50	USA	47,740	4	0	0	24,041	4,007	28,048	75,788
		1,275,340	After re-distribution		-240,405	216,366	24,042	240,408	1,275,343

¹An information document describing the method of financial calculation for financial contributions using the Interim Measure adopted at IWC/54 will be distributed at IWC/55.

²The Financial Contribution for Saint Lucia under the column "B/fwd from old scheme" should have been stated as £20,460 and not £27,280 as shown in the table.

Appendix 8

USE OF SIMULTANEOUS TRANSLATION AT ANNUAL MEETINGS OF THE INTERNATIONAL WHALING COMMISSION

Submitted by Antigua and Barbuda

At the private Commissioners meeting at IWC/54 in Shimonoseki, while recognising that English remains the official language of the Commission, it was agreed that the use of simultaneous translation should be explored to improve communication at annual meetings. As noted, the system is currently one of consecutive translation.

Document IWC/55/F&A 2, provided by the Secretariat, discussed implications for the provision of technical facilities only leaving the cost of the more expensive task of engaging and paying for interpreters to be the responsibility of the delegations requiring them.

The composition of the IWC is becoming more diverse in character as more nations for whom English is not their primary language adhere to the Convention. This has led to a multiplicity of languages, and will continue to do so, placing on the organisation a greater need to accommodate the requirements of member nations for whom English is a second language.

Therefore, it is pivotal to the complete participation of members for whom English is a second language for the IWC to facilitate understanding of the many issues communicated at its meetings through the provision of simultaneous and document translation. It must be an obligation that the Commission must fulfil in order for all of its members to be able to comprehend in an efficient manner the procedures and the decisions it makes.

Requirements

In light of discussions during the IWC/55 Finance & Administration Committee meeting in Berlin, various member countries expressed the need for simultaneous and document translation, including the associated technical facilities and interpreter services. As an international organization, the IWC is obligated to provide this basic requirement for its membership.

Some member countries proposed that the IWC establish a working group to further explore the administrative, budgetary and operational implications for the provision of simultaneous translation and

document translation. The terms of reference for such a proposed working group are outlined below. It is envisaged that the working group would meet and finalise recommendations during the 56th Annual meeting of the IWC and submit a report to the F&A Committee at that meeting.

Terms of Reference

The working group shall consider and make recommendations on how simultaneous translation and document translation may be implemented at the IWC to accommodate the needs of contracting parties for whom English is a second language. This shall include the following tasks:

- (a) A review of the costs as set out in document IWC/55/F&A 2 and consider how these costs could be borne by 1) the regular budget (via user fees, etc) or 2) by host countries;
- (b) Recommend options, scope and timetable for the implementation of simultaneous translation and document translation;
- (c) Determine which languages should be included for simultaneous translation and document translation (French, Spanish, Russian, Japanese);
- (d) Determine how other similar international organisations operate and fund such facilities and/or services (CITES, etc);
- (e) Solicit responses from member states on this issue and conduct a detailed assessment of those responses; and
- (f) It is recommended that all effort be made to provide simultaneous translation on a trial basis in the language of Spanish and French at the 56th Annual Meeting of the IWC.

While open to any IWC contracting party, this working group ideally shall remain small. It would conduct its work by email correspondence, being mindful of the budgetary constraints of the organization.

Annex J

Resolution 2003-4 Adopted during the 55th Annual Meeting

Resolution 2003-4

USE OF SIMULTANEOUS INTERPRETATION AT ANNUAL MEETINGS OF THE INTERNATIONAL WHALING COMMISSION

RECOGNISING that the composition of the IWC is becoming more diverse in character as more nations for whom English is not their primary language adhere to the Convention, and that this has led to a multiplicity of languages placing on the organisation a greater need to accommodate the requirements of all of its members, including nations for whom English is a second language;

AWARE that the Commissioners, at IWC54 in Shimonoseki, recognised that English remains the official language of the Commission, and that the use of simultaneous interpretation should be explored to improve communication at annual meetings;

NOTING that the current system used by several Commissioners is currently one of consecutive interpretation;

CONSIDERING that document IWC/55/F&A 2, provided by the Secretariat, discusses implications of the provision of technical facilities only, leaving the cost of the more expensive task of engaging and paying for interpreters to be the responsibility of the delegations requiring them;

AWARE that the cost of providing technical facilities required would be significant;

NOTING that during F&A Committee meetings at IWC55, various contracting parties expressed, with emphasis, the need for simultaneous interpretation, including the associated technical facilities and interpreter services;

CONSCIOUS of subsequent bilateral consultations between individual Contracting Governments underscoring their desire for document translation;

MINDFUL that the complete participation of members for whom English is a second language is possible only through full understanding of the many issues communicated at annual meetings, such understanding

being possible only through a mechanism of interpretation; and

RECALLING that some member countries proposed that a Working Group be established to further explore the administrative, budgetary and operational implications for the provision of technical components for simultaneous interpretation.

THE COMMISSION THEREFORE NOW DECIDES

To establish a Working Group aiming at exploring the various implications for the provision of technical components for simultaneous interpretation;

That the Working Group shall consider and make recommendations on how provision of technical components for simultaneous interpretation may be provided at the IWC to accommodate the needs of contracting parties for whom English is a second language;

That this Working Group will be guided by the following Terms of Reference:

- (a) To review and consider the costs as set out in document IWC/55/F&A 2 and to identify ways in which these costs could be apportioned or reduced;
- (b) To recommend options and scope for the provision of technical components for simultaneous interpretation;
- (c) To determine the operations and costs of other international organizations providing such components; and
- (d) To consult with member states on these issues.

That the Working Group, while open to any IWC contracting party, shall ideally remain small, conduct its work by email correspondence in order to limit expenditures, and submit its recommendations to the F&A Committee prior to the 56th Annual Meeting.

Annex K

Budget for 2003-2004 and Forecast Budget for 2004-2005

INCOME AND EXPENDITURE ACCOUNT

	Proposed Budget 2003-2004		<i>Forecast Budget 2004-2005</i>	
	£	£	£	£
Income				
Contracting Government Contributions:		1,274,000		1,323,872
Recovery of Arrears		28,400		0
Interest on late contributions		0		0
Voluntary contributions		16,000		0
UK tax recoverable		18,730		20,600
Staff Assessments		130,600		140,500
Annual Meeting attendance fees		60,200		66,100
Sales (IWC and Sponsored Publications)		16,600		18,900
Bank Interest		40,000		41,000
Sundry income		0		0
		<u>1,584,530</u>		<u>1,610,972</u>
Expenditure				
Secretariat	907,300		953,700	
Annual Meeting	300,000		307,000	
Other Meetings	0		0	
IWC & Sponsored Publications costs	50,200		52,500	
Research	231,073		241,342	
Small Cetaceans	23,000		10,892	
	<u>1,511,573</u>		<u>1,565,434</u>	
Provisions				
Severance Pay	32,500		32,600	
Contributions cancelled	36,750		19,300	
Unpaid interest	0		0	
	<u>0</u>		<u>0</u>	
		<u>1,580,823</u>		<u>1,617,334</u>
Surplus of income over expenditure		3,707		-6,362
Net Transfers from or to (-):				
Sponsored Publications Fund		-2,280		-6,365
Small Cetaceans Fund		6,600		10,727
Research Fund		11,727		6,196
Surplus/Deficit (-) for the year after transfers		<u>19,754</u>		<u>4,196</u>

Annex L

Approved Research Budget for 2003-2004 and Forecast Budget for 2004-05

RESEARCH EXPENDITURE 2003-2004

	Proposed Budget 2003-2004	<i>Forecast Budget 2004-2005</i>
<i>Continuing Projects and Contracts:</i>		
SC		
Greenland Research programme	4,052	
AWMP Intersessional Workshop	5,025	
Invited participants	30,000	21,000
Contract 14 Analysis support - rolling contract	10,000	33,600
Contract 16 - SH Humpback catalogue	5,100	5,250
AS		
Developer's Fund	8,400	8,600
<i>Sub-total</i>	62,577	68,450
<i>New Work commencing 2003-2004/2004-2005</i>		
IA		
SOWER cruise	80,000	}
Minke abundance estimates	8,000	}
SD		
TOSSM project	9,500	}
BC		
FAO fisheries statistics	800	}
E		
SO-GLOBEC	25,000	} 171,342
Pollution 2000+	25,000	}
SAN		
SOS review	7,000	}
SC		
Catch data	2,300	}
<i>Sub-total</i>	157,600	}
Sundry expenditure	1,700	1,550
Provision against overruns	9,196	
Total	231,073	241,342
 Designated Items brought forward:		
AS		
Greenland Research programme	13,948	0
AWMP Intersessional Workshop	6,975	0
<i>Sub-total</i>	20,923	0
Cash outlay from brought forward and current funds	242,800	

Annex M

Catches by IWC Member Nations in the 2002 and 2002/2003 Seasons

	Fin	Humpback	Minke	Sperm	Bowhead	Gray	Sei	Bryde's	Operation
North Atlantic									
Denmark									
(West Greenland)	13	2 ¹	139 ²	-	-	-	-	-	Aboriginal subsistence
(East Greenland)	-	-	10	-	-	-	-	-	Aboriginal subsistence
Norway	-	-	634 ³	-	-	-	-	-	Whaling under Objection
St. Vincent & the Grenadines	-	2	-	-	-	-	-	-	Aboriginal subsistence
North Pacific									
Japan	-	-	150	5	-	-	39	50	Special Permit
Korea	-	-	1 ⁴	-	-	-	-	-	
Russian Federation	-	-	-	-	3 ⁵	131	-	-	Aboriginal subsistence
USA	-	-	-	-	50 ⁶	-	-	-	Aboriginal subsistence
Antarctic									
Japan	-	-	440	-	-	-	-	-	Special Permit

¹Denmark reported that 2 humpbacks were killed after being injured in rifle hunts; ² Including 5 struck and lost; ³Including 9 struck and lost;

⁴The Republic of Korea reported that a minke whale had been deliberately taken using a small hand-held harpoon; ⁵Including 1 struck and lost;

⁶Including 11 struck and lost.

Annex N

Amendments to the Schedule Adopted at the 55th Annual Meeting

(changes in *bold italics*)

Paragraphs 11 and 12, and Tables 1, 2 and 3:

Substitute the dates ***2003/2004*** pelagic season, ***2004*** coastal season, ***2004*** season, or ***2004*** as appropriate.

Chair's Report of the 5th Special Meeting

Chair's Report of the 5th Special Meeting: Contents

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Chair's Report of the 5th Special Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 5th Special Meeting of the International Whaling Commission (IWC) took place on 14 October 2002 at the DeVere University Arms Hotel, Cambridge, UK, under the Chairmanship of Prof. Bo Fernholm (Sweden). A list of delegates and observers attending the meeting is provided in Annex A.

1.2 Welcome and meeting arrangements

The Chair welcomed delegates to the meeting. He explained that the Special Meeting was being held at the request of the USA and the Russian Federation to address a proposed Schedule amendment regarding the aboriginal subsistence hunt of bowhead whales from the Bering-Chukchi-Beaufort Seas stock and that he had granted the request following consultation with Contracting Governments. He noted that the initial purpose of meeting in Cambridge was for a private meeting of Commissioners/Alternate Commissioners to discuss the Revised Management Scheme (RMS) and hoped that the business of the Special Meeting could be dealt with efficiently in order to proceed quickly to the RMS meeting.

Referring to its opening statement, Norway considered that the Special Meeting had been called in contravention of Rule of Procedure F.2(d) which states that a provisional agenda should be circulated at least 100 days in advance. It noted that it would participate in this Special Meeting, but wished to alert the Chair to the possibility that the Norwegian government might wish to reserve its position as to the validity of any decisions the meeting might make. In response, the Chair referred to the circulation to Contracting Governments of letters from the Norwegian and New Zealand Commissioners on this issue, and his own letter referring to the ambiguity of the Rules of Procedure. He indicated that he intended to ask the Secretary to try to clarify the rules pertaining to Special Meetings and to develop a paper for review at the next Annual Meeting.

1.3 Opening statements, credentials, voting rights and Iceland's adherence

1.3.1 Credentials and voting rights

The Secretary reported that the credentials of most Contracting Governments were in order; that one or two may have some technical deficiencies; and that since some had arrived only immediately prior to the meeting, the Secretariat had not had sufficient time to vet them properly. She noted therefore that there might be a few issues outstanding regarding credentials. The Secretary also reported that voting rights were suspended for Argentina, Costa Rica, India, Italy (but see below), Kenya, Morocco and Senegal, and that when voting commenced, she would call on the Solomon Islands first.

In view of the need to further examine some credentials, the Chair established a credentials committee comprising Australia, Japan and the Secretary. The meeting adjourned to allow the committee to meet. On resumption, the Secretary reported that the credentials of all Contracting

Governments participating in the meeting were acceptable. She also reported that, during the break, the financial contribution of Italy had been received and that Italy's voting rights had therefore been restored.

1.3.2 Adherence of Iceland

The Chair referred to the Secretariat's Circular Communication of 11 October 2002, informing Contracting Governments that on 10 October 2002, Iceland had deposited an instrument of adherence to the Convention. He invited the USA as Depository Government to provide an update on this adherence.

The USA confirmed the date of deposition of an instrument of adherence to the Convention and reported that the instrument of adherence 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

and further states that:

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 USA also reported that the instrument of adherence states that the reservation is an integral part of the instrument.

Since the Commission had acted on this matter previously, the USA as Depository Government had notified the Secretariat of the receipt of Iceland's instrument of adherence and provided copies of Iceland's Diplomatic Note and information on its instrument of adherence. The USA in its role as Depository, did not express an opinion on the status of Iceland's membership pending consideration of the matter by the Commission. It considered that its approach constituted the most neutral course of action given all the circumstances of this case.

The Chair noted that the Commission would need to decide on whether the instrument of adherence is acceptable. He recalled the two procedures that had been followed by the Commission when discussing previous reservations by Iceland, i.e. one at IWC/53 in London and one at IWC/54 in Shimonoseki¹. Considering that a new

¹ At IWC/53, Iceland's membership was determined by the following Chair's rulings: (1) the Commission has the competence to determine the legal status of Iceland's reservation (19 votes in favour, 18 against, one abstention); (2) the Commission does not accept Iceland's reservation regarding paragraph 10(e) of the Schedule (19 votes in support, none against); (3) Iceland is invited to assist as an observer (18 votes in support, 16 against, 3 abstentions).

At IWC/54, the Chair noted that since the new instrument of adherence contained the same reservation as the previous year, the status of Iceland's membership remained governed by last year's decisions. He felt bound by these decisions unless and until the Commission decided otherwise. He therefore ruled that the status of Iceland was as agreed at IWC/53. His ruling was carried (25 votes in support and 20 against).

instrument of adherence had been deposited by Iceland, it was the Chair's opinion that the procedure followed in London should be followed again on this occasion, i.e. to address the competency issue first.

On a point of order, Australia indicated that it considered Iceland to be an observer. It noted that the decision at IWC/53 was that the Commission would not accept a reservation to paragraph 10(e) and that this had been upheld at IWC/54. Australia considered that the latest instrument of adherence did not change this position since it contained the same reservation and an accompanying additional declaration of the same nature. Australia considered there were no grounds to do anything other than to reaffirm the previous ruling and was asking for consistency in the approach to this issue. It was mindful of the importance of this issue for the general good health of multilateral environment and natural resource management agreements in which the capacity to enter/re-enter Conventions with reservations to critical parts would be important.

Mexico endorsed the comments of Australia. It considered that the meeting should follow the procedure used in Shimonoseki and not that used in London. Mexico asked whether the USA as Depository considered the new instrument of adherence to contain a different reservation to those contained in previous instruments of adherence deposited prior to the London and Shimonoseki meetings. Brazil also supported Australia's comments and, like Mexico, considered that clarification was needed on the extent to which the new instrument of adherence differs from earlier ones to justify a new decision from the Commission. Ireland considered that the matter had already been decided in London. Germany, Spain, Chile, UK and the Netherlands associated themselves with these earlier remarks. The Netherlands believed that it is an important legal matter when a country, as in the case of Iceland, has accepted the provision of Schedule paragraph 10(e) while being a member of IWC, leaves IWC and then returns with a reservation to a provision it had previously accepted. New Zealand believed that the procedure followed in Shimonoseki should be taken. It noted that it would welcome Iceland as a member but only on the same basis as all others, i.e. without any reservations other than those entered within the strict provisions of the Convention. New Zealand also stated: (1) its willingness to work constructively and co-operatively with all to resolve this issue; and (2) the importance it attached to processes for resolving differences that preserved the effectiveness and integrity of the IWC. Argentina considered that the discussion on Iceland's adherence should be held under the item on 'Other Matters' since it was not included on the agenda.

Denmark and Sweden agreed with the Chair's view that a new instrument of adherence had been deposited and supported his proposal on how to proceed. Norway disagreed with Australia, considered Iceland to be a member and while supporting the Chair's proposal as a way to move forward, noted that its position is that the Commission has no competence to decide on this matter. Referring to Article X of the Convention, Iceland considered it was clear that there is a new instrument of adherence. It noted that Contracting Governments having a problem with this could raise their concerns and that this would then lead the meeting to address whether the Commission has the competence to address this issue.

Iceland's position was that the Commission does not have competence and that under international law it is up to individual States to object, as has happened with previous reservations. Antigua and Barbuda supported this view and accepted Iceland's membership. It considered that this matter had gone on for too long without reaching a conclusion. It supported the view that the meeting deliberate immediately on the question of competence, and that if this could not be resolved, proposed that the IWC urgently seek competent and neutral legal advice on the matter. Japan, Sweden, Dominica, the Republic of Guinea, the Russian Federation, Benin, St. Lucia and the Republic of Korea associated themselves with the remarks of Denmark and others.

Norway considered that Article X, items 3 and 4 of the Convention provided the legal obligation to accept Iceland's membership. In addition to legal considerations, Norway thought it also necessary to look at the practical consequences for the Commission of the continued, and in its view, unlawful refusal to let Iceland assume its rightful place as a full-fledged member of the IWC. It considered that the lack of a timely and just solution to this situation: (1) has a detrimental effect on the Commission's working atmosphere and on its ability to conduct its business in an orderly way; and (2) is damaging to the reputation and credibility of the Commission itself.

Since there was no consensus on how to treat the matter either procedurally or legally, the Chair ruled that the procedure used at IWC/53 in London should be followed (see footnote 1).

On a point of order, Mexico noted that the meeting was dealing with two separate issues, one being the issue of competency and the other the issue of Iceland's adherence. Mexico considered they should be dealt with separately. In its view, the decision on competency taken in London was applicable to any adherence, not just that of Iceland and that therefore the Commission should now address the issue of Iceland's membership.

