

Chair's Report of the 54th Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

The 54th Annual Meeting of the International Whaling Commission (IWC) took place from 20-24 May 2002 at the Kaikyo Messe Conference Centre in Shimonoseki, Japan under the Chairmanship of 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 April to 19 May 2002.

1.2 Welcome addresses

Mr Tsutomu Takebe, Minister of Agriculture, Forestry and Fisheries welcomed all delegations and participants to the 54th Annual Meeting of IWC on behalf of the Government of Japan. Referring to Japan's 5,000-year tradition of utilising whales, he noted the significance of holding the 54th Annual Meeting in Shimonoseki, where Japan's modern whaling originated. Recognising the polarised views among IWC member countries regarding the utilisation of whale stocks, he explained that Japan's policy on whaling and whale resources was to make sustainable use of robust and healthy whale stocks without adversely affecting them, while protecting depleted and endangered stocks. Referring to the view of some that whales should not be taken under any circumstances, even from abundant stocks, Mr Takebe stated his belief that protection measures alone would not maintain the balance of nature. In this respect, he noted the rapid recovery of many whales stocks since implementation of the moratorium and referred to estimates on the amount of living marine resources consumed by cetaceans, the agreement by FAO that studies should be conducted on the competition between whales and fisheries and the objectives of Japan's whale research programme. He hoped that at this meeting, Contracting Governments would not make exceptions of cetaceans but would regard them in the same light as other living marine resources so that progress could be made toward the basic principle of the sustainable use of whales based on science and in compliance with the International Convention for the Regulation of Whaling. He looked forward to a fruitful and constructive meeting.

Mr Uetake, Vice Minister of Foreign Affairs also welcomed participants. He recalled that since becoming a signatory to the Convention in 1951, Japan, as a responsible user of the resources, has supported the main object and purpose of the Convention, i.e. the preservation and sustainable use of the world's large whales. He noted that it is Japan's belief that, like other living marine creatures, the whale is a precious resource for human beings. He considered, however, that some countries have not understood this belief, leading to intense arguments at Annual IWC Meetings. He again expected heated arguments on many issues (e.g. on the RMS, the necessity to conduct research under scientific permit, the renewal of aboriginal subsistence whaling catch limits, the need to establish sanctuaries and the socio-economic importance of small-type whaling for Japan) but hoped that rational and constructive discussions based on the recommendations of

the Scientific Committee and the Commission's other sub-groups could be heard. He noted that resolution of the whaling issue is not easy, but believed that a sensible solution could be found if all participants could express their views in a rational manner based on objective and scientific data.

Finally, Mr Kiyoshi Ejima, Mayor of Shimonoseki thanked participants for coming to Shimonoseki, recognised the hard work and lively discussions that would be taking place during the meeting, but encouraged everyone to take time to enjoy Shimonoseki's beautiful surroundings. He wished the meeting success.

1.3 Opening statements, credentials and discussions on the status of Iceland's adherence

1.3.1 Status of Iceland's adherence and credentials

The Chair welcomed new members to the IWC, i.e., San Marino (adhered on 16 April 2002), Benin (adhered on 26 April 2002), Gabon and the Republic of Palau (adhered on 8 May 2002), Portugal (adhered on 14 May 2002) and Mongolia (adhered on 16 May 2002). He invited them to give brief opening statements. However, before proceeding with these, Antigua & Barbuda questioned why Iceland had not been included in the list of new members. In response, the Chair informed the Commission that Iceland had deposited an instrument of adherence together with a reservation and accompanying declaration on 14 May 2002 and that the depository government was informing Contracting Governments accordingly. He recalled the decisions taken by the Commission at its 53rd Annual Meeting in London last year regarding Iceland's instrument of adherence deposited on 8 June 2001 that included a reservation to Schedule paragraph 10(e) concerning the moratorium on commercial whaling.¹ He reminded the Commission that it had discussed this matter in detail in London and that the Commission had decided, with some difficulty, that: (1) IWC has the competence to determine the legal status of Iceland's reservation; (2) the Commission does not accept Iceland's reservation; and (3) Iceland was invited to assist as an observer. The Chair explained that since Iceland's new instrument of adherence contained the same reservation, but with an additional declaration, he believed that the position remains governed by last year's decisions. As Chair he felt bound by last year's decisions unless and until the Commission decides otherwise.

Iceland stated that if it is considered that its reservation and thereby adherence was rejected in London and therefore not in effect, then the new instrument of adherence deposited on 14 May 2002 must be regarded as a fully valid new instrument of adherence. Iceland noted that the Convention is very clear on what happens when a government deposits an instrument of adherence with the depository, i.e. (1) the USA as depository informs all other Contracting Governments; and (2) according to Article X.4, the Convention 'enters 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'. Further noting that

¹ See *Ann. Rep. Whaling Comm 2001*: 6-8.

the Chair had stated that a new instrument had been received from Iceland, Iceland considered that according to the Convention, it is a new Contracting Government until it is challenged. Iceland believed that the IWC does not have the competence to vote down any country's membership.

Antigua & Barbuda noted that there is a new instrument of adherence and that it had accepted Iceland's membership with or without the reservation. It considered that the Commission has no authority to deny Antigua & Barbuda from accepting Iceland as a new member or to interfere with treaty relations between States.

The Chair regarded this as a challenge to his ruling but indicated that he would hear a few more views before proceeding with any action.

Norway indicated that it shared the views and the understanding of Iceland and supported its position. St. Lucia, Japan and the Russian Federation expressed similar views and indicated that they recognised Iceland as an IWC member.

New Zealand noted that the Chair in making his ruling was relying on clear decisions made previously by the Commission and that it would, in any vote on the issue, vote in favour of upholding his ruling.

Speaking to a point of order, Iceland stated that the issue at hand was the competence of either the Chair, the depositary government or the Commission to disregard or reject Iceland's instrument of adherence deposited on 14 May. Iceland again stated that it believed none of these has the competence and that if the Chair wanted to rule otherwise Iceland would challenge it.

Denmark commented that last year it had not been in a position to take a decision on Iceland's adherence. It reported that legal considerations were now concluded and that Denmark's view is that the IWC is not competent to decide on this issue. It should be a bilateral matter between Iceland and those individual Contracting Governments having problems with Iceland's reservation.

The Republic of Guinea, China, Grenada, Dominica, the Republic of Palau, and St. Kitts and Nevis spoke in support of Iceland and recognised it as an IWC member. Several noted their opinion that the IWC is not competent to make decisions on membership. Grenada requested clarification on five issues: (1) whether any States other than Iceland had expressed such reservations before; (2) and if so, which States; (3) what decision was taken in each case; (4) what is the difference between these cases and Iceland; and (5) what rules of IWC has Iceland broken?

Responding to the clarifications sought by Grenada, the USA speaking as the depositary government indicated that no other State had lodged reservations with respect to the commercial whaling moratorium and that there are no rules that have been broken. The USA noted that the instruments of adherence of this year's new members, San Marino, Benin, Gabon, the Republic of Palau, Portugal and Mongolia, contained no reservations or declarations and were effective as of the date of deposit. As depositary, it considers each of these countries as new members.

In its capacity as a member government, the USA agreed with the comments of New Zealand. It noted that the reservation in Iceland's most recent instrument of adherence is exactly the same as that submitted last year with the exception that it now contains a policy statement. The USA considered that the policy statement is not legally relevant and that it simply shows what is already known, i.e. that Iceland wants to be the sole judge of whether to

exercise its reservation in the future. It was the view of the USA that if Iceland does not like the commercial whaling moratorium, then it should join IWC without reservation and work towards having the moratorium lifted. In the meantime however, the USA considered the moratorium remains an integral part of the Schedule and believed that no country should be allowed to exempt itself from the Schedule at will – if this is allowed, the entire structure of the IWC would be undermined. The USA agreed with the views of the Chair that Iceland should continue its status as an observer, this being consistent with the Commission's decisions last year.

The UK supported the views of New Zealand and the USA. While the UK welcomed Iceland's decision to rejoin IWC, it did not welcome Iceland's decision to join with a reservation on key policies that the Commission has taken. The UK considered that the outcome of last year's rulings was correct and indicated that it intended to support the ruling the Chair had made earlier. Italy objected to Iceland's reservation and its contents and supported the Chair's position. Mexico believed that the issue at hand is the Chair's ruling, not the competency of the organisation to determine the legal status of Iceland's reservation since that was decided last year. Australia associated itself with the comments of New Zealand, the USA, the UK, Italy and Mexico. It considered Iceland's reservation to be the same as last year's and, like Mexico, considered that the debate is not on competency but on the Chair's ruling. Ireland, Spain and Germany made similar remarks.

Antigua & Barbuda however considered that the key issue is one of competency, not the Chair's ruling. It noted that the treaty relations that exist among IWC members are not between the individual Contracting Governments and the Commission but between the individual Contracting Governments themselves. In its view, the issue of Iceland's reservation is not a matter that can be decided by the depositary government or by IWC. The Commission does not have the right to decide the treaty relations that will subsist between member States under the IWC. It noted that each Contracting Government has the right either to object to Iceland's reservation (and as a consequence the reservation will have no effect between those two members) or to accept the reservation, as Antigua & Barbuda has done. It further considered that adequate precedent could be found regarding reservations and recalled that in the past they have been addressed by individual Contracting Governments and not by the Commission. Antigua & Barbuda considered this the correct procedure from which there should be no departure. It considered that the report from the depositary government regarding the deposit of Iceland's instrument of adherence is sufficient, informing members that Iceland has satisfied a requirement for becoming party to the Convention. Antigua & Barbuda stated that the proper course of action is for each Contracting Government to notify the depositary of its position on Iceland's instrument of adherence.

Responding to these comments, the USA noted that each year in its role as depositary, it provides a treaty status list to the Secretariat prior to the Annual Meeting that includes the names of the Contracting Governments to the Convention. It explained that after review by the Treaty Office of the US Department of State, the USA as depositary chose not to include Iceland in the list because it did not believe that it was its role to reconcile the fact that

the IWC had rejected Iceland's reservation last year and the fact that Iceland had resubmitted the same reservation this year with an attached Diplomatic Note. Since IWC members decided last year that the acceptability of Iceland's reservation is for the Commission to determine, the depository did not feel it would be appropriate to list Iceland as a Contracting Government given the circumstances. The USA noted that its Treaty Office is trying to steer a neutral course and that consequently in this year's treaty status list, the developments at IWC/53 with respect to Iceland are included in a footnote.

Regarding the existence of previous reservations, Japan drew attention to those made at the time of adherence by Argentina and Ecuador relating to territorial waters. It noted that IWC as a body did not intervene with respect to these reservations and questioned why it was doing so now with respect to Iceland's reservation.

Noting the need to decide on this issue, the Chair repeated his earlier ruling that the Commission should adhere to its decisions at IWC/53 and that Iceland is invited to assist as an observer.

Japan and Norway challenged the ruling. Norway also challenged the competence and authority of the Chair, acting on behalf of the Commission, to make such a ruling and believed that this challenge should be dealt with first. Australia commented that since the Chair had not made a ruling on competence, he could not be challenged on this. The Chair disagreed with Norway, stating that the first challenge was to his ruling and that it should therefore be this challenge that is voted on first and that in any case, the matter of competence would be dealt with at the same time. Iceland considered that voting on the challenge to the Chair's ruling was contrary to the Rules of Procedure F.2.(b) and that voting should be on the ruling itself. The Chair indicated that he was following Rule of Debate C.1 that requires the appeal (challenge) to a ruling to be put to a vote.

Eventually, following confirmation by a show of hands that Peru's financial repayment schedule had been agreed by the Commission and therefore its right to vote had been restored (23 in support and 5 against), and a report from the Secretary on credentials (a credentials committee had been formed comprising Australia, Japan and the Secretary and the credentials of all Contracting governments were found to be in order), the challenge to the Chair's ruling was put to a vote. There were 20 votes in support of the challenge and 25 against. The Chair's ruling was therefore upheld.

Following the vote, Norway indicated that its challenge of the competence of the Commission to deal with the issue of Iceland's membership had not been addressed. The Chair repeated his earlier statement that he considered the vote on his ruling covered the competency issue and therefore ruled that this agenda item be closed. Norway challenged this ruling. On being put to a vote, there were 17 votes in support of the challenge, 24 against and 3 abstentions. The Chair's ruling was therefore upheld and the agenda item was closed on the first day of the meeting.

On the second day, Iceland made a formal declaration and subsequently withdrew from the meeting. In its declaration, Iceland stated that in dealing with the issue of its adherence to the Convention, there had been breaches of general principles of international law, the IWC Convention and the IWC's Rules of Procedure. It considered that the USA as depository had not treated Iceland's instrument of adherence in the same manner as

other new instruments. By not notifying Iceland as a member of the IWC Convention, the USA had misused its position as the depository government. It considered that the Chair had acted contrary to the IWC Convention by not recognising Iceland's membership in accordance with its instrument of adherence and that he had acted contrary to IWC's Rules of Procedure (as explained earlier). Finally, by refusing to accept Iceland as a member of the IWC Convention, it considered that a majority of IWC members had violated general principles of international law and the IWC Convention (Iceland also noted that almost half of the Contracting Governments recognised it as a member). Iceland considered all attempts not to recognise it as a member of the IWC Convention to be illegal, therefore not affecting its status as a member. Viewing the proceedings as unacceptable Iceland decided to take no further part in the meeting.

1.3.2 Opening statements

GABON

Gabon explained that it had decided to adhere to the Convention since IWC has an important role to play managing cetaceans and in view of the interest among its tourists created by the presence of cetaceans in Gabonese waters. It noted that its adherence demonstrates the will of Gabon's government to join the efforts of the international community in preserving biodiversity and the environment, especially the marine environment, and in fighting against illegal fishing activities. Gabon hoped that progress could be made at this meeting while taking into account responsibilities and a mutual understanding in combining economic and dietary objectives and the necessity to protect all endangered species, including cetaceans, within a context of respecting the biological balance and the sustainable management of resources.

MONGOLIA

Mongolia identified two positions/principles behind its adherence to the Convention: (1) to assure the right of landlocked countries to access and use international water resources, as established by the United Nations Convention on Law of the Sea (UNCLOS); and (2) to support the principle of sustainable use of renewable water resources. With respect to the former, it noted that in some regional conventions and agreements, the right of landlocked countries to access and use international water resources is not yet acknowledged. It therefore very much welcomed the ability to express its position on these matters afforded by its adherence to the Convention. With respect to the latter, it referred to the fact that its many thousand-year tradition of using natural resources sustainably had left it with an untouched and beautiful environment that is widely admired. Based on its tradition of conservation and sustainable use of natural resources and the principle of sustainable development proposed by the UN Conference on Environment and Development, Mongolia therefore considers it right to use renewable resources in a sustainable way.

REPUBLIC OF PALAU

The Republic of Palau noted the dependence of its people on marine resources for daily sustenance and livelihood and therefore its commitment to the principle of sustainable management and the rational utilisation of the world's marine resources. It also noted the polarisation within the Commission on whaling issues, but considered that when

implementing the Convention, it is important that members take account of the best scientific information available and keep in mind the ultimate objective of the Convention. It recognised that it needed to build additional capacity so that it could participate effectively in the Commission's work, and indicated that it would be grateful to receive any technical support, assistance and guidance from the organisation or from any of its members.

PORTUGAL

Portugal referred to its long maritime tradition. It had adhered to the Convention from the position of contributing strongly to the preservation of the oceans - a common heritage of mankind that it believed should be preserved for future generations.

SAN MARINO

Notwithstanding its situation as a landlocked country, San Marino recalled its long-standing interest in questions concerning the preservation of natural resources worldwide. It considered in a positive light all activities of IWC, particularly the creation of sanctuaries that it considers an effective way of protecting some whale species from extinction. San Marino expressed the wish that all countries worldwide would adhere to the same ideal and co-operate in preserving the prosperity of the Earth and its living creatures.

1.4 Meeting arrangements and treatment of Resolutions

A provisional order of business was agreed. 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 arrangements for the submission of Resolutions and other documents².

2. ADOPTION OF THE AGENDA

Japan expressed concern that IWC had moved away from what it considered to be the Convention's main objective, i.e. the sustainable use of large whales. It considered that the Commission should focus on priority issues and suggested that certain agenda items including whalewatching, whale killing methods and associated welfare issues, environmental and health issues (with the exception of cetacean/fisheries interactions) and small cetaceans should either be deleted or be placed at the very end of the agenda to reflect their low priority. While this proposal received support from Norway and Antigua & Barbuda, a number of countries (Brazil, the USA, Argentina and New Zealand) disagreed strongly. The agenda was subsequently adopted without amendment (Annex B).

² With respect to Resolutions, although many draft Resolutions were submitted to the meeting, only one was addressed (and adopted, see Section 10.1.1). Lengthy discussions over the renewal of aboriginal subsistence whaling catch limits (agenda item 6.3) reduced the time available for other issues. The Chair gave priority to the presentation and discussion of the reports from the Commission's sub-groups leaving no time for other draft Resolutions to be addressed.

3. SECRET BALLOTS

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

Japan re-introduced its proposed amendment (that was unsuccessful last year³) 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 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 2001-1⁴ adopted by consensus at last year's meeting. That Resolution, *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

As the Commission had addressed Japan's proposal last year, the Chair proposed to limit debate by ruling that interventions be limited to two countries speaking in support of the proposal and two countries speaking against. The ruling was challenged, but was upheld when put to a vote.

Mexico and New Zealand spoke against Japan's proposal. Mexico opposed the proposal since it considered that IWC should function in an open and transparent manner. New Zealand considered that Japan's proposal was inconsistent with the sentiments of transparency expressed in Resolution 2001-1. It further noted that although 12 out of 16 Conventions allow secret ballots, in most cases they are never used. New Zealand commented that the Commission is accountable for its decisions to the different governments and the people they represent, and that accountability can be ensured through maintenance of a high level of transparency particularly through the disclosure of each country's vote. It did not agree that the disclosure of votes put small countries, like those of the Caribbean, at risk since these countries argue their positions publicly and make no secret of their views and how they intend to vote.

St. Lucia considered that opposing the proposal for widening the use of secret ballots would condone the activities of those threatening vulnerable economies with

³ See *Ann. Rep. Whaling Comm 2001: 8*.

⁴ *Ann. Rep. Whaling Comm 2001: 54*.

boycotts and economic sabotage that suppress a nation's sovereignty. It noted that these countries have nothing to hide and appealed for support for Japan's initiative. Norway agreed with Mexico and New Zealand on the merits of transparency that should be employed wherever feasible, but believed that the real threats of victimisation, intimidation and coercion surrounding the whaling debate should be taken into account. It therefore supported Japan's proposal.

The proposal was put to a vote but failed to attract a majority. There were 19 votes in favour, 25 against and 1 abstention. Chile explained that it voted against the proposal since in its view, public votes are needed to ensure transparency and that the right to secret ballots lie in their exceptional nature and restricted use. Antigua & Barbuda indicated that it voted in favour of the proposal in view of the continued boycotts and threats against Caribbean countries. It believed that sovereign rights of countries should be protected by all and expressed disappointment in the lack of support, particularly from those countries that had supported the use of secret ballots to select officers for IWC's Scientific Committee (see Item 17.5.2).

4. WHALEWATCHING

4.1 Report of the Scientific Committee⁵

In 2000, the Committee had identified a number of areas for further research on potential 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 this year and will continue to work on data collection issues in the intersessional period.

The Committee also reviewed: information on noise from whalewatching vessels and aircraft, and any potential effects this might have on cetaceans; whalewatching guidelines and regulations; new information on dolphin feeding and 'swim-with' programmes.

It also discussed a workshop on whalewatching management to be held in South Africa. It noted that this did not require Commission funds but recommended that the Commission endorse the workshop and encourage participation by members of the Scientific Committee and IWC member states.

4.2 Commission discussions and action arising

Brazil commended the work of the Scientific Committee on whalewatching. It believes that whalewatching is a legitimate use of whale resources that should be managed to ensure sustainability over time and welcomed continued efforts to offer the best scientific advice to properly assess and mitigate whalewatching's potential impacts. Brazil also commended and supported South Africa's proposal for an intersessional workshop on the development of scientifically-based management of whale- and dolphin-watching.

Japan, Norway and the Russian Federation noted that they consider whalewatching to be outside the mandate of the

Convention and therefore not a priority matter for the Commission. Japan noted the strict criteria applied by the Scientific Committee on stock studies and could not understand why the same rigour is not applied in other areas. Norway recognised that whalewatching may have some negative effects that should be dealt with nationally - as should any regulation of this industry. The Russian Federation considered that whalewatching should not be dealt with as a separate item, but included as part of 'other activities'. Antigua & Barbuda recognised whalewatching to be an important part of its tourism but considered that it should be dealt with elsewhere in view of the scarce financial resources of the Commission and its need to prioritise work. It was concerned that: (1) giving prominence to whalewatching decreased the prominence of the main object and purpose of the Convention, i.e. management of whales for the orderly development of the whaling industry; and (2) that development of whalewatching within the framework of the use of marine resources may be detrimental to those countries wanting to use these resources for food.

The USA, Australia, Argentina, the UK, New Zealand and Germany spoke in support of the Scientific Committee's work on whalewatching, with several expressing the view that the Commission did have competency in this area and several supporting the workshop proposal. Australia noted that IWC should not ignore such a large industry that, if poorly managed, could have damaging effects on whale stocks and therefore be of direct concern to the Commission. Recognising that 2002 was the UN International Year of Ecotourism, New Zealand thought it appropriate to acknowledge the contribution of whalewatching to this industry. Argentina reported that whalewatching activities off Patagonia's Atlantic coast provide significant income for local people and is consequently a priority in Argentina's whale programme. It further considered whalewatching to be strongly linked to coastal states' sovereign rights in territorial waters and EEZs and that within this context it would welcome counsel, recommendations and/or guidelines from IWC applicable to strengthening the sustainable, educational and tourism aspects of this activity and that it would incorporate such advice into its own local legislation.

Spain reported that it is working on enacting legislation to regulate whalewatching at a national level.

In response to a request from Austria concerning the mass stranding last year of beaked whales in the Bahamas and the use of low frequency active sonar (LFA), the USA reported that its National Marine Fisheries Service has proposed a regulation under domestic statute that would authorise the incidental take of a small number of marine mammals worldwide by the navy's LFA - a military sonar used to detect enemy nuclear submarines. It also reported that (1) from a research programme conducted by its navy, only minor behavioural effects on whales and dolphins occurred at 155db and lower, and (2) it is currently reviewing public comments and will rule on the navy's proposed regulation soon. The Commission noted the report of the Scientific Committee and accepted its recommendations.

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

5. WHALE STOCKS⁶

5.1 Southern Hemisphere minke whales

5.1.1 Report of the Scientific Committee

The Committee has carried out annual surveys in the Antarctic (south of 60°S) since the late 1970s. The last agreed estimates for each of the six management Areas for 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 estimates⁷.

At the 2001 meeting⁸, 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 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 2002 meeting and a number of high priority tasks have been identified and recommended for completion before the 2003 meeting.

Last year, it had been hoped that the full third circumpolar series of IWC/SOWER⁹ cruises would have been completed by the 2002/2003 season. Unfortunately poor weather on the 2001/2002 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 2005 meeting. It thanked Japan for once more providing the two vessels used on the SOWER cruises.

5.1.2 Commission discussions and action arising

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

5.2 Southern Hemisphere blue whales

5.2.1 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. 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 2005. In addition to research recommendations, the Committee recommended that the Commission requests the Japanese and Chilean governments to make available any data from blue whale catches in the 1960s in order to help determine whether the two sub-species were taken from Chilean landstations.

5.2.2 Commission discussions and action arising

Japan commended the Scientific Committee's work and the contribution made by the IWC's research cruises. It was pleased to learn of the recent signs of recovery of this species. However, it noted that the increase in numbers was not statistically significant, linking this to competition with minke whales for prey species. Japan suggested that consideration be given to resumption of commercial whaling of minke whales as a means of enhancing protection of blue whale populations.

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

5.3 Southern Hemisphere humpback whales

5.3.1 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. A number of new abundance estimates were reviewed from both mark-recapture and sightings programmes as well as some preliminary model runs for Areas IV and V which suggested increasing populations to the east and west of Australia. The Committee made a number of research recommendations to enhance progress towards an assessment. An intersessional group has been established to review progress and determine whether it is feasible to set a deadline for the assessment to be completed.

5.3.2 Commission discussions and action arising

Japan noted that the population increase reported by the Scientific Committee was also found in results from the JARPA programme where highest numbers of humpback whales were recorded during the latest survey. It hoped that JARPA data would make a valuable contribution to the Comprehensive Assessment for this stock.

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

5.4 North Atlantic humpback whales

5.4.1 Report of the Scientific Committee

At the 2001 meeting, priority was given to the Comprehensive Assessment of North Atlantic humpback whales¹⁰. The Committee recognised the important contribution the international YoNAH (Years of the North Atlantic Humpback) project made to the assessment. This project combined photo-identification and molecular genetic techniques to collect as many photographs and skin

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

⁷ *J. Cetacean Res. Manage.* 3 (Suppl.): 29-32.

⁸ See *J. Cetacean Res. Manage.* 4 (Suppl.): 30-6.

⁹ SOWER: Southern Ocean Whale and Ecosystem Research.

¹⁰ See *J. Cetacean Res. Manage.* 4 (Suppl.): 39-44.

biopsies as possible in four sampling periods over a wide geographical range during a period of two years (1992-1993). The principal objectives of the study were to increase understanding of: (a) abundance - both regionally and in total; (b) population genetic structure; (c) population spatial structure including rates of exchange among feeding grounds; and (d) reproductive behaviour and vital rates.

In reviewing population structure, the Committee concluded that North Atlantic humpback whales are characterised by relatively discrete feeding substocks, with strong site fidelity by individuals. This latter factor also influences movement patterns within feeding grounds.

There is clear evidence for at least two breeding stocks in the North Atlantic. Whales from the western North Atlantic breed primarily in the West Indies, as do some whales that feed in the central North Atlantic. However, it is not known where other central North Atlantic animals and those from the Barents Sea breed.

The only breeding ground, other than the West Indies, known from historical and contemporary data is the Cape Verde Islands, but to date there is no direct evidence to support the idea that this is a breeding ground used by central and eastern North Atlantic animals. There may be a separate breeding population in the Norwegian Sea (as suggested in the late 1920s) and the possibility that there are three separate breeding stocks in the North Atlantic cannot be ruled out.

The Committee reviewed a number of population estimates for the feeding and breeding grounds.

This year, the Committee hoped to complete its assessment. It reviewed historical removals and agreed that the catch series was essentially complete for the 20th century although catches prior to then might be substantially underestimated. It also received new estimates of abundance from recent surveys in various parts of the North Atlantic. The Committee agreed that the population size of the West Indies breeding stock was around 10,750 (between 9,400 to 12,300) in 1992 and it was increasing at around 3% from 1979 to 1992, the period for which suitable data are available. Attempts to model the population were unsuccessful (i.e. there was unacceptable model fit to the data) and a number of possible reasons for this were identified.

The Committee identified a number of research items that need to be completed before any further assessment is attempted.

5.4.2 Commission discussions and action arising

Japan appreciated that the Comprehensive Assessment was now complete, noted that the West Indies stock is above the optimum level and commented that it understood there was agreement in the Scientific Committee that the stock is increasing at an annual rate of 3%. Japan estimated that this would give an annual sustainable catch of 300 animals. It therefore considered that the aboriginal take by St. Vincent and The Grenadines should be allowed and noted the Scientific Committee's view that there would be no effect on the stock if the catch limit is increased to 4 whales per year. In response, the UK noted that the Scientific Committee had not resolved the question of population identity in the eastern Caribbean and that this has a bearing on the quota for St. Vincent and The Grenadines. (The issue of the aboriginal subsistence catch limits is discussed under Item 6.)