Australia requested a ruling on its earlier point of order regarding its view that Iceland should be treated as an observer. The Chair noted that after consultation with the Secretariat and the Vice-Chair, he considered that Australia's point of order was not appropriate since the invitation to Iceland to assist as an observer was always disputed. He explained that he was trying to decide on the procedure to be followed at this meeting, and that to this end he had ruled on a procedural matter, i.e. that he intended to follow the procedure used in London since he considered Iceland's latest instrument of adherence to be a new instrument. He added that his ruling could, of course, be challenged. Australia reiterated its view that a decision on competence had already been taken in London and that in Shimonoseki, Iceland's status as an observer was confirmed. It again asked for confirmation of its point of order, i.e. that Iceland's status remains the same since there is no substantial change in its new instrument of adherence. The Chair indicated that he would not rule on Australia's point of order, and repeated his earlier ruling, i.e. that he would follow the London procedure. Norway recalled that the Chair had made his ruling, restated it, and indicated that he would proceed unless his ruling was challenged. As no such challenge had been forthcoming, Norway considered that the Chair should proceed. Mexico indicated that there had been no ruling on its earlier point of order. The Chair believed that no ruling was necessary in this case since, as

suggested by Mexico, he intended to treat the issues of competency and adherence separately. In response to a request by the Chair to comment on how it viewed the latest instrument of adherence from Iceland, the USA, as Depository, reiterated its earlier remarks that it had circulated the instrument of adherence without expressing an opinion. Finally, while indicating that it would welcome Iceland as a member without its reservation, Brazil challenged the Chair's ruling because in its view there was nothing new in the substance of the adherence and it considered that the issue of competency had already been decided. Iceland wished to correct the Chair's description of the London procedure. It considered that the London procedure did not necessarily start with voting on the competence issue, since at that meeting, Iceland was treated as a member until a Contracting Government moved to have it treated otherwise. Iceland considered the same applied to this meeting. It noted that the Chair had been treating Iceland as a new member, that it was listed as a member government and that it had paid its financial contribution as requested.

The challenge to the Chair's ruling was then put to a vote. There were 21 votes in support of the challenge and 16 against. The Chair's ruling was therefore defeated. Antigua and Barbuda explained that it had supported the challenge to the Chair's ruling because the latest instrument of adherence from Iceland has nothing to do with what happened in London and thus the procedure followed in London did not apply. It considered that the Commission should have immediately addressed whether it has competence to decide on Iceland's membership. Dominica had supported the challenge for the same reason.

The UK suggested that the consequence of the defeat of the Chair's ruling was that the Commission should follow the procedure used in Shimonoseki and made a formal proposal to this effect. The Chair proposed to put this to a vote immediately. Norway challenged the ruling of putting the UK's proposal to a vote immediately on the grounds that the Commission did not have the competence to make a decision on such a matter. Norway's challenge to the Chair's ruling was defeated when put to a vote, there being 18 votes in support of the challenge and 18 against.

The Chair then ruled as he had in Shimonoseki, i.e. that since Iceland's new instrument of adherence contained the same reservation, but with an additional declaration: (1) the position remains governed by the decisions at IWC/53 and IWC/54 (IWC has competence to determine the legal status of Iceland's reservation; the Commission does not accept Iceland's reservation; and Iceland is invited to assist as an observer); and (2) as Chair he felt bound by these decisions unless and until the Commission decides otherwise.

Antigua and Barbuda challenged this ruling. It did not believe that the Commission should be voting on a procedure used at the last meeting, but rather on the competence of the Commission to decide on Iceland's membership. However, the Chair indicated that the competency issue had already been voted on and the issue now was his ruling that the procedure used in Shimonoseki should again be followed. Norway did not agree that there had been a vote on competence, only on procedures. Dominica considered the Chair's ruling to be illegal. Given the Chair's ruling, the UK considered that it was implicit in any votes taken in respect to it, that Iceland should have no vote since the Chair's ruling stands until it is defeated. It asked for clarification on this matter. The Chair agreed

with the UK's view and asked the Secretary to proceed with a vote on Antigua and Barbuda's challenge to his ruling. He indicated that Iceland would not be called on to vote in accordance with the procedure followed in Shimonoseki.

On a point of order, Antigua and Barbuda questioned why, when the meeting had not yet accepted the Shimonoseki decision, Iceland would not be allowed to vote. Sweden strongly took the view that until the IWC had made a definitive decision, Iceland, by virtue of its new instrument of adherence, is entitled to participate in the vote. Antigua and Barbuda believed that before voting on the challenge to the Chair's ruling there must first be a vote on whether Iceland would be able to participate in that vote. Acknowledging that Iceland had been allowed to participate in the voting so far, the Chair considered that it might therefore be fair to allow them to participate in this vote as well. Australia commented that the Chair had made a ruling that Iceland is an observer in view of past decisions, that this ruling had been challenged, that therefore Iceland should not be allowed to participate in the vote on the challenge and that the Commission should proceed immediately to a vote. Iceland questioned whether Australia was challenging the Chair's ruling that Iceland would have the right to vote, in which case there would need to be a vote on that. Ireland noted that the Chair had made a ruling that the previous decision regarding Iceland stands and that since this ruling had been challenged it should go to a vote. The meeting was adjourned for lunch.

On returning to the meeting, the Chair summarised the status of discussions prior to the break, i.e. that he had ruled along the lines he had in Shimonoseki, that this ruling had been challenged and that it should therefore be put to a vote. He noted, however, that different views had been expressed on whether Iceland should be allowed to participate in such a vote and that a decision on this needed to be taken. Noting that having listened to the different views expressed, he ruled that Iceland should be allowed to participate in the vote. Mexico challenged this ruling. Iceland, Norway and Sweden again raised the issue of competency. Sweden re-iterated its view that Iceland is a fully-fledged IWC member with all voting rights. It considered that the issue of competency should be dealt with first. In response, the Chair indicated that he had already tried to do this with his first ruling, which was defeated. Ireland understood that the meeting had earlier addressed the question of how to proceed, and that the Chair had ruled that the decisions taken at IWC/53 and IWC/54 would be upheld. Ireland considered that the issue of competency had been dealt with at that time, and that the Chair had now made another ruling that should be put to a vote. Denmark agreed with the Chair that the first vote was to follow the same procedure used at IWC/53 in London, i.e. to vote first on competence and then, depending on the outcome, perhaps proceed to a vote on substance. Denmark noted with regret that this ruling had been defeated. It further noted the subsequent rulings and challenges and believed that the best course of action was for governments to be co-operative and to proceed with a series of votes that would lead the meeting out of the problem. The Republic of Guinea questioned whether, if the meeting votes on the right of Iceland to participate in the voting, what would happen to the votes taken previously. The Chair indicated that these votes would stand.

Mexico's challenge to the Chair's ruling that Iceland be allowed to vote was defeated when finally put to a vote, there being 18 votes in support of the challenge and 18 against. Sweden explained that it had abstained since, in its view, Iceland has the right to vote until the Commission decides otherwise.

The Chair then asked the Secretary to proceed with the vote on the challenge made by Antigua and Barbuda to his ruling that the decisions at IWC/53 and 54 be upheld. On a point of clarification, Iceland pointed out that this vote involved the issue of competence and that anyone supporting the Chair's ruling also supported the view that the Commission has the competence to decide the issue of Iceland's membership. Antigua and Barbuda supported this view. On being put to a vote, the challenge to the Chair's ruling was upheld, there being 19 votes in support and 18 against. Sweden, who voted in support of the challenge to the Chair's ruling, noted that there had been a number of procedural votes and explained that throughout it had voted according to its legal analysis of the situation. It made a formal declaration regarding Iceland's reservation that included the view that the reservation raised serious doubts as to Iceland's commitment to the object and purpose of the Convention. It would therefore consider seriously making a formal objection regarding Iceland's reservation to Schedule paragraph 10(e).

In view of the outcome of the vote, Ireland noted that the Commission had voted to accept Iceland as a member with its reservation. It indicated that it would submit a formal objection on a bilateral basis. It welcomed Iceland as a member and recommended that the meeting proceed to the rest of its business. Brazil regretted the outcome and several points in the procedures followed. It accepted that there was no other possibility but to proceed via a series of votes, but it considered it incorrect to allow Iceland to vote in a vote that was basically upholding previous decisions. As such, it considered that the outcome of the vote had been seriously undermined since Iceland was voting in its own interest. Norway considered this normal. Mexico associated itself with the views of Brazil. It also challenged the right of Iceland to vote on the Chair's ruling and considered it illegal. However, Mexico noted that a decision had been taken on this issue and that it would abide by it. It wished to put on the record Mexico's objection to Iceland's reservation.

Australia also registered its objection to Iceland's reservation and to Iceland being allowed to vote on the matter. Monaco indicated that it had voted consistently against Iceland adhering with its reservation and noted that it would object formally on a bilateral basis. However, it indicated that it would abide by the collective decision of the Commission and welcomed Iceland as a member. New Zealand regretted the decision that had just been made and considered that this had opened up a procedure that would enable countries once bound by a treaty to leave the organisation then to return making reservations to whatever they find objectionable. The implications not only for the integrity of the International Convention for the Regulation of Whaling, but for all multilateral environmental agreements was of grave concern to New Zealand. It associated itself with the views of Brazil, Mexico, Australia and others and would take appropriate steps to register its objection to the procedures taken. It wished to place on record its concern and objection to the fact that Iceland was

allowed to vote on these particular issues at this meeting, while recognising that a decision was made to the contrary. Italy objected strongly to the adherence of Iceland with a reservation and to Iceland being allowed to participate in a vote involving itself. The UK indicated that it would be bound by the decision but considered it unfortunate that Iceland had been allowed to vote. It noted that it would object formally to Iceland's reservation. Recognising the decision by the Commission and Iceland as a member, the UK hoped to work constructively with Iceland. The Netherlands welcomed Iceland with whom it hoped to work co-operatively. It noted however that it would object formally to Iceland's reservation, and associated itself with the views of New Zealand concerning the implications for multilateral agreements. Because of this, the Netherlands proposed that a legal committee should look into this matter for future reference. France indicated that it would object formally to Iceland's reservation. The USA noted that its difficulty was not with Iceland but with its reservation and the precedent it sets. However, now that the Commission had taken this decision, it expected that Iceland would be a constructive participant in IWC discussions. The USA looked forward to working with Iceland in a positive manner, particularly on the Revised Management Scheme. It hoped that Iceland would not authorise whaling unless and until the IWC lifts the moratorium on commercial whaling.

Dominica welcomed Iceland back to the IWC and congratulated the Commission in reversing some decisions it had taken at IWC/53 and IWC/54 that in its view were illegal. It again stressed that, in its view, the Commission never had the competency to decide on the status of Iceland's membership. St. Lucia associated itself with these remarks. Norway commented that since IWC/53, the Commission had been faced with an unusually destructive and embarrassing situation, threatening to make IWC even more dysfunctional than before. It was therefore happy to be able to congratulate the Commission for extricating itself from this situation and looked forward to the Commission being able to conduct its business in a normal and orderly way. Japan expressed similar sentiments. Denmark welcomed Iceland as a member and indicated it would not object to its reservation. Antigua and Barbuda thanked countries for supporting its challenge to the Chair's ruling and noted that the organisation had reverted to the rule of international law. China noted that it had always supported Iceland as a full member with its reservation. Morocco protested against the way the whole Iceland issue had been handled from the start and remarked that the Commission needed to change the way such matters are handled.

While Iceland acknowledged the sovereign right of countries to object to its reservation on a unilateral basis, it urged countries not to do so since it did not consider the reservation to be against the object and purpose of the Convention.

2. ADOPTION OF THE AGENDA

The Chair noted that in addition to addressing the Schedule amendment proposed by the USA and Russian Federation regarding the aboriginal subsistence hunt of bowhead whales from the Bering-Chukchi-Beaufort Seas stock, he had also agreed to the request from Japan to include on the agenda an item related to Japanese coastal whaling.

Mexico indicated that it had agreed to the Special Meeting to resolve the issue of catch limits for the USA/Russian Federation aboriginal subsistence hunt, an item outstanding from IWC/54. It was surprised that the Chair had agreed to the request of Japan and could not agree to the inclusion of an item on Japanese coastal whaling on the agenda. It therefore reserved its right not to be bound or to recognise any decisions taken by the Commission on this issue.

Referring to a motion it had submitted (IWC/SPEC.02/5) proposing that agenda Items 3 (aboriginal subsistence catch limits) and 4 (interim allocation for Japanese coastal whaling) be amalgamated, Norway informed the meeting that after consultations with the Chair and several delegations it had decided to withdraw the motion in a spirit of constructive co-operation.

The Netherlands indicated that under Item 5 (other matters) it wished to introduce a proposal on future work on how the Commission might deal with legal issues.

There being no further comments, the agenda was adopted (Annex B).

3. ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

3.1 Proposed Schedule amendment

Prior to addressing the proposed Schedule amendment the USA and the Russian Federation made the following introductory statements.

USA

The United States and the Russian Federation would like to sincerely thank all IWC member countries, the Chairman of the Commission, and the IWC Secretariat for making possible this Special Meeting of the IWC to consider the joint United States/Russian request for an aboriginal subsistence quota for bowhead whales for Alaskan Eskimos and Chukotkan Natives.

We believe that the critical, documented subsistence needs of the native groups in our countries to hunt bowhead whales are a compelling reason to revisit the bowhead whale quota issue. The subsistence and cultural survival of these groups depend on the continued ability to hunt bowhead whales. Alaskan Eskimos and Chukotkan Natives have hunted the bowhead whale for thousands of years, and even today a major portion of their protein needs are met by whale meat. Whaling underlies the total way of life in these communities, and the survival of their culture depends on the continuation of this activity.

On behalf of our people we were extremely disappointed at the outcome of the deliberations on the bowhead quota issue at the 54th Annual Meeting. Following that outcome, we have worked with many IWC member nations and believe that this meeting will provide an opportunity for the Commission to adopt by consensus a bowhead whale quota for these native people.

Despite consensus views of the Scientific Committee that the bowhead stock has grown significantly since the last century, is still increasing and an annual catch limit of up to 102 is sustainable, questions have been raised about bowhead science. The United States would like to reaffirm its long-standing commitment to abide by the advice of the Scientific Committee and particularly the results of the new assessment planned for 2004. The proposed amendment, especially 3iii, reflects the US commitment to abide by the Commission's annual review of the provision in light of the Scientific Committee's advice, and to modify the hunt accordingly. The United States understands that this pledge to respect the advice of the Scientific Committee eases concerns expressed at the 54th Annual Meeting. The United States and Russia greatly appreciate the opportunity to work with IWC members to resolve their concerns, and therefore urges the Commission to adopt by consensus the proposed Schedule amendment.

Russian Federation

We have spent a lot of time (before lunch) discussing details of procedure. I am not going to spend more time discussing the needs of native peoples of Chukotka. The USA has explained this problem fully.

The Russian delegation wishes to inform you about the visit of a Japanese delegation to Chukotka in September 2002 and to thank the Japanese government for making this visit possible.

The delegation saw for themselves that there are no fruit growing in the north of my country and that the whaling season is going to start in the Spring so the peoples of Chukotka cannot wait for the Berlin session which will take place in June 2003.

As a result of this visit we have reached a shared understanding with Japan in regard to joint scientific research and technical assistance from Japan to the whalers of Chukotka which will be used to make bowhead harvesting even more successful. I would like to thank the Japanese government for that.

Since the Shimonoseki meeting, we have had many bilateral and multilateral consultations which resulted in understanding that the issue of aboriginal whaling in general and the issue of bowhead whaling in particular which we are discussing today must be solved on the basis of consensus.

In order to save time the Russian delegation requests that this meeting should not discuss the USA-Russian proposal but accept it on the basis of consensus, and that distinguished members of delegations take the floor only if they do not agree to the possibility of a consensus on the question of whether people should eat or starve.

The USA and Russian Federation then proposed the following Schedule amendment:

Replace paragraph 13(b)(1) of the Schedule with the following:

- (1) The taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that:
 - (i) For the years 2003, 2004, 2005, 2006, and 2007, the number of bowhead whales landed shall not exceed 280. For each of these years the number of bowhead whales struck shall not exceed 67, except that any unused portion of a strike quota from any year (including 15 unused strikes from the 1998-2002 quota) shall be carried forward and added to the strike quotas of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year.
 - (ii) It is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.
 - (iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.

3.2 Commission discussions and action arising

Denmark fully supported adoption of the proposed Schedule amendment by consensus.

Japan noted that its policy is to support aboriginal subsistence whaling in principle, but explained that at IWC/54 it had opposed renewal of the bowhead quota in view of concerns over the status of the stock and possible problems with a 5-year block quota. While the current proposal was also for a 5-year block quota, Japan recognised the commitment of the USA to review the provision on an annual basis and to abide by the advice of the Scientific Committee and particularly the results of the new stock assessment planned for 2004. While Japan appreciated the USA statement to a certain extent, it considered that the statement did not respond to the questions it raised in Shimonoseki. Japan would not block consensus on the proposed amendment, but would not be able to join it. It hoped that this issue would be discussed fully by the Scientific Committee next year.

Antigua and Barbuda indicated that during IWC/54, it had hoped that an amendment could have been made to the USA/Russian Federation proposal to address the concerns

it had expressed over the status of the bowhead stock. It hoped that a workable compromise could be reached at this meeting. While it commended the efforts and statements of the USA and the Russian Federation, it wished to see some of the sentiments reflected in the Schedule amendment. Dominica and St. Lucia supported this view.

Norway recalled that it had voted in favour of an identical proposed Schedule amendment at Shimonoseki. It further recalled that the Convention does not recognise the concept of aboriginal subsistence whaling and considers that the Commission's practice of distinguishing between commercial and subsistence whaling is artificial, illogical and morally wrong. It fully supports whaling when done in a sustainable way. While Norway reiterated its earlier comments regarding calling the Special Meeting to overturn decisions reached in Shimonoseki, it appreciated the needs of the native peoples of the USA and the Russian Federation. It indicated that it would support the consensus adoption of the proposed Schedule amendment, but reserved the right to come back to the meeting with compromise proposals, as appropriate, if consensus was not reached.

The Republic of Guinea requested all delegations present to take advantage of the goodwill being expressed to try to find a global solution for all those affected by the moratorium.

The Republic of Palau reported that at IWC/54 it had supported fair and equal treatment of the joint USA/Russian Federation proposal and the Japanese request regarding community-based whaling. It still held this position and felt that this meeting was a good time to revisit these issues and hopefully to deal favourably with them both.

Responding to the comments of Antigua and Barbuda and others, the USA emphasised its commitment to science as expressed in the second, third and fourth sentences of the last paragraph of its statement (see above). It noted that, as requested at IWC/54, the affected parties had worked with Japan and had kept other members informed. Noting also that the parties had been asked to subscribe to the precautionary approach, the USA pointed out that even though the Scientific Committee had indicated that an annual take of 102 whales would be sustainable, the USA and the Russian Federation were only requesting an annual take of 56 whales. The USA urged the Commission to give due consideration to both its statement and that of the Russian Federation.

Following a proposal by Antigua and Barbuda to add an additional sub-paragraph to reflect a commitment to scientific advice, the following Schedule amendment was adopted by consensus:

Replace paragraph 13(b)(1) of the Schedule with the following:

- (1) The taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that:
 - (i) For the years 2003, 2004, 2005, 2006, and 2007, the number of bowhead whales landed shall not exceed 280. For each of these years the number of bowhead whales struck shall not exceed 67, except that any unused portion of a strike quota from any year (including 15 unused strikes from the 1998-2002 quota) shall be carried forward and added to the strike quotas of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year.

- (ii) It is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.
- (iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.
- (iv) The findings and recommendations of the Scientific Committee's in-depth assessment for 2004 shall be binding on the parties involved and they shall modify the hunt accordingly.

The Chair noted that there may be a need to clarify the wording of sub-paragraph (iv) and that this could perhaps be done at the next Annual Meeting.

4. INTERIM RELIEF ALLOCATION FOR JAPANESE COASTAL WHALING

4.1 Draft Resolution proposed by Japan

Japan recalled that although IWC had specifically recognised the socio-economic and cultural needs of the four community-based whaling communities in Japan and had resolved to work expeditiously to alleviate the distress to these communities resulting from the cessation of minke whaling, its request for an interim relief allocation of 50 minke whales to alleviate this distress had been denied for the last 15 years.

In its latest draft Resolution, Japan was asking the Commission to:

- Reaffirm its commitment to work expeditiously to alleviate the distress caused by the cessation of minke whaling to the communities of Taiji, Wada, Ayukawa and Abashiri and to agree that the most effective way of doing this would be to establish as soon as possible an appropriate catch quota for minke whales consistent with paragraph 10(e) of the Schedule;
- Welcome the Japanese government's effort to prepare an Action Plan that will stipulate terms and conditions for the catch and distribution of the products;
- Decide that the establishment of an appropriate catch quota for minke whales for the four community-based whaling communities should be based on scientific advice of the Scientific Committee that such quota is sustainable; and
- Further decide that an appropriate amendment to the Schedule and an Action Plan to establish an appropriate catch quota of minke whales exclusively for the communities of Taiji, Wada, Ayukawa and Abashiri be considered at the 55th Annual Meeting of the IWC.

Japan considered that it had made a big effort to break the impasse on this issue and noting the delicate balance within which the work had been done, requested that its Resolution be adopted by consensus.

It noted for the record that its position regarding the commercial whaling moratorium remains unchanged.

4.2 Commission discussions and action arising

Norway, Denmark, the Republic of Guinea, the USA, the Russian Federation, Antigua and Barbuda, the Republic of Palau, Morocco, Benin, Iceland, Solomon Islands, St. Kitts and Nevis, St. Lucia and China all spoke in support of the Resolution. The USA indicated that it could support the Resolution since it addresses its two major concerns, i.e. that Japan must satisfy the provisions of paragraph 10(e) and that the Scientific Committee must advise the

Commission that the catch from this stock of minke whales is sustainable. The USA considered that Japan's draft Resolution showed a marked change and a positive movement towards presenting a proposal acceptable to a broad range of the Commission. The USA understood that issues remained to be resolved, but that these could be addressed at IWC/55. It noted that its final position would depend on the adequacy of Japan's Action Plan and proposed Schedule amendment.

Mexico, Germany, the UK, Austria, Australia, New Zealand, Brazil, Italy, Sweden and Switzerland could not support the draft Resolution. Mexico had three major objections: (1) that the proposal was not consistent with paragraph 10(e); (2) that it establishes, de facto, a new category of whaling; and (3) it prejudices the agenda and decisions at IWC/55. It therefore asked Japan to withdraw the Resolution and to resubmit it in Berlin. Other countries made similar remarks. The UK added that Japan had already taken steps to alleviate the suffering of the community-based whaling communities by allocating a special permit catch of 50 minke whales as part of JARPN II. In its view, the only quota consistent with paragraph 10(e) of the Schedule is zero. New Zealand considered that the Resolution had defects that, in its view, could not be remedied. It noted that the Resolution: (1) asks the Commission to welcome Japan's efforts to prepare an Action Plan, although two previous Action Plans had been rejected principally because they failed to address the commercial aspects of the proposed hunt, and (2) did not indicate how any new Action Plan would rectify this defect. New Zealand considered that despite the considerable uncertainty in the document, the Commission was being asked to make a formal decision that it will consider an appropriate amendment to the Schedule. It considered this language as close to being directory as is possible. Its view was that any proposal should be considered on the basis of its merits when presented and not before. Switzerland could not support the establishment of a new whaling category, but could consider a quota if allocated under an aboriginal subsistence whaling regime.

Ireland was concerned that the overall message of the draft Resolution might create expectations that could not be met. For example, it noted that it would not be possible for Ireland to agree to change paragraph 10(e) before a satisfactory RMS has been adopted. Subject to this understanding, Ireland was willing to consider any proposals Japan may put forward at the next Annual Meeting, and it would not block any consensus that might emerge.

Monaco expressed concern regarding the creation of a new category of whaling and requested clarification on the basis on which any quota would be calculated. In this regard it considered that takes of minke whales under scientific permit must be included. While it recognised that consensus was unlikely to be achieved, Monaco noted that several countries had expressed appreciation of the situation of the four coastal communities and proposed amendments that might address some of the concerns raised (e.g. in relation to the directory tone of the Resolution and to clarify the basis for establishing a quota). Despite these proposed amendments, a number of governments still considered that the fundamental flaws in the Resolution remained.

Antigua and Barbuda considered that after having

worked at this meeting to resolve two critical issues (Iceland's membership and the bowhead quota), it was remiss of the Commission not to deal fairly with Japan's Resolution. It noted that the Commission has agreed to move speedily to address the problems of the coastal communities in Japan dependent on whales and believed that double standards were again being employed. The Solomon Islands made a similar remark.

Japan recalled that at IWC/54 it had asked for further deliberations on this issue at the next Commission meeting – hence the draft Resolution submitted. It noted that it is willing to accept advice from the Scientific Committee and that it does not intend to create a new whaling category – its intentions could be better explained in an Action Plan. Japan requested that its initial proposal be put to a vote.

On being put to a vote, there were 16 votes in favour, 19 against and 2 abstentions. The Resolution was therefore not adopted. Japan thanked those countries that gave their support.

5. OTHER MATTERS

5.1 Addressing legal matters

Noting that legal issues regarding both procedures and matters of substance were being raised during plenary meetings of the Commission, and considering the difficulty of addressing legal questions in such large meetings, the Netherlands proposed that a process be developed to better address legal matters when raised at future meetings. It suggested that the Advisory Committee could consider how this might be done, for example by forming an *ad hoc* group of 5-7 members reflecting the different views within the IWC. Such a group could be asked to prepare a proposal for a process on how to deal with legal questions raised in future and to define this process in a way that could be acceptable for the IWC in general.

Mexico supported the proposal and believed that the meeting should explore it further.

Norway was uncertain as to whether the Netherlands' proposal was a constructive approach, considering it perhaps preferable to let the force of deliberations run their natural course without having any prescriptive rules about a process to be followed. It was unsure as to the role of the Advisory Committee in any such activity but reserved its final opinion until it had seen the proposal in writing.

While appreciating the motive for the Netherlands' proposal, the UK shared some of Norway's concerns, particularly regarding a possible role for the Advisory Committee. The UK also considered that it would be difficult in practice to determine an exact split between what is a legal question and what is a question of policy and that development of an adequate process would be difficult. It believed that some of the Commission's difficulties over the last year or two were the result of certain ambiguities in the Rules of Procedure, and that in the first instance these should be reviewed critically prior to deciding whether anything more needed to be done.

Antigua and Barbuda welcomed the suggestion from the Netherlands, but in view of the importance of the issue wished to see the proposal in writing. Like Norway and the UK, it did not believe that the Advisory Committee was the appropriate body to advise the Commission on this matter. Recalling an intervention it made earlier in the meeting,

Antigua and Barbuda proposed that a neutral legal entity should advise the Commission and wished for this to be considered within the context of the Netherlands' proposal.

New Zealand noted the difficult debate regarding the adherence of Iceland with a reservation to paragraph 10(e), a debate that had had substantial legal overtones. It believed that some guidance, advice or assistance on those issues before they had been embarked upon might have been of some assistance to members of the Commission. New Zealand considered that all the Netherlands had proposed was to give some structure to those concerns and that the suggested role of the Advisory Committee was only to formulate a proposal for consideration by the Commission and not to make any final decisions. It reported that a number of other multilateral agreements establish legal committees on occasion, typically to look at specific legal issues as they arise, but that these committees offer advice rather than pre-empt the plenary body itself. In relation to IWC, New Zealand considered that an internal legal committee of this type might provide two streams of advice – a majority and a minority opinion, but that lawyers are familiar in dealing with such a situation. New Zealand noted the widely held view of many members that the Commission is the master of its own legal procedures and it is the master of its own legal interpretation. With this in mind, it believed the Netherlands' proposal would ensure that the legal matters would be kept internal but that a process would be available for advising the Commission on what it might do. New Zealand viewed the proposal as a confidence-building measure to move the Commission toward a better way of dealing with complex issues that have legal overtones. It noted the point made by the UK that it will often be difficult to distinguish between legal and political issues, but had some confidence that advice could still be offered to the Commission who could select those aspects of the advice that it considers most useful for its purpose and make its decision accordingly.

Monaco considered that any suggestion that would help the Commission to better deal with procedural or legal issues must be viewed as constructive and welcomed the spirit of the Netherlands' proposal pending further clarification.

After listening to the views expressed, the Chair believed that the Netherlands' proposal would need to be seen in written form before any agreements could be reached. He therefore asked the Netherlands to further develop its ideas in consultation with interested parties.

Like other speakers, Iceland indicated that it reserved judgement on this matter but that it would be interested to see how it developed. It expressed the wish to be among those countries consulted by the Netherlands.

Denmark considered that what is needed is some kind of description of the type of potential legal problems the Commission may face and how they conflict or are in harmony with international law and international tradition. It did not believe that the Commission should ask external lawyers for solutions or proposals on how it should make a decision that, in Denmark's view, is up to the Commission. However, it considered the Netherlands' proposal to be interesting and found the Chair's proposal on how to proceed acceptable.

The Netherlands welcomed the constructive remarks made and agreed to work with interested parties to develop a written proposal for review by the Commission.

5.2 Workshop on cetacean-fisheries interaction

Referring to the Scientific Committee's Modelling Workshop on Cetacean-Fishery Interactions held in La Jolla in June, Monaco expressed interest in learning of the outcome of the Workshop and requested the Secretariat to complete the report and to distribute its conclusions to Contracting Governments. The Secretariat noted that the Workshop report was being finalised by correspondence, but that a summary of the outcome could be made available.

5.3 Report to CITES on progress with the RMS

Following a question from Norway regarding reporting on progress with the RMS to the November 2002 CITES Conference of Parties, the meeting agreed that a report would be prepared by the Chair and Vice-Chair and circulated to Contracting Governments for information prior to the CITES meeting.

5.4 Closure of the meeting

The Chair closed the Special Meeting at 20.00.

Annex A**LIST OF PARTICIPANTS**

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

Antigua and Barbuda

Daven Joseph (C)
Colin Murdoch (AC)

Argentina

Eduardo Iglesias (C)
Miguel Iñiguez

Australia

Conall O'Connell (C)
Robyn Bromley

Austria

Andrea Nouak (C)
Isabel Rauscher

Benin

Bantole Yaba (C)

Brazil

Mr. Nei Futuro Bitencourt (AC)
Jose Truda Plazzo Junior (AC)

Chile

Veronica Rocha (C)

People's Republic of China

Chaohong Luo (C)

Denmark

Henrik Fischer (C)
Einar Lemche (AC)

Dominica

Lloyd Pascal (C)
Andrew Magloire (AC)

Finland

Esko Jaakkola (C)
Risto Rautiainen (AC)

France

Jean-Georges Mandon (C)
Vincent Ridoux

Germany

Marlies Reimann (AC)

Grenada

Clariss Charles (C)

Republic of Guinea

Ibrahima Sory Tour (AC)
Amadou Tlivel Diallo (AC)
Sidiki Diane (I)

Iceland

Stefan Ásmundsson (C)
Tomas Heidar (AC)
Kristján Loftsson

Ireland

Michael Canny (C)

Italy

Giuseppe Notarbartolo Di Sciara (C)
Silvia De Bertoldi (AC)

Japan

Minoru Morimoto (C)
Yoshiaki Ito (AC)
Akira Nakamae (AC)
Joji Morishita
Dan Goodman
Yasuo Iino
Akiko Tomita (I)

Republic of Korea

Iloo-soo Kim (AC)
Dong-yeob Yang
Soon-seok Jung (I)

Mexico

Jorge Lomónaco (AC)

Monaco

Frederic Briand (AC)

Morocco

Driss Meski (C)

Netherlands

Giuseppe Raaphorst (C)
Anne Marie van der Heijden (AC)

New Zealand

Jim McLay (C)
Al Gillespie (AC)

Norway

Odd Gunnar Skagestad (C)
Halvard Johansen (AC)

Republic of Palau

Kuniwo Nakamura (C)
Victorio Uherbelau (AC)

Peru

Luis Escalante (AC)
Cecilia Galarreta (I)

Portugal

Marina Sequeira (C)

Russian Federation

Valentin Ilyashenko (C)
Valery Knyazev (AC)
Elena Rockhill (I)
Vladimir Etylin (S)
Evdakiya Etylina (S)
Olga Etylina (S)
Olga Ulturgasheva (S)
Piers Vitebsky (S)

Saint Kitts and Nevis

Raphael Archibald (AC)

Saint Lucia

Cyprian Lansiquot (C)
Vaughan Charles (AC)

San Marino

Dario Galassi (C)

Solomon Islands

Nelson Kile (C)
Sylvester Diake (AC)

Spain

Juan Manuel Velasco (C)
Carlos Expósito (AC)

Sweden

Bo Fernholm (C)
Anders Nyström (AC)
Mattias Falk (AC)
Thomas Lyrholm
Switzerland
Mr. Ivo Sieber (AC)

UK

Richard Cowan (C)
Rob Bowman (AC)
Jill Barrett

USA

Rolland Schmitt (C)
Michael Tillman (AC)
Jean-Pierre Plé
Matthew Paxton
Maggie Ahmaogak
George Ahmaogak, Sr.
Eugene Brower
Edward Itta

**INTERGOVERNMENTAL
ORGANISATIONS**

IUCN
Justin Cooke

**NON-GOVERNMENTAL
ORGANISATIONS**

Campaign Whale
Andy Ottaway

**Environmental Investigation
Agency**
Jenny Lonsdale

EBCD
Despina Symons

Greenpeace
John Frizell

High North Alliance
Rune Frovik
Juliet Le Breton (I)

Humane Society International
Kitty Block

**International Fund for Animal
Welfare**
Vassili Papastavrou

**International League for the
Protection of Cetaceans**
Leslie Busby

International Ocean Institute
Sidney Holt

IWMC World Conservation Trust
Jacques Berney

**Japan Small-Type Whaling
Association**
Chikao Kimura

TEN
Shigeko Misaki

Werkgroep Zeehond
Geert Drieman

**Whale & Dolphin Conservation
Society**
Sue Fisher

WWF
Cassandra Phillips

Annex B**AGENDA**

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Welcome and meeting arrangements 1.2 Opening Statements 1.3 Secretary's report on credentials and voting rights 2. Adoption of the Agenda 3. Aboriginal subsistence whaling catch limits | <ol style="list-style-type: none"> 3.1 Proposed Schedule amendment 3.2 Commission discussions and action arising 4. Interim relief allocation for Japanese coastal whaling 5. Other matters |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Annex C**LIST OF DOCUMENTS**

IWC/SPEC.02/

1. Annotated Provisional Agenda
2. Draft list of participants
3. Proposed Schedule amendment to paragraph 13.(b).(1) the Schedule (to be submitted jointly by the USA and the Russian Federation)
4. Resolution on Japanese Community-Based Whaling (submitted by Japan)

Financial Statements
for the
Year ended 31 August 2003

Financial Statements for the year ended 31 August 2003

Independent Auditors' Report to the Commission

We have audited the financial statements of the International Whaling Commission which comprise the accounting policies, the income and expenditure account, the analysis of expenditure, the balance sheet and the related notes 1 to 8. These financial statements have been prepared under the accounting policies set out therein. This report is made solely to the Commission. Our audit work has been undertaken so that we might state to the Commission those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Commission for our audit work, for this report, or for the opinions we have formed.

Respective Responsibilities of the Secretary and Auditors

As described in the statement of the Secretary's responsibilities, the Secretary is responsible for the preparation of financial statements.

Neither statute nor the Commission has prescribed that the financial statements should give a true and fair view of the Commission's state of affairs at the end of each year within the specialised meaning of that expression in relation to financial statements. This recognised terminology signifies in accounting terms that statements are generally accepted as true and fair only if they comply in all material aspects with accepted accounting principles. These are embodied in accounting standards issued by the Accounting Standards Board. The Commission has adopted certain accounting policies which represent departures from accounting standards:

- fixed assets are not capitalised within the Commission's accounts. Instead fixed assets are charged to the income and expenditure account in the year of acquisition. Hence, the residual values of the furniture, fixtures and fittings and equipment are not reflected in the accounts;
- publications stocks are charged to the income and expenditure account in the year of acquisition and their year end valuation is not reflected in the accounts.
- provision is made for the severance pay which would be payable should the Commission cease to function.

This is permissible as the financial statements are not required to give a true and fair view.

It is our responsibility to form an independent opinion, based on our audit, on those statements and to report our opinion to you. We also

D A Green & Sons, Chartered Certified Accountants, St Ives

report if the Commission has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

Basis of Opinion

We conducted our audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Secretary in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Commission's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement whether caused by fraud or other irregularity or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

Added Emphasis

In forming our opinion we have taken account of the absence of a requirement for the financial statements to give a true and fair view as described above.

Opinion

In our opinion the financial statements have been properly prepared in accordance with the accounting policies and present a proper record of the transactions of the Commission for the year ended 31 August 2003.

The Secretary's Responsibilities

The financial responsibilities of the Secretary to the Commission are set out in its Rules of Procedure and Financial Regulations. Fulfilment of those responsibilities requires the Secretary to prepare financial statements for each financial year which set out the state of affairs of the Commission as at the end of the financial year and the surplus or deficit of the Commission for that period. In preparing those financial statements, the Secretary should:

- Select suitable accounting policies and then apply them consistently;

- Make judgements and estimates that are reasonable and prudent;
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Commission will continue in operation.

The Secretary is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Commission. The Secretary is also responsible for safeguarding the assets of the Commission and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Accounting policies - Year ended 31 August 2003

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 £194,000 and its realisable value is not significant. Proposed expenditure on new items is included in budgets and raised by contributions for the year.