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

5.5 Other stocks - bowhead, right and gray whales

5.5.1 Report of the Scientific Committee

SMALL STOCKS OF BOWHEAD WHALES

Fisheries and Oceans Canada reported on studies in the eastern Arctic and the Committee welcomed the offer from Canada to provide more information next year. No information on direct or incidental catches was received for this area. Danish scientists reported that killer whales killed about 10 bowhead whales from a group of 30 in Disko Bay in April 2002. The Committee was grateful for this information and requested that the Greenlandic authorities provide more details next year, if possible. Some information on the sightings of bowhead whales in the Sea of Okhotsk was received from Russian scientists.

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 years¹¹. 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 reviewed progress on a number of research and management recommendations concerning this stock. It 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.

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 made a number of research and management recommendations for this population and will hold a Workshop in October 2002 to review this further. 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.

5.5.2 Commission discussions and action arising

BOWHEAD WHALES

In response to a request from Austria for more information on the killing of 10 bowhead whales by killer whales, Denmark indicated that local hunters had reported the incident to the Greenland Institute of Natural Resources and that it had not been possible to take issue samples since the dead whales had sunk. It undertook to ask the hunters to provide a clearer description of what had happened.

¹¹ See *J. Cetacean Res. Manage. (Special Issue 2) - Right whales: worldwide status.*

RIGHT WHALES

No comments were made on the Scientific Committee's report in relation to North Atlantic and Southern Hemisphere right whales.

WESTERN NORTH PACIFIC GRAY WHALES

The USA expressed its concern about the status of this stock, and noted that after the concern reported by the Scientific Committee last year, it had provided funding to IWC to support research. It strongly supported the latest Committee recommendations and endorsed the workshop proposal for which it was considering making funding available.

The Russian Federation confirmed that seismic surveys had been stopped last year. It reported that such surveys are subject to compulsory public environmental impact assessments, in which, as recommended previously by the Scientific Committee, independent scientists are invited to participate. It added that preliminary results do not definitely indicate that seismic surveys have a negative impact on the stock. However, the Russian Federation undertook to report the Scientific Committee's recommendations to its scientists so they could take note of the views expressed. It supported the workshop proposal.

As other range states for this stock, Japan and the Republic of Korea also expressed their concern regarding the status of the stock and support for the proposed workshop. Japan indicated that it hoped that protection measures could be implemented through international co-operation. The Republic of Korea offered to host the workshop in October 2002.

Austria indicated that it was grateful for the concern for this stock shown by the USA and the Russian Federation and that it was pleased that Resolution 2001-3¹² had helped in the initial protection steps taken.

The Commission noted the Scientific Committee report in relation to Item 5.5 and accepted its recommendations.

5.6 Other

Alarmed at various press and other reports suggesting that the worldwide sperm whale abundance could be lower than assessed previously, Germany asked for clarification on when the Scientific Committee could provide information on this matter. The Scientific Committee Chair indicated that the Committee would start work on an in-depth assessment of sperm whales at its meeting next year but that she did not know when it would be complete. The Committee does not have agreed estimates of sperm whale abundance. She added that given the many priorities of the Committee, work on sperm whales could not be given extremely high priority until completion of the abundance assessment of Southern Hemisphere minke whales.

Japan expressed its interest in the initiation of the in-depth assessment of sperm whales, particularly since this is one of the species included in JARPNII. It stressed the need to devote sufficient time to this work.

6. ABORIGINAL SUBSISTENCE WHALING¹³

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on 14 May 2002 chaired by Halvard Johansen (Norway). Delegates from 29 Contracting

Governments participated. The Sub-committee addressed three main issues, i.e. (1) the Aboriginal Subsistence Whaling Scheme; (2) inedible gray whales from the eastern stock; and (3) the renewal of aboriginal subsistence whaling catch limits. The full Sub-committee report is available as Annex C.

6.1 Aboriginal subsistence whaling scheme*6.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee*

In view of the importance of this work, the Chair of the Sub-committee gave a detailed report to the Commission on both the work and recommendations from the Scientific Committee and on the subsequent discussions within the Sub-committee.

REPORT FROM THE SCIENTIFIC COMMITTEE

Since the Scientific Committee was recommending a *Strike Limit Algorithm (SLA)* for the Bering-Chukchi-Beaufort Seas stock of bowhead whales as foreseen last year, the Chair of the Scientific Committee's Standing Working Group on the Development of an Aboriginal Whaling Management Procedure (hereafter Chair of the SWG) had given a thorough presentation of the work of the Committee on this issue over the seven year development process.

The Scientific Committee began addressing this issue in the early 1990s and in 1994 the Commission formally instructed them to work on the development of an aboriginal whaling management procedure (Resolution 1994-4). The Commission reiterated the objectives of such a scheme, i.e., to (1) ensure risks of extinction are not seriously increased (highest priority); (2) enable harvests in perpetuity appropriate to cultural and nutritional requirements; and (3) maintain stocks at highest net recruitment level and if below that ensure they move towards it. The advantages (to both the management body and the users) of a management procedure over '*ad hoc*' management were stressed, as was the value of computer simulations to try out potential candidate procedures. The simulation trial structure is designed to test procedures against the inevitable uncertainty in scientific knowledge about the whales and their environment.

In 1998, the Commission agreed that the eventual aboriginal whaling scheme (ASW - which includes both the scientific and non-scientific aspects of management) would include both generic and case-specific elements. In particular, it was agreed that *Strike Limit Algorithms* (the way in which the need requests forwarded by the Commission to the Scientific Committee are evaluated to determine whether they are acceptable from the point of view of the risk-related objectives given above - it is assumed for the purposes of trials that all strikes result in death) could be case-specific and introduced to the AWS as they became available. The Scientific Committee noted that it would proceed with the data-rich fisheries first i.e. the bowhead and gray whale hunts. Throughout the process, the Scientific Committee placed great emphasis on feedback from the Commission and hunters via the Commission's Aboriginal Whaling Sub-committee, and each year the Chair of the SWG has made a detailed presentation of the development process, requested advice on various matters and been available for consultation with interested delegations and individuals.

¹² *Ann. Rep. Whaling Comm. 2001: 55.*

¹³ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 5 (Suppl.).

The candidate procedures for the bowhead case were tested for a broad range of uncertainty in a variety of factors, including: changes in MSYR (Maximum Sustainable Yield Rates) and MSYL (Maximum Sustainable Yield Level); model uncertainty; time dependent changes in carrying capacity, natural mortality and productivity; episodic events; stochasticity; survey bias and variability; survey frequency and errors in the historic catch series. In 2001, five candidate procedures were reduced to two and the Commission was informed that the Scientific Committee would present its recommended *SLA* in 2002.

At its meeting this year and after detailed discussions and examination of the results, the Scientific Committee strongly recommended to the Commission the '*Bowhead SLA*', i.e., an *SLA*, which by averaging the results from two excellent procedures with different philosophies, performed best overall in terms of the Commission's objectives. The Scientific Committee agreed that it represents the best scientific tool it has for providing management advice on this stock of bowhead whales and noted the enormous amount of work put in by many members of the SWG and Committee in recent years.

In making this recommendation, the SWG Chair reiterated that the use of the *Bowhead SLA* was intimately linked to the generic aspects of the Aboriginal Whaling Management Procedure (AWMP), i.e. operational rules (block quota, carryover, grace period), guidelines for surveys, data and Implementation Reviews. He went on to describe these other elements and explain how they might be put into practice. With respect to block limits and carryover, the Commission had agreed that five-year blocks were appropriate. Inclusion of the concept of carryover had been requested by Aboriginal Subsistence Whaling Sub-committee early in the development process and in 1999, the Scientific Committee had presented a suggestion that tried to encapsulate the variable conditions in the Arctic environment. This involved an inter-annual variation of 50% and a between-block carryover of up to half of the annual maximum strike limit. The Commission had agreed that approach as suitable for trial purposes, noting that it did not commit it to these values in any final AWMP.

The Chair of the SWG provided a number of examples of how this might work in practice, based on the present annual strike limit of 67 [giving a block limit of 335 and a maximum strike limit in any one year of 100 (= $1.5 \times 335/5$), with a maximum carryover between blocks of 50]. The *Bowhead SLA* performed satisfactorily under these rules, although ultimately it is a Commission decision as to what is an appropriate carryover provision. The SWG Chair also noted that the Commission also includes a limit to the number of landed animals. This is again clearly a Commission decision (the *SLA* assumes that all strikes result in death).

The issue of a phaseout 'rule' is familiar in terms of the RMP and was introduced to the Aboriginal Whaling sub-committee by the Scientific Committee last year. It is in essence a mechanism to deal with the absence of data essential to the *SLA*. The Scientific Committee stressed that it was not acceptable for catches to be set equal to need under such circumstances. Whilst it hoped and expected that any 'grace period' rule would never need to be utilised, it agreed that any AWMP must be prepared for such an eventuality. Given this, the Scientific Committee had developed a list of principles for such a rule that it

recommended to the Commission for consideration. In summary, these are: (1) the grace period should not exceed 5 years (after which time, the *SLA* will set strikes to zero and it is likely that an *Implementation Review* will be initiated); (2) over the 5-year period, the block limit shall be reduced by 50%; (3) carryover from the last block is permissible (the same conditions that can render a survey unusable can also preclude the hunt); (4) the use and distribution of strikes over the time period is the responsibility of the user; (5) when a survey is successfully conducted during the grace period, the *SLA* is applied and a quota generated - the quota is then applied retroactively to the current block and the used strikes subtracted from the resultant block limit. The SWG Chair provided several examples of how this might work in practice.

The *SLA* and the AWMP require data to function and a key piece of information essential to the *SLA* is the abundance. Last year the Aboriginal Subsistence Whaling Sub-committee accepted the Guidelines for surveys suggested by the Scientific Committee. The Chair of the SWG reminded the Sub-committee of these proposals with respect to: (1) survey/census methodology and design; (2) Committee oversight; data analysis and availability; and estimates to be accepted for use in the *SLA*. He also described the previously agreed guidelines for data/sample collection. Similar guidelines exist for the RMP.

The final element he introduced is again reflected in the RMP and is integral to the AWMP process - the Implementation Review. Regular Implementation Reviews would occur every five years and normally involve at least reviews of information: (1) required for the *SLA* (i.e. catch data, abundance estimates); and (2) to ascertain if the present situation is as expected and within tested parameter space. In addition, to enable swift reaction to new information that gives rise to serious concern, *Unscheduled Implementation Reviews* can be called. He provided a number of examples as to possible 'triggers' for such early reviews. There are a variety of possible outcomes of *Implementation Reviews*, including (a) the continuation of use of the *SLA*; (b) the setting of a zero strike limit; (c) the running of further simulation trials; (d) the undertaking of a new census immediately; (e) a combination of some of the above.

The Chair of the SWG then noted the Scientific Committee's conclusion that, from a purely scientific perspective, the *Bowhead SLA* represented the best tool for providing management advice to the Commission on the bowhead whale harvest. On these grounds alone it would be prepared to use the *SLA* to calculate block strike limits and present that advice to the Commission. However, it recognised that there are some procedural issues that need to be considered (i.e. that the Commission has not formally approved the approach) and that the strict conditions for the Guidelines for surveys would not have been met in terms of data provision. Given this, the Scientific Committee had requested that the Secretariat be prepared to use the *SLA* to calculate block strike limits, should the Commission request this. It had been noted that this could easily be done at the Commission meeting either with or without the 2001 census estimate, that, whilst within the tolerance of the *SLA* trials, was likely to be slightly modified next year.

With respect to incorporation into the Schedule, the Scientific Committee had agreed that this should not be seen as a necessary prerequisite for use of the *Bowhead SLA*. In or out of the Schedule, it represents the best

method for the Scientific Committee to provide advice and could be used as the basis for modification of the current Schedule provisions with respect to bowhead whales which refer to catch and strike limits. This issue was not a Scientific Committee matter and was the responsibility of the Commission.

In concluding his presentation, the SWG Chair, summarised the situation as follows. The *Bowhead SLA* and associated generic AWMP elements represented culmination of seven year's cooperative work between the Scientific Committee and the Commission. The Committee recommended the *SLA* to the Commission and noted that early in the development process, the goal was to develop an *SLA* that fully met the Commission's management objectives; once this had been met, it was agreed that it should not waste resources attempting to achieve some hypothetical level of 'perfection'. Whilst the Committee recognised that further work could be undertaken to refine and 'polish' the constituent *SLAs* of the *Bowhead SLA*, it strongly believed that these resources should be dedicated to completing the *SLA* for the management of the gray whale harvest and addressing the serious issue of the Greenland fisheries, for which the Committee has recognised that it has never been able to provide satisfactory advice.

SUB-COMMITTEE COMMENTS AND DISCUSSIONS

Several delegations had congratulated the Scientific Committee on its work and the SWG Chair for his informative presentation.

Austria complimented the Scientific Committee on an excellent piece of work. It supported adoption of the *Bowhead SLA* and the associated elements. It believed that the development of the AWMP was vital to the wise management of aboriginal subsistence whaling by the Commission.

Norway commented on the additional complexity of the unified procedure but endorsed the recommendation of the Scientific Committee in principle. It noted that the *SLA* had been proposed as part of a package and wondered whether it would be better to wait before implementing it until the other case-specific elements were completed.

Several delegations had asked whether all of the aspects would be linked together in a single document. The Russian Federation also believed that it was better to wait until the gray whale *SLA* was also completed. The UK wondered whether it was appropriate for the Scientific Committee rather than the Commission to agree the relative weightings of need satisfaction against risk to the stock.

In response to these comments, the SWG Chair noted that the Committee had considered the issue of complexity in choosing the recommended *SLA* but agreed that the advantages of the unified *SLA* far outweighed the additional complexity. He also noted that the additional elements had in fact been thoroughly discussed by the Committee in the last three years and had also been presented to, and endorsed by, the Aboriginal Subsistence Whaling Sub-committee and the Commission over last two years. With respect to the weighting question, the SWG Chair noted that the Scientific Committee had from the outset been guided by the Commission's objectives, giving highest priority to objective 1 (to ensure that the risks of extinction are not seriously increased) as the Commission had indicated. He noted that the performance statistics used to evaluate the *SLAs* had been designed with the Commission objectives clearly in mind, particularly with respect to risk

to the stock and the need for the population to increase towards an optimal level.

In response to the question concerning a single document containing all the additional elements, the SWG Chair noted that they were all included in the Scientific Committee's report. Prior to the adoption of the Aboriginal Subsistence Whaling sub-committee report, the Chair of the SWG produced such a document for information (see Appendix 4 of Annex C).

With respect to waiting for *SLAs* for the other fisheries to be completed, the SWG Chair noted that, with an intersessional workshop, the Scientific Committee hoped be able to present an *SLA* for the gray whale at next year's meeting. Although he could not say for certain, he expected that such an *SLA* would be similar to at least one of the components of the *Bowhead SLA*. He noted that although the gray whale was a similarly data-rich case to the bowhead whale, there were differences, in particular due to the fact that the gray whale may be approaching, or at, carrying capacity.

Finally, the SWG Chair reiterated the importance of the Greenland Research programme to the ability to develop an *SLA* for the Greenland Fisheries, noting that this will be a priority topic at next year's meeting.

6.1.2 Commission discussions and action arising

In the Commission, a number of Contracting Governments congratulated the Scientific Committee on its work.

Switzerland recalled that for several years, the Commission has requested that aboriginal subsistence whaling be subjected to a robust scheme and noted that it strongly supported the adoption of the *Bowhead SLA* and associated elements.

The USA was pleased with the progress made by the Scientific Committee on the *Bowhead SLA* and thanked, in particular, Greg Donovan (Secretariat) for his role as SWG Chair in achieving a successful outcome. It believed that the *Bowhead SLA* satisfies the criteria adopted in Resolution 1994-4¹⁴ and the Commission's highest priority, i.e., to ensure that the risks of extinction are not seriously increased. The USA considered that the Commission should adopt the *SLA* in principle at this stage. However, noting the concerns expressed by some countries during the Sub-committee meeting regarding the overall package and that existing provisions in Schedule paragraph 13(b) have worked well, the USA could not support adoption of the whole package until it is convinced that it represents an improvement in meeting both conservation goals and aboriginal subsistence need. It therefore encouraged the Scientific Committee to complete the AWMP package expeditiously including the gray whale *SLA*. Denmark indicated that it was in a similar position to the USA. It considered the proposal to adopt the *Bowhead SLA* but to not implement it until a complete AWMP can be adopted was constructive. With this in mind, Denmark noted two points: (1) that statements had been made in recent years by a number of Contracting Governments that the AWMP should not be implemented before the RMS; and (2) the value demonstrated by the process used for the *Bowhead SLA*, of including informal discussions with interested members of the Aboriginal Subsistence Whaling Sub-committee including hunters' representatives. Finally Denmark indicated that its acceptance of the *Bowhead SLA*

¹⁴ See *Rep. Int. Whal. Commn* 45: 42-3.

is on the understanding that the *SLA* for Greenland may have to be elaborated in a different manner.

Japan supported the adoption of the *Bowhead SLA* in principle, but like other countries felt that implementation should await the resolution of other issues, e.g. phase-out rules, survey guidelines and data requirements. Although it was prepared to adopt the *SLA*, Japan pointed out what it considered to be double standards between the RMP and the AWMP. It noted that application of the RMP would result in a catch limit of zero for the next 30 years, whereas application of the *SLA* would give a limit of 67 per year (i.e. would fulfil the current need request). Finally, Japan believed that the *SLA* for gray whales should be considered independently from that of bowheads since they are different species with different biologies.

The UK endorsed broadly the remarks of the USA, but it remained concerned that the relative balance in the *SLA* between risk and need is not quite right. In this respect, the UK referred to the fact that: (1) the *SLA*'s responses to environmental threats had been poor in some instances; and (2) that the *SLA* produces no strike limit below the need level for the first 30 years of operation. The UK was, however, prepared to adopt the *Bowhead SLA* in principle and for work to proceed to develop this and the other algorithms required as part of the AWMP. Germany associated itself with the USA and the UK.

The Chair of the Scientific Committee made a few clarifying remarks. She noted that it is not the case that the *Bowhead SLA* always satisfied need in all trials. With regard to the suggested 'double standard' between the *CLA* (*Catch Limit Algorithm* of the RMP) and *SLA*, she referred to the Committee's explanation of this in its report. In particular, the differences arise out of the fact that (1) the case-specific *Bowhead SLA* was developed to cope with a data-rich population whereas the generic RMP had to cope with a number of different situations and (2) the different objectives set by the Commission for subsistence and commercial whaling. She drew attention to Schedule paragraph 13(a) where it is clear that the Commission's goals for subsistence whaling allow whaling below the commercial whaling Protection Level. This explains why catches are allowed using the *SLA* but not the *CLA*. The AWMP process had deliberately included scenarios where the bowhead whale stock was below the maximum sustainable yield level; the catches allowed under the *Bowhead SLA* did ensure that the population increased towards it.

On behalf of the Commission, the Chair expressed appreciation for the hard work of the Scientific Committee. The Commission endorsed and adopted the *Bowhead SLA*.

6.2 Inedible gray whales from the North Pacific eastern stock

6.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

The Sub-committee had heard of two reports made to the Scientific Committee concerning two strong-smelling whales (which 'smelled of medicine') during the 2001 season, samples from which are being analysed by Russian and North American scientists. The samples shipped to Alaska will be analysed for ketones and anthropogenic contaminants after the 54th Annual Meeting. Discussions are underway for Japanese scientists to undertake additional studies on these samples. The Sub-committee looked forward to receiving a report next year.

6.2.2 Commission discussions and action arising

The Commission noted the report from the Sub-committee.

6.3 Aboriginal subsistence whaling catch limits

6.3.1 Report of the Aboriginal Subsistence Whaling Sub-committee

6.3.1.1 BERING-CHUKCHI-BEAUFORT SEAS STOCK OF BOWHEAD WHALES

REPORT OF THE SCIENTIFIC COMMITTEE

The Scientific Committee reported that the last successful census of this stock was in 1993. Census attempts in 1999 and 2000 failed due to unstable ice and closed leads, respectively. This year the Committee received a preliminary abundance estimate based on the successful 2001 census at Point Barrow, Alaska. The abundance estimate was 9,860 (95%CI 7,700–12,600) and the estimated annual rate of increase from 1978–2001 was 3.3% (95%CI 2.0–4.7%). The number of calves counted was almost twice that counted in 1993. Information on whale counts along the Chukotka Peninsula between 1999 and 2001 was also presented. Such animals are probably missed by the census at Point Barrow. In Spring 2001, 149 animals were counted, a similar number to those in 1999 and 2000.

A total of 75 whales was struck during the 2001 harvest and 49 (30 males and 19 females) were landed. Ice conditions had made hunting difficult, leading to a lower efficiency compared to some previous years. One female bowhead whale (15.2m; estimated 46.8 tons) was harvested off Chukotka in 2001.

The Scientific Committee noted that although the current catch limit ends in 2002 and an in-depth assessment of this stock of bowhead whales is not scheduled until 2004, preliminary results from the successful new census indicate that the stock is larger than it has been in the last century and is still increasing. The Committee also noted that the *Bowhead SLA* is its best tool for providing management advice for this stock. However, even on the basis of the information reviewed by the Committee in its usual way, it agreed that there is no reason to change the management advice it gave last year, namely, that it is very likely that an annual catch limit of 102 whales or less would be consistent with the requirements of the Schedule.

SUB-COMMITTEE COMMENTS AND DISCUSSION

The Sub-committee noted the advice of the Scientific Committee.

Norway commented that the Scientific Committee had also noted: (1) that there was an interest in resolving an apparent conflict between existing age data and the catch and abundance data; and (2) that further genetic data would assist with stock assessment. In this regard, it was noted that the SWG of the AWMP had carried out a thorough review of the sub-stock question and the Committee believes that the single-stock hypothesis is most consistent with existing data.

The remaining discussions focused on the aboriginal subsistence need statements. The Sub-committee Chair focused on the following points in his report to the Commission.

The USA explained that it sought renewal of their ASW quota of bowhead whales, on the same basis as their previous quota (280 landed over a five year period, with an annual strike limit of 67, and a carryover of up to 15 strikes in each year). It was noted that this quota is shared between the Alaskan Eskimos and the Chukotka Communities in

Russia. Bearing in mind the needs of the Chukotkan indigenous population, the Russian Federation made a request for 5 landed bowhead whales per year. However, despite a combined documented need for 61 landed whales, both countries were willing to retain the status quo for the next five-year block quota.

The USA stated that the Alaskan Eskimo hunt was an essential part of their culture, dating back thousands of years, and that it is purely subsistence based, with no commercial components. The efficiency for the 2001 hunt was 65.3%, which was less than the average efficiency of 1991-2000, which was 76.5%. Although the 2001 efficiency was below the average, it was far greater than the efficiency of the 1970s (around 50%) and the long term hunting efficiency is still, on average, above the 75% target suggested by the IWC.

Several countries referred to the declining efficiency of the hunt and it was suggested that allowing use of more modern weapons and boats could increase efficiency. With respect to the efficiency concerns, the USA had reiterated (1) the importance of changing environmental conditions (i.e. sea ice flows and pack ice) and (2) that the hunt was still, on average, above the 75% target.

Responding to comments regarding the need to improve the humaneness of the hunt, the USA reported that the Alaskan Eskimos have undertaken a weapons improvement programme at considerable expense to try to improve on the traditional black powder projectile.

The USA clarified that population growth was a significant factor in calculating the current need, but indicated that many more factors were identified in its needs statement, and that the Eskimo's culture and economic status continues to reflect a subsistence lifestyle. The USA were also asked how the traditional communities could afford modern hunting technologies such as penthrite grenades, snow mobiles, outboard motors, etc. The USA reported that the penthrite grenade is in a testing stage as is therefore not an appreciable cost, and that most of the hunting equipment is handed down from generation to generation. Much of it dates back to the 1800s. The USA added that additional perceived costs (such as snow mobiles or outboard motors) were misplaced since whaling is carried out using traditional boats or traditional methods in open skiffs.

Japan commended the success of the 2001 stock abundance estimate of bowhead whales under harsh environmental conditions, noting that although dozens of whales had been harvested, the stock was proved to be increasing demonstrating that whale resources can be used sustainably.

6.3.1.2 EASTERN STOCK OF GRAY WHALES REPORT OF THE SCIENTIFIC COMMITTEE

The Scientific Committee reported that an in-depth assessment of this stock had been carried out this year. It had also considered the unusual mortality of eastern North Pacific gray whales in 1999 and 2000. The number of documented strandings along the west coast of North America increased to approximately eight times the annual mean calculated between 1995 and 1998. Several factors may have contributed to the large number of strandings reported in those years. Since most of the whales were not examined thoroughly, the actual cause of death is unknown. Only 21 strandings were recorded in 2001, which is within the range of annual strandings in the period 1995-1998.

Based on two assessments of the stock that used similar methods and yielded similar results, the Committee agreed that a take of up to 463 whales per year is sustainable for at least the medium term (~ 30 years) and is likely to allow the population to remain above MSYL.

The Scientific Committee hoped to recommend a gray whale *SLA* at its next meeting.

SUB-COMMITTEE COMMENTS AND DISCUSSION

The Sub-committee noted the advice of the Scientific Committee and then focused on the submitted needs statements by the USA and the Russian Federation. The Sub-committee Chair included the following points in his report to the Commission.

In introducing the needs statement for the Makah, the USA pointed out the Treaty with the Makah Tribe is the only U.S. treaty containing a specific reservation of whaling rights and explained that these rights had not been abrogated by any subsequent act of Congress.

The USA discussed the tribe's 1500-year-old whaling tradition and pointed out that the Tribe is actively engaged in restoring its whaling tradition. The hunts are conducted using traditional methods although a high-powered rifle is used to ensure that struck whales are killed humanely. Whale meat and blubber from the first successful hunt were broadly distributed in the community with over 80% of the Tribe's 2,500 members consuming whale products. The USA reported that the results of a survey indicate that 93% of the Tribe's members support whaling and over 86% would like to eat whale meat on a regular basis. The USA noted that the eastern stock of gray whales is healthy enough to sustain this harvest in addition to the harvest by the indigenous peoples of Chukotka.

The presentation on the Makah was broadly welcomed by a number of countries, although some were concerned regarding the substance contained in the documents submitted and a number of questions were raised.

Australia and the UK viewed the resumption of the hunt after a 70-year hiatus with concern, and Mexico argued that the ASW was not designed to cover a situation whereby aboriginal communities who had not continuously engaged in subsistence whaling could access quotas on an *ad-hoc* basis.

The extent of the community support for the hunt was questioned by New Zealand and the UK. Mexico suggested that the evidence in support of these contentions (from the justifying overall numbers to the assumed social benefits) were flawed, selective and contradictory. In responding, the USA pointed out that the survey was based on a highly representative sample that included 35% of the households on the Makah Reservation. The survey sampled households, not individuals and used methodology consistent with that used in similar surveys in Indian communities throughout the USA over the past 20 years.

The USA further pointed out the strong link between restoration of whaling and other traditional cultural practices and noted that 51% of the village, as reported in the survey, reported a positive moral change in Neah Bay since the pursuit of whaling was revitalised. In addition, members of whaling crews are required to abstain from drugs and alcohol and devote themselves to a clean lifestyle. The USA also explained that gray whales are a consistent subsistence resource in contrast to fisheries where stocks and quotas fluctuate.