Publications

The full cost of printing publications is written off in the year. No account is taken of stocks which remain unsold at the balance sheet date.

Most sales occur shortly after publication and so stocks held are unlikely to result in many sales, consequently their net realisable value is not significant.

Severance Pay Provision

The Commission provides for an indemnity to members of staff in the event of their appointment being terminated on the abolition of their posts. The indemnity varies according to length of service and therefore an annual provision is made to bring the total provision up to the maximum liability. This liability is calculated after adjusting for staff assessments since they would not form part of the Commission's liability.

Interest on Overdue Contributions

Interest is included in the income and expenditure account on the accruals basis and provision is made where its recoverability is in doubt.

Leases

The costs of operating leases are charged to the income and expenditure account as they accrue.

Foreign Exchange

Transactions dominated in foreign currencies are translated into sterling at rates ruling at the date of the transactions. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated at the rates ruling at that date. These translation differences are dealt with

in the income and expenditure account.

Retirement Benefits Scheme

The Commission operates a defined contribution retirement benefits scheme. The costs represent the amount of the Commission's contributions payable to the scheme in respect of the accounting period.

Balance Sheet 31 August 2003

	2003		2002	
	£	£	£	£
CURRENT ASSETS				
Cash on short term deposit				
General fund	1,376,254		1,309,988	
Research fund	39,881		72,250	
Publications fund	28,091		57,166	
Small Cetaceans fund	28,735	1,472,961	13,790	1,453,194
	<hr/>		<hr/>	
Cash at bank on current account				
General fund	0		1,000	
Research fund	1,000		1,000	
Publications fund	1,000		1,000	
Small Cetaceans fund	1,000		1,000	
Cash in hand	89	3,089	31	4,031
	<hr/>	<hr/>	<hr/>	<hr/>
		1,476,050		1,457,225
Outstanding contributions from members, including interest	616,614		711,726	
Less provision for doubtful debts	(616,599)	15	(631,887)	79,839
Other debtors and prepayments		64,280		129,593
		<hr/>		<hr/>
		1,540,345		1,666,657
CREDITORS: amounts falling due within one year	[6]			
		<hr/>		<hr/>
		(294,060)		(424,603)
NET CURRENT ASSETS		<hr/>		<hr/>
		1,246,285		1,242,054
PROVISION FOR SEVERANCE PAY	[5]			
		<hr/>		<hr/>
		(302,900)		(327,000)
		<hr/>		<hr/>
		943,385		915,054
<i>Financed by</i>				
Publications fund	[1]	29,251		26,129
Research fund	[2]	102,013		146,516
Small cetaceans fund	[3]	33,188		15,642
General fund	[4]	778,933		726,767
	[7]	<hr/>		<hr/>
		943,385		915,054

Approved on behalf of the Commission
Nicky Grandy, secretary

Income and Expenditure Account (year ended 31 August 2003)

	[Note]	2003		2002	
		£	£	£	£
Income: continuing operations					
Contributions from member governments			1,251,073		1,094,300
Interest on overdue financial contributions			33,019		41,578
Voluntary contributions for research, small cetaceans work and publications			38,143		60,462
Sales of publications			17,342		17,928
Sales of sponsored publications	[1]/8		2,074		5,748
Observers' registration fees			65,847		65,937
UK taxes recoverable			32,418		22,878
Staff assessments			137,486		124,544
Interest receivable			36,928		41,166
Sundry income			1,396		329
			<u>1,615,726</u>		<u>1,474,870</u>
Expenditure					
Secretariat	6	958,284		907,931	
Publications	6	45,549		52,128	
Annual meetings		301,904		294,121	
Other meetings		30,698		15,003	
Research expenditure	6	265,572		275,701	
Small cetaceans	[3]/6	14,627		19,941	
Sundry		6,284		146	
		<u>1,622,918</u>		<u>1,564,971</u>	
Provisions made for:					
Unpaid contributions		(9,585)		18,194	
Unpaid interest on overdue contributions		(5,838)		10,295	
Severance pay	[5]	(24,100)		33,300	
Other doubtful debts		4,000		0	
			<u>1,587,395</u>		<u>1,626,760</u>
Surplus of income (excess of expenditure):					
continuing operations	[7]		28,331		(151,890)
Net Transfers from (to) Funds:					
Publications fund	[1]	(3,122)		12,501	
Research Fund	[2]	44,503		6,528	
Small cetaceans fund	[3]	(17,546)		3,926	
			<u>23,835</u>		<u>22,955</u>
Surplus/(deficit) for the year after transfers	[4]		<u>52,166</u>		<u>(128,935)</u>

There are no recognised gains or losses for the current financial year and the preceding financial year other than as stated in the Income and Expenditure account.

Analysis of Expenditure (year ended 31 August 2003)

	2003	2002
	£	£
SECRETARIAT		
Salaries, national insurance and allowances	622,150	586,205
Retirement and other benefit schemes	132,187	112,290
Travelling expenses	2,589	3,945
Office rent, heating and maintenance	90,844	96,569
Insurance	5,651	4,556
Postage and telecommunications	21,376	25,381
Office equipment and consumables	62,065	60,061
Professional fees	6,795	11,526
Training & Recruitment	14,287	928
Photocopying	340	6,470
	<u>958,284</u>	<u>907,931</u>
PUBLICATIONS		
Annual Report	6,294	7,921
Journal Cetacean Research and Management	39,234	24,753
Sponsored publications	21	19,454
	<u>45,549</u>	<u>52,128</u>
RESEARCH		
Invited participants	21,862	28,048
SOWER:		
2000/2001 SOWER cruise	0	842
2001/2002 SOWER cruise	0	84,229
2002/2003 SOWER cruise	80,283	0
Contract 14 Analysis support including DESS maintenance/development	32,472	32,111
Contract 16 Southern Hemisphere Humpback catalogue	6,800	5,000
SOGLOBEC	33,614	45,232
Pollution 2000+	13,786	11,070
AWMP fund for developers	7,523	8,823
AWMP intersessional workshop	0	7,875
Fishery Cetacean Workshop	820	10,117
North Atlantic Humpbacks Comprehensive Assessment	0	6,374
Greenland Research programme	0	11,573
IA Development support	8,014	12,496
IA Intersessional workshop	0	4,132
RMP Model development	0	5,285
Gray Whale Workshop	9,634	0
Gray Whales USA/Russia Workshop	33,767	0
RMP (SC) Intersessional Workshop	8,266	0
SD Intersessional Workshop	7,612	0
Other (including exchange differences)	1,119	2,494
	<u>265,572</u>	<u>275,701</u>
SMALL CETACEANS		
Invited participants	10,498	17,917
Common Dolphins in South America	3,934	1,783
Other (including exchange losses)	195	241
	<u>14,627</u>	<u>19,941</u>

Notes to the Accounts

	2003 £	2002 £
1. Publications fund		
Interest receivable	1,069	1,205
Receipts from sales of sponsored publications	2,074	5,748
Expenditure	(21)	(19,454)
Net transfers to income and expenditure account	3,122	(12,501)
Opening balances at 1 September 2002	26,129	38,630
Closing balances at 31 August 2003	<u>29,251</u>	<u>26,129</u>
2. Research fund		
Allocation for research	206,822	215,683
UK taxes recoverable	4,658	4,712
Voluntary contributions received	6,349	44,747
Interest receivable	3,240	4,031
Expenditure	(265,572)	(275,701)
Net transfers (to) income and expenditure account	(44,503)	(6,528)
Opening balances at 1 September 2002	146,516	153,044
Closing balances at 31 August 2003	<u>102,013</u>	<u>146,516</u>
3. Small cetaceans fund		
Voluntary contributions received	31,795	15,715
Interest receivable	378	300
Expenditure	(14,627)	(19,941)
Net transfer from/(to) income and expenditure account	17,546	(3,926)
Opening balances at 1 September 2002	15,642	19,568
Closing balances at 31 August 2003	<u>33,188</u>	<u>15,642</u>
4. General fund		
Opening balances at 1 September 2002	726,767	855,702
Surplus/(Deficit) transferred from income and expenditure account	52,166	(128,935)
Closing balances at 31 August 2003	<u>778,933</u>	<u>726,767</u>
5. Provision for severance pay		
Opening balances at 1 September 2002	327,000	293,700
Transfer (to) from income and expenditure account, being:		
Allocation	(32,245)	23,814
Interest received	8,145	9,486
Closing balances at 31 August 2003	<u>302,900</u>	<u>327,000</u>
6. Creditors: amounts falling due within one year		
Deferred contributions income	252,295	408,733
Other creditors and accruals	41,765	15,870
	<u>294,060</u>	<u>424,603</u>
7. Reconciliation of movement in funds		
Surplus/(deficit) of income over expenditure	28,331	(151,890)
Opening Funds	915,054	1,066,944
	<u>943,385</u>	<u>915,054</u>

8. Financial commitments

The Commission had annual commitments at 31 August 2003 under non-cancellable operating leases as set out below and which expire:

	2003		2002	
	Land and buildings £	Office Equipment £	Land and buildings £	Office Equipment £
Within 2 to 5 years	0	26,376	0	25,737
After five years	69,500	0	69,500	717
	<u>69,500</u>	<u>26,376</u>	<u>69,500</u>	<u>26,454</u>

**International Convention
for the
Regulation of Whaling, 1946**

signed at Washington, 2 December 1946

and its

Protocol

signed at Washington, 19 November 1956

The Schedule which is attached to the Convention and under Article I forms an integral part thereof is amended regularly by the Commission. The most recent version begins on p. 163 of this volume.



International Convention for the Regulation of Whaling

Washington, 2nd December, 1946

The Governments whose duly authorised representatives have subscribed hereto,

Recognizing the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks;

Considering that the history of whaling has seen over-fishing of one area after another and of one species of whale after another to such a degree that it is essential to protect all species of whales from further over-fishing;

Recognizing that the whale stocks are susceptible of natural increases if whaling is properly regulated, and that increases in the size of whale stocks will permit increases in the number of whales which may be captured without endangering these natural resources;

Recognizing that it is in the common interest to achieve the optimum level of whale stocks as rapidly as possible without causing widespread economic and nutritional distress;

Recognizing that in the course of achieving these objectives, whaling operations should be confined to those species best able to sustain exploitation in order to give an interval for recovery to certain species of whales now depleted in numbers;

Desiring to establish a system of international regulation for the whale fisheries to ensure proper and effective conservation and development of whale stocks on the basis of the principles embodied in the provisions of the International Agreement for the Regulation of Whaling, signed in London on 8th June, 1937, and the protocols to that Agreement signed in London on 24th June, 1938, and 26th November, 1945; and

Having decided to conclude a convention to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry;

Have agreed as follows:-

Article I

1. This Convention includes the Schedule attached thereto which forms an integral part thereof. All references to "Convention" shall be understood as including the said Schedule either in its present terms or as amended in accordance with the provisions of Article V.
2. This Convention applies to factory ships, land stations, and whale catchers under the jurisdiction of the Contracting Governments and to all waters in which whaling is prosecuted by such factory ships, land stations, and whale catchers.

Article II

As used in this Convention:-

1. "Factory ship" means a ship in which or on which whales are treated either wholly or in part;
2. "Land station" means a factory on the land at which whales are treated either wholly or in part;

3. "Whale catcher" means a ship used for the purpose of hunting, taking, towing, holding on to, or scouting for whales;
4. "Contracting Government" means any Government which has deposited an instrument of ratification or has given notice of adherence to this Convention.

Article III

1. The Contracting Governments agree to establish an International Whaling Commission, hereinafter referred to as the Commission, to be composed of one member from each Contracting Government. Each member shall have one vote and may be accompanied by one or more experts and advisers.
2. The Commission shall elect from its own members a Chairman and Vice-Chairman and shall determine its own Rules of Procedure. Decisions of the Commission shall be taken by a simple majority of those members voting except that a three-fourths majority of those members voting shall be required for action in pursuance of Article V. The Rules of Procedure may provide for decisions otherwise than at meetings of the Commission.
3. The Commission may appoint its own Secretary and staff.
4. The Commission may set up, from among its own members and experts or advisers, such committees as it considers desirable to perform such functions as it may authorize.
5. The expenses of each member of the Commission and of his experts and advisers shall be determined by his own Government.
6. Recognizing that specialized agencies related to the United Nations will be concerned with the conservation and development of whale fisheries and the products arising therefrom and desiring to avoid duplication of functions, the Contracting Governments will consult among themselves within two years after the coming into force of this Convention to decide whether the Commission shall be brought within the framework of a specialized agency related to the United Nations.
7. In the meantime the Government of the United Kingdom of Great Britain and Northern Ireland shall arrange, in consultation with the other Contracting Governments, to convene the first meeting of the Commission, and shall initiate the consultation referred to in paragraph 6 above.
8. Subsequent meetings of the Commission shall be convened as the Commission may determine.

Article IV

1. The Commission may either in collaboration with or through independent agencies of the Contracting Governments or other public or private agencies, establishments, or organizations, or independently

- (a) encourage, recommend, or if necessary, organize studies and investigations relating to whales and whaling;
 - (b) collect and analyze statistical information concerning the current condition and trend of the whale stocks and the effects of whaling activities thereon;
 - (c) study, appraise, and disseminate information concerning methods of maintaining and increasing the populations of whale stocks.
2. The Commission shall arrange for the publication of reports of its activities, and it may publish independently or in collaboration with the International Bureau for Whaling Statistics at Sandefjord in Norway and other organizations and agencies such reports as it deems appropriate, as well as statistical, scientific, and other pertinent information relating to whales and whaling.

Article V

1. The Commission may amend from time to time the provisions of the Schedule by adopting regulations with respect to the conservation and utilization of whale resources, fixing (a) protected and unprotected species; (b) open and closed seasons; (c) open and closed waters, including the designation of sanctuary areas; (d) size limits for each species; (e) time, methods, and intensity of whaling (including the maximum catch of whales to be taken in any one season); (f) types and specifications of gear and apparatus and appliances which may be used; (g) methods of measurement; and (h) catch returns and other statistical and biological records.
2. These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization of the whale resources; (b) shall be based on scientific findings; (c) shall not involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory or ship or land station or to any group of factory ships or land stations; and (d) shall take into consideration the interests of the consumers of whale products and the whaling industry.
3. Each of such amendments shall become effective with respect to the Contracting Governments ninety days following notification of the amendment by the Commission to each of the Contracting Governments, except that (a) if any Government presents to the Commission objection to any amendment prior to the expiration of this ninety-day period, the amendment shall not become effective with respect to any of the Governments for an additional ninety days; (b) thereupon, any other Contracting Government may present objection to the amendment at any time prior to the expiration of the additional ninety-day period, or before the expiration of thirty days from the date of receipt of the last objection received during such additional ninety-day period, whichever date shall be the later; and (c) thereafter, the amendment shall become effective with respect to all Contracting Governments which have not presented objection but shall not become effective with respect to any Government which has so objected until such date as the objection is withdrawn. The Commission shall notify each Contracting Government immediately upon receipt of each objection and withdrawal and each Contracting Government shall acknowledge receipt of all notifications of amendments, objections, and withdrawals.

4. No amendments shall become effective before 1st July, 1949.

Article VI

The Commission may from time to time make recommendations to any or all Contracting Governments on any matters which relate to whales or whaling and to the objectives and purposes of this Convention.

Article VII

The Contracting Government shall ensure prompt transmission to the International Bureau for Whaling Statistics at Sandefjord in Norway, or to such other body as the Commission may designate, of notifications and statistical and other information required by this Convention in such form and manner as may be prescribed by the Commission.

Article VIII

1. Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.
2. Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.
3. Each Contracting Government shall transmit to such body as may be designated by the Commission, in so far as practicable, and at intervals of not more than one year, scientific information available to that Government with respect to whales and whaling, including the results of research conducted pursuant to paragraph 1 of this Article and to Article IV.
4. Recognizing that continuous collection and analysis of biological data in connection with the operations of factory ships and land stations are indispensable to sound and constructive management of the whale fisheries, the Contracting Governments will take all practicable measures to obtain such data.

Article IX

1. Each Contracting Government shall take appropriate measures to ensure the application of the provisions of this Convention and the punishment of infractions against the said provisions in operations carried out by persons or by vessels under its jurisdiction.
2. No bonus or other remuneration calculated with relation to the results of their work shall be paid to the gunners and crews of whale catchers in respect of any whales the taking of which is forbidden by this Convention.
3. Prosecution for infractions against or contraventions of this Convention shall be instituted by the Government having jurisdiction over the offence.
4. Each Contracting Government shall transmit to the Commission full details of each infraction of the provisions of this Convention by persons or vessels under the jurisdiction of that Government as reported by its

inspectors. This information shall include a statement of measures taken for dealing with the infraction and of penalties imposed.

Article X

1. This Convention shall be ratified and the instruments of ratifications shall be deposited with the Government of the United States of America.
2. Any Government which has not signed this Convention may adhere thereto after it enters into force by a notification in writing to the Government of the United States of America.
3. The Government of the United States of America shall inform all other signatory Governments and all adhering Governments of all ratifications deposited and adherences received.
4. This Convention shall, when instruments of ratification have been deposited by at least six signatory Governments, which shall include the Governments of the Netherlands, Norway, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, enter into force with respect to those Governments and shall enter into force with respect to each Government which subsequently ratifies or adheres on the date of the deposit of its instrument of ratification or the receipt of its notification of adherence.

5. The provisions of the Schedule shall not apply prior to 1st July, 1948. Amendments to the Schedule adopted pursuant to Article V shall not apply prior to 1st July, 1949.

Article XI

Any Contracting Government may withdraw from this Convention on 30th June, of any year by giving notice on or before 1st January, of the same year to the depository Government, which upon receipt of such a notice shall at once communicate it to the other Contracting Governments. Any other Contracting Government may, in like manner, within one month of the receipt of a copy of such a notice from the depository Government give notice of withdrawal, so that the Convention shall cease to be in force on 30th June, of the same year with respect to the Government giving such notice of withdrawal.

The Convention shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter.

In witness whereof the undersigned, being duly authorized, have signed this Convention.

Done in Washington this second day of December, 1946, in the English language, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the other signatory and adhering Governments.

Protocol

to the International Convention for the Regulation of Whaling, Signed at Washington Under Date of December 2, 1946

The Contracting Governments to the International Convention for the Regulation of Whaling signed at Washington under date of 2nd December, 1946 which Convention is hereinafter referred to as the 1946 Whaling Convention, desiring to extend the application of that Convention to helicopters and other aircraft and to include provisions on methods of inspection among those Schedule provisions which may be amended by the Commission, agree as follows:

Article I

Subparagraph 3 of the Article II of the 1946 Whaling Convention shall be amended to read as follows:

“3. ‘whale catcher’ means a helicopter, or other aircraft, or a ship, used for the purpose of hunting, taking, killing, towing, holding on to, or scouting for whales.”

Article II

Paragraph 1 of Article V of the 1946 Whaling Convention shall be amended by deleting the word “and” preceding clause (h), substituting a semicolon for the period at the end of the paragraph, and adding the following language: “and (i) methods of inspection”.

Article III

1. This Protocol shall be open for signature and ratification or for adherence on behalf of any Contracting Government to the 1946 Whaling Convention.
2. This Protocol shall enter into force on the date upon which instruments of ratification have been deposited with, or written notifications of adherence have been received by, the Government of the United States of America on behalf of all the Contracting Governments to the 1946 Whaling Convention.
3. The Government of the United States of America shall inform all Governments signatory or adhering to the 1946 Whaling Convention of all ratifications deposited and adherences received.
4. This Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter, following which period it shall be open for adherence.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Protocol.

DONE in Washington this nineteenth day of November, 1956, in the English Language, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all Governments signatory or adhering to the 1946 Whaling Convention.

**International Convention
for the
Regulation of Whaling, 1946**

Schedule

**As amended by the Commission at the 55th Annual Meeting
Berlin, Germany, 16-19 June 2003**



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 55th Annual Meeting in June 2003. It also contains an additional editorial footnote to paragraph 10(e). The amendments, which are shown in *italic bold* type, came into effect on 30 September 2003.

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).

1. INTERPRETATION

1. The following expressions have the meanings respectively assigned to them, that is to say:

A. Baleen whales

“baleen whale” means any whale which has baleen or whale bone in the mouth, i.e. any whale other than a toothed whale.

“blue whale” (*Balaenoptera musculus*) means any whale known as blue whale, Sibbald’s rorqual, or sulphur bottom, and including pygmy blue whale.

“bowhead whale” (*Balaena mysticetus*) means any whale known as bowhead, Arctic right whale, great polar whale, Greenland right whale, Greenland whale.

“Bryde’s whale” (*Balaenoptera edeni*, *B. brydei*) means any whale known as Bryde’s whale.

“fin whale” (*Balaenoptera physalus*) means any whale known as common finback, common rorqual, fin whale, herring whale, or true fin whale.

“gray whale” (*Eschrichtius robustus*) means any whale known as gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

“humpback whale” (*Megaptera novaeangliae*) means any whale known as bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale.

“minke whale” (*Balaenoptera acutorostrata*, *B. bonaerensis*) means any whale known as lesser rorqual, little piked whale, minke whale, pike-headed whale or sharp headed finner.

“pygmy right whale” (*Caperea marginata*) means any whale known as southern pygmy right whale or pygmy right whale.

“right whale” (*Eubalaena glacialis*, *E. australis*) means any whale known as Atlantic right whale, Arctic right whale, Biscayan right whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, or southern right whale.

“sei whale” (*Balaenoptera borealis*) means any whale known as sei whale, Rudolphi’s rorqual, pollack whale, or coalfish whale.

B. Toothed whales

“toothed whale” means any whale which has teeth in the jaws.

“beaked whale” means any whale belonging to the genus *Mesoplodon*, or any whale known as Cuvier’s beaked whale (*Ziphius cavirostris*), or Shepherd’s beaked whale (*Tasmacetus shepherdii*).

“bottlenose whale” means any whale known as Baird’s beaked whale (*Berardius bairdii*), Arnoux’s whale (*Berardius arnuxii*), southern bottlenose whale (*Hyperoodon planifrons*), or northern bottlenose whale (*Hyperoodon ampullatus*).

“killer whale” (*Orcinus orca*) means any whale known as killer whale or orca.

“pilot whale” means any whale known as long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*G. macrorhynchus*).

“sperm whale” (*Physeter macrocephalus*) means any whale known as sperm whale, spermacet whale, cachalot or pot whale.

C. General

“strike” means to penetrate with a weapon used for whaling.

“land” means to retrieve to a factory ship, land station, or other place where a whale can be treated.

“take” means to flag, buoy or make fast to a whale catcher.

“lose” means to either strike or take but not to land.

“dauhval” means any unclaimed dead whale found floating.

“lactating whale” means (a) with respect to baleen whales - a female which has any milk present in a mammary gland, (b) with respect to sperm whales - a female which has milk present in a mammary gland the maximum thickness (depth) of which is 10cm or more. This measurement shall be at the mid ventral point of the mammary gland perpendicular to the body axis, and shall be logged to the nearest centimetre; that is to say, any gland between 9.5cm and 10.5cm shall be logged as 10cm. The measurement of any gland which falls on an exact 0.5

centimetre shall be logged at the next 0.5 centimetre, e.g. 10.5cm shall be logged as 11.0cm. However, notwithstanding these criteria, a whale shall not be considered a lactating whale if scientific (histological or other biological) evidence is presented to the appropriate national authority establishing that the whale could not at that point in its physical cycle have had a calf dependent on it for milk.

“small-type whaling” means catching operations using powered vessels with mounted harpoon guns hunting exclusively for minke, bottlenose, beaked, pilot or killer whales.

II. SEASONS

Factory Ship Operations

2. (a) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating baleen whales except minke whales, in any waters south of 40° South Latitude except during the period from 12th December to 7th April following, both days inclusive.
- (b) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating sperm or minke whales, except as permitted by the Contracting Governments in accordance with sub-paragraphs (c) and (d) of this paragraph, and paragraph 5.
- (c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, an open season or seasons not to exceed eight months out of any period of twelve months during which the taking or killing of sperm whales by whale catchers may be permitted; provided that a separate open season may be declared for each factory ship and the whale catchers attached thereto.
- (d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by the whale catchers may be permitted provided that:
 - (1) a separate open season may be declared for each factory ship and the whale catchers attached thereto;
 - (2) the open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to sub-paragraph (a) of this paragraph.
3. It is forbidden to use a factory ship which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, except minke whales, in any other area except the North Pacific Ocean and its dependent waters north of the Equator for the same purpose within a period of one year from the termination of that season; provided that catch limits in the North Pacific Ocean and dependent waters are established as provided in paragraphs 12 and 16 of this Schedule and provided that this paragraph shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

Land Station Operations

4. (a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with sub-paragraphs (b), (c) and (d) of this paragraph.
- (b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen whales, except minke whales, by the whale catchers shall be permitted. Such open season shall be for a period of not more than six consecutive months in any period of twelve months and shall apply to all land stations under the jurisdiction of the Contracting Government: provided that a separate open season may be declared for any land station used for the taking or treating of baleen whales, except minke whales, which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen whales, except minke whales, under the jurisdiction of the same Contracting Government.
- (c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed eight continuous months in any one period of twelve months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, provided that a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000 miles from the nearest land station used for the taking or treating of sperm whales under the jurisdiction of the same Contracting Government.
- (d) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations one open season not to exceed six continuous months in any period of twelve months during which the taking or killing of minke whales by the whale catchers shall be permitted (such period not being necessarily concurrent with the period declared for other baleen whales, as provided for in sub-paragraph (b) of this paragraph); provided that a separate open season may be declared for any land station used for the taking or treating of minke whales which is more than 1,000 miles from the nearest land station used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government.

Except that a separate open season may be declared for any land station used for the taking or treating of minke whales which is located in an area having oceanographic conditions clearly distinguishable from those of the area in which are located the other land stations used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government; but the declaration of a separate open season by virtue of the provisions of this sub-paragraph shall not cause thereby the period of time covering the open seasons declared by the same Contracting Government to exceed nine continuous months of any twelve months.

- (e) The prohibitions contained in this paragraph shall apply to all land stations as defined in Article II of the Whaling Convention of 1946.

Other Operations

5. Each Contracting Government shall declare for all whale catchers under its jurisdiction not operating in conjunction with a factory ship or land station one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by such whale catchers may be permitted. Notwithstanding this paragraph one continuous open season not to exceed nine months may be implemented so far as Greenland is concerned.

III. CAPTURE

6. The killing for commercial purposes of whales, except minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1980/81 pelagic and 1981 coastal seasons. The killing for commercial purposes of minke whales using the cold grenade harpoon shall be forbidden from the beginning of the 1982/83 pelagic and the 1983 coastal seasons.*
7. (a) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Indian Ocean Sanctuary. This comprises the waters of the Northern Hemisphere from the coast of Africa to 100°E, including the Red and Arabian Seas and the Gulf of Oman; and the waters of the Southern Hemisphere in the sector from 20°E to 130°E, with the Southern boundary set at 55°S. This prohibition applies irrespective of such catch limits for baleen or toothed whales as may from time to time be determined by the Commission. This prohibition shall be reviewed by the Commission at its Annual Meeting in 2002.☼
- (b) In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the Southern Ocean Sanctuary. This Sanctuary comprises the waters of the Southern Hemisphere southwards of the following line: starting from 40 degrees S, 50 degrees W; thence due east to 20 degrees E; thence due south to 55 degrees S; thence due east to 130 degrees E; thence due north to 40 degrees S; thence due east to 130 degrees W; thence due south to 60 degrees S; thence due east to 50 degrees W; thence due north to the point of beginning. This prohibition applies irrespective of the conservation status of

baleen and toothed whale stocks in this Sanctuary, as may from time to time be determined by the Commission. However, this prohibition shall be reviewed ten years after its initial adoption and at succeeding ten year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph is intended to prejudice the special legal and political status of Antarctica.**+

Area Limits for Factory Ships

8. It is forbidden to use a factory ship or whale catcher attached thereto, for the purpose of taking or treating baleen whales, except minke whales, in any of the following areas:
- (a) in the waters north of 66°N, except that from 150°E eastwards as far as 140°W, the taking or killing of baleen whales by a factory ship or whale catcher shall be permitted between 66°N and 72°N;
 - (b) in the Atlantic Ocean and its dependent waters north of 40°S;
 - (c) in the Pacific Ocean and its dependent waters east of 150°W between 40°S and 35°N;
 - (d) in the Pacific Ocean and its dependent waters west of 150°W between 40°S and 20°N;
 - (e) in the Indian Ocean and its dependent waters north of 40°S.

Classification of Areas and Divisions

9. (a) *Classification of Areas*
Areas relating to Southern Hemisphere baleen whales except Bryde's whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 1.
- (b) *Classification of Divisions*
Divisions relating to Southern Hemisphere sperm whales are those waters between the ice-edge and the Equator and between the meridians of longitude listed in Table 3.
- (c) *Geographical boundaries in the North Atlantic*
The geographical boundaries for the fin, minke and sei whale stocks in the North Atlantic are:

FIN WHALE STOCKS

NOVA SCOTIA

South and West of a line through:
47°N 54°W, 46°N 54°30'W,
46°N 42°W, 20°N 42°W.

NEWFOUNDLAND-LABRADOR

West of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W
52°20'N 42°W, 46°N 42°W and
North of a line through:
46°N 42°W, 46°N 54°30'W, 47°N 54°W.

*The Governments of Brazil, Iceland, Japan, Norway and the Union of Soviet Socialist Republics lodged objections to the second sentence of paragraph 6 within the prescribed period. For all other Contracting Governments this sentence came into force on 8 March 1982. Norway withdrew its objection on 9 July 1985 and Brazil on 8 January 1992. Iceland withdrew from the Convention with effect from 30 June 1992. The objections of Japan and the Russian Federation not having been withdrawn, this sentence is not binding upon these governments.

☼ At its 54th Annual Meeting in 2002, the Commission agreed to continue this prohibition but did not discuss whether or not it should set a time when it should be reviewed again.

** The Government of Japan lodged an objection within the prescribed period to paragraph 7(b) to the extent that it applies to the Antarctic minke whale stocks. The Government of the Russian Federation also lodged an objection to paragraph 7(b) within the prescribed period but withdrew it on 26 October 1994. For all Contracting Governments except Japan paragraph 7(b) came into force on 6 December 1994.

+Paragraph 7(b) contains a provision for review of the Southern Ocean Sanctuary "ten years after its initial adoption". Paragraph 7(b) was adopted at the 46th (1994) Annual Meeting. Therefore, the first review is due in 2004.

WEST GREENLAND

East of a line through:
75°N 73°30'W, 69°N 59°W,
61°N 59°W, 52°20'N 42°W,
and West of a line through
52°20'N 42°W, 59°N 42°W,
59°N 44°W, Kap Farvel.

EAST GREENLAND-ICELAND

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

NORTH NORWAY

North and East of a line through:
74°N 22°W, 74°N 3°E, 68°N 3°E,
67°N 0°, 67°N 14°E.

WEST NORWAY-FAROE ISLANDS

South of a line through:
67°N 14°E, 67°N 0°, 60°N 18°W, and
North of a line through:
61°N 16°W, 61°N 0°, Thyborøn (Western entrance
to Limfjorden, Denmark).

SPAIN-PORTUGAL-BRITISH ISLES

South of a line through:
Thyborøn (Denmark), 61°N 0°, 61°N 16°W,
and East of a line through:
63°N 11°W, 60°N 18°W, 22°N 18°W.

MINKE WHALE STOCKS**CANADIAN EAST COAST**

West of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W,
52°20'N 42°W, 20°N 42°W.

CENTRAL

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

WEST GREENLAND

East of a line through:
75°N 73°30'W, 69°N 59°W, 61°N 59°W
52°20'N 42°W, and
West of a line through:
52°20'N 42°W, 59°N 42°W,
59°N 44°W, Kap Farvel.

NORTHEASTERN

East of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,
and North of a line through:
74°N 3°E, 74°N 22°W.

SEI WHALE STOCKS**NOVA SCOTIA**

South and West of a line through:
47°N 54°W, 46°N 54°30'W, 46°N 42°W,
20°N 42°W.

ICELAND-DENMARK STRAIT

East of a line through:
Kap Farvel (South Greenland),
59°N 44°W, 59°N 42°W, 20°N 42°W,
and West of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E,
74°N 3°E, and South of 74°N.

EASTERN

East of a line through:
20°N 18°W, 60°N 18°W, 68°N 3°E, 74°N 3°E,
and North of a line through:
74°N 3°E, 74°N 22°W.

(d) Geographical boundaries in the North Pacific

The geographical boundaries for the sperm, Bryde's and minke whale stocks in the North Pacific are:

SPERM WHALE STOCKS**WESTERN DIVISION**

West of a line from the ice-edge south along the 180° meridian of longitude to 180°, 50°N, then east along the 50°N parallel of latitude to 160°W, 50°N, then south along the 160°W meridian of longitude to 160°W, 40°N, then east along the 40°N parallel of latitude to 150°W, 40°N, then south along the 150°W meridian of longitude to the Equator.

EASTERN DIVISION

East of the line described above.

BRYDE'S WHALE STOCKS**EAST CHINA SEA**

West of the Ryukyu Island chain.

EASTERN

East of 160°W (excluding the Peruvian stock area).

WESTERN

West of 160°W (excluding the East China Sea stock area).

MINKE WHALE STOCKS**SEA OF JAPAN-YELLOW SEA- EAST CHINA SEA**

West of a line through the Philippine Islands, Taiwan, Ryukyu Islands, Kyushu, Honshu, Hokkaido and Sakhalin Island, north of the Equator.

OKHOTSK SEA-WEST PACIFIC

East of the Sea of Japan-Yellow Sea- East China Sea stock and west of 180°, north of the Equator.

REMAINDER

East of the Okhotsk Sea-West Pacific stock, north of the Equator.

*(e) Geographical boundaries for Bryde's whale stocks in the Southern Hemisphere***SOUTHERN INDIAN OCEAN**

20°E to 130°E,
South of the Equator.

SOLOMON ISLANDS

150°E to 170°E,
20°S to the Equator.

PERUVIAN

110°W to the South American coast,
10°S to 10°N.

EASTERN SOUTH PACIFIC

150°W to 70°W,
South of the Equator (excluding the Peruvian stock area),

WESTERN SOUTH PACIFIC

130°E to 150°W,
South of the Equator (excluding the Solomon Islands stock area).

SOUTH ATLANTIC

70°W to 20°E,
South of the Equator (excluding the South African inshore stock area).

SOUTH AFRICAN INSHORE

South African coast west of 27°E and out to the 200 metre isobath.

Table 1
BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS⁺ (excluding Bryde's whales)

Area	SEI		MINKE		FIN		BLUE		RIGHT, BOWHEAD, HUMPBACK		PYGMY RIGHT		GRAY	
	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit	Classi- fication	Catch limit
SOUTHERN HEMISPHERE-2003/2004 pelagic season and 2004 coastal season														
I	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
II	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
III	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
IV	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
V	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
VI	PS	0	PS	0	PS	0	PS	0	PS	0	PS	0	.	.
Total catch not to exceed:														
NORTHERN HEMISPHERE-2004 season														
ARCTIC														
NORTH PACIFIC														
Whole region	PS	0	.	.	PS	0	PS	0	PS	0	PS	0	.	.
Okhotsk Sea-West Pacific Stock	.	.	-	0	.	.	.	.	.	.	.	.	.	.
Sea of Japan-Yellow Sea-East	.	.	.	.	.	.	.	.	.	.	.	.	.	.
China Sea Stock	.	.	PS	0	.	.	.	.	.	.	.	.	.	.
Remainder	.	.	IMS	0	.	.	.	.	.	.	.	.	SMS	.
Eastern Stock	.	.	.	.	.	.	.	.	.	.	.	.	PS	0
Western Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
NORTH ATLANTIC														
Whole region	.	.	.	.	.	.	PS	0	PS	0	PS	0	.	.
West Greenland Stock	.	.	PS	0	.	19 ²	.	.	.	.	.	.	.	.
Newfoundland-Labrador Stock	.	.	.	.	.	0	.	.	.	.	.	.	.	.
Canadian East Coast Stock	.	.	.	0	.	.	.	.	.	.	.	.	.	.
Nova Scotia Stock	PS	0	.	.	PS	0	.	.	.	.	.	.	.	.
Central Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
East Greenland-Iceland Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Iceland-Denmark Strait Stock	.	.	.	.	SMS	0	.	.	.	.	.	.	.	.
Spain-Portugal-British Isles	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Northeastern Stock	.	.	PS*	0	.	.	.	.	.	.	.	.	.	.
West Norway-Faroe Islands	.	.	.	.	PS	0	.	.	.	.	.	.	.	.
Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
North Norway Stock	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Eastern Stock	.	0	.	.	.	.	.	.	.	.	.	.	.	.
NORTHERN INDIAN OCEAN														
	.	.	IMS	0	.	.	PS	0	PS	0	PS	0	.	.

¹ Available to be taken by aborigines or a Contracting Government on behalf of aborigines pursuant to paragraph 13(b)2. ² Available to be taken by aborigines pursuant to paragraph 13(b)3. Catch limit for each of the years 2003, 2004, 2005, 2006 and 2007. + The catch limits of zero introduced into Table 1 as editorial amendments as a result of the coming into effect of paragraph 10(e) are not binding upon the governments of the countries which lodged and have not withdrawn objections to the said paragraph. *The Government of Norway presented objection to the classification of the Northeastern Atlantic stock of minke whales as a Protection Stock within the prescribed period. This classification came into force on 30 January 1986 but is not binding on the Government of Norway.