New Zealand and Mexico questioned the practice of joint quota proposals, believing it to be inappropriate given

the very different situations of the respective indigenous communities. The USA responded that this approach was followed since under the Convention, quotas are not set for nations or groups of whalers, but by stock or population of whales.

Japan and Norway noted the absence in the Convention or Schedule of a definition or criteria for aboriginal subsistence whaling. Norway further noted that there is a continuum between aboriginal subsistence whaling and small-type whaling and that sustainability is the major factor for wise management. Japan, indicated that it supports aboriginal subsistence whaling in principle, if the stock is robust. Nevertheless, it noted that requests for quotas from robust stocks for its own small coastal communities had been continually denied. With this in mind, Japan indicated that it would carefully examine the US request. The UK considered that it would carefully examine the Aboriginal Subsistence Working Group.

Although similar to the need assessment made in 1997, the Russian Federation submitted a new needs statement for 620 gray whales (including the 20 for the Makah) for a five-year quota. The importance of co-operation with the USA at multiple levels (from stock census to lowering times to death) was highlighted.

The active participation of the Chukotka population in the preparation of the needs statement was noted, as was their nutritional needs, which had been particularly severe since the break up of the former Soviet Union. Indeed, it was asserted that these communities do not have as much meat as they had ten years ago. The cultural importance of the hunt, dating back 2,000 years was emphasised.

The Russian Federation proposal was broadly welcomed by a number of countries.

6.3.1.3 GREENLANDIC FISHERIES REPORT OF THE SCIENTIFIC COMMITTEE

The Scientific Committee noted that it has never been able to provide satisfactory management advice for either the fin or minke whales off Greenland. This reflects the lack of data on stock structure and abundance and is the reason for the Committee to first call for the Greenland Research Programme in 1998.

The inability to provide any advice on safe catch limits is a matter of great concern for the Scientific Committee, particularly in the case of fin whales where the best available abundance estimate dates from 1987/88 and is only 1,096 (95% CI 520-2,106). The Scientific Committee noted that there is to be an abundance survey this year and further satellite tagging attempts. The Committee stressed that obtaining adequate information for management should be seen as of very high priority by both the national authorities and the Commission. It reiterated its previous recommendation that every effort be made to obtain tissue samples for genetic analysis from the catch and that effort to compare these samples with those from neighbouring countries is continued. Without this information, the 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.

SUB-COMMITTEE COMMENTS AND DISCUSSION

The Sub-committee noted the advice of the Scientific Committee. Denmark reported that it shared the views of

the Scientific Committee and was allocating increased funding for research into this area. It looked forward to co-operating with the Scientific Committee on the Greenland Research Programme.

The remaining discussions focused on the needs statement submitted by Denmark.

Denmark's proposal for a five-year quota involved 175 minke whales per year, 19 fin whales from the West coast and 12 minke from East Greenland. Greenland pointed out that although the total result of this catch was 540 tons of edible whale meat, a total of 670 tons would be closer to their needs. It noted that in 1990, the IWC had recognised and fully endorsed the needs of aboriginal populations in West Greenland of 670 metric tons of whale meat from minke whales and larger whales.

Greenland's overall needs statement was prefaced by a general discussion of sustainability, as a multi-dimensional process. The 4,000-year history of whaling by the indigenous communities of Greenland was highlighted, along with its importance in social cohesion. It was explained that the majority of the utilisation is on a non-commercial basis (although in some small cases it can be purchased in local stores) and on a non-export basis. The utilisation of penthrith bombs (since 1991) was noted as clear indication of Greenland's intention to improve the humaneness of its hunt, by lowering time to deaths (over traditional methods).

Denmark's/Greenland's needs statement was broadly welcomed and supported by a number of countries, although it also provoked some discussion.

This primarily centred on UK comments on the practice of whale products being exported to Denmark from Greenland. A number of countries did not approve of this practice, believing that it contradicted the philosophy that aboriginal subsistence products must be consumed locally. Denmark explained, as it had previously, that the process is in accordance with CITES and is considered a transfer within the Kingdom of Denmark, not an export. Such transfers are for Greenlanders living temporarily in Denmark, typically students or hospital patients. It is on a small scale and non-commercial. Several countries supported this practice and expressed surprise at the UK objection. The UK drew attention to the precedent this might set and to the Scientific Committee's comments on the status of these stocks.

6.3.1.4 NORTH ATLANTIC HUMPBACK WHALES OFF ST. VINCENT AND THE GRENADINES REPORT OF THE SCIENTIFIC COMMITTEE

The Scientific Committee had received a report of a catch of a 55ft non-lactating female and a 28ft male (no milk present in stomach) at Bequia on 27 March 2002. Some Committee members noted that a length of 55ft for a North Atlantic humpback whale was improbable and suggested that this reflected a measurement error.

Based on the available data, the Committee believed it is most plausible that eastern Caribbean humpbacks are part of the West Indies breeding population; records of a match between the area and the northeastern Atlantic were received this year. However, it also noted its view of last year that the question of abundance and population identity of humpback whales in the eastern Caribbean remains unresolved.

The Committee considered the likely impact on the stock of an annual take of four whales. Assuming that the humpback whales found in the eastern Caribbean are part

of the West Indies breeding population, the Committee agreed that a catch of up to four whales taken annually would be unlikely to harm this stock.

SUB-COMMITTEE COMMENTS AND DISCUSSION

The Sub-committee noted the advice of the Scientific Committee. Subsequent discussion focused on the needs statement submitted by St. Vincent and The Grenadines.

St. Vincent and The Grenadines informed the Sub-committee that it had notified the Secretariat of its intention to request an increased quota from two to four North Atlantic humpback whales at the present meeting. The needs statement provided an historical background of the development of the Bequian humpback fishery, a summary of the social and cultural aspects, and the establishment of nutritional need, and for the supply of locally produced animal protein and fat to offset in part the foreign exchange drain on the local economy, which is not self-sufficient in terms of food production. The background to the current needs statement stems from the 19th century, when a number of local inhabitants learned the whaling trade from Yankee whalers and returned to the islands with this knowledge. Up to the 1920s, humpbacks were hunted freely until the marketability began to disappear. Only one station remained open, which operated primarily to satisfy local demand via a low quota of 2 whales per year until 1981/82 when IWC recognised the activity as aboriginal subsistence whaling and the quota was increased to 3 whales.

St. Vincent and The Grenadines noted that the cultural importance of the hunt is apparent in the festivals that follow a successful hunt and the subsequent local distribution of the whale meat. It drew attention to nutritional deficiencies in the Islands, which are not self-sufficient in food, and stated that nutritional need also includes access to healthy food. It further remarked that rich countries frequently export the poorest quality of meats (fat mutton flaps, beef and poultry legs and tails) to developing countries, whereas whale meat is high in protein, and whale fat and blubber has some proven and some speculated health benefits.

St. Vincent and The Grenadines explained that need was quantified using a presumption of past need based on *per capita* consumption of whales raised to the current need by the ratio of present to past population of the island. Two whales supplied approximately 12% of the animal protein need for the island in 1982. This has declined to 6% in 2002 owing to population increase in Bequia. A quota of four whales is required to bring the level up to current need. St. Vincent and The Grenadines suggested that a take of 4 animals from this stock of humpbacks would not represent any problems in terms of overall sustainability of the stock.

The needs statement was broadly welcomed and supported by a number of countries, although other countries raised issues regarding the overall status of the stock, the absence of national regulations and the history of the whaling activity in St. Vincent and The Grenadines.

Australia, New Zealand and the UK considered that a precautionary approach should be taken given the uncertainty over the scientific status of the stock. Antigua & Barbuda considered that the status of this stock was more secure than the bowhead whale stock, but the examination of uncertainty on these was not as acute. New Zealand did not agree, noting that certainty on stock numbers and identification was much stronger in the former requests.

In response to criticism from Australia, UK, USA, Germany, Switzerland and Finland regarding the ongoing failure to develop and implement an overall regulatory approach for hunting, in accordance with the Schedule, St. Vincent and The Grenadines explained that draft regulations exist, and that information on their current status should be available before the IWC Plenary (see below). The UK suggested that an important factor in deciding to continue allocating a quota was an assurance given by St. Vincent and The Grenadines in 1990 that there would be no continuation of this industry following the retirement of the then 69 year old harpooner. It noted that contrary to these assurances it now appeared the hunt is expanding.

New Zealand and Monaco had commented that the needs statement reflected a heritage of taking large whales dating back 150 years. They noted that this whaling was undertaken by the descendants of Scottish and French settlers and was a continuation of whaling from the colonial period. Denmark responded that such objections should have been made when the quota was first given in 1982. Dominica objected to the implication that St. Vincent and The Grenadine's hunt was a colonial relic rather than an aboriginal hunt. It noted that the indigenous peoples of the Caribbean, the Caribs, had hunted whales long before the advent of slavery and colonialism.

Finally, in response to concern expressed by Austria over the lack of tissue samples coming from the hunt, St. Vincent and The Grenadines referred to the Report of the Scientific Committee and confirmed that samples have been collected and are being processed. It further reported that scientists from the Eastern Caribbean Islands have been engaged in a joint sighting survey with Japanese scientists, and that a co-operative photo-identification survey is being planned beginning next season. The UK drew attention to the further take of 2 humpbacks in 2002 and the discussion in the Scientific Committee that suggested that there was a measurement error in the length of the larger animal. It informed the Sub-committee that a photograph it had of the smaller animal tended to suggest that it was a calf.

6.3.2 Commission discussions and action arising including proposals to amend the Schedule

Prior to addressing the proposals to renew aboriginal subsistence catch limits, the order in which the proposals should be taken was discussed at some length. Rather than taking them in the order given in the agenda and as dealt with by the Aboriginal Subsistence Whaling Sub-committee, St. Vincent and The Grenadines requested that its proposed Schedule amendment be taken first. This request was supported by some countries but not others. These countries could not understand the need to break with the traditional sequence. A suggestion to take all Schedule amendments as a package was also not supported. The Chair therefore ruled that the Commission address the proposals in the order they appeared on the agenda. His ruling was challenged but upheld when put to a vote.

6.3.2.1 BERING-CHUKCHI-BEAUFORT SEAS STOCK OF BOWHEAD WHALES

The Commission noted the report of the Aboriginal Subsistence Whaling Sub-committee.

The Commission's discussions on the joint USA/Russian Federation proposal to renew the existing aboriginal subsistence whaling quota for this stock of

bowhead whales were lengthy, taking place over 3 days (Wednesday 22 to Friday 24 May 2002). To assist in comprehension, the report is divided into the discussions taking place on each day.

WEDNESDAY 22 MAY

The USA introduced the following USA/Russian Federation joint proposal (IWC/54/20) to renew the existing aboriginal subsistence whaling quota for this stock of bowhead whales for five more years i.e. by changing the dates but leaving the remainder of the paragraphs the same. The total effect of these changes is given below for clarity:

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 ~~1998, 1999, 2000, 2001, 2002~~ **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 ~~1995-97 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.

The USA explained that the request was to provide for the traditional, cultural and subsistence needs of the Alaskan Eskimos of the USA and the Chukotka native people of the Russian Federation. Noting that the Scientific Committee had not changed its management advice and that the annual maximum strike limit is well below the annual limit of 102 bowhead whales that the Scientific Committee agreed would be consistent with the requirements of the Schedule, the USA urged adoption of the proposed Schedule amendment by consensus.

Japan remarked that the USA recognises the needs of its Alaskan Eskimos and asked whether the USA could understand that the Japanese small-type coastal whalers also have needs. It also questioned whether the USA had considered the possibility of sub-stocks within the bowhead stock and reiterated its earlier comment under Item 6.1.2 that application of the RMP would not provide a catch limit for several decades. Japan therefore considered the stock to be in a very dangerous situation and remarked that at this point in discussions, it was not in favour of approving a catch limit for a 5-year period.

In reacting to Japan's comments, the Russian Federation noted the close links between the Chukotkan and Alaskan Eskimo hunter communities and indicated that any objection against the USA is also an objection against the Chukotkan people. Regarding Japan's question on possible sub-stocks, the Russian Federation drew attention to the fact that the Scientific Committee had indicated that this would make no difference to its management advice on this bowhead stock. Like the USA, it urged that the proposal be adopted by consensus, noting the importance of the bowhead hunt to aboriginal people.

The USA responded to the questions and comments made by Japan in the following manner: (1) it considered the question on its views regarding Japanese small-type whaling to be out of order since this issue would be addressed under another agenda item; (2) like the Russian Federation it noted that the Scientific Committee had already addressed the single stock issue and that based on current genetic evidence the Committee had not changed its

management advice; and (3) it did not consider that the stock is in a dangerous situation noting that it has been increasing at an annual rate of 3.3% for a long time and that the recent census gave the largest ever estimate of abundance.

Norway commented that it recognises and respects the nutritional and cultural needs of all people and believed that ethnicity has no place in deciding catch limits. Rather, it believed that the deciding factor in setting catch limits is whether they are sustainable. Norway sympathised with the contents and substance of the joint USA/Russian Federation proposal, but taking into account the various uncertainties raised during the Commission's deliberations, believed it wise to adopt a slightly more precautionary approach. It therefore proposed amendments to the USA/Russian Federation to the effect that a catch limit be set for 2 rather than for 5 years (i.e. for 2003 and 2004), and that the number of bowhead whales landed over this period not exceed 112.

Neither the USA nor the Russian Federation supported Norway's proposed amendment. The USA did not agree that there are any uncertainties to be resolved, but noted that if there are any, Schedule paragraph 13(b)(1)(iii) allows for the provision to be reviewed annually. It also felt that Norway's proposal would place an unjust burden on its native people (e.g. forcing them to leave their hunts to defend their quotas earlier than anticipated) and an unwarranted burden on the Commission (e.g. taking up the issue prematurely thus increasing amount of time used in discussions). The Russian Federation noted that the needs statement and proposed 5-year quota had not been questioned during discussions of the Aboriginal Subsistence Whaling Sub-committee, and considered that raising concerns in the plenary is a dangerous precedent that invalidates the Sub-committee's work.

Oman, Denmark and the Netherlands fully supported the original proposal tabled by the USA and the Russian Federation. Like the USA, the Netherlands also drew attention to the provision in Schedule paragraph 13(b)(1)(iii) and to the planned assessment of the bowhead stock in 2004.

Antigua & Barbuda indicated that it wanted to support consensus adoption of the proposed Schedule amendment but reserved its position until it knew the fate of the amendment proposed by St. Vincent and The Grenadines. St. Lucia had a similar view. It would support Norway's amendment on the understanding that due consideration and reciprocity would be granted to St. Vincent and The Grenadines.

In response to a question from Grenada on the status of the bowhead stock, the Chair of the Scientific Committee noted: (1) the best advice is that the animals of the Bering-Chukchi-Beaufort Seas comprise a single stock; (2) assessments have shown that the stock is increasing; (3) there is some possibility that it is already above MSYL; and (4) in any event, the stock is above the 'certain' minimal level below which takes would not be allowed. She reiterated that the principles governing aboriginal subsistence whaling do not require a stock to be above MSYL but that it should be moving towards it, as is the case here.

When asked by the Russian Federation if it would withdraw its proposed amendment, Norway indicated that it would do so if this would pave the way to consensus. It suggested that one way to achieve consensus might be that

if, for example, St. Vincent and The Grenadines were granted a request for a period of three years, then they and their supporters would accommodate a request from the USA and the Russian Federation for 5 years. Norway indicated that it would also be prepared to withdraw its amendment if other acceptable proposals existed. It added, however, that if withdrawal of its proposed amendment simply resulted in other members making counter proposals, then it saw no point in doing so.

As no basis for consensus existed, Norway declined to withdraw its proposed amendment. The Chair indicated that Norway's proposal should therefore be put to a vote and asked the Secretary to explain the Commission's rules in this respect. The Secretary drew attention to the Rules of Debate, section E, paragraph 2 indicating that when an amendment is moved to a proposal, then it is the amendment that is voted on first. She noted that if one or more amendments are adopted, the amended proposal shall then be voted upon, implying that two votes are required in this process, i.e. (1) a vote on the amendment is conducted first, which requires a simple majority to be successful; (2) if the amendment is successful then a vote is taken on the whole amended proposal that, in this case, would require a three-quarters majority to be successful.

Norway, on a point of order, noted that its understanding of the Rules of Debate did not correspond with that of the Secretary. It considered its amended proposal as a Schedule amendment requiring a three-quarter majority and wanted it to be treated as such. Some countries supported Norway's understanding, while others supported that of the Secretary. The Chair ruled that the vote be conducted as described by Norway. His ruling was challenged and was not upheld when put to a vote. Norway's amended proposal was therefore put to a vote in accordance with the explanation given by the Secretary. The proposal failed to achieve a majority, there being 14 votes in favour, 27 against and 3 abstentions. Japan explained its reasons for abstaining. It indicated that while setting a catch limit for 2 rather than 5 years would be preferable, doubt remained on whether this period would be scientifically optimal. The Russian Federation expressed surprise at the number of countries supporting Norway's proposal.

Following the defeat of Norway's proposed amendment, the Chair asked whether the original USA/Russian Federation proposal could be adopted by consensus. Since Japan indicated that this would not be possible, the USA asked whether the session could be adjourned in favour of a private Commissioners' meeting to discuss this matter further. The meeting agreed to this request.

The private Commissioners' meeting lasted several hours. On recommencing the plenary session, the Chair announced that an agreement had been reached, i.e. that the Schedule amendment proposed by the USA/Russian Federation could be adopted by consensus. However, despite this apparent agreement, confirmed by Denmark and Mexico (but later contested by Japan), Japan indicated that it could not participate in a consensus and insisted that the Chair proceed to a vote. Antigua & Barbuda considered that although there was movement towards a consensus during the private Commissioners' meeting, the meeting had finished before some finer points had been resolved.

Following the suggestion of several Contracting Governments, the Chair adjourned the meeting to allow time for further negotiations.

THURSDAY 23 MAY

On resumption of discussions, it was clear that there was still no consensus and the USA/Russian Federation proposed Schedule amendment was put to a vote. There were 30 votes in favour, 14 against and one abstention. It thus did not achieve the required three-quarter majority of those voting for or against the proposal.

Many countries, regardless of whether they had voted in favour or against the proposed Schedule amendment, spoke of their regret over the outcome of the vote.

Of the countries voting against the proposal, Antigua & Barbuda explained that it supported the right of the aboriginal people involved to use whale resources. However, it objected to the discriminatory approach being taken within IWC regarding which countries are allowed to take whales and which are not. It urged those governments having aboriginal populations to accept responsibility for the outcome of the vote. Mongolia did not wish to deprive aboriginal people of their needs, was disappointed that a compromise had not been reached and explained that it had voted against the double standards employed within IWC. St. Vincent and The Grenadines had voted against the proposal because of the lack of trust it saw within IWC. It considered that for consensus to be reached, there is a need to ensure equality of treatment, e.g. if 5-year block quotas are accepted for some situations they should be accepted for all. The Solomon Islands also spoke of the existence of double standards, highlighting what it considered to be the unfair treatment of the coastal people of Japan and the request by St. Vincent and The Grenadines. It called for consensus to be reached on all requests. Like others, St. Lucia called for the equitable distribution of resources.

Several countries that had supported the proposal expressed great disappointment and distress at how the compromise consensus that had been reached during the private Commissioners' meeting on Wednesday had been broken. Denmark was concerned that the needs of two groups of aboriginal people would not be accommodated. Referring to the comments of Antigua & Barbuda, the UK indicated that it would be the record of the meeting that would indicate where blame lay for the outcome of the vote. It considered that certain delegations had manipulated the operation of the Commission in ways that would result in suffering all round and was appalled by the display of bad faith. Oman expressed deep regret and sympathy for the affected aboriginal people. Drawing attention to the fact that similar requests had been granted in the past, it wondered how the outcome of the vote could be explained. The Netherlands considered that the outcome was not only bad for the aboriginal people but also for the way business is conducted in IWC and urged that the agenda item be kept open. Other countries supported this request. New Zealand remarked that it had come to the meeting prepared to support any requests for aboriginal subsistence whaling provided that they met the Commission's requirements. It recalled that this is the first time for many years that an aboriginal subsistence whaling request had been denied and that the responsibility for this outcome lay with those countries voting 'no'. South Africa considered that the only rationale for voting against the proposal was either: (1) that a country did not understand the issue; or (2) that it was willing to sacrifice aboriginal peoples needs for political gain. Sweden also thought it regrettable that the requests of these people had been sacrificed. Spain spoke against the

mixing of other parts of the agenda with this particular item. Switzerland drew attention to the harsh climatic conditions experienced by the Alaskans and Chukotkans, their old cultural rights to hunt whales for a living and to the fact that the Scientific Committee considered the proposed take to be sustainable. It considered that if anyone needed these resources, then it is these aboriginal peoples. Morocco indicated that it could not go against providing food for innocent people who are victims of different points of view within the Commission. Peru, Australia, Finland, Germany and Monaco also spoke against the outcome of the vote. Norway, who had supported the proposal, thought it had been obvious from the outset that it would fail and expressed disappointment that its earlier suggested amendment had not been successful in paving a way for consensus.

The Russian Federation spoke of its deep regret that consensus was destroyed from the very outset and that a vote had been provoked. It believed the outcome had delivered major damage to the interests of the Russian Federation and to the aboriginal peoples involved. It also considered that those countries making accusations about the double standards of others were themselves guilty of applying double standards with respect to this issue. A representative of the Chukotkan people and member of the Duma, commented that he had hoped to be dealing with a serious international organisation that managed whale resources based on sound science. Instead he had found petty politics and intrigues. He noted that there is more information available on this bowhead stock compared with other stocks subject to aboriginal take, and considered that there was no reason to reduce the duration of the block quota from 5 years to 1-2 years. Recalling that instead of providing technical assistance to improve the humaneness of aboriginal subsistence whaling as requested by IWC Resolution 1997-1¹⁵, he noted that the attitude of some Contracting Governments would result in the native people spending thousands of dollars each year on preparation of more reports, justifications and on travel to meetings. They could not afford to do this. They needed to hunt to feed their families.

The USA were disappointed that some Contracting Governments were opposing the proposed Schedule amendment because of their dissatisfaction with the position of the USA on other issues. It noted that this move ignores the needs of native peoples who have worked hard to comply with every requirement imposed on them by the Commission. Noting that the Alaskan Eskimos have worked with IWC for over 20 years and have contributed greatly to bowhead whale research, they have also: (1) set the standard for documenting needs; (2) undertaken weapons improvements programmes in response to the Commission's concerns regarding humane killing; and (3) are now working closely with the Chukotkan people. The USA indicated that voting against the joint USA/Russian Federation proposal to show displeasure with the USA did not solve any problems, and urged the Commission to leave the agenda item open so that a solution could be found.

The meeting agreed to the USA's request for a private Commissioners' meeting. Further plenary discussions on this issue were therefore postponed.

FRIDAY 24 MAY

Discussions began with consideration of a proposed Schedule amendment from the UK, based on earlier private discussions of Commissioners, that incorporated proposals for renewals of all four aboriginal subsistence whaling operations. However, the UK withdrew its proposal once it was apparent that it could not be adopted by consensus.

Following agreements to renew catch limits for gray, fin and minke whales off Greenland, and humpback whales off St. Vincent and The Grenadines (see sections 6.3.2.2-6.3.2.4), the Commission returned to discussions on the catch limit for the bowhead whale stock.

The Chair asked whether the slightly revised proposed Schedule amendment (IWC/54/57) submitted by the USA/Russian Federation could be adopted by consensus. Japan considered the proposal to be identical to that voted down on Thursday and indicated that it could not give support. Instead it wanted to propose an amendment which involved adding a new paragraph 10(f) to allow the taking of 25 minke whales from the Okhotsk Sea-West Pacific stock for each of the 2003, 2004, 2005, 2006 and 2007 seasons to be used for local consumption by the communities of Taiji, Wada, Ayukawa and Abashiri.

Speaking to a point of order, Australia did not believe such an amendment was in order and that two separate issues (i.e. aboriginal subsistence whaling under Schedule paragraph 13 and commercial whaling under paragraph 10) could not be linked in this way. It considered that if Japan wanted to raise this issue it should do so under the appropriate agenda item. The Chair agreed that Japan's proposal mixed two agenda items and ruled that this could not be done.

The Republic of Palau acknowledged that Japan's proposal concerned a separate issue, but considered that it also concerned subsistence whaling. It considered the proposal to be procedurally appropriate, a good compromise and the only way out of a difficult dilemma.

The Chair's ruling was challenged but was upheld when put to a vote. Antigua & Barbuda considered that Japan's coastal whaling could be classified as an aboriginal take and felt that Japan had been treated unfairly. Morocco had supported the proposal since it would have helped Japanese small communities. Japan regretted that its amendment to the USA/Russian Federation proposal had been voted down on procedural grounds despite the concessions made. Both the USA and Australia noted that Japan's proposal had not been voted down and that it could be raised again under agenda item 11. However, Japan reiterated its earlier remarks that it could not support a 5-year block quota over concern for the status of the bowhead stock, but that a quota for 1-2 years would have been acceptable. It added that it would now be forced to vote against the USA/Russian Federation amendment.

Responding to Japan's comments on the status of the bowhead stock, the Chair of the Scientific Committee stressed that the Committee's advice is very clear, i.e. there is no scientific reason not to grant the quota requested. The stock is robust, is increasing under the existing quota and there are no serious issues regarding stock structure.

Noting that the needs of other aboriginal subsistence hunters had been met earlier in the day with the support of the USA, the USA requested reciprocal support for its Alaskan Eskimos.

On being put to a vote, the revised USA/Russian proposed Schedule amendment failed to achieve the

¹⁵ See *Rep. Int. Whal. Commn.* 48: 45

necessary three-quarter majority, there being 32 votes in favour, 11 against and 2 abstentions.

Representatives of the USA and Russian Federation aboriginal peoples again expressed their deep disappointment that their request had not been met. The USA thanked countries that had supported them. The Russian Federation noted that the political games that had been played had made people forget the aboriginal peoples and their needs. It stressed that the Alaskan and Chukotkan people would stay together and not be divided.

Mongolia, Dominica and Antigua & Barbuda, who had voted against the USA/Russian Federation request explained their votes. Mongolia indicated that it fully supports aboriginal subsistence whaling by these Arctic people. It noted that virtually the same request had been voted down yesterday and regretted that the Chair had chosen to put the amended version to a vote. Dominica made similar comments. Antigua & Barbuda wished to ensure the people of Alaska and Chukotka that it wanted a resolution to this problem before the end of the meeting. It believed that the fault lay with those countries not supporting consumptive use.

Several countries that had voted in support of the USA/Russian Federation request made a number of remarks. St. Vincent and The Grenadines indicated that it supported fully the aboriginal subsistence take of the USA and the Russian Federation and the request of Japan for its coastal communities. It urged the Commission to find some way to grant both requests. New Zealand suggested that Alaskan and Chukotkan people were being punished because of the Commission's unwillingness to establish a new category for small-type coastal whaling, and that Japan and others were drawing a moral equivalence between prosperous Japanese coastal towns and isolated Arctic communities, a link that, in New Zealand's view, did not exist. Denmark strongly regretted the outcome and like New Zealand, stressed the need to respect the traditional and subsistence needs of high Arctic people living in extreme conditions. The UK commented on what it considered to be the cant and hypocrisy of those voting against the USA/Russian request and wondered what honour was left in the organisation. Mexico considered that the discussions on this issue had nothing to do with the purpose and origins of aboriginal whaling and everything to do with politics. It recalled that since 1966, Mexico has opposed grouping aboriginal subsistence whaling requests by stocks or other criteria that deviate from the four stated requirements specified for this type of whaling, i.e. nutritional, subsistence, cultural and conservation requirements on a case-by-case basis, based on individual submissions by each corresponding Contracting Government justifying need.