Classification of Stocks

10. All stocks of whales shall be classified in one of three categories according to the advice of the Scientific Committee as follows:

(a) A Sustained Management Stock (SMS) is a stock which is not more than 10 per cent of Maximum Sustainable Yield (hereinafter referred to as MSY) stock level below MSY stock level, and not more than 20 per cent above that level; MSY being determined on the basis of the number of whales.

When a stock has remained at a stable level for a considerable period under a regime of approximately constant catches, it shall be classified as a Sustained Management Stock in the absence of any positive evidence that it should be otherwise classified.

Commercial whaling shall be permitted on Sustained Management Stocks according to the advice of the Scientific Committee. These stocks are listed in Tables 1, 2 and 3 of this Schedule.

For stocks at or above the MSY stock level, the permitted catch shall not exceed 90 per cent of the MSY. For stocks between the MSY stock level and 10 per cent below that level, the permitted catch shall not exceed the number of whales obtained by taking 90 per cent of the MSY and reducing that number by 10 per cent for every 1 per cent by which the stock falls short of the MSY stock level.

(b) An Initial Management Stock (IMS) is a stock more than 20 per cent of MSY stock level above MSY stock level. Commercial whaling shall be permitted on Initial Management Stocks according to the advice of the Scientific Committee as to measures necessary to bring the stocks to the MSY stock level and then optimum level in an efficient manner and without risk of reducing them below this level. The permitted catch for such stocks will not be more than 90 per cent of MSY as far as this is known, or,

where it will be more appropriate, catching effort shall be limited to that which will take 90 per cent of MSY in a stock at MSY stock level.

In the absence of any positive evidence that a continuing higher percentage will not reduce the stock below the MSY stock level no more than 5 per cent of the estimated initial exploitable stock shall be taken in any one year. Exploitation should not commence until an estimate of stock size has been obtained which is satisfactory in the view of the Scientific Committee. Stocks classified as Initial Management Stock are listed in Tables 1, 2 and 3 of this Schedule.

(c) A Protection Stock (PS) is a stock which is below 10 per cent of MSY stock level below MSY stock level.

There shall be no commercial whaling on Protection Stocks. Stocks so classified are listed in Tables 1, 2 and 3 of this Schedule.

(d) Notwithstanding the other provisions of paragraph 10 there shall be a moratorium on the taking, killing or treating of whales, except minke whales, by factory ships or whale catchers attached to factory ships. This moratorium applies to sperm whales, killer whales and baleen whales, except minke whales.

(e) Notwithstanding the other provisions of paragraph 10, catch limits for the killing for commercial purposes of whales from all stocks for the 1986 coastal and the 1985/86 pelagic seasons and thereafter shall be zero. This provision will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits.*[▲]#

Table 2
Bryde's whale stock classifications and catch limits[†]

	Classification	Catch limit
SOUTHERN HEMISPHERE-2003/2004 pelagic season and 2004 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-2004 season		
Eastern Stock	IMS	0
Western Stock	IMS	0
East China Sea Stock	PS	0
NORTH ATLANTIC-2004 season	IMS	0
NORTHERN INDIAN OCEAN-2004 season	-	0

[†] The catch limits of zero introduced in Table 2 as editorial amendments as a result of the coming into effect of paragraph 10(e) are not binding upon the governments of the countries which lodged and have not withdrawn objections to the said paragraph.

*The Governments of Japan, Norway, Peru and the Union of Soviet Socialist Republics lodged objection to paragraph 10(e) within the prescribed period. For all other Contracting Governments this paragraph came into force on 3 February 1983. Peru withdrew its objection on 22 July 1983. The Government of Japan withdrew its objections with effect from 1 May 1987 with respect to commercial pelagic whaling; from 1 October 1987 with respect to commercial coastal whaling for minke and Bryde's whales; and from 1 April 1988 with respect to commercial coastal sperm whaling. The objections of Norway and the Russian Federation not having been withdrawn, the paragraph is not binding upon these Governments.

[▲]Iceland's instrument of adherence to the International Convention for the Regulation of Whaling and the Protocol to the Convention deposited on 10 October 2002 states that Iceland 'adheres to the aforesaid Convention and Protocol with a reservation with respect to paragraph 10(e) of the Schedule attached to the Convention'. The instrument further states the following:

'Notwithstanding this, the Government of Iceland will not authorise whaling for commercial purposes by Icelandic vessels before 2006 and, thereafter, will not authorise such whaling while progress is being made in negotiations within the IWC on the RMS. This does not apply, however, in case of the so-called moratorium on whaling for commercial purposes, contained in paragraph 10(e) of the Schedule not being lifted within a reasonable time after the completion of the RMS. Under no circumstances will whaling for commercial purposes be authorised without a sound scientific basis and an effective management and enforcement scheme.'

The Governments of Argentina, Australia, Brazil, Chile, Finland, France, Germany, Italy, Mexico, Monaco, the Netherlands, New Zealand, Peru, San Marino, Spain, Sweden, UK and the USA have lodged objections to Iceland's reservation to paragraph 10(e).

Table 3
Toothed whale stock classifications and catch limits ⁺

SOUTHERN HEMISPHERE-2003/2004 pelagic season and 2004 coastal season			
Division	Longitudes	SPERM	
		Classification	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-2004 season			
NORTH PACIFIC			
Western Division		PS	0 ¹
Eastern Division		-	0
NORTH ATLANTIC			
		-	0
NORTHERN INDIAN OCEAN			
		-	0
BOTTLENOSE			
NORTH ATLANTIC		PS	0

¹ No whales may be taken from this stock until catch limits including any limitations on size and sex are established by the Commission.

⁺ The catch limits of zero introduced in Table 3 as editorial amendments as a result of the coming into effect of paragraph 10(e) are not binding upon the governments of the countries which lodged and have not withdrawn objections to the said paragraph.

Baleen Whale Catch Limits

11. The number of baleen whales taken in the Southern Hemisphere in the 2003/2004 pelagic season and the 2004 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 2004 and in the North Atlantic Ocean in 2004 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.

(b) Catch limits for aboriginal subsistence whaling are as follows:

- (1) The taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that:
 - (i) For the years 2003, 2004, 2005, 2006 and 2007, the number of bowhead whales landed shall not exceed 280. For each of these years the number of bowhead whales struck shall not exceed 67, except that any unused portion of a strike quota from any year (including 15 unused strikes from the 1998 – 2002 quota) shall be carried forward and added to the strike quotas of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year.
 - (ii) It is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.
 - (iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.
 - (iv) The findings and recommendations of the Scientific Committee's in-depth assessment for 2004 shall be binding on the parties involved and they shall modify the hunt accordingly.

¹The Commission, on advice of the Scientific Committee, shall establish as far as possible (a) a minimum stock level for each stock below which whales shall not be taken, and (b) a rate of increase towards the MSY level for each stock. The Scientific Committee shall advise on a minimum stock level and on a range of rates of increase towards the MSY level under different catch regimes.

- (2) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or a Contracting Government on behalf of aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines whose traditional aboriginal subsistence and cultural needs have been recognised.
- (i) For the years 2003, 2004, 2005, 2006 and 2007, the number of gray whales taken in accordance with this sub-paragraph shall not exceed 620, provided that the number of gray whales taken in any one of the years 2003, 2004, 2005, 2006 and 2007 shall not exceed 140.
- (ii) It is forbidden to strike, take or kill calves or any gray whale accompanied by a calf.
- (iii) This provision shall be reviewed annually by the Commission in light of the advice of the Scientific Committee.
- (3) The taking by aborigines of minke whales from the West Greenland and Central stocks and fin whales from the West Greenland stock is permitted and then only when the meat and products are to be used exclusively for local consumption.
- (i) The number of fin whales from the West Greenland stock taken in accordance with this sub-paragraph shall not exceed the limits shown in Table 1.
- (ii) The number of minke whales from the Central stock taken in accordance with this sub-paragraph shall not exceed 12 in each of the years 2003, 2004, 2005, 2006 and 2007, except that any unused portion of the quota for each year shall be carried forward from that year and added to the quota of any subsequent years, provided that no more than 3 shall be added to the quota for any one year.
- (iii) The number of minke whales struck from the West Greenland stock shall not exceed 175 in each of the years 2003, 2004, 2005, 2006 and 2007, except that any unused portion of the strike quota for each year shall be carried forward from that year and added to the strike quota of any subsequent years, provided that no more than 15 strikes shall be added to the strike quota for any one year. This provision will be reviewed if new scientific data become available within the 5 year period and if necessary amended on the basis of the advice of the Scientific Committee.
- (4) For the seasons 2003-2007 the number of humpback whales to be taken by the Bequians of St. Vincent and The Grenadines shall not exceed 20. The meat and products of such whales are to be used exclusively for local consumption in St. Vincent and The

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

14. It is forbidden to take or kill suckling calves or female whales accompanied by calves.

Baleen Whale Size Limits

15. (a) It is forbidden to take or kill any sei or Bryde's whales below 40 feet (12.2 metres) in length except that sei and Bryde's whales of not less than 35 feet (10.7 metres) may be taken for delivery to land stations, provided that the meat of such whales is to be used for local consumption as human or animal food.
- (b) It is forbidden to take or kill any fin whales below 57 feet (17.4 metres) in length in the Southern Hemisphere, and it is forbidden to take or kill fin whales below 55 feet (16.8 metres) in the Northern Hemisphere; except that fin whales of not less than 55 feet (16.8 metres) may be taken in the Southern Hemisphere for delivery to land stations and fin whales of not less than 50 feet (15.2 metres) may be taken in the Northern Hemisphere for delivery to land stations, provided that, in each case the meat of such whales is to be used for local consumption as human or animal food.

Sperm Whale Catch Limits

16. Catch limits for sperm whales of both sexes shall be set at zero in the Southern Hemisphere for the 1981/82 pelagic season and 1982 coastal seasons and following seasons, and at zero in the Northern Hemisphere for the 1982 and following coastal seasons; except that the catch limits for the 1982 coastal season and following seasons in the Western Division of the North Pacific shall remain undetermined and subject to decision by the Commission following special or annual meetings of the Scientific Committee. These limits shall remain in force until such time as the Commission, on the basis of the scientific information which will be reviewed annually, decides otherwise in accordance with the procedures followed at that time by the Commission.
17. It is forbidden to take or kill suckling calves or female whales accompanied by calves.

Sperm Whale Size Limits

18. (a) It is forbidden to take or kill any sperm whales below 30 feet (9.2 metres) in length except in the North Atlantic Ocean where it is forbidden to take or kill any sperm whales below 35 feet (10.7 metres).
- (b) It is forbidden to take or kill any sperm whale over 45 feet (13.7 metres) in length in the Southern Hemisphere north of 40° South Latitude during the months of October to January inclusive.
- (c) It is forbidden to take or kill any sperm whale over 45 feet (13.7 metres) in length in the North Pacific

Ocean and dependent water south of 40° North Latitude during the months of March to June inclusive.

IV. TREATMENT

19. (a) It is forbidden to use a factory ship or a land station for the purpose of treating any whales which are classified as Protection Stocks in paragraph 10 or are taken in contravention of paragraphs 2, 3, 4, 5, 6, 7, 8, 11, 12, 14, 16 and 17 of this Schedule, whether or not taken by whale catchers under the jurisdiction of a Contracting Government.
- (b) All other whales taken, except minke whales, shall be delivered to the factory ship or land station and all parts of such whales shall be processed by boiling or otherwise, except the internal organs, whale bone and flippers of all whales, the meat of sperm whales and parts of whales intended for human food or feeding animals. A Contracting Government may in less developed regions exceptionally permit treating of whales without use of land stations, provided that such whales are fully utilised in accordance with this paragraph.
- (c) Complete treatment of the carcasses of "dauhval" and of whales used as fenders will not be required in cases where the meat or bone of such whales is in bad condition.
20. (a) The taking of whales for treatment by a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcass (except of a whale used as a fender, which shall be processed as soon as is reasonably practicable) shall remain in the sea for a longer period than thirty-three hours from the time of killing to the time when it is hauled up for treatment.
- (b) Whales taken by all whale catchers, whether for factory ships or land stations, shall be clearly marked so as to identify the catcher and to indicate the order of catching.

V. SUPERVISION AND CONTROL

21. (a) There shall be maintained on each factory ship at least two inspectors of whaling for the purpose of maintaining twenty-four hour inspection provided that at least one such inspector shall be maintained on each catcher functioning as a factory ship. These inspectors shall be appointed and paid by the Government having jurisdiction over the factory ship; provided that inspectors need not be appointed to ships which, apart from the storage of products, are used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.
- (b) Adequate inspection shall be maintained at each land station. The inspectors serving at each land station shall be appointed and paid by the Government having jurisdiction over the land station.
- (c) There shall be received such observers as the member countries may arrange to place on factory ships and land stations or groups of land stations of other member countries. The observers shall be appointed by the Commission acting through its

Secretary and paid by the Government nominating them.

22. Gunners and crews of factory ships, land stations, and whale catchers, shall be engaged on such terms that their remuneration shall depend to a considerable extent upon such factors as the species, size and yield of whales and not merely upon the number of the whales taken. No bonus or other remuneration shall be paid to the gunners or crews of whale catchers in respect of the taking of lactating whales.
23. Whales must be measured when at rest on deck or platform after the hauling out wire and grasping device have been released, by means of a tape-measure made of a non-stretching material. The zero end of the tape-measure shall be attached to a spike or stable device to be positioned on the deck or platform abreast of one end of the whale. Alternatively the spike may be stuck into the tail fluke abreast of the apex of the notch. The tape-measure shall be held taut in a straight line parallel to the deck and the whale's body, and other than in exceptional circumstances along the whale's back, and read abreast of the other end of the whale. The ends of the whale for measurement purposes shall be the tip of the upper jaw, or in sperm whales the most forward part of the head, and the apex of the notch between the tail flukes.

Measurements shall be logged to the nearest foot or 0.1 metre. That is to say, any whale between 75 feet 6 inches and 76 feet 6 inches shall be logged as 76 feet, and any whale between 76 feet 6 inches and 77 feet 6 inches shall be logged as 77 feet. Similarly, any whale between 10.15 metres and 10.25 metres shall be logged as 10.2 metres, and any whale between 10.25 metres and 10.35 metres shall be logged as 10.3 metres. The measurement of any whale which falls on an exact half foot or 0.05 metre shall be logged at the next half foot or 0.05 metre, e.g. 76 feet 6 inches precisely shall be logged as 77 feet and 10.25 metres precisely shall be logged as 10.3 metres.

VI. INFORMATION REQUIRED

24. (a) All whale catchers operating in conjunction with a factory ship shall report by radio to the factory ship:
- (1) the time when each whale is taken;
 - (2) its species; and
 - (3) its marking effected pursuant to paragraph 20(b).
- (b) The information specified in sub-paragraph (a) of this paragraph shall be entered immediately by a factory ship in a permanent record which shall be available at all times for examination by the whaling inspectors; and in addition there shall be entered in such permanent record the following information as soon as it becomes available:
- (1) time of hauling up for treatment;
 - (2) length, measured pursuant to paragraph 23;
 - (3) sex;
 - (4) if female, whether lactating;
 - (5) length and sex of foetus, if present; and
 - (6) a full explanation of each infraction.
- (c) A record similar to that described in sub-paragraph (b) of this paragraph shall be maintained by land

- stations, and all of the information mentioned in the said sub-paragraph shall be entered therein as soon as available.
- (d) A record similar to that described in sub-paragraph (b) of this paragraph shall be maintained by “small-type whaling” operations conducted from shore or by pelagic fleets, and all of this information mentioned in the said sub-paragraph shall be entered therein as soon as available.
25. (a) All Contracting Governments shall report to the Commission for all whale catchers operating in conjunction with factory ships and land stations the following information:
- (1) methods used to kill each whale, other than a harpoon, and in particular compressed air
 - (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

TABLE 2

SCHOOLING REPORT

To be completed by pelagic expedition or coastal station for each sperm whale school chased. A separate form to be used each day.

Name of expedition or coastal station

Date Noon position of factory ship

Time School Found

Total Number of Whales in School

Number of Takeable Whales in School

Number of Whales Caught from School by each Catcher

Name of Catcher

Name of Catcher

Name of Catcher

Name of Catcher

Total Number Caught from School

Remarks:

Explanatory Notes

- A. Fill in one column for each school chased with number of whales caught by each catcher taking part in the chase; if catchers chase the school but do not catch from it, enter 0; for catchers in fleet which do not chase that school enter X.
- B. A school on this form means a group of whales which are sufficiently close together that a catcher having completed handling one whale can start chasing another whale almost immediately without spending time searching. A solitary whale should be entered as a school of 1 whale.
- C. A takeable whale is a whale of a size or kind which the catchers would take if possible. It does not necessarily include all whales above legal size, e.g. if catchers are concentrating on large whales only these would be counted as takeable.
- D. Information about catchers from other expeditions or companies operating on the same school should be recorded under Remarks.

INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING, 1946

DAILY RECORD SHEET

TABLE 1

Date Catcher name Sheet No.

Searching: Time started (or resumed) searching
 *Time whales seen or reported to catcher

Whale species

Number seen and no. of groups

Position found

Name of catcher that found whales

Chasing: Time started chasing (or confirmed whales)

Time whale shot or chasing discontinued

Asdic used (Yes/No)

Handling: Time whale flagged or alongside for towing

Serial No. of catch

Towing: Time started picking up or started towing

Date and time delivered to factory

Resting: Time stopped (for drifting or resting)

Time finished drifting/resting

Time ceased operations

WEATHER CONDITIONS

	Time	Sea state	Wind force and direction	Visibility
Total searching time				
Total chasing time				
A) with asdic				
B) without asdic				
Total handling time				
Total towing time				
Total resting time				
Other time (e.g. bunkering, in port)				

Whales Seen (No. and No. of schools)

Blue..... Bryde's

Fin..... Minke

Humpback..... Sperm

Right..... Others (specify)

Sel.....

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 55th Annual Meeting, June 2003
(amendments are shown in *bold italics*)**

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Rules of Procedure

A. Representation

1. A Government party to the International Convention for the Regulation of Whaling, 1946 (hereafter referred to as the Convention) shall have the right to appoint one Commissioner and shall furnish the Secretary of the Commission with the name of its Commissioner and his/her designation and notify the Secretary promptly of any changes in the appointment. The Secretary shall inform other Commissioners of such appointment.

B. Meetings

1. The Commission shall hold a regular Annual Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice two years in advance. A formal offer should include:
 - (a) which meetings it covers, i.e. Scientific Committee, Commission sub-groups, Annual Commission meeting;
 - (b) a proposed time window within which the meeting will take place; and
 - (c) a timetable for finalising the exact timing and location of the meeting.

Attendance by a majority of the members of the Commission shall constitute a quorum. Special Meetings of the Commission may be called at the direction of the Chair after consultation with the Contracting Governments *and Commissioners*.

2. ***Before the end of each Annual Meeting, the Commission shall decide on: (1) the length of the Annual Commission Meeting and associated meetings the following year; and (2) which of the Commission's sub-groups need to meet.***

C. Observers

1. (a) Any Government not a party to the Convention or any intergovernmental organisation may be represented at meetings of the Commission by an observer or observers, if such non-party government or intergovernmental organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting, or if the Commission issues an invitation to attend.
 - (b) Any international organisation with offices in more than three countries may be represented at meetings of the Commission by an observer:
 - if such international organisation has previously attended any meeting of the Commission,
 - or
 - if it submits its request in writing to the Commission 60 days prior to the start of the meeting and the Commission issues an invitation with respect to such request.

Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.

- (c) The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of ***observers accredited in accordance with Rule C.1.(a) and (b)***. The registration fee will be treated as an annual fee covering attendance at the Annual Meeting to which it relates and any other meeting of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next Annual Meeting. Once an international organisation is accredited, it remains accredited until the Commission decides otherwise.

3. 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 Committee/es, 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. Voting

The Commission should seek to reach its decisions by consensus. Otherwise, the following Rules of Procedure shall apply:

1. Each Commissioner shall have the right to vote at Plenary Meetings of the Commission and in his/her absence his/her deputy or alternate shall have such right. Experts and advisers may address Plenary Meetings of the Commission but shall not be entitled to vote. They may vote at the meetings of any committee to which they have been appointed, provided that when such vote is taken, representatives of any Contracting Government shall only exercise one vote.
2. (a) The right to vote of representatives of any Contracting Government whose annual payments including any interest due have not been received by the Commission within 3 months of the due date prescribed in Regulation E.2 of the Financial Regulations or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, **or, in the case of a vote by postal or other means, by the date upon which votes must be received**, whichever *date* occurs first, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.
 - (b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.
3. (a) Where a vote is taken on any matter before the Commission, a simple majority of those casting an affirmative or negative vote shall be decisive, except that a three-fourths majority of those casting an affirmative or negative vote shall be required for action in pursuance of Article V of the Convention.
 - (b) Action in pursuance of Article V shall contain the text of the regulations proposed to amend the Schedule. A proposal that does not contain such regulatory text does not constitute an amendment to the Schedule and therefore requires only a simple majority vote. A proposal that does not contain such regulatory text to revise the Schedule but would commit the Commission to amend the Schedule in the future can neither be put to a vote nor adopted.
 - (c) At meetings of committees appointed by the Commission, a simple majority of those casting an affirmative or negative vote shall also be decisive. The committee shall report to the Commission if the decision has been arrived at as a result of the vote.

- (d) Votes shall be taken by show of hands, or by roll call, as in the opinion of the Chair, appears to be most suitable. The election of the Chair, Vice-Chair, the appointment of the Secretary of the Commission, and the selection of IWC Annual Meeting venues shall, upon request by a Commissioner, all proceed by secret ballot.

4. Between meetings of the Commission or in the case of emergency, a vote of the Commissioners may be taken by post, or other means of communication in which case the necessary simple, or where required three-fourths majority, shall be of the total number of Contracting Governments whose right to vote has not been suspended under paragraph 2.

F. Chair

1. The Chair of the Commission shall be elected from time to time from among the Commissioners and shall take office at the conclusion of the Annual Meeting at which he/she is elected. The Chair shall serve for a period of three years and shall not be eligible for re-election as Chair until a further period of three years has elapsed. The Chair shall, however, remain in office until a successor is elected.
2. The duties of the Chair shall be:
 - (a) to preside at all meetings of the Commission;
 - (b) to decide all questions of order raised at meetings of the Commission, subject to the right of any Commissioner to request that any ruling by the Chair shall be submitted to the Commission for decision by vote;
 - (c) to call for votes and to announce the result of the vote to the Commission;
 - (d) **to develop, with appropriate consultation, draft agendas 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, and 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; and
 - (g) where appropriate, provide copies or availability to a copy of reports of the Commission including

reports of Observers under the International Observer Scheme, upon request after such reports have been considered by the Commission.

I. Chair of Scientific Committee

1. The Chair of the Scientific Committee may attend meetings of the Commission and Technical Committee in an *ex officio* capacity without vote, at the invitation of the Chair of the Commission or Technical Committee respectively in order to represent the views of the Scientific Committee.

J. Schedule amendments and recommendations under Article VI

1. No *item* of business which involves amendment of the Schedule to the Convention, or recommendations under Article VI of the Convention, shall be the subject of decisive action by the Commission unless the subject matter has been included in the *annotated provisional agenda circulated* to the Commissioners at least 60 days in advance of the meeting at which the matter is to be discussed.

K. Financial

1. The financial year of the Commission shall be from 1st September to 31st August.
2. Any request to Contracting Governments for financial contributions shall be accompanied by a statement of the Commission's expenditure for the appropriate year, actual or estimated.
3. Annual payments and other financial contributions by Contracting Governments shall be made payable to the Commission and shall be in pounds sterling.

L. Offices

1. The seat of the Commission shall be located in the United Kingdom.

M. Committees

1. The Commission shall establish a Scientific Committee, a Technical Committee and a Finance and Administration Committee. Commissioners shall notify their desire to be represented on the Scientific, Technical and Finance and Administration Committees 28 days prior to the meetings, and shall designate the approximate size of their delegations.
2. The Chair may constitute such *ad hoc* committees as may be necessary from time to time, with similar arrangements for notification of the numbers of participants as in paragraph 1 above where appropriate. Each committee shall elect its Chair. The Secretary shall furnish appropriate secretarial services to each committee.
3. Sub-committees and working groups may be designated by the Commission to consider technical issues as appropriate, and each will report to the Technical Committee or the plenary session of the Commission as the Commission may decide.
4. The Scientific Committee shall review the current scientific and statistical information with respect to whales and whaling, shall review current scientific research programmes of Governments, other international organisations or of private organisations,

shall review the scientific permits and scientific programmes for which Contracting Governments plan to issue scientific permits, shall consider such additional matters as may be referred to it by the Commission or by the Chair of the Commission, and shall submit reports and recommendations to the Commission.

5. The preliminary report of the Scientific Committee should be completed and available to all Commissioners by the opening date of the Annual Commission Meeting.
6. The Secretary shall be an *ex officio* member of the Scientific Committee without vote.
7. The Technical Committee shall, as directed by the Commission or the Chair of the Commission, prepare reports and make recommendations on:
 - (a) Management principles, categories, criteria and definitions, taking into account the recommendations of the Scientific Committee, as a means of helping the Commission to deal with management issues as they arise;
 - (b) technical and practical options for implementation of conservation measures based on Scientific Committee advice;
 - (c) the implementation of decisions taken by the Commission through resolutions and through Schedule provisions;
 - (d) Commission agenda items assigned to it; and
 - (e) any other matters.
8. The Finance and Administration Committee shall advise the Commission on expenditure, budgets, scale of contributions, financial regulations, staff questions, and such other matters as the Commission may refer to it from time to time.
9. The Commission shall establish an Advisory Committee. This Committee shall comprise the Chair, Vice-Chair, Chair of the Finance and Administration Committee, Secretary and two Commissioners to broadly represent the interests within the IWC forum. The appointment of the Commissioners shall be for two years on alternative years.
The role of the Committee shall be to assist and advise the Secretariat on administrative matters upon request by the Secretariat or agreement in the Commission. The Committee is not a decision-making forum and shall not deal with policy matters or administrative matters that are within the scope of the Finance and Administration Committee other than making recommendations to this Committee.

N. Language of the Commission

1. English shall be the official and working language of the Commission but Commissioners may speak in any other language, if desired, it being understood that Commissioners doing so will provide their own interpreters. All official publications and communications of the Commission shall be in English.

O. Records of Meetings

1. The proceedings of the meetings of the Commission and those of its committees shall be recorded in summary form.

P. Reports

1. Commissioners should arrange for reports on the subject of whaling published in their own countries to be sent to the Commission for record purposes.

2. The Chair's Report of the most recent Annual Commission Meeting shall be published in the Annual Report of the year just completed.

Q. Commission Documents

1. Reports of meetings of all committees, sub-committees and working groups of the Commission are confidential (i.e. reporting of discussions, conclusions and recommendations made during a meeting is prohibited) until the opening plenary session of the Commission meeting to which they are submitted, or in the case of intersessional meetings, until after they have been dispatched by the Secretary to Contracting Governments and Commissioners. This applies equally to member governments and observers. Such reports, with the exception of the report of the Finance and Administration Committee, shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time. Procedures applying to the Scientific Committee are contained in its Rules of Procedure E.5.(a) and E.5.(b).
2. Any document submitted to the Commission for distribution to Commissioners, Contracting Governments or members of the Scientific Committee is considered to be in the public domain unless it is designated by the author or government submitting it to be restricted. Such restriction is automatically lifted when the report of the meeting to which it is submitted becomes publicly available under 1. above.
3. Observers admitted under Rule of Procedure C.1.(a) and (b) may submit Opening Statements which will be included in the official documentation of the Annual or other Meeting concerned. They shall be presented in the format and the quantities determined by the Secretariat for meeting documentation.
The content of the Opening Statements shall be relevant to matters under consideration by the Commission, and shall be in the form of views and comments made to the Commission in general rather than directed to any individual or group of Contracting Governments.¹
4. All meeting documents shall be included in the Commission's archives in the form in which they were considered at the meeting.

R. Amendment of Rules

1. These Rules of Procedure may be amended from time to time by a simple majority of the Commissioners voting, but notice of any proposed amendment shall be despatched by the most expeditious means available to the Commissioners by the Secretary to the Commission not less than 60 days in advance of the meeting at which the matter is to be discussed.

¹ There is no intention that the Secretariat should conduct advance or *ex-ante* reviews of such statements.

Financial Regulations

A. Applicability

1. These regulations shall govern the financial administration of the International Whaling Commission.
2. They shall become effective as from the date decided by the Commission and shall be read with and in addition to the Rules of Procedure. They may be amended in the same way as provided under Rule R.1 of the Rules of Procedure in respect of those Rules.
3. In case of doubt as to the interpretation and application of any of these regulations, the Chair is authorised to give a ruling.

B. Financial Year

1. The financial year of the Commission shall be from 1st September to 31st August (Rules of Procedure, Rule K.1).

C. General Financial Arrangements

1. There shall be established a Research Fund and a General Fund, and a Voluntary Fund for Small Cetaceans.

(a) The Research Fund shall be credited with voluntary contributions and any such monies as the Commission may allocate for research and scientific investigation and charged with specific expenditure of this nature.

(b) The General Fund shall, subject to the establishment of any other funds that the Commission may determine, be credited or charged with all other income and expenditure.

(c) The details of the Voluntary Fund for Small Cetaceans are given in Appendix 1.

The General Fund shall be credited or debited with the balance on the Commission's Income and Expenditure Account at the end of each financial year.

2. Subject to the restrictions and limitations of the following paragraphs, the Commission may accept funds from outside the regular contributions of Contracting Governments.

(a) The Commission may accept such funds to carry out programmes or activities decided upon by the Commission and/or to advance programmes and activities which are consistent with the objectives and provisions of the Convention.

(b) The Commission shall not accept external funds from any of the following:

- (i) Sources that are known, through evidence available to the Commission, to have been involved in illegal activities, or activities contrary to the provisions of the Convention;
- (ii) Individual companies directly involved in legal commercial whaling under the Convention;
- (iii) Organisations which have deliberately brought the Commission into public disrepute.

3. Monies in any of the Funds that are not expected to be required for disbursement within a reasonable period may be invested in appropriate Government or similar loans by the Secretary in consultation with the Chair.

4. The Secretary shall:

- (a) establish detailed financial procedures and accounting records as are necessary to ensure effective financial administration and control and the exercise of economy;
- (b) deposit and maintain the funds of the Commission in an account in the name of the Commission in a bank to be approved by the Chair;
- (c) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received, and that payment has not previously been made;
- (d) designate the officers of the Secretariat who may receive monies, incur obligations and make payments on behalf of the Commission;
- (e) authorise the writing off of losses of cash, stores and other assets and submit a statement of such amounts written off to the Commission and the auditors with the annual accounts.

5. The accounts of the Commission shall be audited annually by a firm of qualified accountants selected by the Commission. The auditors shall certify that the financial statements are in accord with the books and records of the Commission, that the financial transactions reflected in them have been in accordance with the rules and regulations and that the monies on deposit and in hand have been verified.

D. Yearly Statements

1. At each Annual Meeting, there shall be laid before the Commission two financial statements:

- (a) a provisional statement dealing with the actual and estimated expenditure and income in respect of the current financial year;
- (b) the budget estimate of expenditure and income for the ensuing year including the estimated amount of the individual annual payment to be requested of each Contracting Government.

Expenditure and income shall be shown under appropriate sub-heads accompanied by such explanations as the Commission may determine.

2. The two financial statements identified in Regulation D.1 shall be despatched by the most expeditious means available to each Contracting Government and each Commissioner not less than 60 days in advance of the Annual Commission Meeting. They shall require the Commission's approval after having been referred to the Finance and Administration Committee for consideration and recommendations. A copy of the final accounts shall be sent to all Contracting Governments after they have been audited.

3. Supplementary estimates may be submitted to the Commission, as and when may be deemed necessary, in a form consistent with the Annual Estimates. Any supplementary estimate shall require the approval of the Commission after being referred to the Finance and Administration Committee for consideration and recommendation.

E. Contributions

1. As soon as the Commission has approved the budget for any year, the Secretary shall send a copy thereof to each Contracting Government (in compliance with Rules of Procedure, Rule K.2), and shall request it to remit its annual payment.
2. Payment shall be in pounds sterling, drafts being made payable to the International Whaling Commission and shall be payable within 90 days of the said request from the Secretary or by the following 28 February, the "due date" whichever is the later. It shall be open to any Contracting Government to postpone the payment of any increased portion of the amount which shall be payable in full by the following 31 August, which then becomes the "due date".
3. New Contracting Governments whose adherence to the Convention becomes effective during the first six months of any financial year shall be liable to pay the full amount of the annual payment for that year, but only half that amount if their adherence falls within the second half of the financial year. The due date for the first payment by new Contracting Governments shall be defined as 6 months from the date of adherence to the Convention or before the first day of its participation in any Annual or Special Meeting of the Commission whichever is the earlier.
Subsequent annual payments shall be paid in accordance with Financial Regulation E.2.
4. The Secretary shall report at each Annual Meeting the position as regards the collection of annual payments.

F. Arrears of Contributions²

1. If a Contracting Government's annual payments have not been received by the Commission by the due date referred to under Regulation E.2. a penalty charge of 10% shall be added to the outstanding annual payment on the day following the due date. If the payment remains outstanding for a further 12 months compound interest shall be added on the anniversary of that day and each subsequent anniversary thereafter at the rate of 2% above the base rate quoted by the Commission's bankers on the day. The interest, calculated to the nearest pound, shall be payable in respect of complete years and continue to be payable in respect of any outstanding balance until such time as the amount in arrears, including interest, is settled in full.
2. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission within 3 months of the due date or by the day before the first day of the next Annual or Special Meeting of the Commission following the due date, **or, in the case of a vote by postal or other means, by the date upon which votes must be received**, whichever date occurs first, the right to vote of the Contracting Government concerned shall be suspended as provided under Rule E.2 of the Rules of Procedure.
3. Any interest paid by a Contracting Government to the

Commission in respect of late annual payments shall be credited to the General Fund.

4. Any payment to the Commission by a Contracting Government in arrears with annual payments shall be used to pay off debts to the Commission, including interest due, in the order in which they were incurred.
5. If a Contracting Government's annual payments, including any interest due, have not been received by the Commission in respect of a period of 3 financial years;
 - (a) no further annual contribution will be charged;
 - (b) interest will continue to be applied annually in accordance with Financial Regulation F.1.;
 - (c) the provisions of this Regulation apply to the Contracting Government for as long as the provisions of Financial Regulations F.1. and F.2. remain in effect for that Government;
 - (d) the Contracting Government concerned will be entitled to attend meetings on payment of a fee per delegate at the same level as Non-Member Government observers;
 - (e) the provisions of this Regulation and of Financial Regulations F.1. and F.2. will cease to have effect for a Contracting Government if it makes a payment of 2 years outstanding contributions and provides an undertaking to pay the balance of arrears and the interest within a further 2 years;
 - (f) interest applied to arrears in accordance with this Regulation will accrue indefinitely **except that, if a Government withdraws from the Convention, no further charges shall accrue after the date upon which the withdrawal takes effect.**
6. Unless the Commission decides otherwise, a Government which adheres to the Convention without having paid to the Commission **any financial obligations incurred prior to its adherence** shall, with effect from the date of adherence, be subject to all the penalties prescribed by the Rules of Procedure and Financial Regulations relating to arrears of financial contributions and interest thereon. The penalties shall remain in force until the arrears, including any newly-charged interest, have been paid in full.

Appendix 1

VOLUNTARY FUND FOR SMALL CETACEANS

Purpose

The Commission decided at its 46th Annual Meeting in 1994 to establish an IWC voluntary fund to allow for the participation from developing countries in future small cetacean work and requested the Secretary to make arrangements for the creation of such a fund whereby contributions in cash and in kind can be registered and utilised by the Commission.

Contributions

The Commission has called on Contracting Governments and non-contracting Governments, intergovernmental organisations and other entities as appropriate, in particular those most interested in scientific research on small cetaceans, to contribute to the IWC voluntary fund for small cetaceans.

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

² For the purposes of the Financial Regulations the expression 'received by the Commission' means either (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account or (2) that the Secretariat has in its possession cash, a cheque, bankers draft or other valid instrument of the correct value.

support in kind are to be made available through the Voluntary Fund, the donation will be registered and administered by the Secretariat in accordance with Commission procedures.

The Secretariat will notify all members of the Commission on receipt of such voluntary contributions.

Where expenditure is incurred using these voluntary funds the Secretariat will inform the donors of their utilisation.

Distribution of Funds

1. Recognising that there are differences of view on the legal competence of the Commission in relation to small cetaceans, but aware of the need to promote the development of increased participation by developing countries, the following primary forms of disbursement will be supported in accordance with the purpose of the Voluntary Fund:

- (a) provision of support for attendance of invited participants at meetings of the Scientific Committee;
- (b) provision of support for research in areas, species or populations or research methodology in small cetacean work identified as of direct interest or priority in the advice provided by the Scientific Committee to the Commission;

- (c) other small cetacean work in developing countries that may be identified from time to time by the Commission and in consultation with intergovernmental agencies as requiring, or likely to benefit from support through the Fund.
2. Where expenditure is proposed in support of invited participants, the following will apply:
- (a) invited participants will be selected through consultation between the Chair of the Scientific Committee, the Convenor of the appropriate sub-committee and the Secretary;
 - (b) the government of the country where the scientists work will be advised of the invitation and asked if it can provide financial support.
3. Where expenditure involves research activity, the following will apply:
- (a) the normal procedures for review of proposals and recommendations by the Scientific Committee will be followed;
 - (b) appropriate procedures for reporting of progress and outcomes will be applied and the work reviewed;
 - (c) the Secretariat shall solicit the involvement, as appropriate, of governments in the regions where the research activity is undertaken.