6.3.2.2 NORTH PACIFIC EASTERN STOCK OF GRAY WHALES

The Commission noted the report of the Aboriginal Subsistence Whaling Sub-committee. It then adopted by consensus the following Schedule amendment proposed jointly by the USA and the Russian Federation:

In paragraph 13(b)(2) of the Schedule, in paragraph (i),-

- (1) After the words For the years strike "1998, 1999, 2000, 2001, and 2002" and insert "2003, 2004, 2005, 2006, and 2007"
- (2) After the words in any one of the years strike "1998, 1999, 2000, 2001 or 2002" and insert "2003, 2004, 2005, 2006 or 2007"

For the information of Commissioners, paragraph 13(b)(2) of the Schedule is reprinted below showing the effect of the proposed amendments.

- “(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 1998,1999, 2000, 2001, and 2002 2003, 2004, 2005, 2006, and 2007, the number of gray whales taken in accordance with this subparagraph shall not exceed 620, provided that the number of gray whales taken in any one of the years 1998, 1999, 2000, 2001, or 2002 2003, 2004, 2005, 2006, or 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.”

There was no discussion.

6.3.2.3 MINKE WHALE STOCKS OFF GREENLAND AND WEST GREENLAND STOCK OF FIN WHALES

The Commission noted the report of the Aboriginal Subsistence Whaling Sub-committee.

The Minister of Fisheries, Hunting and Settlements from the Greenland Home Rule Government stressed the dependence of Greenland upon the use of marine living resources. Throughout its 4,000-year history, whales, seals and other renewable marine resources have provided the basis for a system of social organisation based on bilateral kinship ties within extended families in which the sharing and exchange of wild foods and other local products are vital elements. The Minister noted that the debate about Greenland's use of whales, seabirds and other living resources is a reminder that managing for sustainability is a profoundly social and interactive process. He noted that while hunters have had to make substantial adjustments to their hunting practices in response to changing and increasing requirements for example on the humane killing of animals, these same changes and requirements have led to very effective hunting techniques that could result in an increased take of living resources. The current challenge for Greenland is therefore to reach a balanced and sustainable management regime through close co-operation with hunters, users, biologists and other stakeholders. Regarding need for research on large whales in Greenland, the Minister reported that he was working with the Government and Parliament to provide the necessary funding.

The UK reported that a few days earlier, the Environmental Investigation Agency (a UK-based NGO) had purchased a package of whale meat in Nagasaki labelled as coming from Greenland. It also referred to another product labelled as coming from Russia. Noting that: (1) whales harvested under IWC aboriginal subsistence catch limits are for local consumption only; and (2) that it was sure neither products were exported illegally with any knowledge or support from either Denmark or Russia; the UK requested confirmation from Denmark that the whale meat labelled as coming from Greenland was in fact mislabelled.

The Danish Commissioner considered that it was extremely unlikely that the product came from Greenland. A representative of the Greenland Home Rule Government confirmed this and referred to local legislation and CITES

regulations preventing such export. However, Greenland was willing to investigate the matter further by contacting the company selling the product and performing any necessary analyses in co-operation with the Japanese Government.

Referring to the comment from the UK, the Russian Federation indicated that the need of the Chukotkans is higher than the quotas requested and that consequently there is no excess meat available. It considered that the meat labelled in Japanese stores was not of Russian origin. Like Greenland, it was willing to work with the Japanese government to investigate this matter. It was sure that Japan would not allow trading of illegal whale products. Japan confirmed that in the past products coming from the Antarctic had been mislabelled as coming from Greenland. While noting that it considered this matter outside the mandate of IWC, Japan indicated that it would like to have samples of the products involved so that it could expeditiously investigate the matter.

The UK thanked Greenland and the Russian Federation for their responses and Japan for taking the matter seriously.

The Commission then adopted by consensus the amendments to Schedule paragraph 13(b)(3) and Table 1 proposed by Denmark, the only change being the seasons for which the quotas apply (i.e. the number of takes remains the same). The amended paragraph is as follows:

13.(b)(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.

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

The Commission noted the report of the Aboriginal Subsistence Whaling Sub-committee.

St. Vincent and The Grenadines introduced its proposed Schedule amendment (IWC/54/25 rev2) as follows:

In Paragraph 13(b)(4):

- (1) strike all of the first sentence, which begins: "For the seasons 2000 to 2002..."
- (2) insert four new sentences: "For the five seasons 2002/2003 through 2006/2007 the number of humpback whales to be taken by the Bequians of St. Vincent and The Grenadines shall not exceed 20. For each of these seasons the number of humpback whales struck shall not exceed 5. No more than 4 whales may be taken during any season. The meat and products of such

whales are to be used exclusively for local consumption in St. Vincent and The Grenadines."

Monaco asked why this latest revision from St. Vincent and The Grenadines did not reflect the agreement reached the previous day in a private Commissioners' meeting that its whaling must be conducted under formal legislation. Recalling that the Scientific Committee had only considered St. Vincent and The Grenadines request for 3 years, the duration initially proposed, Monaco indicated that the Commission was not in a position technically to approve a request for a 5-year period. It noted that in the Commissioners' meeting some countries had asked that the quota for the last two seasons become operative only after receiving advice from the Scientific Committee.

The Russian Federation also referred to the compromise agreement reached in the private Commissioners' meeting and was against changing the rules of the game during the game. It noted that St. Vincent and The Grenadines and other Caribbean countries felt bullied by some countries, but considered that they are dependent on others. It asked them to act independently.

In response, Grenada commented that just because it might support a particular country does not mean it is not independent. It considered that independence confers the right to support whomsoever it chooses. Recalling that St. Vincent and The Grenadines had promised to put appropriate regulations in place, Grenada took them at their word and therefore supported the proposed Schedule amendment. Dominica made a similar comment. Antigua & Barbuda acknowledged the agreement reached in private, but considered that the Schedule amendment proposed that morning by the UK grouping all aboriginal subsistence requests together had broken that consensus (see Item 6.3.2.1). St. Lucia fully supported St. Vincent and The Grenadines. It also referred to insinuations regarding the manipulation of small states but noted that those responsible for making phone calls to Caribbean Prime Ministers throughout the night were not from the Government of Japan. Japan also supported the St. Vincent and The Grenadines proposal. It considered the stock to be abundant and that extension of the period from 3 to 5 years would not cause any problems. It considered St. Vincent and The Grenadines existing fishery legislation to be sufficient for the purposes of monitoring whaling activities.

St. Vincent and The Grenadines pointed out errors in the text of the UK's proposal (Item 6.3.2.1) and stressed that appropriate legislation would be in place by July 2002. It requested clarification from the Scientific Committee as to whether the quota requested over a five-year period would be a problem and whether the Scientific Committee had specifically mentioned a three-year period in its management advice. The Scientific Committee Chair reminded the meeting that the Committee's advice had been that an annual take of up to four whales annually would be unlikely to harm the stock and that it had not referred to any time-period.

Like Monaco and the Russian Federation, the USA, New Zealand and the Netherlands expressed disappointment that St. Vincent and The Grenadines' revised text did not reflect agreements reached in private. New Zealand moved an amendment, seconded by Monaco, to add text that did reflect these agreements and that it had finalised later with St. Vincent and The Grenadines. The UK proposed to add a further amendment by including the joint USA/Russian Federation request for a bowhead quota.

However, the UK withdrew this amendment when the USA indicated that, while it very much appreciated the thoughtfulness of the UK, it preferred the more direct approach proposed by New Zealand.

The following Schedule amendment was subsequently adopted by consensus:

13.(b).(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.

7. CATCHES BY NON-MEMBER NATIONS

7.1 Commission discussions and action arising

The Chair of the Scientific Committee indicated that no catches by non-member nations had been reported to the Committee this year.

Japan noted that Indonesia continues to utilise sperm whales, adding that all non-member countries taking whales should join IWC as the body responsible for managing the whaling industry. Spain agreed. However, Japan considered that this would be unlikely with the moratorium in place and stressed the need to delete paragraph 10(e).

8. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

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

Frederic Briand (Monaco) chaired the Working Group on Whale Killing Methods and Associated Welfare Issues that met on 16 May 2002 with delegates from 29 Contracting Governments. Its report is included as Annex D.

In making his report, the Working Group Chair indicated that prior to discussions on substantive issues, Japan had made a statement summarising its views on how whale killing methods and welfare issues is being dealt with by the Commission. Japan considered that the discussions have become increasingly dissociated from science such that it does not see merit in submitting its detailed data on these matters to IWC, preferring to report its results to appropriate academic fora. It would, however continue its research on killing methods and its efforts to reduce time to death.

8.1.1 Data on whales killed

The Working Group Chair reported that data on whales killed had been provided on a voluntary basis by Denmark, the Russian Federation, Norway, Japan and the USA in reference to Resolution 1999-1.

Denmark had provided detailed information regarding the 2001 Greenland hunt of minke whales, with statistics on most parameters. The Russian Federation had submitted information on the 2001 Chukotka hunt and drew attention to the improved training of the hunters and the expertise provided by other nations.

Norway had reported on the 2001 traditional minke whale hunt in which a new penthrate grenade,

Whalegrenade-99 has been used. Results from this hunt had shown that instantaneous death was achieved in over 79% of the animals, that no whales had escaped wounded and that average time to death was 145 seconds. Japan had given a brief account of the 2000/2001 and 2001/2002 JARPA programme, emphasising again that gathering data on whales killed under Special Permit fell outside the competence of the Working Group. In the 2001/2002 JARPA, 200 Norwegian Whalegrenade-99 were used for the second year to compare with Japanese grenades. A large number of countries had urged Japan to provide in the future and on a voluntary basis, more information in line with that provided by Norway and Denmark.

The USA had stated that lawsuits had prevented a whale hunt by the Makah in 2001 but that when the tribe resumes the hunt it would do so in a traditional manner with modifications to traditional techniques to improve the humaneness of the hunt. The USA had also reported on the 2001 Alaskan Eskimo bowhead hunt in which 49 bowheads were landed with 26 being struck and lost. All whales were taken using the traditional hand-thrown darting gun harpoon, the majority firing the traditional black powder projectile, but with 6 using the penthrate projectile that the Alaskan Eskimo Whaling Commission (AEWC) had been working to develop with Norway. The hunt had taken place mostly using small skin boats propelled by paddles under dangerous circumstances. The USA had reported that the difficult nature of the hunt makes it impossible to estimate the time to death with the same accuracy as in other whaling operations.

The Working Group Chair reported that the absence of data from St. Vincent and The Grenadines had been noted by several countries. He added that a statement had been provided to the Group by St. Vincent and The Grenadines to the effect that although it provides information on its hunt to the Scientific Committee via its annual Progress Report, it does not recognise the competence of IWC in whale killing methods and therefore does not attend the Working Group.

8.1.2 Information on improving the humaneness of whaling operations

The Working Group Chair informed the meeting that Denmark had reported on improvements on whale hunting methods in Greenland and in particular on the accuracy of delivery of the penthrate grenade harpoon and the effectiveness of secondary killing methods.

The Russian Federation had reported that its focus was on training the hunters, emphasising continued improvements in the efficiency of the hunt, with a 24% reduction in time to death in 2001 compared to 2000, a 15% reduction in the number of bullets and a 14% reduction in the number of darting gun projectiles used. The Russian Federation had, however, expressed concern about putting the lives of hunters at risk when attempting further reductions in times to death that should be viewed in the context of the nature of the hunt. It had indicated that further progress would likely depend on the ongoing collaboration with the AEWC and on availability of technical material and assistance. The Working Group Chair reported that a number of delegations had commended the Russian Federation on its improved hunt.

Norway had reported on the co-operative work taking place among its authorities, scientists and hunters and that Norwegian specialists have been giving lectures on

weapons, ballistics and hunter safety through seminars arranged by the AEWG and NAMMCO (North Atlantic Marine Mammal Commission).

Japan had reported briefly that its testing of the new grenade has been continuing in co-operation with Norway.

The USA had reported on the status of the AEWG Weapons Improvement Program to develop a method to improve the humaneness of the black powder projectile.

8.1.3 Plans for a workshop on whale killing methods

The Working Group Chair informed the meeting on plans for a workshop in 2003 on whale killing methods. He noted that Norway had proposed: (1) Dr. Sam Ridgway of UC Veterinary Medical Center of San Diego, USA as a candidate for workshop Chair; and (2) that issues to be addressed include (i) patho-physiological changes in the central nervous system and other vital organs of whales caused by intra body detonation of the penthrate grenade, (ii) the effect of large calibre round nosed bullets used for euthanasia (secondary weapons) in minke whales, and (iii) hunter safety. Norway had also stressed that participating experts should be able to contribute to the workshop without a restricted mandate and that comparative data from the hunt of other wild mammals and from the slaughter of domestic animals should be included. An ad hoc task force was constituted to further consolidate the workshop agenda (see Appendix 5 of Annex D) and to suggest a venue and time. It was proposed that a three-day workshop be held during IWC/55 in Berlin beginning the day after the end of the Scientific Committee meeting.

8.1.4 Other

The Working Group Chair noted that New Zealand had given a short presentation of a paper on possible adverse effects of the protracted pursuit of whales by whaling vessels and that this had been criticised in terms of the scientific quality of the document by some and received with gratitude by others. The Working Group Chair had expressed the view that in the future, papers of substantial scientific content should be presented to the Group only following proper international peer review or else be referred to a workshop.

The Chair also reported that the UK had posed several questions concerning methods used by Japan to kill small cetaceans in Japanese coastal waters. Japan had indicated that it would not answer such questions in the context of IWC but that it was prepared to do so as it deems appropriate on a bilateral basis. Denmark had responded similarly to a question regarding the Faroese pilot whale hunt.

The UK had expressed concern over the high increase in bycatch of whales in Japanese fisheries since changes in domestic legislation and had requested information on killing methods, times to death, regulations, observations and guidance to fishermen involved. Japan had responded that bycatch is outside the terms of reference for the Working Group but that it had provided the information to the Scientific Committee on a voluntary basis. Both positions had been supported by a number of countries.

8.2 Commission discussions and action arising

In the Commission, Japan re-iterated the statement it had made in the Working Group and reported by the Working Group's Chair. The Chair of the Commission expressed his appreciation of the voluntary submission of data by Japan. While the UK recognised the value of the information

provided by Japan, it expressed the hope that Japan and other countries not submitting data covering all the whales and some small cetaceans killed, would be prepared to provide information to the proposed workshop so that it could have the widest possible coverage.

The Commission noted the Working Group's report and accepted its recommendations for a workshop associated with IWC/55 next year. It agreed that a small committee comprising Norway, Denmark, Germany and New Zealand, assisted by the Secretariat, would be responsible for organising the workshop.

NAMMCO informed the Commission of the outcome of a workshop it organised in November last year on 'Marine Mammals: Weapons, Ammunition and Ballistics'. The workshop had involved hunters, scientists, administrators from the four NAMMCO member countries and participants from Sweden and Canada. The context of the workshop was the need to discuss the effect of various ammunitions, weapon types and where to aim in the killing of whales and seals, and the safety precautions needed when introducing new technologies. Taking account of the dangerous nature of marine mammal hunting using explosives and lethal weapons often under extreme weather conditions, the workshop was clear that the introduction of new methods should not compromise hunter safety. The workshop prepared a set of recommendations and conclusions, including a recommendation for more controlled and standardised studies of the effect of weapons and ammunition on species hunted. It also thought it useful to consider harmonising ammunition and weapon types for each species while giving due consideration to variations in hunting conditions in different NAMMCO member countries. The workshop agreed that it is imperative to involve and utilise the experience of hunters together with scientific studies to support any harmonisation efforts.

9. REVISED MANAGEMENT SCHEME

9.1 Revised Management Procedure (RMP)¹⁶

9.1.1 Report of the Scientific Committee

GENERAL RMP ISSUES

Two items (adjustment of the convergence criteria for the CATCHLIMIT programme; work to assist in discussion as to which population component MSYR, MSYL and density-dependence should apply) identified to be completed this year were unfinished and are deferred until next year. Work continued on the development of simulated datasets with which to evaluate various abundance estimators. The datasets developed thus far and associated documentation will be lodged with the Secretariat.

Given the difficulties in finalising the implementation for North Pacific common minke whales discussed below, the Committee spent considerable time discussing the general issue of how to develop and establish an efficient process to move from an in-depth assessment through to an final implementation and subsequent implementation reviews. Considerable progress on this was made.

¹⁶ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 5 (Suppl.)

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 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 Shimonoseki meeting. It had been anticipated that the Committee would have been able to provide management advice to the Commission at the present meeting. However, it is proving to be extremely difficult to complete this work for a number of reasons. These include:

- (1) the fact that harvesting is projected to take place during migration as well as on the feeding grounds;
- (2) there is a seasonally-dependent overlap of management stocks;
- (3) there has been continual updating of information on a relatively complex population structure;
- (4) a number of issues related to the plausibility of trials, particularly with respect to population structure;
- (5) the complexity and time required to code and run trials; and
- (6) a lack of agreement on when to stop 'improving'.

An ambitious work plan has been established with the aim of reaching agreement on the appropriate variant of the RMP to apply to common minke whales in the western North Pacific at next year's meeting.

In addition, the Committee received information on plans by Japan and the Republic of Korea for sightings surveys in the western North Pacific directed primarily at common minke whales. The Committee endorsed these plans. With respect to a survey in the Sea of Okhotsk, the Committee recommended that the Commission requests the relevant authorities of the Russian Federation to grant permission in timely fashion for the Japanese vessels to undertake surveys in its EEZ.

WESTERN NORTH PACIFIC BRYDE'S WHALES IMPLEMENTATION

The Committee is in the process of developing initial *Implementation Simulation Trials* for western North Pacific Bryde's whales. In particular, it began a review of the reliability of available catch statistics. Intersessional work will continue on this issue so that any uncertainty about such statistics can be incorporated into future trial structure. A full discussion of population structure and abundance-related issues will take place at next year's meeting and the Committee will determine whether the *pre-Implementation* stage of the process has been completed.

NORTH ATLANTIC COMMON MINKE WHALES - IMPLEMENTATION REVIEW

The Committee had expected to be in a position to undertake an *Implementation Review* of common minke whales in the northeastern Atlantic at the 2002 meeting. However, due to logistical problems in making all of the

data available suitably in advance of the meeting, it was agreed to postpone the review until next year. The review will primarily consider new information on stock structure and abundance, some of which was briefly discussed at this year's meeting. Intersessional work was identified.

The Committee also noted Norway's plans to continue undertaking surveys in the North Sea, and recommended that the Commission requests the relevant UK Government authorities to grant permission in timely fashion for the Norwegian vessels to undertake surveys in its EEZ.

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 last year. It agreed that priority should be given to those areas where the RMP is likely to be implemented – such as the western North 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.

The latter potentially represents 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. The possibility of holding a workshop on that subject is being considered.

The Committee looked at the bycatches of large whales reported in National Progress Reports. Common minke whales were the most frequently reported species (>230) with most records for Japan and eastern Korea. Compulsory reporting schemes exist in both these countries (it was voluntary in Japan prior to 1 July 2001). Possible reasons for the clumping of catches in these two areas were discussed but no clear explanation emerged, although lack of reporting by some countries is probably part of the explanation.

Work to further explore improved bycatch estimation methods for the two approaches noted above is continuing.

A further major topic concerned consideration of ways in which bycatches of large whales (and mortality of entangled whales) can be minimised.

9.1.2 Commission discussions and action arising

NORTH PACIFIC COMMON MINKE WHALE IMPLEMENTATION SIMULATION TRIALS

Japan expressed regret that completion of the *Trials* had been postponed yet again. It welcomed the clear guidance provided by Committee's recommended schedule for *Implementation* and *Implementation Reviews* (and hoped it would be followed) but felt that such guidance would not have been required if the work had proceeded as originally planned. Japan believed that the reason that the North Pacific minke whale *Trials* had taken so long was not because of the availability of new data, which is normal in an ongoing research programme, but rather because new hypotheses were being suggested each time the *Trials* were nearing completion. Regarding criticism in some quarters that it had been withholding data and obstructing progress, Japan stressed that in addition to providing all data required by the *Schedule*, it provides other data it has collected to the Scientific Committee or to any scientist requesting them according to a specified protocol. It was troubled that on the one hand its research is criticised as unimportant for management, while on the other it receives more and more requests for its data in a management context.

In response to Japan's comments on the reasons behind the delay in completing the *Implementation*, the UK recalled that it was Japanese scientists that had requested that the *Trials* not be completed last year. It was the UK's understanding that had the *Trials* been completed, the emerging quota for the coastal stock would be lower than some might like, which probably explained the delay.

The Republic of Korea also noted with regret the delay in the North Pacific minke whale *Trials* with the consequential delay in the proposed in-depth assessment of all common minke whales in the western North Pacific (including 'J' stock whales found in its waters) which it considered to be a matter of urgency.

NORTH ATLANTIC MINKE WHALES - PLAN FOR IMPLEMENTATION REVIEW IN 2002

With respect to the issue of access to Norwegian vessels into UK waters, Denmark referred to last year's discussion on the denial by the UK of access by survey vessels (including a Faroese vessel) into its EEZ, and asked whether the UK had reconsidered its decision as it had stated. The UK indicated that its reasons for not granting access were given last year, that it was still reconsidering its position and that Norway's intention to again raise the tuning level used in the RMP would be taken into account when arriving at its decision.

GENERAL

The Commission adopted and endorsed the Scientific Committee report and its recommendations on the items discussed under Item 9.1.1. A number of draft Resolutions had been submitted in relation to this agenda item, but the Commission did not have time to discuss them.

9.2 Revised Management Scheme (RMS)

9.2.1 Report of the Revised Management Scheme Working Group

The report of the RMS Working Group meeting was summarised by its Chair, Henrik Fischer (Denmark). The meeting took place over the 13 and 15 May 2002 and was attended by delegates from 30 Contracting Governments. The full report is available as Annex E.

The Working Group Chair reported that he had reminded the Group that its overall objectives are to complete the work on the RMS. He had noted that: (1) the work had been ongoing for a number of years; (2) some progress had been made, particularly by the Expert Drafting Group (EDG) - established at the 53rd Annual Meeting - that had met twice (i.e. in October/November 2001 and in February/March 2002); but that (3) a number of outstanding issues remained. The Chair hoped it would be possible to reach agreement on some of these remaining issues, but recognised that this would probably not be possible for those he regarded as being essentially political in nature (e.g. catch verification, the role of NGOs in a Compliance Review Committee, costs of any supervision and control scheme and how they may be shared among Contracting Governments, and the need to collect animal welfare data).

The Working Group Chair had drawn attention to two further items (i.e. the proposal, originally from Ireland, that catches may only be taken within EEZs or other waters within 200 miles of the coast and the issue of current paragraph 10(e) - the moratorium) noting that they are clearly influential in any discussions of Schedule Chapters V and VI. Regarding limiting catches to coastal areas, the Working Group had agreed with the Chair's proposal to ask the Scientific Committee to comment on the management implications (in terms of yield and risk) of such a step.

Following a presentation by the Secretariat on the outcome of the EDG's work and a general round of impressions and comments, the Working Group had focused its discussions on the following:

Regarding Chapter V (Supervision and Control):

- (1) the inclusion of a 'statement of principle';
- (2) the proposed mechanism for developing the detail necessary for the practical implementation of the scheme (i.e. putting details not in the Schedule, but in a separate document);
- (3) the name and duties of the committee responsible for oversight of infractions;
- (4) cost estimates.

Regarding Chapter VI (Information Required):

- (1) the scientific information required.

The Chair explained his view that that an exercise discussing other areas would not have been worthwhile until progress had been made on the broader, more political issues. How this might be achieved was discussed under the agenda item 'next steps'.

REVISIONS TO CHAPTER V, SUPERVISION AND CONTROL

The Working Group agreed to the EDG proposal to include a short statement of principle in Chapter V even though not all members thought this to be necessary. There had been no agreement on the need to include a sentence to the effect that no provision of Chapter V is intended to restrict any legitimate trade in any whale product.

The Working Group agreed to the mechanism proposed by the EDG for developing the detail necessary for the practical implementation of the scheme, i.e.:

- (a) The Commission keeps all of the practical details in a single document, not the Schedule itself.
- (b) The Schedule paragraph refers to a dated version of this document. If the Commission adopts any modifications then it is only the date in the Schedule that needs to be modified. If the changes are non-

controversial then it should take only a few minutes or less to agree to change the date in the Schedule. If the changes are controversial then unless there is a three-quarters majority, the Schedule will still refer to the earlier version. Similarly, if a Contracting Government objects to a change in the date, it will still be bound by the earlier version.

It also agreed some draft text for the Schedule (see Annex E).

Regarding oversight of infractions, the Working Group Chair noted the tentative deletion of square brackets from two sub-paragraphs that: (1) indicated that the Commission shall establish a Compliance Review Committee to review and report on the compliance of all whaling operations with the provisions of the Schedule and penalties for infractions; and (2) listed the duties of the Committee. He reported that Japan is not yet convinced of the need for a Compliance Review Committee since it considers that the existing Infractions Sub-committee can provide adequate oversight, and that Norway is of a similar view but that, contingent on consensus, it could agree to deletion of the square brackets.

The Working Group Chair reported that as requested by the EDG, the Secretariat had prepared cost estimates for operating an International Observer Scheme along the lines developed by the EDG. Several countries had commented that the approach taken was sound and realistic, although the Secretariat confirmed that costs associated with 'up-front' observer selection and training were not included in its estimates.

REVISIONS TO CHAPTER VI, INFORMATION REQUIRED

The Working Group Chair reported that the Working Group had agreed: (1) proposed EDG text concerning the samples and information to be provided; and (2) that the Scientific Committee be requested to re-examine the requirement for collection of earplugs from each whale caught.

NEXT STEPS

The Working Group Chair informed the meeting that he had proposed that the best way to make progress on areas where fundamental differences remain would be to convene a meeting of Commissioners/Alternate Commissioners after IWC/54. He had further proposed that the meeting be:

- a private Commissioners' meeting involving up to two participants per Contracting Government;
- held in September/October 2002 so that, if progress were to be made, there would be sufficient time for further drafting of the RMS prior to the 55th Annual Meeting in Berlin in June 2003;
- of the duration of at least 3 days.

While a number of countries had appreciated the Chair's efforts to explore new avenues through which progress could be made, he reported that the Group had agreed that the proposal for an intersessional meeting was premature and that efforts should be concentrated on making progress during IWC/54 when most countries are present. In addition, the Chair noted that some countries had voiced their general opposition to intersessional meetings since the costs involved may prohibit participation by some. Concern had also been expressed regarding the lack of transparency if a private meeting were to be held, and a suggestion was made that if a meeting was agreed, consideration should be given to Commissioners being accompanied by Ministers in view of the political dimensions involved. Not all Group

members were convinced that the problems are purely political but they did agree that they are fundamental. Finally, the need for clear Terms of Reference for any intersessional meeting had been stressed.

9.2.2 Commission discussions and action arising

A number of countries thanked (1) Henrik Fischer for his work as both Chair of the EDG and Chair of the RMS Working Group and (2) the Secretariat for its extensive work to facilitate discussions.

As there were two Schedule amendments proposed (one by Japan, the other by Sweden and several co-sponsors), the Chair suggested that these be dealt with before discussing next steps.

PROPOSED SCHEDULE AMENDMENTS

Japan introduced its proposed Schedule amendment that involved: (1) the deletion of paragraph 7 relating to sanctuaries and the replacement of paragraph 10(e) with a paragraph regarding the implementation of the RMP; and (2) replacing the current paragraphs in Chapter V and VI with the paragraphs agreed by the RMS Working Group. Japan commented that as it had included only those paragraphs agreed by the RMS Working Group, it believed that its proposal should provide a basis for implementing an urgently needed and reasonable RMS. China, the Republics of Palau and Korea and Antigua & Barbuda spoke in support of Japan's proposal.

In introducing its proposed Schedule amendment, Sweden indicated that like most other countries, it supports the sustainable use of living resources, noting however that for whales, use can take different forms and that both consumptive and non-consumptive use should be considered. Sweden felt that IWC had taken too long in discussing what an RMS should comprise and that it was now time to make a decision on a precautionary management system that would preclude a repetition of past excesses. To reach the common goal of a restored ecosystem, including large whale stocks and the subsequent increased use of whales, Sweden believed that common ground needed to be found as the basis for future work. Together with a number of co-sponsors (Sweden, Finland, Ireland, Netherlands, Oman, South Africa, Spain, Switzerland, Portugal, Peru and Chile) it had therefore proposed a Schedule amendment that: (1) incorporates the RMP, a strong inspection and observation scheme and an effective DNA system; and (2) retains the moratorium and sanctuaries. Sweden called for broad support for its proposal, noting that a strict control system supported by a majority of members is the only way forward for sustainable use and preservation of whale stocks. In addition to the co-sponsors, France also spoke in support of this proposal.

As background to its comments on both proposed Schedule amendments, New Zealand indicated that as its policy is to seek the maximum protection of all cetaceans, it is opposed to the resumption of commercial whaling. However, it recognised the possibility that the Commission might at some time lift the commercial whaling moratorium and for that reason it has participated actively in the process to develop an RMS (although it views the future of the moratorium as an issue that must be decided separately from the RMS). During this process, New Zealand remarked that it has consistently argued for an RMS in line with current international best practice that should include:

- (1) international observers on all vessels;

- (2) tracking of whale products throughout the market chain without restricting trade;
- (3) vessel monitoring and real-time reporting of vessel positions; and
- (4) costs to be borne by those who seek to profit from commercial whaling.

In addition, it has supported calls by others for reporting of animal welfare data and for a strong compliance and enforcement structure with appropriate NGO participation. Recalling that the Commission's instruction to the EDG was to develop a consolidated draft text for an RMS with as few square brackets as possible, New Zealand considered that it was incumbent on EDG participants to be willing to offer and make compromises on both the small and the big issues. However, it noted that no real consensus was achieved, that while there were some agreements on small matters, there were few compromises and that when the EDG finished its work, square brackets remained around most of the major issues (e.g. the statement of principle, catch verification, a proposed compliance regime and collection and reporting of animal welfare data). It further noted that although tentative compromises were agreed on:

- (1) the process for appointing observers;
- (2) use of vessel monitoring systems;
- (3) the duties of any compliance body;
- (4) a limited, combined role for International Observers and National Inspectors; and
- (5) modified rules to apply in respect of small vessels engaged only in day trips for coastal whaling; the compromises were all made by the opponents of commercial whaling – there had been no reciprocity by those supporting a resumption of commercial whaling.

With these views in mind, New Zealand welcomed Sweden's proposal and complimented the sponsors on their efforts to make progress and to arrive at a broadly acceptable text. It considered Japan's proposal to be misleading and to have a number of serious and significant omissions, including no provision for:

- (1) a catch documentation scheme;
- (2) the recovery of costs from those who seek to profit from commercial whaling;
- (3) the collection and reporting of animal welfare data; and
- (4) establishing any compliance regime. New Zealand found Japan's proposal to repeal paragraphs 7 and 10(e), thus overturning the Indian and Southern Ocean whale sanctuaries and the moratorium, to be unacceptable.

Noting the failed attempts at agreement, it was now New Zealand's view that for any RMS to be effective it does not just require a three-quarters majority, but at the very least, the broad and general support of all major groupings within the Commission, otherwise it will be complied with only minimally and will be open to formal objection. Finally, New Zealand indicated that until there is a clear willingness of countries supporting a resumption of commercial whaling to negotiate on all the outstanding issues, it could not vote for either of the proposed Schedule amendments. Germany, the UK, Austria, Mexico and India expressed similar sentiments. The USA could not support Japan's proposal believing that it did not provide the fundamental aspects for a supervision and control scheme necessary to deter illegal, unregulated and unreported (IUU) whaling.

With respect to the Schedule amendment proposed by Sweden, although Germany found it to be an improvement on other proposals it considered that a number of important elements common to other fisheries management schemes were missing, including provisions for:

- (1) full information on vessels;
- (2) alternative control mechanisms for when VMS is out of order;
- (3) control measures for non-contracting Parties suspected to be undermining the rules of the Convention; and
- (4) a list of serious infractions that automatically require sanctions.

Germany also found the proposal to allow Contracting Governments to object to any observer unacceptable since it may result in no observer being present. It hoped to receive a more comprehensive document for review at next year's Annual Meeting. Antigua & Barbuda considered that Sweden's proposal undermined the work of the EDG since it includes elements on which the group has not yet completed its discussions and found it unacceptable that whaling be limited to EEZs. Norway and Japan also strongly opposed this proposal that they considered to incorporate matters outside the mandate of IWC.

Australia indicated that much of its own views regarding Japan's proposal had been covered by New Zealand and addressed its comments primarily towards those conservation-minded countries tempted to support the Swedish proposal. Noting that any RMS is inconsistent with its own policy to seek a permanent and global ban of commercial whaling, Australia expressed concern regarding how close some members appeared to be in adopting an RMS text that lacks the unequivocal support of those other members that would need to be bound by it, i.e. those that wish to continue, recommence or commence commercial whaling. It was alarmed that countries likely to engage in whaling are objecting to the inclusion in the RMS of elements now considered as best practice by other international marine resource management regimes (e.g. catch documentation, 100% observer coverage). Australia emphasised the dangers of seeking compromises and stressed that if there is to be stringent international regulation of whaling, any RMS would have to be agreed and adhered to in its totality by all countries that intend to undertake commercial whaling. Without such agreement, the objection procedure could be used to evade specific articles of an RMS. It called on the Commission not to adopt the Swedish proposal.

Denmark considered the tabling of both proposals to be premature and possibly counterproductive. It believed that compromises on both sides were needed if there is to be any hope of future success in agreeing an RMS. Denmark indicated that it would not participate in a vote on either text.

The representative of the IUCN chose to speak on this issue. He noted that IUCN supports scientifically-based solutions to conservation problems and that it has supported the work of IWC's Scientific Committee, including development of the RMP. He recalled that since the 1970s IUCN has advocated and then supported the moratorium pending the adoption of a satisfactory management regime that would prevent a repeat of past mistakes and that would secure the world's whale stocks in coming decades. It was IUCN's view that if the Commission did not adopt an effective RMS then it would in effect be accepting the

proliferation of whaling outside international control. It was aware that the supervision and control arrangements in the Swedish proposal were in many ways more stringent and intrusive than is the case in other fisheries management schemes, particularly in relation to full International Observer coverage even in EEZs, but considered that the special status of whales in both legal and biological terms and their status as a flag-species of the conservation movement, made such provisions necessary. In particular, it considered the establishment of a central DNA register to be an essential component. IUCN urged the Commission to adopt an RMS so that it could move on to other important issues in the conservation of cetaceans.

Japan's proposed Schedule amendment was put to a vote first since it was the first to be submitted. It received 16 votes in favour, 25 against and three abstentions and was therefore not adopted. In explaining its vote, Norway who abstained, indicated that although Japan's proposal covered all the necessary fundamental issues and addressed paragraph 10(e) and sanctuaries in a constructive way, there were certain areas where improvements are needed, namely: (1) the better entrenchment of the RMP into the Schedule, including a preferred range of tuning levels; and (2) a more explicit defence of the rights of coastal states under Article 56 of UNCLOS. In addition, Norway added that in view of the serious nature of the RMS, it would need time to scrutinise any proposal thoroughly prior to making a decision, which it was not yet ready to do.

Sweden's proposal also failed when put to a vote, receiving 12 votes in support, 24 against and 7 abstentions. The USA explained why it had abstained. It noted that although the proposal included some elements that would deter IUU whaling, it did not have sufficiently broad support and was therefore premature. However, the USA believed Sweden's proposal to be a step forward and that it should provide the basis for the Commission's future work on the RMS. Monaco, Argentina and Italy gave similar explanations for their votes.

NEXT STEPS – PROPOSAL FOR AN INTERSESSIONAL MEETING

The Chair of the RMS Working Group returned to his proposal for an intersessional meeting of Commissioners/Alternate Commissioners and introduced proposed terms of reference (IWC/54/61) for such a meeting. It was his view that the meeting should address the following broad issues: catch verification (through DNA registers and genetic monitoring, and catch documentation); the role of NGOs in a Compliance Review Committee; costs and how they may be shared among Contracting Governments; the need to collect animal welfare data; and the issue of current paragraph 10(e) – the moratorium. Although it would be discussed in the Scientific Committee next year, the Working Group Chair considered that the intersessional meeting could also consider the proposal, originally from Ireland, that catches may only be taken within EEZs or other waters within 200 miles of the coast. He added that if sufficient progress was made, the intersessional meeting could instruct an EDG (composition to be decided but shall include at least the Chair of the RMS working group and the Secretariat) to try to draft a final text for consideration by the Commission at the next Annual Meeting in Berlin.

There was broad support for a meeting to try to make progress on the RMS, and although there were suggestions that it be held in association with the Annual Meeting in

Berlin, the Commission finally agreed that it should be held in either Denmark or the UK during the week of 14 October 2002. It was further agreed that the meeting be held in private, with participation limited to two delegates per country plus an interpreter where necessary.

Regarding terms of reference, some delegations were not happy with all aspects proposed by the RMS Working Group Chair and it was agreed that rather than decide on specific terms of reference, the following documents would be taken forward to the intersessional meeting:

- (1) the terms of reference proposed by the RMS Working Group Chair (IWC/54/61);
- (2) a draft Resolution prepared by New Zealand containing, inter alia, a list of elements that should be included in an RMS (IWC/54/53);
- (3) the Schedule amendments proposed by Japan and Sweden (i.e. IWC/54/34 and 35); and
- (4) IWC/54/RMS 2 'The possible structure and content of a revised Schedule based on discussions to date'.

The Secretariat was requested to organise the intersessional meeting on the basis of the above agreements.

10. SANCTUARIES

10.1 Reviews of sanctuaries

10.1.1 Improvements to the review process **REPORT OF THE SCIENTIFIC COMMITTEE¹⁷**

Last year, the Commission provided the Committee with 'Instructions from the Commission to the Scientific Committee to Review Sanctuaries and Sanctuary Proposals'¹⁸. The Committee used these as the basis to develop a framework to review the Indian Ocean Sanctuary (see Item 10.2.1 below).

Based on this experience, and as requested by the Commission, the Scientific Committee provided some comments on the Instructions. The Committee recognised that the review process could be further developed and established a intersessional group to try to develop suggestions for evaluation criteria to make them more precise and operational. A proposal for a more precise set of reviewing criteria will be presented to the Commission next year. That group will also try to develop a proposal for a mechanism through which the Commission can assist member countries in developing sanctuary proposals (including identification of the objectives of a sanctuary and the establishment of a scientific monitoring programme that allows evaluation of these objectives).

It also agreed that the review process for the Southern Ocean Sanctuary (due in 2004) will benefit if the review is initiated next year by collating the information required to follow the Commission's Instructions.

COMMISSION DISCUSSIONS AND ACTION ARISING

Japan reflected that sanctuaries are another area on which two strongly held views divide the Commission but believed that if the need for sanctuaries is examined on a scientific basis as required by the Convention, there would be only one view. It noted that is clear from the Schedule language (e.g. paragraph 7.(b) concerning the Southern Ocean Sanctuary where it states '*This prohibition applies irrespective of the conservation status of baleen and*

¹⁷ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 5 (Suppl.).

¹⁸ *Ann. Rep. Int. Whaling. Comm.* 2001: 65.

toothed whale stocks in this Sanctuary...) that there is no scientific basis for the existing sanctuaries. Japan considered that for sanctuaries or Marine Protected Areas to serve a useful conservation purpose they should be defined according to ecologically appropriate boundaries, apply to species subject to utilisation and management and that their duration should reflect conservation needs. It further considered that conservation measures totally prohibiting the use of abundant resources over large areas is against the principles of sustainable utilisation and in the case of IWC whale sanctuaries, an unnecessary duplication of the current commercial whaling moratorium. Japan noted that once the moratorium is lifted, whaling would be managed under the RMS with catch limits being set only for abundant stocks. In Japan's view, this would provide adequate safety measures.

Norway supported the Scientific Committee's proposal to develop more precise criteria for reviewing sanctuaries and agreed that the review of the Southern Ocean Sanctuary would benefit if the Committee initiated its work next year. Denmark also welcomed the work and proposals from the Scientific Committee.

Referring to the Commission's Instructions agreed last year, Mexico noted that the Committee had been unable to reach consensus on advice on whether the Indian Ocean Sanctuary is consistent with the precautionary approach. For this reason, Mexico along with Australia, Austria, Ireland, Monaco, the Netherlands, New Zealand, Oman, South Africa, Sweden, Brazil and Portugal, believed that the Commission should make a decision and give further guidance on the sanctuary review process. They had therefore submitted a draft Resolution to this effect. In introducing this, Mexico explained that a series of criteria should be taken into account when reviewing a sanctuary. These should include not only scientific data from the sanctuary under review (which may be limited), but other issues consistent with the establishment of the sanctuaries themselves. Mexico noted that as sanctuaries are established as part of an overall management scheme, a temporary overlap of management measures should not automatically invalidate the longer term scientific and conservation value given to a sanctuary. It also considered that if consensus is not possible within the Scientific Committee on a sanctuary review, then the Commission should decide that the precautionary approach should prevail. Brazil, the USA, India, Monaco and Oman spoke in support of the draft Resolution.

Switzerland found it disturbing that Scientific Committee had found it almost impossible to reach consensus even though it had been given clear instructions by the Commission. Monaco made a similar remark. The Committee Chair explained that the difficulties were not due to lack of clarity in the Commission's instructions, but due to valid scientific disagreements as to whether this particular sanctuary did or did not do particular things.

Denmark and Antigua & Barbuda thought the draft Resolution was premature. Antigua & Barbuda also considered that some of the text circumvented previous Commission decisions whereby sanctuaries should be science-based. Norway considered that the draft Resolution contained valuable comments on the precautionary principle, but felt that rather than being adopted by the Commission, the text should be submitted to the appropriate Scientific Committee working group who could consider it and report back next year. The Scientific

Committee Chair also made a request to this effect. She noted that the draft Resolution included both scientific and non-scientific issues and considered that the Scientific Committee could help sort these out and bring back its recommendations to the Commission next year. She believed that this would help to clarify whether the Commission does or does not want the Committee to consider issues on which it cannot reach consensus (in which case it would probably stop the consideration of sanctuaries) or whether it wants the Committee to give the best advice it can, which will sometimes not be by consensus. However, the sponsors of the draft Resolution did not agree to simply submit it to the Scientific Committee, and after some revision to clarify the text and with the addition of France and Argentina as further co-sponsors, the draft Resolution was put to a vote and adopted (Resolution 2002-1, see Annex F). There were 24 votes in favour, 19 against and one abstention.

A number of countries commented after the vote. Japan requested that only responsible Resolutions be passed and indicated that its scientists might not take part in further work on this issue. Norway indicated that it voted against the Resolution not because it disagreed with the operative paragraphs, but because it considered the Resolution to be an expression of no confidence in the Scientific Committee and particularly the Committee Chair who had expressly requested that the draft Resolution be submitted to the Scientific Committee for further consideration. Morocco, St. Vincent and The Grenadines, Dominica and Antigua & Barbuda made similar remarks. St. Vincent and The Grenadines called on the Scientific Committee and its Chair to resign in protest at the apparent lack of respect shown by the proposers of the Resolution, a comment echoed by Antigua & Barbuda. Denmark re-iterated its earlier comment that the Resolution was premature. Mexico did not agree that the Resolution was a vote of no confidence in the Chair. Clarifying the precautionary principle (Principle 15 of the 1992 Rio Declaration), Australia noted that it is a matter of policy not of science and felt it appropriate that the Commission provide guidance to the Scientific Committee on the accepted international policy on precaution.

In responding to St. Vincent and The Grenadines and Antigua & Barbuda, the Scientific Committee Chair admitted that she was tempted to resign. While having no problem with the first operative paragraph of the Resolution, in her view she felt that the second operative paragraph read as though it was telling the Scientific Committee that it could not consider certain things. She considered this a dangerous precedent.

10.1.2 Review of the Indian Ocean Sanctuary **REPORT OF THE SCIENTIFIC COMMITTEE**

An intersessional working group had developed a proposed framework to carry out the review in the light of the instructions developed by the Commission last year. 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. The discussion of the Indian Ocean Sanctuary followed a similar pattern. On most issues, there were three groups of views and this is reflected in the report. The Committee noted that lack of consensus in evaluating the scientific aspects of this Sanctuary was not surprising considering that the sanctuary's original proposal did not clearly state its

scientific objectives. Given this, it is extremely difficult to evaluate whether the sanctuary had achieved its objectives. It stressed that the review process would benefit from explicitly stated objectives in Sanctuary proposals. However, while there was little consensus in the overall evaluation of the Sanctuary, a considerable amount of substantive advice and information was provided on a number of sanctuary-related scientific issues.

At the end of her report, the Scientific Committee Chair responded to comments made earlier that the Committee should have reached consensus. She noted that it is not unusual for a Committee of over 150 scientists to not reach consensus over a contentious issue; if the Commission does not wish to receive different views, then it should not ask the Scientific Committee to comment.

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

Commenting on the way in which the Scientific Committee performed the review of the Indian Ocean Sanctuary, Monaco considered that it was strange to split into sub-groups and not the best way to air scientific views. It urged the Commission to engage in a review of the mode of functioning of the Scientific Committee, suggesting that this could be done by the Advisory Committee who could report to the Commission at next year's meeting. Sweden supported these views. New Zealand however commended the efforts of the Scientific Committee to deal with the sanctuary review using a novel approach.

Japan introduced its document IWC/54/8 - a *'Review of the Scientific Aspects of the Indian Ocean Sanctuary'*. The document gave some background to the establishment of the Indian Ocean Sanctuary and then reviewed the sanctuary following the instructions agreed by the Commission last year. From its review, Japan concluded that the sanctuary is made redundant by the moratorium on commercial whaling and unnecessary by the RMP, both of which were adopted after the sanctuary. It further considered that the sanctuary:

- (1) is an inappropriate management strategy that does not provide additional or necessary protection to whales;
- (2) does not improve protection of the whale habitat;
- (3) does not address other anthropogenic or environmental factors;
- (4) impedes the conduct of scientific research;
- (5) is inconsistent with the precautionary approach; and
- (6) does not meet the requirement of the Convention that regulations be based on scientific findings.

For these reasons, Japan proposed that Schedule paragraph 7(a) be deleted, thus abolishing the Indian Ocean Sanctuary.

Dominica and Antigua & Barbuda considered that the Indian Ocean Sanctuary had outlived its usefulness.

Brazil, Mexico, Kenya, Monaco and New Zealand viewed IWC/54/8 as more of a political position paper than a scientific review and called for the sanctuary to be retained. Oman considered that there was insufficient basis to remove the sanctuary given the lack of consensus within the Scientific Committee. Ireland also advocated retention of the sanctuary in the absence of scientific advice to the contrary.

Kenya noted that although it had been unable to attend IWC meetings for some time, it had nevertheless followed keenly the work of the Commission. Referring to its government's strong commitment to the conservation of

whales, Kenya also stressed the importance of tourism and therefore its ecosystem to its economy. It noted that it was the first country in Africa to establish a marine sanctuary and that its policy has been for the non-consumptive use of wildlife – a policy that had served it well in both its cultural and economic development. For this reason, Kenya strongly supported the Indian Ocean and other sanctuaries. Kenya provided information on the degree of support for the sanctuary from other range states not members of IWC. It reported that in December 2001, the Nairobi UNEP Convention for the Protection, Management and Development of the Marine and Coastal Environment in the East African Region reaffirmed the need to retain the sanctuary. Signatories to this Convention are France (Réunion), Madagascar, Mauritius, Mozambique, Seychelles, Somalia, South Africa, Tanzania as well as Kenya. It also reported that the Indian Ocean Commission, that includes many of the same members as the Nairobi Convention, declared its support as indicated by a letter from that Commission to the IWC Chair (Document IWC/54/18). Kenya further noted that:

- (1) the sanctuary had already been looked at twice by IWC and on each occasion there was no consensus;
- (2) no country filed an objection to Schedule paragraph 7.(a); and
- (3) no whaling has taken place in the sanctuary since it was declared.

It was therefore Kenya's sincere hope that the IWC would respect the views of the range states and reaffirm the status of the Indian Ocean Sanctuary.

A number of countries including Monaco, Australia, India, Germany, France, UK, New Zealand, Ireland and Finland noted the importance of taking the views of range states into consideration and supported continuation of the Indian Ocean Sanctuary. The USA reported that the formation of the sanctuary had prompted two significant cetacean surveys by its scientists, one in the western tropical Indian Ocean in 1990, and another at a later date in the EEZ of the Republic of the Maldives. It continued to support the sanctuary. The UK commented that the precautionary principle has become well established in fisheries management, and that some of the problems that exist in the world's fisheries exist because it was not applied much earlier.

Denmark proposed the strengthening of research in the Indian Ocean Sanctuary and suggested that the Scientific Committee be invited to assess impacts in the sanctuary from other human activities such as fishing, seismic surveys, oil and gas exploitation and whalewatching. Denmark considered it important that sanctuaries address the relationship of a sanctuary with other existing measures to protect whales and their habitat from all anthropogenic factors.

Noting the different views expressed and that there was no consensus to abolish the Indian Ocean Sanctuary, Japan withdrew its proposed Schedule amendment. However, Japan drew attention to the declining condition of the bigeye tuna stock in the Indian Ocean that is now at 40% of its sustainable level and causing concern within the Indian Ocean Tuna Commission (IOTC). It further reported that 30% of the tuna hooked by fisheries in this area is estimated to be consumed by cetaceans, a problem recognised at the IOTC by countries including Oman and Kenya, i.e. countries that at this IWC meeting had

promoted retention of the sanctuary. Japan believed that better internal communication is necessary.

10.2 South Pacific Sanctuary

10.2.1 Proposal to amend the Schedule to establish a sanctuary

For the third year¹⁹, 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.

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.'

In its introduction, Australia referred briefly to arguments made on previous occasions concerning the scientific justification for the sanctuary and the need to establish the sanctuary to complement that in the Southern Ocean so that the relevant species of great whales would be protected in the entirety of their range. It then focused on informing the Commission of the strong regional momentum to protect whales and to establish the sanctuary. It did this in response to those IWC members who, questioning the level of support in the South Pacific region, had been reluctant to give full support to the sanctuary proposal in the past. Australia reported that extensive consultations with their South Pacific neighbours had shown that these countries had reinforced their regional consensus in favour of the proposed sanctuary. In late 2001, the Pacific Island Leaders Forum, comprising the Heads of Government of all the independent states of the region, again supported the proposed sanctuary and called for the increased protection of whales through an inter-connected mesh of national, regional and international actions. At the national level, Australia reported that there is a growing network of domestic whale sanctuaries being established by some countries (e.g. Tonga, Australia, Cook Islands, French Polynesia, Papua New Guinea and Niue) while others have comprehensive legislation protecting great whales in their EEZs. Australia reported that once all South Pacific countries have declared sanctuaries in their national waters or otherwise protected the great whales, around 50% of the area of the proposed sanctuary would be subject to an inter-connected network of domestic whale protection regimes. To complement its efforts to establish the sanctuary, Australia reported that it had nominated six species of great whales for inclusion on Appendix II of the Bonn Convention for the Conservation of Migratory Species of Wild Animals that would be considered at the Conference of the Parties later this year. Finally, Australia noted that national and regional efforts could only go so far, and

called on IWC to recognise the wishes of the peoples of the South Pacific by creating a whale sanctuary in this region.

New Zealand echoed Australia's comments. While recognising that the people of the South Pacific rely heavily on the sustainable harvesting of tuna and other fish species, New Zealand considered that blaming whales for the decline in fish stocks is a surreal argument, the real culprits being human activities such as over fishing, pollution and the general degradation of the marine environment. It thanked those nations that had supported the sanctuary proposal in the past, and urged others to lend their support on this occasion, particularly those small island states of the Caribbean whose voting had played a critical role in the lack of success in the past. New Zealand stressed that the aim for the South Pacific Whale Sanctuary is not based on a moral judgement of other nation's cultures or history (indeed it recognised its own role in contributing to the decline of whale populations in the past), but saw it as a progressive step forward in the protection of marine mammals.

10.2.2 Commission discussions and action arising

Brazil, the USA, the UK, Monaco, Peru, Italy, Kenya, the Netherlands, France, Germany, Spain Argentina, Austria and a representative from the South Pacific Regional Environment Programme (SPREP) all spoke in support of the proposed sanctuary. Norway, the Republic of Palau, Antigua & Barbuda, Japan, the Republic of Korea and China spoke against it. Norway recognised the support for the sanctuary from the countries of the South Pacific, but noted that this is not a requirement for amendment of the Schedule, which should be based on scientific findings. The Republic of Palau indicated that as a member of the Pacific Island Forum, it is on record as opposing the sanctuary proposal. Japan questioned whether all countries of the region did support the sanctuary. The Republic of Korea indicated that it could not support the sanctuary until the Scientific Committee supported the proposal on scientific grounds. Denmark, who indicated that it is not against sanctuaries in principle, saw no urgent need for the sanctuary in view of the moratorium and the fact that no aboriginal subsistence whaling is taking place in the region. A representative from OLDEPESCA (Latin American Organisation for Fisheries Development) indicated that when making their decision on this issue, countries should be aware that there might be possible conflicts with the UN Convention on Law of the Sea.

In response to OLDEPESCA, Australia referred to Article V.1 of UNCLOS that specifically provides for the designation of sanctuary areas. It did not agree with claims that sanctuaries undermine the economic capacity of peoples to care for themselves and improve their standards of living, mentioning that whalewatching generates some 1 billion dollars of income, with range states seeing this activity as a positive economic development. Australia was surprised that the commitment of the island states of the area was questioned since it was not aware of any island state within the South Pacific area that opposes the sanctuary. It noted that the Republic of Palau is not a range state. Finally, Australia commented that the Scientific Committee is not obligated to reach consensus on aspects of its work and that in these cases it is necessary for the Commission to make a decision.

On being put to a vote, the proposed Schedule amendment failed to achieve the necessary three-quarters

¹⁹ See *Ann. Rep. Whaling Comm. 1999: 10-11; Ibid. 2000: 15-17; Ibid 2001: 17-18.*

majority and so was not adopted. There were 24 votes in favour of the proposal, 16 against and 5 abstentions. Ireland and Oman explained why they had abstained. While supportive in principle of sanctuaries, Ireland indicated that it is desirable to develop such proposals via further consultation to achieve a degree of consensus. It considered that without consensus and in particular, the agreement of whaling nations, the proposal would not achieve its potential. It also noted that a vote in support of the sanctuary would have been inconsistent with its own 1997 proposal for a holistic response to the whaling issue (the 'Irish proposal') – a proposal that remains on the table. Oman abstained believing that a new sanctuary is not necessary in view of the existence of the commercial whaling moratorium. It further clarified that it would not support abolishing existing sanctuaries without conclusive scientific evidence supporting such a move.