Rules of Debate

A. Right to Speak

1. The Chair shall call upon speakers in the order in which they signify their desire to speak.
2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion.
3. A speaker shall not be interrupted except on a point of order. He/she may, however, with the permission of the Chair, give way during his/her speech to allow any other Commissioner to request elucidation on a particular point in that speech.
4. The Chair of a committee or working group may be accorded precedence for the purpose of explaining the conclusion arrived at by his/her committee or group.

B. Submission of Motions

1. Proposals and amendments shall normally be introduced in writing in the working language of the meeting and shall be submitted to the Secretariat which shall circulate copies to all delegations in the session. As a general rule, no proposal shall be discussed at any plenary session unless copies of it have been circulated to all delegations normally no later than 6pm, or earlier if so determined by the Chair in consultation with the Commissioners, on the day preceding the plenary session. The presiding officer may, however, permit the discussion and consideration of amendments, or motions, as to procedure, even though such amendments, or motions have not been circulated previously.

C. Procedural Motions

1. During the discussion of any matter, a Commissioner may rise to a point of order, and the point of order shall be immediately decided by the Chair in accordance with these Rules of Procedure. A Commissioner may appeal against any ruling of the Chair. The appeal shall be immediately put to the vote and the Chair's ruling shall stand unless a majority of the Commissioners present and voting otherwise decide. A Commissioner rising to a point of order may not speak on the substance of the matter under discussion.
2. The following motions shall have precedence in the following order over all other proposals or motions before the Commission:
 - (a) to adjourn the session;
 - (b) to adjourn the debate on the particular subject or question under discussion;
 - (c) to close the debate on the particular subject or question under discussion.

D. Arrangements for Debate

1. The Commission may, in a proposal by the Chair or by a Commissioner, limit the time to be allowed to each speaker and the number of times the members of a delegation may speak on any question. When the debate is subject to such limits, and a speaker has

spoken for his allotted time, the Chair shall call him/her to order without delay.

2. During the course of a debate the Chair may announce the list of speakers, and with the consent of the Commission, declare the list closed. The Chair may, however, accord the right of reply to any Commissioner if a speech delivered after he/she has declared the list closed makes this desirable.
3. During the discussion of any matter, a Commissioner may move the adjournment of the debate on the particular subject or question under discussion. In addition to the proposer of the motion, a Commissioner may speak in favour of, and two Commissioners may speak against the motion, after which the motion shall immediately be put to the vote. The Chair may limit the time to be allowed to speakers under this rule.
4. A Commissioner may at any time move the closure of the debate on the particular subject or question under discussion, whether or not any other Commissioner has signified the wish to speak. Permission to speak on the motion for the closure of the debate shall be accorded only to two Commissioners wishing to speak against the motion, after which the motion shall immediately be put to the vote. The Chair may limit the time to be allowed to speakers under this rule.

E. Procedure for Voting on Motions and Amendments

1. A Commissioner may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request of such division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be accorded only to two Commissioners wishing to speak in favour of, and two Commissioners wishing to speak against, the motion. If the motion for division is carried, those parts of the proposal or amendments which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.
2. When the amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the last amendment moved and then on the next to last, and so on until all amendments have been put to the vote. When, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.
3. If two or more proposals relate to the same question, the Commission shall, unless it otherwise decides, vote on the proposals in the order in which they have been submitted. The Commission may, after voting on a proposal, decide whether to vote on the next proposal.

Rules of Procedure of the Technical Committee

A. Participation

1. Membership shall consist of those member nations that elect to be represented on the Technical Committee. Delegations shall consist of Commissioners, or their nominees, who may be accompanied by technical experts.
2. The Secretary of the Commission or a deputy shall be an *ex officio* non-voting member of the Committee.
3. Observers may attend Committee meetings in accordance with the Rules of the Commission.

B. Organisation

1. Normally the Vice-Chair of the Commission is the Chair of the Technical Committee. Otherwise the Chair shall be elected from among the members of the Committee.
2. A provisional agenda for the Technical Committee and each sub-committee and working group shall be prepared by the Technical Committee Chair with the assistance of the Secretary. After agreement by the Chair of the Commission they shall be distributed to Commissioners 30 days in advance of the Annual Meeting.

C. Meetings

1. The Annual Meeting shall be held between the Scientific Committee and Commission meetings with reasonable overlap of meetings as appropriate to agenda requirements. Special meetings may be held as agreed by the Commission or the Chair of the Commission.
2. Rules of conduct for observers shall conform with rules established by the Commission for meetings of all committees and plenary sessions.

D. Reports

1. Reports and recommendations shall, as far as possible, be developed on the basis of consensus. However, if a consensus is not achievable, the committee, sub-committee or working group shall report the different views expressed. The Chair or any national delegation may request a vote on any issue. Resulting recommendations shall be based on a simple majority of those nations casting an affirmative or negative vote.
2. Documents on which recommendations are based should be available on demand immediately following each committee, sub-committee or working group meeting.
3. Technical papers produced for the Commission may be reviewed by the Committee for publication by the Commission.

Rules of Procedure of the Scientific Committee

TERMS OF REFERENCE

The Scientific Committee, established in accordance with the Commission's Rule of Procedure M.1, has the general terms of reference defined in Rule of Procedure M.4.

In this regard, the DUTIES of the Scientific Committee, can be seen as a progression from the scientific investigation of whales and their environment, leading to assessment of the status of the whale stocks and the impact of catches upon them, and then to provision of management advice on the regulation of whaling. This can be defined in the following terms for the Scientific Committee to:

Encourage, recommend, or if necessary, organise studies and investigations related to whales and whaling [Convention Article IV.1(a)]

Collect and analyse statistical information concerning the current condition and trend of whale stocks and the effects of whaling activities on them [Article IV.1 (b)]

Study, appraise, and disseminate information concerning methods of maintaining and increasing the population of whale stocks [Article IV.1 (c)]

Provide scientific findings on which amendments to the Schedule shall be based to carry out the objectives of the Convention and to provide for the conservation, development and optimum utilization of the whale resources [Article V.2 (a) and (b)]

Publish reports of its activities and findings [Article IV.2]

In addition, specific FUNCTIONS of the Scientific Committee are to:

Receive, review and comment on Special Permits issued for scientific research [Article VIII.3 and Schedule paragraph 30]

Review research programmes of Contracting Governments and other bodies [Rule of Procedure M.4]

SPECIFIC TOPICS of current concern to the Commission include:

Comprehensive Assessment of whale stocks [*Rep. int. Whal. Commn* 34:30]

Implementation of the Revised Management Procedure [*Rep. int. Whal. Commn* 45:43]

Assessment of stocks subject to aboriginal subsistence whaling [Schedule paragraph 13(b)]

Development of the Aboriginal Subsistence Whaling Management Procedure [*Rep. int. Whal. Commn* 45:42-3]

Effects of environmental change on cetaceans [*Rep. int. Whal. Commn* 43:39-40; 44:35; 45:49]

Scientific aspects of whale sanctuaries [*Rep. int. Whal. Commn* 33:21-2; 45:63]

Scientific aspects of small cetaceans [*Rep. int. Whal. Commn* 41:48; 42:48; 43:51; 45:41]

Scientific aspects of whalewatching [*Rep. int. Whal. Commn* 45:49-50]

A. Membership and Observers

1. The Scientific Committee shall be composed of scientists nominated by the Commissioner of each Contracting Government which indicates that it wishes to be represented on that Committee. Commissioners shall identify the head of delegation and any alternate(s) when making nominations to the Scientific Committee. The Secretary of the Commission and relevant members of the Secretariat shall be *ex officio* non-voting members of the Scientific Committee.
2. The Scientific Committee recognises that representatives of Inter-Governmental Organisations with particular relevance to the work of the Scientific Committee may also participate as non-voting members, subject to the agreement of the Chair of the Committee acting according to such policy as the Commission may decide.
3. Further to paragraph 2 above the World Conservation Union (IUCN) shall have similar status in the Scientific Committee.
4. Non-member governments may be represented by observers at meetings of the Scientific Committee, subject to the arrangements given in Rule C.1(a) of the Commission's Rules of Procedure.
5. Any other international organisation sending an accredited observer to a meeting of the Commission may nominate a scientifically qualified observer to be present at meetings of the Scientific Committee. Any such nomination must reach the Secretary not less than 60 days before the start of the meeting in question and must specify the scientific qualifications and relevant experience of the nominee. The Chair of the Scientific Committee shall decide upon the acceptability of any nomination but may reject it only after consultation with the Chair and Vice-Chair of the Commission. Observers admitted under this rule shall not participate in discussions but the papers and documents of the Scientific Committee shall be made available to them at the same time as to members of the Committee.
6. The Chair of the Committee, acting according to such policy as the Commission or the Scientific Committee may decide, may invite qualified scientists not nominated by a Commissioner to participate by invitation or otherwise in committee meetings as non-voting contributors. They may present and discuss documents and papers for consideration by the Scientific Committee, participate on sub-committees, and they shall receive all Committee documents and papers.
 - (a) Convenors will submit suggestions for Invited Participants (including the period of time they would like them to attend) to the Chair (copied to the Secretariat) not less than four months before the meeting in question. The Convenors will base their suggestions on the priorities and initial agenda identified by the Committee and Commission at the previous meeting. The Chair may also consider offers from suitably qualified scientists to contribute to priority items on the Committee's agenda if they submit such an offer to the Secretariat not less than four months before the meeting in question, providing information on the contribution they believe that they can make. Within two weeks of this, the Chair, in consultation with the Convenors and Secretariat, will develop a list of invitees.
 - (b) The Secretary will then promptly issue a letter of invitation to those potential Invited Participants suggested by the Chair and Convenors. That letter will state that there may be financial support available, although invitees will be encouraged to find their own support. Invitees who wish to be considered for travel and subsistence will be asked to submit an estimated airfare (incl. travel to and

from the airport) to the Secretariat, within 2 weeks. Under certain circumstances (e.g. the absence of a potential participant from their institute), the Secretariat will determine the likely airfare.

At the same time as (b) a letter will be sent to the government of the country where the scientist is domiciled for the primary purpose of enquiring whether that Government would be prepared to pay for the scientist's participation. If it is, the scientist is no longer an Invited Participant but becomes a national delegate.

- (c) At least three months before the meeting, the Secretariat will supply the Chair with a list of participants and the estimated expenditure for each, based on (1) the estimated airfare, (2) the period of time the Chair has indicated the IP should be present and (3) a daily subsistence rate based on the actual cost of the hotel deemed most suitable by the Secretary and Chair¹, plus an appropriate daily allowance.

At the same time as (c) a provisional list of the proposed Invited Participants will be circulated to Commissioners, with a final list attached to the Report of the Scientific Committee.

- (d) The Chair will review the estimated total cost for all suggested participants against the money available in the Commission's budget. Should there be insufficient funds, the Chair, in consultation with the Secretariat and Convenors where necessary, will decide on the basis of the identified priorities, which participants should be offered financial support and the period of the meeting for which that support will be provided. Invited Participants without IWC support, and those not supported for the full period, may attend the remainder of the meeting at their own expense.
- (e) At least two months before the meeting, the Secretary will send out formal confirmation of the invitations to all the selected scientists, in accordance with the Commission's Guidelines, indicating where appropriate that financial support will be given and the nature of that support.
- (f) In exceptional circumstances, the Chair, in consultation with the Convenors and Secretariat, may waive the above time restrictions.
- (g) The letter of invitation to Invited Participants will include the following ideas:
- (h) Under the Committee's Rules of Procedure, Invited Participants may present and discuss papers, and participate in meetings (including those of subgroups). They are entitled to receive all Committee documents and papers. They may participate fully in discussions pertaining to their area of expertise. However, discussions of Scientific Committee procedures and policies are in principle limited to Committee members nominated by member governments. Such issues will be identified by the Chair of the Committee during discussions. Invited Participants are also urged to use their discretion as regards their involvement in the formulation of potentially

controversial recommendations to the Commission; the Chair may at his/her discretion rule them out of order.

- (i) After an Invited Participant has his/her participation confirmed through the procedures set up above, a Contracting Government may grant this person national delegate status, thereby entitling him/her to full participation in Committee proceedings, without prejudice to funding arrangements previously agreed upon to support the attendance of the scientist in question.
7. A small number of interested local scientists may be permitted to observe at meetings of the Scientific Committee on application to, and at the discretion of, the Chair. Such scientists should be connected with the local Universities, other scientific institutions or organisations, and should provide the Chair with a note of their scientific qualifications and relevant experience at the time of their application.

B. Agenda

1. The initial agenda for the Committee meeting of the following year shall be developed by the Committee prior to adjournment each year. The agenda should identify, as far as possible, key issues to be discussed at the next meeting and specific papers on issues should be requested by the Committee as appropriate.
2. The provisional agenda for the Committee meeting shall be circulated for comment 60 days prior to the Annual Meeting of the Committee. Comments will normally be considered for incorporation into the draft agenda presented to the opening plenary only if received by the Chair 21 days prior to the beginning of the Annual Meeting.

C. Organisation

1. The Scientific Committee shall include standing sub-committees and working groups by area or species, or other subject, and a standing sub-committee on small cetaceans. The Committee shall decide at each meeting on sub-committees for the coming year.
2. The sub-committees and working groups shall prepare the basic documents on the identification, status and trends of stocks, including biological parameters, and related matters as necessary, for the early consideration of the full Committee.
3. The sub-committees, except for the sub-committee on small cetaceans, shall concentrate their efforts on stocks of large cetaceans, particularly those which are currently exploited or for which exploitation is under consideration, or for which there is concern over their status, but they may examine matters relevant to all cetaceans where appropriate.
4. The Chair may appoint other sub-committees as appropriate.
5. The Committee shall elect from among its members a Chair and Vice-Chair who will normally serve for a period of three years. They shall take office at the conclusion of the annual meeting at which they are elected. The Vice-Chair shall act for the Chair in his/her absence.

D. Meetings

1. Meetings of the Scientific Committee as used in these rules include all meetings of subgroups of the

¹ [Invited participants who choose to stay at a cheaper hotel will receive the actual rate for their hotel plus the same daily allowance.]

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 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.

- (i) 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.

- (ii) Reports of intersessional Steering Groups or Sub-committees are confidential until they have been discussed by the Scientific Committee, normally at an Annual Meeting.

In this context, 'confidential' means that reporting of discussions, conclusions and recommendations is prohibited. This applies equally to Scientific Committee members, invited participants and observers. Reports shall be distributed to Commissioners, Contracting Governments and accredited observers at the same time.

The Scientific Committee should identify the category of any intersessional meetings at the time they are recommended.

- (c) Scientific papers and reports (revised as necessary) may be considered for publication by the Commission. Papers shall be subject to peer review before publication. Papers submitted shall follow the Guidelines for Authors published by the Commission.

F. Review of Scientific Permits

1. When proposed scientific permits are sent to the Secretariat before they are issued by national governments the Scientific Committee shall review the scientific aspects of the proposed research at its annual meeting, or during a special meeting called for that purpose, and comment on them to the Commission.
2. The review process shall take into account guidelines issued by the Commission.
3. The proposed permits and supporting documents should include specifics as to the objectives of the research, number, sex, size, and stock of the animals to be taken, opportunities for participation in the research by scientists of other nations, and the possible effect on conservation of the stock resulting from granting the permits.
4. Preliminary results of any research resulting from the permits should be made available for the next meeting of the Scientific Committee as part of the national progress report or as a special report, paper or series of papers.

G. Financial Support for Research Proposals

1. The Scientific Committee shall identify research needs.
2. It shall consider unsolicited research proposals seeking financial support from the Commission to address these needs. A sub-committee shall be established to review and rank research proposals received 4 months in advance of the Annual Meeting and shall make recommendations to the full Committee.
3. The Scientific Committee shall recommend in priority order those research proposals for Commission financial support as it judges best meet its objectives.

H. Availability of data

The Scientific Committee shall work with the Secretariat to ensure that catch and scientific data that the Commission holds are archived and accessible using modern computer data handling techniques. Access to such data shall be subject to the following rules.

1. Information identified in Section VI of the Schedule that shall be notified or forwarded to the IWC or other body designated under Article VII of the Convention.

This information is available on request through the Secretariat to any interested persons with a legitimate claim relative to the aims and purposes of the Convention².

2. Information and reports provided where possible under Section VI of the Schedule.

When such information is forwarded to the IWC a covering letter should make it clear that the information or report is being made available, and it should identify the pertinent Schedule paragraph under which the information or report is being submitted.

Information made available to the IWC under this provision is accessible to accredited persons as defined under 4. below, and additionally to other interested persons subject to the agreement of the government submitting the information or report.

Such information already held by the Commission is not regarded as having been forwarded until such clarification of its status is received from the government concerned.

3. Information neither required nor requested under the Schedule but which has been or might be made available to the Commission on a voluntary basis.

This information is of a substantially different status from the previous two types. It can be further divided into two categories:

(a) *Information collected under International Schemes.*

- (i) Data from the IWC sponsored projects.
- (ii) Data from the International Marking Scheme.

- (iii) Data obtained from international collaborative activities which are offered by the sponsors and accepted as contributions to the Comprehensive Assessment, or proposed by the Scientific Committee itself.

Information collected as the result of IWC sponsored activities and/or on a collaborative basis with other organisations, governments, institutions or individuals is available within those contributing bodies either immediately, or, after mutual agreement between the IWC and the relevant body/person, after a suitable time interval to allow 'first use' rights to the primary contributors.

- (b) *Information collected under national programmes, or other than in (a).*

Information in this category is likely to be provided by governments under special conditions and would hence be subject to some degree of restriction of access. This information can only be held under the following conditions:

- (i) A minimum level of access should be that such data could be used by accredited persons during the Scientific Committee meetings using validated techniques or methods agreed by the Scientific Committee. After the meeting, at the request of the Scientific Committee, such data could be accessed by the Secretariat for use with previously specified techniques or validated programs. Information thus made available to accredited persons should not be passed on to third parties but governments might be asked to consider making such records more widely available or accessible.
- (ii) The restrictions should be specified at the time the information is provided and these should be the only restrictions.
- (iii) Restrictions on access should not discriminate amongst accredited persons.
- (iv) All information held should be documented (i.e. described) so that accredited persons know what is held, along with stated restrictions on the access to it and the procedures needed to obtain permission for access.

4. Accredited persons are those scientists defined under sections A.1, 2, 3 and 6 of the Rules of Procedure of the Scientific Committee. Invited participants are also considered as 'accredited' during the intersessional period following the meeting which they attend.

² [The Government of Norway notes that for domestic legislation it is only to agree that data it provides under this paragraph are made available to accredited persons.]



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