10.3 South Atlantic Sanctuary

10.3.1 Proposal to amend the Schedule to establish a sanctuary

Brazil introduced its proposal, co-sponsored by Argentina, to create a South Atlantic Whale Sanctuary. The idea for creating such a sanctuary had been introduced a few years ago, but was first submitted formally last year²⁰. The amendment proposed was the same as last year, 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 66°25,0'W; thence to the point Lat 55°11,0'S Long 66°04,7'W; thence to the point Lat 55°22,9'S Long 65°43,6'W; thence due South to Parallel 56°22,8'S; thence to the point Lat 56°22,8'S Long 67°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.'

As last year, Brazil acknowledged its past involvement in whaling but that it had banned the activity in 1997. It reiterated the following three-fold primary objectives of the sanctuary:

- (1) to stimulate research in the region, particularly by developing countries aimed at *inter alia* monitoring the recovery of species, analysing environmental threats (e.g. contamination from coastal activities) and improving understanding of migratory routes and movements;
- (2) to promote the conservation of large whales in breeding, calving, and for some species, feeding areas;

- (3) to develop the sustainable and non-lethal economic use of whales for the benefit of coastal communities in the region through ecotourism, particularly whale-watching.

It noted that such a sanctuary would complement those already established. Brazil reported that since last year's Annual Meeting it had undertaken diplomatic consultations with all range states of the South Atlantic, with generally positive results. Recognising the support its proposal had received last year, Brazil urged governments to support it again.

10.3.2 Commission discussions and action arising

In view of the extensive discussions on this proposal last year and the thorough presentation made by Brazil at this meeting, the Chair asked that interventions be limited to two speakers in favour of the proposal and two against.

Argentina was pleased to again co-sponsor the proposed South Atlantic whale sanctuary, noting that it reflects the comprehensive and broad-based marine mammal protection measures in place in Argentina and that it is part of Argentina's general policy that includes support for the South Pacific sanctuary proposal and retention of the Southern Ocean sanctuary. It considered that the South Atlantic sanctuary would:

- (1) assist the recovery of whale populations and protect biodiversity by protecting whales in their natural breeding grounds as well as in their migratory routes;
- (2) promote research on depleted whale stocks and their habitats; and
- (3) promote modern educational activities and the development of environmentally-friendly tourism activities in the region.

Argentina reported that the development of whalewatching has contributed to: (1) improvements in local communities by creating new types of livelihood; and (2) an increased interest in the protection of marine mammals by the general public. Finally, noting that not too many years ago, many of the species of large whales native to the waters of the South Atlantic had been exploited to the very limits of their existence, Argentina indicated its wish that its renewed sponsorship of the proposed sanctuary would be interpreted by the Commission as a sign of its deep commitment to the protection of these mammals.

Spain recalled that last year it had specifically noted that the proposal did not report on the outcome of consultations with other range states and therefore appreciated the consultations undertaken by Brazil since then. It was therefore pleased to support establishment of the sanctuary.

Norway noted that in addition to its arguments against the proposed South Pacific sanctuary that it believed were also relevant to the proposed South Atlantic sanctuary, a further argument against this proposal was that it had never been reviewed seriously in the Scientific Committee. Norway's view was that all sanctuary proposals submitted or re-submitted should go through this review process prior to decision-making by the Commission. Japan considered that: (1) no scientific justification for establishing the sanctuary had been made by its proponents, contradicting the provisions of the Convention, and (2) the proposal goes against the principle of sustainable use established at the 1992 UN Conference on Environment and Development.

In response to Norway, Brazil recalled that the sanctuary proposal was presented to the Scientific Committee at its

²⁰ See *Ann. Rep. Whaling Comm 2001*: 18-19.

meeting in 2001 where it had been discussed in depth. The Scientific Committee Chair confirmed that the proposal had been reviewed but that the Committee had been unable to reach a single consensus view. She noted that the Committee had agreed that the major points made during its meeting in 2000 regarding the general arguments in favour and against sanctuary proposals were applicable.

Switzerland requested clarification on which countries on the West African coast had been consulted and what had been their responses.

In response, Brazil reported that it had consulted with Congo, the Democratic Republic of Congo, Gabon, Togo, Angola, Uruguay, São Tomé and Príncipe, Namibia, South Africa and Argentina. It noted that the last two countries had confirmed their continued support for the sanctuary, but that the other countries (with the exception of Togo and Angola who did not respond) made general remarks, neither indicating support nor opposition.

The proposed Schedule amendment did not receive a three-quarter majority when put to a vote and was therefore not adopted. There were 23 in favour, 18 against and 4 abstentions.

10.4 Southern Ocean Sanctuary

10.4.1 Proposal to amend paragraph 7.(b) of the Schedule
As last year²¹, Japan introduced its proposed amendment to paragraph 7 of the Schedule that would involve deleting the 3rd sentence of Paragraph 7.(b) and adding a new sub-paragraph (c) as follows:

'7. (c) The prohibition described in sub-paragraph (b) above shall be applied only on the advice of the Scientific Committee in accordance with Article V(2) of the Convention.'

Japan considered that the Southern Ocean Sanctuary was adopted in contravention of Article V.2 of the Convention requiring that Schedule amendments be based on science. While it believed that the sanctuary is not necessary, it thought it important that the Schedule be consistent with Article V – the objective of the proposed Schedule amendment. Japan urged that its proposal be adopted by consensus.

10.4.2 Commission discussions and action arising

New Zealand indicated its continued support for the sanctuary and considered Japan's proposal to be: (1) an attempt to subvert a Schedule amendment that had been properly and legally agreed by the Commission in 1994; and (2) part of a long-term strategy to discredit the sanctuary decision with claims that it had been established illegally and with no scientific basis. Against these claims, New Zealand referred to other legal opinions rebutting those submitted by Japan and stressed that scientific issues (e.g. the need to protect the feeding grounds of several severely depleted stocks of baleen whale species) had been at the forefront of discussions on the Southern Ocean Sanctuary at the Norfolk Island meeting in February 1994. It noted that the sanctuary provides the opportunity to study whale species undisturbed by hunting and that it would provide a valuable check against the RMP if commercial whaling did resume in the future. It also considered that new scientific justifications have emerged since 1994, particularly the major regime shift that may be occurring in the Southern Ocean at least with respect to Antarctic minke

whales, and in view of this believed that a precautionary approach is necessary now more than ever. New Zealand pointed out that Japan was the only country to vote against the Southern Ocean Sanctuary and that when subsequently lodging its objection to the Schedule amendment, had objected only with respect to minke whales and on no other aspect. New Zealand therefore considered that Japan is legally deemed to have accepted the Schedule amendment with that one exception.

Agreeing with New Zealand, the USA believed that Japan's proposal undermined the integrity and primary purpose of the sanctuary, i.e. to be a safe haven for whales. It further believed that it put the Scientific Committee in the unenviable and improper role of making a policy decision on behalf of the Commission. The USA therefore opposed the proposal. The UK associated itself with the remarks of New Zealand and the USA and was surprised that Japan tabled its proposal in view of the Commission's discussions on the status of Antarctic minke whales during which the Scientific Committee Chair had agreed that Japan's estimates for this stock of 750,000 are no longer appropriate. In response, Japan did not believe that its proposed wording contradicted the discussions within the Scientific Committee.

Norway disagreed with New Zealand and the USA and supported Japan's proposed Schedule amendment. Antigua & Barbuda also supported the proposal and considered that the amendment would ensure that the sanctuary be used for the management and conservation of whales with a view to the resumption of commercial whaling whenever that is possible.

On being put to a vote, there were 17 votes in support, 25 against and 2 abstentions. The proposed Schedule amendment was therefore not adopted.

11. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

11.1 Proposal to amend the Schedule

As in previous years²², Japan proposed to amend paragraph 10 of the Schedule to provide an interim relief allocation of 50 minke whales for its four small-type whaling communities by adding a new sub-paragraph 10. (f) as follows:

'Notwithstanding the other provisions of paragraph 10 and those of paragraph 12, the taking of 50 minke whales from the Okhotsk Sea-West Pacific stock of the North Pacific is permitted from the 2001 season in order to alleviate the hardship in the four community-based whaling communities of Japan. This provision shall remain in effect until such take is permitted by some other means under the Convention.'

The Chair recalled that last year, Japan urged the Commission to support this proposed Schedule amendment for the following reasons:

- it has thoroughly documented the socio-economic, cultural, religious and dietary needs of these four communities and the distress caused to them by not allowing any takes of minke whales;
- IWC has repeatedly acknowledged this distress via a number of Resolutions including Resolution 2000-1²³ adopted at the 52nd Annual Meeting of the Commission;

²¹ See *Ann. Rep. Whaling Comm. 2001*: 17

²² E.g. see *Ann. Rep. Whaling Comm. 2001*: 28

²³ *Ann. Rep. Whaling Comm. 2000*: 55

- member countries have made an international commitment to the principle of sustainable use of natural resources, and more particularly to the mandate of the ICRW itself for not only the conservation of whale stocks but also the orderly development of the whaling industry;
- the international community has agreed in several fora to the need to respect different cultures; and
- the IWC has no conservation reason to reject Japan's request since the North Pacific minke whale stock is healthy.

He noted that views on Japan's request have remained divided, although for a number of years (including last year) Resolutions have been adopted reaffirming the Commission's commitment to work expeditiously to alleviate the distress caused by the cessation of minke whaling to four Japanese coastal communities.

In providing further background to the proposed Schedule amendment, Japan gave an overview of the 1st Summit on Japanese Traditional Whaling held in Nagato in March 2002 that resulted in the Nagato Declaration on Traditional Whaling. The Summit:

- (1) stressed the more than 5,000 year-old tradition of harvesting cetaceans for food;
- (2) provided an opportunity to review the food culture based on whales; and
- (3) vowed to renew traditional sustainable whaling.

Japan recalled that prior to the commercial whaling moratorium, an average of 348 minke whales per year were taken by its small-type coastal whaling operations, a level it believed was sustainable. Japan considered that over the 15 years it has been in place, the moratorium has disrupted the local marine ecosystem, with minke whale populations increasing to the extent that they are now depleting fishery resources causing significant declines in the catches of local small-scale fishermen and inflicting severe damage to the economy, culture and tradition of whaling communities. It reported that efforts to revitalise the economies of these communities by promoting tourism and other industries have been mostly in vain. Younger generations continue to leave the communities disrupting the Japanese tradition, particularly important in rural communities, of passing on the family occupation from generation to generation. The moratorium has deprived these communities of their life-style and pride in their occupation particularly in view of the large numbers of minke whales offshore that they are forbidden to catch, which in turn causes psychological distress. In view of the severe disruptions to the way of life of these communities, Japan considered that IWC should allow them to take a limited number of minke whales as provided for in its proposed Schedule amendment. The mayor of Taiji, one of the four whaling communities involved, echoed these views and reported that the resumption of coastal whaling is urgently needed.

11.2 Commission discussions and action arising

Monaco recalled the Annual Meeting held in Dublin in 1995 when it had expressed sympathy for the small-type coastal whaling activities in Japan and proposed that these be included within the aboriginal subsistence whaling category. It re-iterated these views and asked whether Japan could re-consider its proposal rather than creating a new small-type whaling category. The Russian Federation shared these views and supported Japan's proposal that it

hoped could be adopted by consensus. Norway indicated that it is not generally in favour of increasing the number of whaling categories. It considered that Japan's coastal whaling could be accommodated within the aboriginal subsistence category in view of the emphasis placed by Japan on the cultural importance of this activity, but stressed that the main issue is the failure of IWC to act as a responsible management organisation. Norway considered that IWC should face up to its responsibilities and to honour its commitment made in past Resolutions to work expeditiously to alleviate the distress caused by the cessation of minke whaling to Japanese coastal communities. Denmark fully understood the tradition, social and cultural needs connected to minke whaling described by Japan and supported its proposed Schedule amendment. St. Lucia, St. Vincent and The Grenadines, Antigua & Barbuda, Republic of Korea, the Republic of Palau, the Solomon Islands, China, Benin, Grenada and Dominica also spoke in support of Japan's proposal.

A number of countries indicated that they could not support the proposed Schedule amendment. Spain noted that it had voted for establishing the commercial whaling moratorium, had sacrificed its whaling industry and would oppose Japan's request until the RMS is agreed.

Mexico, supported by Austria, believed that before considering the proposed amendment, attention should first be given to understanding some of the concerns expressed in the Scientific Committee regarding the status of the Western North Pacific minke whale stock and the effect that Japan's request would have on it. Mexico asked for clarification from the Scientific Committee Chair on this matter. It also requested Japan to explain why, in the JARPNII programme for 2002 and 2003, an allocation of 50 minke whales for its coastal communities had been included thus apparently prejudging the decision of the Commission on the proposed Schedule amendment.

Italy understood the desire to pass on local cultures and traditions from generation to generation, but also considered that communities have a duty to prepare their future generations so they can adapt to adverse environmental effects caused by increasing human activities. Italy noted that its own local communities have often found themselves in similar situations. While acknowledging the need to address the distress of Japan's coastal communities in a concrete and pragmatic way, it believed that an element of a sustainable fisheries policy must also rely on assisted re-conversion – a matter on which Italy could share its experience. Finally, however, Italy considered that the interim quota requested by Japan is no longer needed in view of the 50 minke whales allocated in the JARPNII programme and the fact that the coastal communities are now allowed to market products from whales caught accidentally in nets. The Netherlands also questioned the need for the interim allocation in view of the allocation within JARPNII, but did express sympathy with the comments made earlier by Monaco. While South Africa was dissatisfied that Japan's repeated request had not been resolved due to delays in completion of the RMS, it indicated that it would continue to oppose the request since it considered the small-type coastal whaling to be a commercial activity. Sweden and Finland expressed similar views.

In response to Mexico, the Scientific Committee Chair explained that advice on the effect of Japan's request on the North Pacific minke whale stock could not be provided

until next year when the RMP *Implementation Simulation Trials* would be completed. In view of this, Mexico proposed that it would be more appropriate to defer Japan's request until next year.

Japan thanked those countries supporting its request and noted the suggestion of Monaco and the Netherlands. It considered that the minke whale stock was sufficiently abundant (at around 25,000 animals) to be able to sustain the proposed take and could not agree to Mexico's proposal to defer discussions. It further considered that questions relating to JARPNII should be dealt with under the agenda item on scientific permits. However, in response to the UK, Japan clarified that even if its request for an interim relief allocation was granted, the take of 50 minke whales from inshore waters would remain in the JARPNII special permit.

On being put to a vote, Japan's proposed Schedule amendment was not adopted. There were 20 votes in favour, 21 against and 3 abstentions. Japan subsequently submitted a draft Resolution but there was no time for the Commission to discuss or take action on it.

12. SCIENTIFIC PERMITS

12.1 Report of the Scientific Committee²⁴

12.1.1 General issues

The Committee is investigating ways to improve its procedures for the review of scientific permit results and proposals. This year, results and proposals were first discussed by a working group. This proved to be successful and the Committee has now established a Standing Working Group. The Committee will review the current Commission guidelines that have been developed over many years²⁵. It may put forward a streamlined proposal for revised guidelines to be considered by the Commission next year.

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 (JARPNI)

The Committee reviewed the results of the two-year feasibility study for the JARPNI programme. Its aim had been primarily to evaluate the practicability and performance of concurrent whale and prey surveys for feeding ecology studies in Japan's richest fishing grounds (an area off the coast of Tohoku and southern Hokkaido). A total of 140 minke, 93 Bryde's and 13 sperm whales were sampled. In addition, the programme was intended to produce information on stock structure and the monitoring of pollutants in whales and their prey. A number of questions and comments were made by the Scientific Committee but most of these are reflected in the discussion of the proposal for a new permit given below.

12.1.3 Review of new or revised proposals

JAPAN: SOUTHERN HEMISPHERE

The Committee briefly discussed the JARPA proposal. This is a continuation (14th year) of a 16-year programme. Progress had been fully reviewed in 1997²⁶. It was noted that it was important to reduce any spatio-temporal overlap between the JARPA programme and the IWC SOWER cruise, both of which were scheduled to operate in Area V and the Ross Sea in 2002/2003.

JAPAN: NORTH PACIFIC

Most of the discussion centred on reviewing the results of the two-year JARPNI II feasibility study and the proposal for a further permit that involves taking 150 common minke whales, 50 Bryde's whales, 50 sei whales and 10 sperm whales each year for an unspecified period. The stated goal was to obtain information to contribute to the conservation and sustainable use of marine living resources in the western North Pacific. It includes sub-projects on: feeding ecology and ecosystems; monitoring of environmental pollutants in cetaceans and the marine ecosystem; further elucidation of stock structure. 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

Before the Commission's discussion, Japan presented a summary of their proposal including results from their feasibility study. There were no comments on the report of the Scientific Committee or on Japan's presentation. The Commission noted and accepted the Scientific Committee report and its recommendations. A number of draft Resolutions had been submitted in relation to this agenda item, but the Commission did not have time to discuss them.

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 (see 13.1.1 below) and the other concerning the effect of pollution on cetaceans (see 13.2.1. below).

13.1 Co-operative research in the Antarctic

13.1.1 Report of the Scientific Committee

The SOWER 2000 programme²⁷ is designed to examine the influence of temporal and spatial variability in the physical and biological Antarctic environment on the distribution, abundance and migration of whales. It is being carried out

²⁴ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 5 (Suppl.).

²⁵ *J. Cetacean Res. Manage.* 3 (Suppl.): 371-2.

²⁶ See *Rep. Int. Whal. Commn.* 48: 95-105.

²⁷ See *J. Cetacean Res. Manage.* 2 (Suppl.): 321-46.

in collaboration with CCAMLR and Southern Ocean GLOBEC (SO-GLOBEC)

In 2000, the IWC collaborated with CCAMLR in a series of cruises, whilst beginning in 2001, a multi-year series of collaborative research cruises began with SO-GLOBEC. The cruises are multidisciplinary and comprise standard mooring cruises, line transect surveys over a constant grid, and process studies at selected locations. The Committee reviewed the research undertaken so far including results for the cetacean visual, biopsy and sonobuoy studies.

The following activity was endorsed in principle by the Committee subject to Commission funding: one dedicated multidisciplinary survey per season for at least the next five years consisting of visual survey, biopsy sampling and fine scale ecological studies, including passive acoustics work. It was noted that a contribution of £25,000 per year would be a minimum amount of support to continue the partnership of the IWC with SO-GLOBEC and CCAMLR. The Committee also recognised the need for the development of a standardised data collection protocol for sea-ice observations. This will be discussed further next year.

13.1.2 Commission discussions and action arising

Japan noted the large amount of money being spent on co-operative research with CCAMLR and SO-GLOBEC in the Antarctic, the objectives of which it found unclear. It indicated that it supports studies elucidating the environmental conditions in the Antarctic, but cautioned that unfocused studies could cause delay. It expressed the hope that the future work planned would only be implemented after its objectives are clarified.

13.2 POLLUTION 2000+

13.2.1 Report of the Scientific Committee

The POLLUTION 2000+²⁸ was developed over several years and has two primary aims: to determine whether predictive and quantitative relationships exist between biomarkers (of exposure to and/or effect of PCBs) and PCB levels in certain tissues; and to validate/calibrate sampling and analytical techniques. Given the fundamental nature of this research, it was agreed to focus to begin with on those species and regions for which there was the most likely chance of success. Although initially, therefore, the work is aimed at certain populations of bottlenose dolphins and harbour porpoises, the results will be of relevance to studies of large whales and other cetaceans. Completion of POLLUTION 2000+ will lead to the development of a valuable model concept for ecotoxicological research on all cetaceans and other animal species.

Phase 1 of POLLUTION 2000+ is approximately 80% complete. Finalising the harbour porpoise post-mortem calibration sub-project and the bottlenose dolphin sub-project is considered to be of high importance and funding requirements for this are considered elsewhere.

13.2.2 Commission discussions and action arising

Japan indicated that it has an interest in chemical pollutants and their effects on humans and threats to cetaceans but expressed concern about IWC spending large amounts of time and money on an issue that it considers secondary to the main purpose of the organisation's objectives. It noted

that since it appears that the POLLUTION 2000+ work is limited to small cetaceans, the funds used should come only from the small cetaceans fund. Japan considered that the primary work of the Scientific Committee to evaluate cetacean resources is being delayed by the large amount of environmental work taken on, work that in its view should be done by other fora.

The UK considered the POLLUTION 2000+ to be vital and within the competence of the IWC. It congratulated the Scientific Committee for its activities. It believed that the work should be of interest to all member countries, particularly those where whale meat is consumed. The USA and Germany associated themselves with these remarks.

The Chair of the Scientific Committee informed the Commission that the pollution studies had been subject to severe cuts and now formed an inconsequential part of the Committee's budget. She expressed the hope that member countries would volunteer to fund some of the needed work.

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

13.3 Habitat-related issues

13.3.1 Report of the Scientific Committee

INTERACTIONS BETWEEN CETACEANS AND FISHERIES

In accord with Resolution 2001-9²⁹, the Committee had developed plans to hold a methodological/modelling workshop to examine interactions between whales and fish stocks. Details were developed by a steering group comprising scientists from Japan, Norway, the UK, the USA and the Secretariat. It had been hoped to hold the meeting in February 2002 and the Government of St Lucia had generously agreed to host the workshop. As circulated to the Committee in November, it was not possible for a sufficient number of the experts identified by the Steering Group to attend in February and new dates in the period mid-late June were proposed. The precise new dates were agreed by the Steering Group in December. However, in late April, the Government of St Lucia informed the Secretariat that it was unable to host the meeting. A request was then sent out to Contracting Governments to find an alternative venue at this late stage. The only reply received was the offer of the USA to host the meeting in La Jolla, California. This was gratefully accepted for the precise dates agreed by the Steering Group in December. One of the advantages of St. Lucia as a venue was to encourage the participation of scientists from developing countries. The Committee drew this to the attention of the Commission so that it could consider providing additional funding to support travel of scientists from developing countries to the specialist workshop in La Jolla.

Towards the end of the Scientific Committee meeting, one of the Japanese delegates had noted that the proposed changes in venue and timing for the workshop were problematic. He expressed the view that the workshop should be held in either Japan or Norway since these countries have large amounts of relevant data. He also noted that the proposed dates conflict with other obligations for Japanese scientists.

The Chair had responded that this was a short specialist workshop to address methodological/modelling concerns;

²⁸ See *J. Cetacean Res. Manage. (Special Issue 1): Chemical Pollutants and Cetaceans*.

²⁹ See *Ann. Rep. Whaling Comm. 2001: 58*.

hosting the workshop where there are considerable data holdings was thus not important. She also noted that the precise change in dates had been approved by the workshop's Steering Group, which included a Japanese scientist, in December 2001 and no complaints had been received until late (7 May 2002) in the Committee's annual meeting. The IWC Secretariat had been forced to request an alternative venue as late as 22 April and the only response received was from La Jolla (California, USA).

STATE OF THE CETACEAN ENVIRONMENT REPORT (SOCER)

The Committee agreed that a working group would produce a preliminary draft SOCER report for its consideration at the next meeting. It will be a first attempt at producing the form and compilation process of a report that will be developed over the years into an objective product with an easily followed submission process. The ultimate objective is to provide Commissioners (in response to Resolution 2000-7³⁰) and other interested parties with a non-technical periodic summary of the positive and negative events, developments and conditions in the marine environment that are relevant to cetaceans.

WORKSHOP ON HABITAT DEGRADATION

The Committee had developed plans for a workshop on habitat degradation over some years³¹. It had been identified as an issue of priority by the ACCOBAMS (Agreement for the Conservation of Cetaceans of the Black and Mediterranean Seas) Parties. The Committee noted that this was still of interest but was not high on the priority list given the funding difficulties for its overall budget.

13.3.2 Commission discussions and action arising **INTERACTIONS BETWEEN CETACEANS AND FISHERIES**

The Commission's discussions focused mainly on the workshop on interactions between cetaceans and fisheries. While it appreciated the generous offer made at short notice by the USA to host the workshop, Norway considered it extremely important that those countries conducting serious research on this issue should be able to participate. It therefore suggested that the workshop be postponed to a more convenient time, but prior to the next Annual Meeting. Japan agreed, noting that its scientists have other duties that prevent them attending the workshop if held in La Jolla in June 2002.

Australia and the UK expressed their regret that Japan could not attend the workshop if held in June. Noting the importance Japan places on the interaction between cetaceans and fisheries and its role in developing Resolution 2001-9³² that had been adopted by consensus, the UK urged Japan to attend and provide data.

Recalling that the timing of the workshop had already been rescheduled once, the Scientific Committee Chair reported that it was too late to change the most recent plans, in which Japan had been fully involved as a member of the Steering Group, since the invited scientists had already bought their tickets. She noted that the provision of data is not an issue, since the workshop would focus on methods and not data analysis.

The Commission agreed that the workshop should go ahead as planned by the Scientific Committee.

OTHER

Austria noted that the State of the Cetacean Environment Report (SOCER) would be produced despite the funding cuts, but considered that a commitment from the Commission involving at least a minimum financial contribution would be appropriate for next year. It recalled that a request for information for the report would be sent to all Contracting Governments and hoped that abundant input would be provided.

Austria commended the Scientific Committee for its continued commitment to the issue of habitat degradation that it considered crucial to the discussion on environmental impacts on cetaceans, pulling together many of the topics such as climate change, chemical pollution, noise impact, direct and indirect impacts of fisheries. It noted that budgetary constraints would again delay the planned workshop but hoped that it could take place in the near future.

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.

13.5 Health issues

COMMISSION DISCUSSIONS AND ACTION ARISING

Noting the increasing pollution of the world's oceans, except in the Antarctic, and the problems it had itself experienced in the past due to organic mercury poisoning, Japan informed the meeting that in its view, prevention of marine contamination is very important so that safe marine food products could be provided now and to future generations. It considered that FAO and WHO should be actively involved in contributing to ensuring safety of marine products and that global measures should be taken to limit emissions of harmful substances.

The UK was grateful for Japan's comment. It noted that the coastal waters of Japan are heavily polluted and expressed interest in learning of the effects of this pollution on human health and small cetaceans.

There was no time to deal with any draft Resolutions submitted.

14. CO-OPERATION WITH OTHER ORGANISATIONS

14.1 Report of the Scientific Committee³³

The Scientific Committee received reports of its co-operation with a number of other organisations: 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); CCAMLR (Convention for the Conservation of Antarctic Marine Living Resources); Southern Ocean GLOBEC; NAMMCO

³⁰ See *Ann. Rep. Whaling Comm. 2000*: 56

³¹ See *J. Cetacean Res. Manage.* 4 (Suppl.): 73

³² See *Ann. Rep. Whaling Comm. 2001*: 58

³³ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 5 (Suppl.)

(North Atlantic Marine Mammal Commission); COFI (FAO – Committee on Fisheries); and UNEP (United Nations Environment Organisation).

14.2 Commission discussions and action arising

Australia drew attention to the observer's report from the FAO Committee of Fisheries Conference on Responsible Fisheries in the Marine Ecosystem prepared by Japan, and noted that in its view, paragraphs from the Reykjavik Declaration quoted in the report had been selectively quoted leading to distortion of the sense of the Declaration. Japan believed that it had given a correct account. The Chair noted these different views and suggested that those interested in the Declaration should go to the website mentioned in the observer's report (i.e. <http://www.refisheries2001.org>).

Norway spoke of the need for the report from IWC to the Conference of Parties of CITES in Santiago, Chile in November 2002 to give a true picture of the status of discussions on the RMS. Norway recalled that at the previous Conference of Parties, the report from the then IWC Chair had been too optimistic in suggesting that the RMS would be completed by the next CITES meeting in 2002 and that this had been important in the decision not to downlist certain minke whale stocks. The UK agreed that the Parties to CITES should be left in no doubt as to the status of negotiations on the RMS, and hoped that whoever represents IWC at that meeting would make it clear that Japan's proposed Schedule amendment (see section 9.2.2) is inadequate.

Japan noted that PICES had recognised the importance of investigating prey consumption by predators at higher trophic levels and welcomed the meeting to be held later in the year. It referred to the absence of basic data on this issue and that this was one of the reasons why JARPN is needed. The UK noted Japan's interest in this work and again expressed regret that Japan is not prepared to contribute to an IWC workshop on the issue.

There was insufficient time to address two proposed Resolutions submitted.

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

Last year, the Government of Japan had indicated that it would no longer co-operate with the Committee on small cetacean related matters. This year the Committee referred to the great value of the information provided by the Government of Japan on the status of small cetaceans in previous years and respectfully requested that the Government of Japan reconsider its position on this matter and resume the valuable contribution of Japanese scientists to its work on small cetaceans.

The primary topic considered this year was the status of humpback³⁴ dolphins (genus *Sousa*). The taxonomy of the genus is somewhat confused, with up to five species being cited in various reports. Recognising the need for further

taxonomic work, the Committee agreed to continue to recognise only two species at present: *S. teuszii*, the Atlantic humpback dolphin and *S. chinensis*, the Indo-Pacific humpback dolphin. Little information exists on the life history parameters of these essentially coastal species; that which does come from South Africa and Hong Kong. Similarly, there is little information on abundance and trends. Actual and potential conservation problems are primarily due to habitat degradation and incidental capture in fishing and shark protection gear. Directed capture is relatively rare apart from Madagascar. The Committee concluded that there is insufficient information to assess the status of populations of this genus and it made a number of research recommendations.

The Committee also reviewed progress on previous recommendations it had made, particularly those concerning the critically endangered baiji and vaquita. Unfortunately, no new information was received on the baiji this year and the Committee has requested that information be provided next year. The Committee was informed of a new, integrated framework being developed to implement the recovery plan for the vaquita, and welcomed this new approach. It reiterated its endorsement of the primary conclusion of CIRVA (International Committee for the Recovery of the Vaquita) – that to ensure the future survival of the vaquita it will be necessary to eliminate all bycatches as rapidly as possible.

The Committee reviewed the draft report of the ASCOBANS recovery plan for harbour porpoises in the Baltic. It strongly endorsed the report and made some supplementary recommendations with respect to short-term pinger use.

The Committee also reviewed progress on the development of survey methodology for freshwater cetaceans and further work on the reduction of bycatches in fishing gear. No new information was received on the status of Dall's porpoises. Information on permits for takes of 1,000 white whales (for aboriginal subsistence purposes) and 10 killer whales (live-capture) by the Russian Federation were received. The Committee urged that assessment of the impact of such takes should be undertaken before their enactment.

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.

15.1.2 Commission discussions and action arising

As in previous years, Japan reiterated its view that work on small cetaceans is outside the Commission's mandate. China, the Russian Federation, Norway, Antigua & Barbuda, Denmark and the Republic of Korea supported this position. Japan went on to note that despite this position, it had taken part in discussions until the excessive interference it experienced at the Annual Meeting in 2000 caused it to cease participation. In response to the Scientific Committee's request that Japan change its position, Japan suggested that the Commission instruct the Committee to change its attitude and to comply with the Convention.

The UK, New Zealand, Germany, Australia, Sweden, the Netherlands, the USA and Finland did not share the views of Japan and others on competence. The UK was saddened that Japan is not taking part and that it had not

³⁴ At the 2002 meeting it was agreed to change the formally accepted IWC common name from humpbacked dolphins to humpback dolphins.

responded to Resolution 2001-12³⁵ calling on Japan to provide the information necessary for the full assessment of the status of exploited Dall's porpoise stocks. It did not believe that the current take is sustainable and urged Japan to provide data so that a new abundance estimate can be made by the Scientific Committee. New Zealand also expressed disappointment in Japan's position but noted that it would take up Japan's offer to provide data outside of IWC.

The UK noted the Scientific Committee report concerning the harvest of white whales and killer whales by the Russian Federation. The UK believed there is doubt about the status of the stocks involved and urged the Russian Federation to reconsider its position on these matters. The Russian Federation responded that this is an internal matter.

Mexico congratulated the Scientific Committee on its successful assessment of the humpback dolphin. It recalled that Mexico had received strong and urgent recommendations in the past to take action against extinction of the Vaquita and noted that its Progress Report (SC/54/ProgRep Mexico) provided information on its ongoing activities in this regard. Mexico noted with concern the status of the baiji and urged China to provide the Scientific Committee with data and to ensure the survival of the remaining animals at least until the end of their natural life.

China provided information on its activities with respect to the conservation of humpback and baiji dolphins. It reported that a protection zone had been established for humpback dolphins and that a seminar on the protection of this species is planned for June this year. Regarding the baiji dolphin, China noted that a moratorium on fishing in the middle and lower reaches of the Yangtze River from the beginning of April to the end of June had been established and that some 40,000 fishermen would be affected. A fishing moratorium from February to April would be established in the upper reaches from next year, for two years. China reported that it had established a national plan of action to protect the baiji, but that this is a difficult issue in view of the environmental degradation of the river. It would be seeking international co-operation bilaterally and wondered whether Mexico could send a delegation of experts to China in view of its earlier comments.

The reports from Mexico and China were welcomed by a number of countries.

The Commission noted the Scientific Committee report. There was insufficient time to address the two draft Resolutions submitted.

15.2 Other activities

15.2.1 Report of the Scientific Committee

SOWER CIRCUMPOLAR CRUISES

Data from the 1999/2000 and 2000/2001 cruises have been validated and entered into DESS (the IWC Database Estimation Software System). The Committee agreed to a number of changes and improvements to DESS. It reviewed the report of the 2001/02 SOWER circumpolar survey and reviewed plans for the forthcoming cruise. Poor weather considerably hampered the cruise and meant that the completion of the third circumpolar set of cruises would take longer than anticipated. The forthcoming cruise will occur in the same area as the JARPA programme (see Item

12.1.3) and the planning will ensure that the results from SOWER are not compromised in any way.

Noting the importance of the SOWER surveys to its work, and of completing the third set of circumpolar surveys, the Committee expressed its gratitude to the Government of Japan for the offer to make the survey vessels available for this purpose in 2002/3 and 2003/4, for a period longer than usual.

NASS (NORTH ATLANTIC CETACEAN SIGHTING) SURVEYS

The Committee received reports of the fourth NASS survey programme carried out in 2001 under the supervision of the NAMMCO Scientific Committee. It welcomed the report of these surveys, however, due to the lack of time, it was not possible to fully explore the methods and results at this meeting. It noted the apparent Icelandic success in sharing the survey platforms with redfish and cetacean surveys. It was noted that the international redfish surveys included a large area to the south and west of the NASS survey areas, had participation from Germany, Iceland, Norway and the Russian Federation, and will be carried out on a three-year rotation schedule. The Committee recommended that the nations participating in the next redfish survey incorporate a cetacean survey, if feasible. This would extend the geographical range of the NASS surveys to cover a larger area of the North Atlantic.

STOCK IDENTITY

Of general concern to the assessment of any cetaceans is the question of stock identity and 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. At the 2001 meeting, the Committee considered *inter alia*: terminology; stock structure in humpback whales; a range of analytical and statistical issues; the use of archetypes; and the combination of genetic and non-genetic information on stock identity.

This year, the Committee continued its work. In particular, it recognised the need for it to work towards an agreed definition of appropriate 'units-to-serve' in a management context. Implicit in this is recognition that there may be need for case-by-case flexibility, and that it might be appropriate for the Committee to provide options and their implications when providing advice to the Commission. It is intended to have a full discussion of this idea next year. The Committee also examined a number of statistical and genetic issues relevant to this issue. Discussion focussed on use of 'traditional' hypothesis testing methods, a Bayesian approach and a newer, as yet unpublished method (the boundary rank technique). In summary, the Committee 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 about which population structure hypotheses to examine.

The Committee stressed the importance of simulation testing to assess the performance of methods to identify population structure and will hold a specialist workshop to examine this in the coming year.

³⁵ See *Ann. Rep. Whaling Comm. 2001*: 59.

RESOLUTION ON DNA TESTING AND RELATED ISSUES

This item is discussed in response to Commission Resolution 1999-8³⁶. Discussion centred on a report 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. A number of questions and comments were made on the system, including those related to quality control, reliability of identifications and difficulties associated with the expansion of the register and identification service to assignments below species level.

WORKING METHODS OF THE COMMITTEE

The Committee noted the addition to its Rules of Procedure with respect to increasing participation of scientists from developing countries. In particular it recognised the importance of:

- (1) the Chair retaining the right of selection;
- (2) the freedom of Invited Participants proposed for conversion to national delegate status to decline;
- (3) the rule being strictly limited to scientists from developing countries.

The Chair noted that no responses to her circular communication requesting suggestions regarding research priorities in developing countries had been received before the meeting. There was not adequate time to consider this matter further during the meeting, or to follow up on additional ideas for helping scientists from developing countries gain the necessary expertise to address conservation and management issues in their own countries. The Committee agreed that it would discuss these topics further next year.

Concern was expressed at the trend in recent years for some scientists to arrive only for plenary discussions. In particular, this can result in a considerable waste of time spent revisiting sub-committee discussions in plenary. Whilst it is appropriate for the final consideration of sub-committee and working group reports to occur in plenary, this was in large part intended to reflect the fact that concurrent sessions meant that it was not possible to attend each sub-committee. It was emphasised that these comments do not apply to cases where countries do not have adequate resources to send a scientist for the whole period, but rather to countries that had other delegates already attending the full meeting.

The review (including further analysis if required) of scientific papers is critical to the work of the Scientific Committee and the transparency of its management advice to the Commission. Some concern arose at the meeting that this might be compromised by either authored working papers or documents being submitted to the Committee with the heading along the lines of "Not to be cited (or used) without the permission of the author(s)". With respect to working papers, the Committee agreed that it does not seem appropriate to include any restriction of citation in the context of the meeting at which they are submitted.

With respect to submitted papers, it does not seem unreasonable to include such a citation provision on a paper that has perhaps been written at the last minute in order to stimulate discussion or present the results of a preliminary analysis which subsequently the author feels (or is told) is

flawed. However, if a paper is to form the major basis for a recommendation by the Committee, it is not acceptable for such a strong restriction on citation to be placed. The Committee agreed that it is appropriate for the Chair of the Committee or relevant sub-committee or to ask that such a restriction either: (1) be removed; or (2) replaced by one that makes it clear that the restriction excludes citation in the context of Scientific Committee meetings and documents. This latter option gives protection to the authors of *inter alia* first publication rights.

Towards the end of the meeting, there was some discussion of the reduced participation by Japanese scientists in some aspects of the Committee's work. Various views were expressed and these are given in Annex P to the Committee's report.

PUBLICATIONS

The Committee noted that it had been a successful year for the *Journal*. In addition to the three regular issues and the supplement (total 781pp.), the second Special Issue had been published (*Right Whales: worldwide status* – edited by P.B Best, J.L. Bannister, R.L Brownell Jr and G.P Donovan). This hard-backed volume of over 300 pages contains the Reports of the Cape Town and Boston right whale workshops, and 28 peer-reviewed papers reporting the current status of right whale stocks. The Committee congratulated Donovan and his team for the quantity and quality of the publications produced since the last meeting, and recognised the important contribution the *Journal* made to the work of the Committee and to the wider issues of the management and conservation of whales. The Committee recognised the importance of Committee members urging their respective institutes and colleagues to subscribe to the *Journal* and of submitting high quality papers to it.

ELECTION OF OFFICERS

The three-year terms of Zeh as Chair and DeMaster as Vice-Chair ended at the present meeting. The heads of delegations had therefore met to agree a process for conducting the election and to propose changes to the Committee's Rules of Procedure. The Committee agreed to the modified rules (see Annex Q of the Scientific Committee report). Although the modified rules could not officially take effect until approved by the Commission, they were followed by the heads of delegations for the election. The head of the Icelandic delegation had protested the denial of his right to vote. The proposed changes to the Rules of Procedure were discussed by the F&A Committee (see section 17.5.2 and Annex H).

During the Commission meeting, Zeh expressed her regret that political issues had been introduced during the election process. She believed that if this had not been the case, the election would have been completed by consensus. Despite this, she and the Committee were delighted to welcome DeMaster (USA) as the new Chair and Bjørge (Norway) as the new Vice-Chair.

The Committee had given Zeh a standing ovation for her outstanding service as Chair of the Committee. She had carried out her duties with diligence, fairness, good humour and kindness to all members of the Committee.

15.2.2 Commission discussions and action arising

The Commission noted the report. No further comments were made.

³⁶ See *Ann. Rep. Whaling Comm. 1999: 55*.

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 and streamline 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 2003 meeting and a framework for determining invited participants. She also noted that priorities may be revised in the light of the Commission's discussions.

15.3.1.1 RMP

As last year, this sub-committee would concentrate on two areas, i.e. general issues and preparations for implementation as follows:

GENERAL ISSUES

- (1) Adjustment of the convergence criteria for the CATCHLIMIT program;
- (2) Consider results from the Intersessional Working Group on Abundance Estimation;
- (3) Consider implications of choice of component of population to which MSYR, MSYL and density dependence apply in RMP trials;
- (4) Define levels of information required for Pre-Implementation Assessments and for proceeding to an Implementation;
- (5) Spatio-temporal considerations in the context of the RMP.

PREPARATIONS FOR IMPLEMENTATION

- (1) Completion of North Pacific minke whale Implementation (including review results of intersessional meeting);
- (2) North Atlantic minke whale Implementation Review. It is proposed that discussion of this begins two days prior to the Annual Meeting.

15.3.1.2 BYCATCHES AND OTHER ANTHROPOGENIC REMOVALS

The Working Group would (in the context of the RMP) concentrate on the estimation of bycatch only. The priority topics would be:

- (1) bycatch based on fisheries data and observer programmes;
- (2) bycatch based on genetic data;
 - (a) proposal for a workshop
 - (b) analytical tests for assignment to stocks and/or areas
 - (c) use of capture-recapture methods for estimation of bycatch from market data.

15.3.1.3 AWMP

The Standing Working Group would continue the development process and will have had an intersessional workshop in Seattle. Priority topics would be:

- (1) selection of an SLA for Eastern North Pacific gray whales;
- (2) review of results from Greenlandic Research Programme and revise programme;
- (3) progress on development of potential SLAs for Greenland fisheries;
- (4) annual review of catch data and management advice for minke and fin whales off Greenland;
- (5) annual review of catch data and management advice for humpback whales off St. Vincent and The Grenadines.

15.3.1.4 SOUTHERN HEMISPHERE WHALES OTHER THAN ANTARCTIC MINKE WHALES

Priority topics would be to review progress on the Comprehensive Assessments of Southern Hemisphere humpback and blue whales and determine a timetable and work plan.

15.3.1.5 BOWHEAD, RIGHT AND GRAY WHALES

Priority topics would be:

- (1) new and/or conflicting biological information on bowhead, right and gray whales;
- (2) revised new abundance estimate for BCB bowhead whales;
- (3) review progress on previous recommendations.

15.3.1.6 IN-DEPTH ASSESSMENTS

Priority topics would be:

- (1) issues relating to the abundance estimation of Southern Hemisphere minke whales;
- (2) review results of most recent SOWER circumpolar cruise and plan for the next.

15.3.1.7 STOCK DEFINITION

This Working Group will also hold an intersessional Workshop. Priority topics would be:

- (1) statistical and genetic issues (Testing of Spatial Stock Models);
- (2) options for units to conserve including management implications;
- (3) development of stock and harvesting archetypes suitable for consideration in whaling management;
- (4) review of new information on responses of cetacean sub-stocks to severe depletion.

15.3.1.8 ENVIRONMENTAL CONCERNS

Priority topics will be:

- (1) review results from workshop on marine mammal-fisheries interactions;
- (2) high latitude climate change.

The group would also devote limited time to:

- (a) Steering Group report on POLLUTION 2000+ ;
- (b) progress report on SO-GLOBEC/CCAMLR;
- (c) review of results from the workshop on habitat degradation (if held);
- (d) Arctic issues;
- (e) progress on State of the Cetacean Environment Report (SOCER).

15.3.1.9 DNA

This Working Group would provide the annual progress report to the Commission required by Resolution 1999-8. Priority topics would be:

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

15.3.1.10 SMALL CETACEANS

Priority topics would be:

- (1) review of the status of small cetaceans in the Black Sea;
- (2) review of the existence of directed and incidental takes of small cetaceans in member countries, with a view to requesting data in the future;
- (3) review of progress on previous recommendations.

15.3.1.11 WHALEWATCHING

Priority topics would be:

- (1) review the reports of Intersessional Working Groups;
 - (a) data collection,
 - (b) whalewatching management,
 - (c) compendium of data forms used on whalewatching platforms,
 - (d) directory of relevant researchers
- (2) review of research on the effectiveness of national whalewatching guidelines and regulations;
- (3) review of new information on whale and dolphin swim-with programmes.

15.3.1.12 SANCTUARIES

Priority topics would be:

- (1) review work of intersessional Steering Group;
- (2) preparation for review of Southern Ocean Sanctuary.

15.3.1.13 SCIENTIFIC PERMITS

Priority topics would be:

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

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.

The USA noted that Judy Zeh was completing her 3-year term as Chair of the Scientific Committee and drew the Commission's attention to the accolades accorded to her by the Committee. The USA delegation sincerely echoed these sentiments, adding that by all accounts, Dr Zeh had been fair and impartial in discharging her responsibilities and had won the respect of all of her colleagues. All delegations joined the USA in thanking her for a job well and faithfully done.

16. INFRACTIONS, 2001 SEASON**16.1 Report of the Infractions Sub-committee**

The Infractions Sub-committee met on 20 May with delegates from 26 Contracting Governments. The Sub-committee's Chair, Thomas Althaus (Switzerland), summarised the group's discussions. The full report is given in Annex G.

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.

16.1.1 Infractions reports from Contracting Governments

Infractions reports for 2001 were received from Denmark, St. Vincent and The Grenadines, the USA and the Republic of Korea. Although the infractions report had not been received from the Russian Federation, information was extracted from the Report of the Scientific Committee and a document submitted by the Russian Federation to the Working Group on Whale Killing Methods and Animal Welfare. Only Denmark and the Republic of Korea reported infractions.

Denmark (Greenland) reported that a group of hunters from the Nutaarmiut settlement had struck and lost a humpback whale in August 2001. Each individual in the group was fined and the quota for the municipality was reduced by one minke whale licence. The case of a second humpback whale reported as struck and lost near the Nuuk municipality is being investigated. Denmark indicated that it would provide further information on this incident in due course.

The Republic of Korea reported that a minke whale had been deliberately taken in its waters using a small hand-held harpoon – the possession of which is illegal. The meat products were confiscated and sold publicly by the local bureau of judicial affairs. The vessel owner was prohibited from fishing for 30 days and its captain sentenced to a six-month prison sentence suspended for two years.

16.1.2 Surveillance of whaling operations

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

16.1.3 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 77-100% of the catch, depending on the item. Information on killing methods and struck and lost animals is also collected.

USA: Information from a variety of documents shows that information on date, species, position, length, sex, killing method and numbers struck and lost is collected for most of the catch depending on the item. Other biological information is recorded for about 63% of animals.

St. Vincent and The Grenadines: Information on date, time, position, species, length, sex, hunting method and whether lactating is collected. St. Vincent and Grenadines noted that they also took photographs of flukes and tissue for genetic analysis although this is not required under the Schedule.

Russian Federation: information on date, species, position, length, sex, killing method, whether lactating and hunting methods are collected.

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

16.1.4 Submission of national laws and regulations

A summary of national legislation supplied to the Commission was prepared by the Secretariat. The Sub-committee Chair had remarked that details of the national legislation supplied by Contracting Governments appeared to be dated in some cases. The Netherlands indicated that in their case this was due to the fact that its policy on whaling was unchanged. St. Vincent and Grenadines noted that they currently have new draft legislation under consideration by their Government and that comments on the draft currently being considered by the Cabinet would be welcomed.

16.1.5 Other matters

REPORTS FROM CONTRACTING GOVERNMENTS ON AVAILABILITY, SOURCES AND TRADE IN WHALE PRODUCTS

The Secretariat had received no reports from Contracting Governments, but during the meeting, the UK indicated that it had no stockpiles of whale products.

THE TAKING OF KILLER WHALES BY GREENLAND AND ST. VINCENT AND THE GRENADINES

The UK referred to reports of two killer whales taken in Greenland and St Vincent and The Grenadines. In its view, a combination of Schedule paragraph 10(d) forbidding the taking of killer whales by factory ships, and paragraph 10(e) referring to the ban on commercial whaling made these catches infractions. A number of countries had shared this interpretation. Others however, noted that the animals were not taken by factory ships and since they were small cetaceans, were in any case outside the competence of the IWC and therefore not required to be reported as infractions under the Convention.

LEVELS OF BYCATCH

Responding to a question from the UK on levels of bycatch and whether there had been any infractions in this regard, Japan noted that non-deliberate killing, such as bycatch were not considered infractions and were thus outside the terms of reference of the Sub-committee.

The UK considered that animals killed under Japan's new legislation, which under certain circumstances, authorises the deliberate killing of whales bycaught in fishing operations, should be reported as infractions. It regretted what it saw as Japan's lack of co-operation in this matter. Mexico considered that Japan's reluctance to provide information was hampering the work of the Commission in several areas.

Austria, Australia and Germany supported the view that bycatch could be of interest to the Sub-committee, particularly where it led to whale products entering the market, and considered bycatch information important for management purposes. Austria stated that information regarding domestic sanctions to reduce bycatch was also relevant. Germany noted that in the EU, as well as in other some countries, fines are imposed on fishermen who exceed bycatch limits.

A number of other countries (Denmark, St Vincent and The Grenadines, Norway, Republic of Korea, Norway) agreed that information on bycatch is of value to management, and that such information provided by a number of nations including Japan, was discussed in length

during the Scientific Committee meeting. They believed that the Scientific Committee was the appropriate forum for such discussions and that what happened 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.

The UK repeated its assertion that at least some bycaught animals taken in the Japanese trap net fishery could be regarded as intentional takes and thus infractions, citing as evidence the fact that the reported numbers of bycaught animals had increased twofold since the new Japanese legislation was enacted.

Norway expressed some surprise at the concept of 'deliberate' bycatch and noted that other explanations for increased bycatch numbers could be formulated, including the possibility that the increased number of bycaught animals reflected an increase in the population of whales since the prohibition of coastal whaling. Japan shared the views of Norway.

16.2 Commission discussions and action arising

The Commission took note of and adopted the Sub-committee's report. There were no further comments.

17. ADMINISTRATIVE MATTERS

Agenda items 17-20 covering administrative and financial matters and amendments to the Rules of Procedure were considered first by the Finance and Administration (F&A) Committee that met on Friday 17 May under the chairmanship of Jim McLay (New Zealand). Delegates from 32 Contracting Governments attended the meeting. The F&A Committee report is attached as Annex H.

17.1 Annual Meeting arrangements and procedures

17.1.1 Verbatim record

The Chair of the F&A Committee reported that an indexed CD instead of a hard copy Verbatim Record of the 53rd Annual Meeting had been distributed to all Contracting Governments just prior to the meeting in Shimonoseki. While not all Contracting Governments had received the CD, others congratulated the Secretariat on its production. The F&A Committee had noted: (1) the substantial cost saving resulting from the move to CD since transcribing the verbatim record took 2-3 man weeks, while preparation of the CD was out-sourced at low-cost; and (2) that although some countries had questioned whether any form of verbatim record is necessary, the Secretariat reported that it is useful for its own records. The F&A Committee agreed that the CD should continue to be produced but that it would be made available in future only on request.

The Commission concurred.

17.1.2 Document preparation and distribution THROUGH THE WEBSITE

Reactions to the distribution of non-confidential documents via the website, done for the first time this year, were generally positive. The Commission agreed that the Secretariat should continue to notify Contracting Governments by email when new documents are posted on the website and to provide the download address in the body of the email rather than in an attachment.

OPENING STATEMENTS

Given that the purpose of opening statements is to provide a succinct explanation of the views and positions of Governments and organisations on matters of concern to

the IWC and that the Commission has agreed (Rule of Procedure Q.3) that their content should 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, the F&A Committee agreed to the Secretariat's recommendation that:

- (1) The possibility to submit Opening Statements in the form of glossy-type brochures or booklets be withdrawn; and
- (2) Opening statements should be no more than three pages, contain no graphics or photographs and be suitable for photocopying in black and white.

The F&A Committee noted that: (a) submission of statements in a more standardised format would save on administrative time prior to and after meetings and would facilitate easier archiving of documents; and (b) glossy brochures could still be distributed as additional material in the usual way.

The Commission agreed.

COMMISSION DOCUMENTS

To improve meeting preparation, promote more informed discussion and help reduce meeting time, the F&A Committee recommended that Contracting Governments should be strongly encouraged to submit meeting documents not less than 6 weeks prior to Annual Meetings.

The F&A Committee recommended that the submission of extensive documents including a large amount of graphic material should be avoided as far as possible. However it did recognise that, from time to time, a Contracting Government will wish to provide a thorough explanation of its position on one or more issues relevant to the work of the Commission. While such documents may be lengthy, available in a full publication format and contain photographs or other material not suitable for reproduction by the means normally available to the Secretariat, it was agreed that Governments should not be discouraged from providing such material.

Where a Contracting Government determines that it is important to submit such a document, the F&A Committee suggested that the Contracting Government:

- include the official IWC reference number obtained from the Secretariat on the cover of the document;
- provides copies of the full document to other Contracting Governments and any other meeting participants, either directly or, through the Secretariat.

Finally, the F&A Committee recommended that extensive documents should be provided no less than 6 weeks before the start of the meeting.

The Commission endorsed the Committee's recommendations.

17.1.3 Improved guidance on credentials

Last year an attempt to amend Rule of Procedure D.1.(a) to provide more accessible guidance on who could sign the credentials of member government representatives or non-member country observers was postponed pending clarification of different national requirements for the formal accreditation of representatives.

This year, the Commission agreed to adopt the following revision to Rule of Procedure D.1 as recommended by the F&A Committee (changes are in bold italics):

D.1.(a) The names of ***all representatives of member and non-member governments and observer organisations*** to any meeting of the Commission or committees, as specified in the Rules of Procedure of the Commission, Technical and Scientific Committees, shall be notified to the Secretary in writing before their participation and/or attendance at each meeting. ***For member governments, the notification shall indicate the Commissioner, his/her alternate(s) and advisers, and the head of the national delegation to the Scientific Committee and any alternate(s) as appropriate.***

The written notification shall be made by governments or the heads of organisations as the case may be. In this context, 'governments' means the ***Head of State, the Head of Government***, the Minister of Foreign Affairs (including: on behalf of the Minister of Foreign Affairs), the Minister responsible for whaling or whale conservation (including: on behalf of this Minister), ***the Head of the Diplomatic Mission accredited to the seat of the Commission or to the host country of the meeting in question, or the Commissioner appointed under Rule A.1.***

(b) Credentials for a Commissioner appointed for the duration of a meeting must be issued as in D.1(a). Thereafter, until the end of the meeting in question, that Commissioner assumes all the powers of a Commissioner appointed under A.1, including that of issuing credentials for his/her delegation.

(Note: current Rules D.1(b), (c), and (d) will be re-numbered accordingly).

17.1.4 Determining the duration of the Annual Commission and associated meetings

The Chair had drawn the F&A Committee's 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 F&A Committee agreed that explicit guidance should be developed. It requested the Secretariat to draft Rules of Procedure, for consideration next year, to request that before the end of each Annual Meeting, the Commission decide upon the length of the meeting the following year.

The Commission agreed.

17.1.5 Press

Japan had proposed to the F&A Committee that the press be given access to all meetings of the Commission and its Committees and sub-committees except those of the F&A Committee, the Advisory Committee and the Budgetary Sub-committee. Japan had also mentioned the possibility of admitting the press to the plenary of the Scientific Committee. While some countries had expressed sympathy for the proposals, no explicit support was given. Attention was drawn to the fact that since the reports of all the Committees are confidential until delivered to plenary, admitting the press would undermine this confidentiality. One country believed the proposals would also undermine the effectiveness of the technical working groups, another raised security concerns and a third asked for a complete review of the policy of allowing press into the Plenary, requesting that this be placed on the agenda of next year's F&A committee meeting. The Secretariat had noted that the admission of press to Committees and Sub-committees could create a need for larger meeting halls and increased security, with associated cost implications.

Japan submitted a document to the plenary re-iterating its proposals and including proposed rules of conduct for the press. However, it subsequently withdrew the proposals indicating that it would resubmit them next year.

17.1.6 Need for a Technical Committee

Following the pattern of IWC/52 and IWC/53, no provision had been made for the Technical Committee to meet during

IWC/54. Instead it had been agreed that the need for a Technical Committee be kept under review. During the F&A Committee meeting, one country had agreed that there is no need for a Technical Committee under the present circumstances, but that this would change if IWC resumed its functions as a management organisation. It was also noted that if the present arrangements continue, some revision to the Rules of Procedure concerning the Technical Committee might be needed. For the moment however, the F&A Committee agreed to continue to keep the issue under review.

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

17.1.7 Admittance of academics as observers to Annual Commission Meetings

During the F&A Committee meeting, the Secretariat had explained that most years it receives requests from academics and students to attend the IWC as independent observers. The Secretariat introduced some ideas on how this could be achieved should the Commission so wish. However, no country had spoken in favour of admitting such observers.

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

17.2 Membership of the Budgetary Sub-committee

The F&A Committee had reviewed the membership rota proposed by the Budgetary Sub-Committee and agreed to recommend its adoption by the Commission, subject to the reservations of Norway and the UK. Norway supported the rota, but could not accept the awarding of a second 'permanent seat' to the USA under the present contributions scheme under which Norway is the second biggest contributor to the Commission after Japan (it later withdrew this reservation - see Item 19.2). Norway had further noted that if a new or interim scheme was not adopted this year, there would be no reason to give preferential treatment to the countries in Group 4, and that Groups 3 and 4 should be merged. The UK had qualified its support on the understanding that the four groupings were not used for any other purpose in the IWC.

The Commission adopted the Membership Rota, as shown in Appendix 5 of Annex H, noting the reservations.

17.3 Secretariat staff matters

During the F&A Committee meeting, the Secretariat introduced its proposals for replacing its Executive Officer when he leaves the IWC in August 2003, with two posts (i.e., a Head of F&A and an Information Officer) explaining that this could be done in a cost-neutral way. Noting the discussions within the Budgetary Sub-committee regarding the need to reduce expenditures, the Secretariat proposed to delay the appointment of the Head of F&A by one month (i.e. to 1 June 2003), and the Information Officer by four months (i.e. to 1 September 2003). After preliminary discussions, the F&A Committee agreed to forward the Secretariat's proposal to the private Commissioner's meeting on Sunday 19th May.

During the Plenary session, the F&A Committee Chair reported that during their private meeting, the Commissioners had agreed to the Secretariat's proposal subject to the strict requirement that it be done on a cost-neutral basis.

17.4 Advisory Committee

In commenting on the Draft Agenda circulated 100 days prior to the Annual Meeting, Japan had indicated that it might propose amendments to Rules of Procedure M.9 concerning the Advisory Committee. It also proposed that the Commission review all aspects of the functioning of the Advisory Committee over the past year and requested the Secretary to prepare a document listing those matters on which the Advisory Committee had been consulted since May 2001. This document was prepared and Japan subsequently submitted a document proposing deletion of Rule M.9 that would serve to abolish the Advisory Committee. However, in view of the limited time available to discuss this issue, Japan withdrew its proposal, indicating that it would return to it next year.

The Chair of the Commission reminded the meeting that St. Lucia had now completed its two-year term on the Advisory Committee and that a new member must be appointed. In the absence of other proposals, the Chair suggested that St. Lucia continue to serve for another year. St. Lucia and the Commission agreed.

17.5 Amendments to the Rules of Procedure

17.5.1 Scientific Committee Rules of Procedure – developing countries

At IWC/53 the Commission agreed that the proposed new Scientific Committee Rule of Procedure A.6.(i) concerning participation of developing country scientists be put forward for formal adoption in Shimonoseki to comply with the required 60 day notice period. The F&A Chair noted that this new rule had been formally agreed at this year's Scientific Committee meeting and could now be put forward for formal adoption to take effect for the 2003 meeting. The new Rule A.6.(i) is as follows:

'After an IP 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.'

The Commission agreed.

17.5.2 Scientific Committee Rules of Procedure – appointment of Chair and Vice-Chair

The F&A Chair reported that the Scientific Committee had proposed amendments to its Rules of Procedure regarding: (1) the appointment of the Committee Chair and Vice-Chair; and (2) the need for heads of delegation and any alternates to be indicated in countries' nominations to the Scientific Committee. During the F&A Committee meeting, a number of governments had expressed concern with the proposal that results from secret ballots would only be reported in terms of which nominee received the most votes and that the vote count would not be reported or retained. Japan, with the support from others, suggested deleting this part of the proposal. This would have the effect of disclosing the result of the ballot.

The Scientific Committee Chair had explained that a secret ballot was proposed since:

- (1) any Chair and Vice-Chair of the Scientific Committee needed to carry the confidence of their colleagues;
- (2) that election of Chair and Vice-Chair should not be a political matter; and

- (3) that participating scientists should not feel under pressure from their Government to vote in any particular way.

A secret ballot would ensure this. On the basis of this explanation, a number of governments accepted the need for a secret ballot without disclosure of the vote numbers.

Given that the F&A Committee was evenly divided on this issue, but given that another election was unlikely to arise in the next three years (the Scientific Committee had just elected a Chair and a Vice-Chair) it had agreed to refer the issue back to the Scientific Committee for further consideration.

The F&A Chair reported that the Committee had agreed to forward the Scientific Committee's other proposed amendment to its Rule of Procedure A.1. to the Commission for endorsement and formal approval at IWC/55 (given that the required 60 day notice had not been given). The proposed text with new text in bold italics is given below.

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 noted the report from the F&A Committee and accepted its recommendations.

17.5.3 Commission Rules of Procedure F.1 and G.1 – election of the Chair and Vice-Chair of the Commission

Japan had submitted proposals to the F&A Committee to amend Rules of Procedure F.1 and G.1 with the purpose of widening the pool of people who might be considered during elections of the Chair or Vice-Chair of the Commission (e.g. to include Alternate Commissioners). The F&A Committee Chair reported that opinions within the Committee had been divided and that Denmark had indicated that Japan's proposed amendments might be contrary to the Convention itself thus rendering the amendments invalid. Japan had indicated that it would consider Denmark's comments when deciding whether it would carry forward its proposals to the Plenary. However, Japan did not subsequently submit them to the Commission.

18. FORMULA FOR CALCULATING CONTRIBUTIONS

18.1 Report of the Finance and Administration Sub-committee

The F&A Committee took note of the discussions and recommendations from the Contributions Sub-committee that met under the Chairmanship of Daven Joseph (Antigua & Barbuda) on 15 May 2002. These recommendations were based on the outcome of the two meetings of the Contributions Task Force held intersessionally since IWC/53.

The F&A Committee recommended that the Commission endorse the following proposals:

- (1) For the purpose of calculating financial contributions, the size of the delegation of a host country should be

assessed using an average of their delegation size of the previous three years;

- (2) The IWC Chair should not be included in his/her delegation for the purposes of calculating financial contributions;
- (3) That Models 7 and 8 (i.e. contributions models put forward by the Task Force) should form the basis of further consideration in finalising the new contributions scheme;
- (4) That the Task Force meet again intersessionally prior to IWC/55 as proposed in Appendix 4 of the F&A Committee's report;
- (5) That in its further work, the Task Force consider how whaling should be described and propose how whaling could be weighted in any final contributions scheme, taking into account the following points:
- The difference between ASW and other whaling is a matter of scale;
 - That there is no rational difference between ASW and other whaling;
 - For ASW the primary purpose is subsistence rather than profit;
 - All whaling is equal;
 - Whaling includes all whaling that has an economic return thus the definition includes commercial, scientific and bycatch;
 - Local use should be treated differently to commercial use;
 - Scientific whaling contributes valuable data to the IWC; and
 - Bycatch is not whaling.

It was also agreed that the Task Force include proposals both including and excluding each of whale watching and small cetaceans.

The F&A Committee Chair reported that the Task Force had proposed the introduction of an 'Interim Measure' based on the current contributions scheme, but where the contributions of less developed countries would be reduced and redistributed among the wealthier countries. Within the Contributions Sub-committee and the F&A Committee, two main views existed on the proposal. One supported an interim measure and its immediate introduction, while the other was that any consideration of an interim measure is premature as the finalisation of the new contributions scheme is in sight. Since there had been no agreement on this proposal and a roughly equal balance of support for the two views, the F&A Committee had agreed to forward the recommendation to the Commission but without any formal recommendation.

18.2 Commission discussions and action arising

The Commission endorsed the five recommendations listed above.

With respect to the contributions formula, Argentina and Antigua & Barbuda submitted a new proposal for an Interim Measure for consideration by the Commission. In introducing the joint proposal, Argentina noted that as a member of the Task Force it had participated actively in the deliberations and understands that the outcome of the Task Force's work will have substantial long-term implications for membership as well as for funding of IWC. However, Argentina believed that the imbalances of the current scheme are startlingly obvious and have been drawn to the attention of the Commission too many times for remedial

action not to be taken. Although it noted the intention of concluding a revised contributions formula by next year's Annual Meeting in Berlin, Argentina, together with Antigua & Barbuda wished to seek an interim solution to diminish without delay the financial burden on less developed countries. Argentina noted that the joint proposal is similar to that proposed by some members of the Task Force, with the following modifications: (1) the inclusion of a weighting based on whaling in the redistributed shortfall; and (2) a two-stage process of redistribution, the first stage lasting two years, the second stage for a further year. In putting forward the proposal, Argentina emphasised the urgency of the request and the fact that the proposed interim scheme does not: (1) constitute an impediment or an alternative to the deliberations of the Task Force; and (2) does not presuppose the levels of contributions that will result from the Task Force deliberations nor the criteria that will be applied by the Task Force in developing its contributions formula. Argentina hoped that the proposal would receive wide support. Antigua & Barbuda noted the additional work that the Commission had given to the Task Force. It considered that with these additions, the Task Force might not complete its work for at least one to two years if not longer, and therefore stressed the need for an interim measure to address the inequity of the current scheme.

Japan, Chile, Brazil, Kenya, Peru, Morocco, Dominica and St. Lucia spoke in support of the proposal.

Mexico indicated that without consensus it could not support the proposal, even though as a developing country it would benefit financially. Noting that the Task Force is close to finalising its work and that the F&A Committee is in any case proposing a cut in the Commission's expenses thus reducing contributions slightly, Mexico considered that adopting an interim measure at this stage would undermine the work of the Task Force. It asked that the Task Force be given more time to complete its work. Spain, Switzerland, the USA, Germany, Monaco, the UK, South Africa and India expressed similar views. Monaco considered it highly unlikely that the proposal would be supported by the majority of what would be the highest paying members under the scheme and that adoption of the proposal would result in chaos for the organisation. South Africa was concerned that adoption of the proposal may result in some of the developed countries withdrawing from the Convention because of financial constraints.

The Netherlands found it strange that such an important matter as the financial contributions scheme could be decided by simple majority voting. This added to its conviction that the Convention is in need of re-drafting. It expressed sympathy with the situation some Contracting Governments are in, but also noted procedural problems of other governments that would have to find the additional funds. It urged caution regarding adoption of the proposal but indicated that it would not vote against it. Sweden associated itself with these views. Norway understood the Netherlands' concern that a new contributions scheme could be decided by a simple majority but indicated that this could be addressed by making a decision to incorporate provisions relating to the contributions scheme into the Schedule. It was not sure whether this was what the Netherlands was proposing, but suggested that the Commission proceed on the basis of the existing rules.

On being put to a vote, the proposal received 21 votes in support, 12 against and 10 abstentions. The Interim

Measure was therefore adopted to take effect from financial year 2002/2003.

After the vote Germany indicated that it could not accept a simple majority decision and could therefore pay only the contribution as proposed by the F&A Committee. Switzerland also indicated that it could not accept a simple-majority decision and lodged a reservation to that effect. The USA also protested at this decision. Monaco noted that the proposal was opposed by three-quarters of those countries that would have to pay more under the new scheme and reserved the right not to abide by the decision. Australia noted that a consensus on such a matter would have been desirable, but accepted the decision and indicated that it would abide by it. New Zealand indicated that it did not agree with the decision, but that it would respect it, comply with it and pay as required. Norway also reported that it would abide by the decision. Argentina and Antigua & Barbuda thanked countries for their support. Argentina stressed that adoption of the interim measure did not alter its commitment to work in the Task Force towards a permanent solution that it hoped could be reached by next year. Antigua & Barbuda noted that the simple-majority decision was in keeping with the organisation's Rules of Procedure.

19. FINANCIAL STATEMENTS AND BUDGETS

The F&A Committee had received the report of the Budgetary Sub-committee that had worked interessionally and had met during IWC/54 with Jean-Pierre Plé (USA) as Chair. The Budgetary Sub-committee had reviewed the provisional statement for 2001/2002 and proposed budgets for 2002/2003 and 2003/2004.

19.1 Review of provisional financial statement, 2001/2002

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

19.2 Consideration of estimated budgets, 2002/2003 and 2003/2004, including the budget for the Scientific Programme

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

- (1) approved the reduced research expenditures of £243,445 for 2002-2003 (Annex I). The Commission noted the concern expressed by some countries during the F&A Committee meeting regarding the extent of cuts in the budget line for Invited Participants in the Scientific Committee and the hope that this matter could be kept under review.
- (2) adopted the budget for the 2002-2003 financial year (Annex J).
- (3) agreed that for the 2003-2004 budget (Annex J) individual contributions should increase no more than necessary to maintain approved budget levels and that overall reductions in expenditures for the 2002-2003 and 2003-2004 budgets should be at least 5% annually.
- (4) agreed to take action on one or more of the short- and long-term proposals from the Budgetary Sub-committee to reduce expenditures, with particular emphasis on the duration and frequency of meetings. The Budgetary Sub-committee had identified the

following proposals to reduce expenditure, recognising that each has advantages and disadvantages:

- (a) reduce the number of intersessional meetings;
 - (b) hold special meetings back to back with annual meetings;
 - (c) reduce the length of annual and associated meetings;
 - (d) hold meetings of the Scientific Committee, working groups, and/or the Commission bi-annually; as a variation, a short annual meeting can be held between full-scale annual meetings;
 - (e) review working groups to determine if it is necessary that they meet every year;
 - (f) reduce research expenditure and workload by improved priority setting;
 - (g) when a sub-group meets intersessionally, it should report directly to the Commission when appropriate;
 - (h) advanced submission of documents, e.g. 6 weeks prior to annual meetings, to improve preparation and promote more informed discussion (thus reducing meeting time);
 - (i) reduce the funding available for invited participants to attend the Scientific Committee.
- (5) agreed that the registration fee for non-government observers be increased from £525 to £550 for the Annual Meeting in 2003.

Norway withdrew its reservation to the membership rota for the Budgetary Sub-committee given that with the adoption of the 'Interim Measure' it would no longer be the second biggest financial contributor to IWC.

20. ARREARS OF FINANCIAL CONTRIBUTIONS

At the 53rd Annual Meeting, the F&A Committee had reviewed a document prepared by the Secretariat in consultation with the Advisory Committee that identified a range of options to deal with the problem that a number of Contracting Governments were in arrears with their financial contributions to IWC and had been for some years. There had been insufficient time for a detailed examination of the issues raised in the document and the Commission agreed that Contracting Governments be asked to provide written comments that would be reviewed by the Advisory Committee with a view to reporting back to IWC/54. Last year, the Commission also agreed to address three issues: (1) how to deal with countries in arrears; (2) whether arrears should continue to accrue indefinitely; and (3) development of guidelines for future arrangements for the repayment of arrears. It recognised that these may require changes to the Rules of Procedure and Financial Regulations and requested that any such proposals be circulated at least 60 days before IWC/54.

Based on the Commission's discussions at IWC/53 and comments subsequently submitted by Contracting Governments, the Secretariat developed proposals for review by the F&A Committee at IWC/54 on how to take the matter forward. The Secretariat's proposals covered the three issues mentioned above, but also addressed issues related to financial contributions and voting rights for existing and new Contracting Governments and Governments leaving the organisation with arrears.

20.1 Report of the Finance and Administration Committee

Based on the Secretariat's proposals, the F&A Committee recommended that the Commission adopt a number of new and revised Rules of Procedure and Financial Regulations as described below.

Contracting Governments falling into arrears

With respect to Contracting Governments falling into arrears, the Chair of the F&A Committee noted that under the present arrangements, financial contributions continue to be assessed annually and compound interest charged at 10% per annum unless and until a Contracting Government chooses to withdraw from the Convention even when it is known that a government is unlikely to pay and will pay no active part in the affairs of the Commission.

To address this problem to some extent, the F&A Committee recommended to the Commission that the rate of compound interest charged on outstanding contributions be reduced after the first year by amending Financial Regulation F.1 as follows (new text in bold italics):

Financial Regulation F.1:

F.1. If a Contracting Government's annual payments have not been received by the Commission by the due date referred to under Regulation E.2, ***a penalty charge of 10%*** shall be added to the outstanding annual payment on the day following the due date. ***If the payment remains outstanding for a further 12 months*** compound interest shall be added on the anniversary of that day ***and each subsequent anniversary thereafter at the rate of 2% above the base rate quoted by the Commission's bankers on the day.*** The interest, calculated to the nearest pound, shall be payable in respect of complete years and continue to be payable in respect of any outstanding balance until such time as the amount in arrears, including interest, is settled in full.

The F&A Committee also recommended that:

- Financial Regulation F.2, that has the effect of withholding documentation from Contracting Governments in arrears, be deleted. This provision was generally considered not to be constructive and to have no detectable influence on governments in arrears.
- From time to time, the Chair of the Commission should make representations to Governments in arrears, explaining the limited options that exist and urging a resolution to the problem of arrears.
- The Secretariat and the F&A Committee give more prominence to reporting and discussion of outstanding contributions. The F&A Committee had found Document IWC/54/F&A6 the 'Secretary's Report on the Collection of Financial Contributions 2001-2002' to be a useful way of reporting.

The F&A Chair reported, however, that the Committee had not supported the Secretariat's proposal that no further annual contributions be charged to Contracting Governments in arrears for more than 3 years.

The F&A Committee had noted the Secretariat's suggestions for a once-only exercise to deal with Contracting Governments that already have substantial arrears and the recommendation that they should be considered within the private meeting of the Commissioners.

Financial contributions and voting rights

The F&A Committee made several recommendations to the Commission to tighten-up the link between payment of financial contributions and voting rights for existing and new Contracting Governments.

In relation to existing members, the F&A Committee recommended the following amendments to Rule of Procedure E.2 and Financial Regulation F.3 to ensure that suspension of the right to vote for Contracting Governments in arrears occurs before Annual or Special Meetings (new text in bold italics):

Rule of Procedure E.2:

E.2. 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 by 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.

[This would be renumbered E.2.(a) if a subsequent proposed new Rule E.2.(b) is also adopted.]

Financial Regulation F.3:

F. 3. 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.

For new Contracting Governments, the F&A Committee recommended the following new Rule of Procedure E.2.(b) and amendment to Rule of Procedure E.3 (new text in bold italics):

New Rule of Procedure E.2.(b):

E.2. (b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3.

Rule of Procedure E.3:

E.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 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 [existing] Financial Regulation E.2.

The proposed changes are intended to ensure that newly-adhered Contracting Governments do not have the ability to vote, perhaps decisively, without having paid their first contribution (or half contribution if the adherence falls in the second half of the financial year).

Governments leaving the organisation with arrears

To ensure that a re-adhering former member that had previously left the organisation with arrears could not immediately exercise the rights and privileges of membership without first meeting the financial commitments consequent upon its new membership, the F&A Committee recommended that the Commission adopt the following new Financial Regulation F.6:

New Financial Regulation F.6:

F.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.

20.2 Commission discussions and action arising

The Commission endorsed all of the F&A Committee's recommendations regarding new and revised Rules of Procedure and Financial Regulations.

Ireland indicated that it wished to re-introduce the Secretariat's proposal for a new Financial Regulation F.5 regarding Contracting Governments in arrears for more than 3 years that the F&A Committee had not supported provided it could be adopted by consensus, i.e.:

New Financial Regulation F.5:

F.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.3. 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.3. 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.

Supporting Ireland, the UK proposed that if adopted, the new Financial Regulation be applied retroactively. The F&A Committee Chair supported this view believing it only logical that those countries already in arrears, including those in a repayment scheme, should have their arrears adjusted to the same formula. In response to a question from Antigua & Barbuda on how far back this Rule would be applied, the F&A Committee Chair suggested that it should be as far back as any country still paying arrears. He also noted that retroactive application of the new Rule is designed to attract back to full participation in the organisation, countries such as Senegal, Costa Rica and Kenya with large arrears and no repayment plans in place.

The Commission adopted new Financial Regulation F.5 and agreed that it should be applied retroactively.

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

Morocco asked whether the report would reflect the agreement reached during a private Commissioners' meeting concerning the use of languages other than English at Annual Meetings. The F&A Committee Chair suggested that the easiest way of recording this agreement would be to include it in the report of the plenary meeting and went on to report the Commissioners' discussions. He recalled that, while recognising that English remains the official language of the Commission, Commissioners had agreed that the use of simultaneous translation to improve communication at Annual Meetings should be explored (currently a system of consecutive translation is used). It was considered that simultaneous translation would shorten

the time taken for discussions and enable delegations sharing a common language to share interpreters more readily if they so wished. 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, the Commissioners had 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 Commission adopted the report of the F&A Committee. The Committee Chair thanked the rapporteur, John Murton (UK) and the Secretariat for their assistance.

The USA noted that Jim McLay had finished his term as Chair of the F&A Committee and that this Annual Meeting was likely to be his last. It indicated that it would miss his wise counsel, guidance and gracious manner to all Parties and unflappability under trying circumstances and that he would be greatly missed at both a professional and personal level. The USA asked all delegations to join them in thanking Jim McLay for his extensive service to the Commission and in wishing him farewell.

22. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

22.1 55th Annual Meeting, 2003

Germany reported that the 55th Annual Meeting would take place in the Estrel Hotel and Convention Centre in Berlin. It drew attention to the provisional schedule proposed, with the Scientific Committee running from 26 May to 6 June 2003 (with a pre-meeting scheduled for 24-25 May), followed by various Commission Sub-committees and working groups and with the plenary meeting of the Commission taking place from Monday 16 to Thursday 19 June. Germany noted that the schedule took account of the Commission's earlier decision to reduce the length of the meeting by three days and that the 3-day workshop on whale killing methods and associated welfare issues also agreed by the Commission had been incorporated within this time-frame. It looked forward to welcoming everyone to Berlin.

As there were no comments on the proposed timing and scheduling of the meeting the Chair concluded that these had been agreed by the Commission.

22.2 56th Annual Meeting, 2004

The Commission gratefully accepted the invitation from the Italian Government to hold its 56th Annual Meeting in 2004, probably in May.

22.3 Intersessional meetings

It was agreed that a private meeting of Commissioners/Alternate Commissioners would be held in either Denmark or the UK during the week of 14 October 2002 to discuss the RMS and that the Contributions Task Force would meet at the Secretariat's offices from 10-13 December 2002. It was acknowledged that a second meeting of the Contributions Task Force might be necessary.

22.4 Other

Morocco questioned whether the frequency of Commission meetings (e.g. biannual rather than annual) was to be discussed. The Chair considered that since the plenary was not prepared for such discussions this would best be revisited next year.

23. SECRETARY'S REPORT

The Secretary recalled that at last year's meeting, the Commission agreed to replace the 'Annual Report' by a 'Secretary's Report' such that the new document would:

- (1) report the activities from the end of one Annual Meeting to the end of the next, thus making it possible to include a summary of decisions made at the last meeting;
- (2) contain up-to-date financial information; and
- (3) provide a more comprehensive overview of the work of the Commission and the Scientific Committee.

She reminded the meeting that the Commission had also agreed that the Secretary would finalise the report in consultation with the Advisory Committee and then circulate it to Commissioners and Contracting Governments whose comments would be taken into account prior to publication.

The draft Secretary's Report for the Year 2000-2001 had been circulated in April 2002, rather later than anticipated. Comments had been received from Japan and Norway. Japan had expressed concern regarding: (1) the limited time given for review; and (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. It considered that some of the duplication was redundant and that differences between the different versions of some of the events reported might cause problems of interpretation at some later date. Norway had pointed out a minor error and proposed revised wording concerning its commercial whaling activity. Both countries identified items of national interest that they believed should have been included in the Secretary's Report.

Given the comments from Japan and Norway, the Secretary reported that the Secretary's Report for the Year 2000-2001 had not been published along with the Chair's Report of the 53rd Annual Meeting as initially planned. She also sought views on whether the Commission: (1) wished to continue with the Secretary's Report as agreed last year but provide more time for review prior to publication; (2) now believed the Secretary's Report to be redundant; or (3) whether it wished to return to the previous format for Annual Reports.

New Zealand, Norway and Denmark supported continuation of the Secretary's Report. New Zealand, supported by the others, suggested that: (1) decisions and actions required be emphasised; and (2) that a longer review period be granted to Contracting Governments prior to publication of the Report. The Commission agreed.

As different views were expressed over whether the Secretary's Report should be published along with the Chair's Report or whether it should be produced as a standalone document, the Chair ruled that it be produced as a standalone document.

24. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

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

25. OTHER MATTERS

Oman, India, Palau and Germany extended their thanks to the Government of Japan and the Mayor and people of Shimonoseki for their kindness and hospitality shown to all participants throughout the course of the 54th Annual Meeting. They also thanked the Chair for his proficiency in handling the meeting and the Secretariat for its hard work.

Japan thanked the Chairs and Vice-Chairs of the Scientific Committee, the Working Groups, Sub-committees and the Commission, and the IWC Secretariat

and the Japan Secretariat for their role in supporting the meeting. It noted the very heated discussions on some important agenda items, some of which extended late into the evening, and hoped that these discussions would provide an opportunity for further constructive debate. Together with the people of Shimonoseki, Japan hoped that everyone had enjoyed their stay and wished them a safe trip home.

After thanking the Government of Japan and the people of Shimonoseki for the superb organisation of IWC/54, the Chair closed the meeting.

26. AMENDMENTS TO THE SCHEDULE

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