

Chair's Report of the 61st Annual Meeting

1. INTRODUCTORY ITEMS

1.1 Date and place

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

1.2 Welcome address

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

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

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

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

1.3 Opening statements

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

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

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

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

Lithuania did not attend the meeting.

1.4 Credentials and voting rights

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

1.5 Meeting arrangements

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

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

IWC/61 could continue in the same vein. He considered it important that all Contracting Governments present had the opportunity to express their points of view without interruption and he requested delegates to try to keep points of order to a minimum so as to not unnecessarily disrupt the meeting. He reported that he was not aware of any draft Resolutions under preparation but asked Contracting Governments, if any did arise, to consult widely before their presentation to the Commission. He further noted that in the 'no surprise culture' emerging within the organisation, advance warning to him and/or the Secretary, would help keep the agenda on schedule. He urged the Commission to follow the new Rule of Procedure adopted last year on decision-making and to make every effort to reach its decisions by consensus.

The Chair reconfirmed previous arrangements regarding speaking rights for intergovernmental organisations (IGOs), i.e. that he would allow them to make one intervention on a substantive agenda item and that any IGO wishing to speak should let him know in advance. He also indicated that Commissioners had again agreed to allow non-governmental organisations (NGOs) to address the meeting during a special session. His intention was allow up to six NGOs broadly representing the range of views to address the meeting for up to 5 minutes each. Only one individual per organisation would be allowed to speak.

The Secretary drew attention to the arrangements for the submission of Resolutions and other documents.

2. ADOPTION OF THE AGENDA

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

Japan referred to the comments it submitted on the Draft Agenda circulated in March 2009. It noted that its comments were based on its respect for the Chair's efforts concerning the future of the IWC and in the spirit of co-operation that emerged from the meetings of the Small Working Group on the Future of IWC and the March 2009 intersessional meeting on the future of the organisation. It further noted that, as was the case for the 60th Annual Meeting, its comments reflected Japan's efforts to try to reduce conflicts and to try to build trust and consensus in part by minimising the number of decisions taken by voting at the plenary session. Japan strongly urged other members to contribute in a similar manner. While its position on a number of matters (e.g. whale killing methods and associated welfare issues; proposals for new sanctuaries; health issues; whalewatching; small cetaceans and the Conservation Committee) had not changed, in keeping with its attempt to *inter alia* reduce conflict within IWC, it would not propose the deletion of any of these items. It encouraged constructive discussions with a focus on the future of the organisation on which it hoped that as much time as possible could be spent.

Noting that the European Union (EU) had again adopted a common position for IWC/61 on a number of IWC matters, Denmark, in agreement with the Czech Republic who held the Presidency of the EU, clarified its position in relation to that common position. It informed the meeting that while as an EU Member State, Denmark is bound by the EU common position, because Denmark has overseas territories that are not part of the EU (Greenland and the Faroe Islands) it indicated that it may, in specific cases where the interests of Greenland and the Faroe Islands

diverge from those of the EU, need to deviate from the common EU position. It therefore informed the meeting that when Denmark made an intervention, it would be to pursue the interests of its overseas territories and of Greenland in particular.

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

3. THE IWC IN THE FUTURE

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

3.1 Background

At its 59th Annual Meeting in Anchorage in 2007, the Commission agreed that an intersessional meeting should be held prior to the 2008 Annual Meeting to provide an opportunity for Contracting Governments to discuss the future of the organisation, given *inter alia* the impasse reached on the Revised Management Scheme (RMS) and the number of issues for which polarisation rather than consensus appeared to be the norm within the Commission. The intersessional meeting took place in London, Heathrow in March 2008². Rather than launching into negotiations on substantive issues where major differences among IWC members exist, it was considered that it would be more fruitful to take a process-orientated approach and to seek ways to improve how negotiations within the IWC are conducted. By doing this, it was hoped that negotiations on substantive matters would have a greater chance of succeeding. The intersessional meeting therefore focused on matters of process rather than on matters of substance. Outside experts with experience in dealing with difficult issues in other international fora were engaged to contribute to discussions.

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

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

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

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

- (1) consider the advantages and disadvantages of separating the annual meeting of the Scientific Committee from that of the Commission;
- (2) consider ways to increase participation of scientists from developing countries in the work of the Scientific Committee;
- (3) consider ways in which the Scientific Committee can assist in improving the knowledge and technical capability of scientists from countries where cetacean research is in its infancy so that they can better contribute to the work of the Scientific Committee and to conservation and management issues within their region; and
- (4) review the process for inviting participants to the Scientific Committee.

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

3.2 Summary of intersessional discussions following IWC/61

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

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

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

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

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

These are primarily but not exclusively scientific and administrative issues.

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

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

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

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

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

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

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

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

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

3.2.2 Elaboration of Category (b) issues

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

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

3.2.3 Work of the ICG, June 2008 to March 2009

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

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

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

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

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

3.2.4 Intersessional Commission meeting, March 2009

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

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

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

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

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

3.2.5 Meeting of the SWG, March 2009

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

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

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

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

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

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

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

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

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

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

3.3 Discussions at IWC/61

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

3.3.1 Discussion session on Thursday 18 June

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

3.3.1.1 THE SWG REPORT

OPENING REMARKS FROM THE CHAIRS OF THE COMMISSION AND THE SWG

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

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

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

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

DISCUSSIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REPORT FROM THE SCIENTIFIC COMMITTEE

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

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

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

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

3.3.1.3 ICG REPORT

COMMENTS OF THE SCIENTIFIC COMMITTEE⁸

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

⁷Maximum Sustainable Yield Rate.

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

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

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

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

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

The meeting noted these remarks.

COMMENTS FROM THE F&A COMMITTEE

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

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

The meeting noted these remarks.

AUSTRALIAN DOCUMENT

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

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

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

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

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

⁹Intergovernmental Panel on Climate Change.

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

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

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

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

FURTHER CONSIDERATION OF THE ICG REPORT

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

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

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

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

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

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

4. WHALE STOCKS¹⁰

4.1 Antarctic minke whales

4.1.1 Report of the Scientific Committee

The Scientific Committee Chair recalled that completion of revised circumpolar abundance estimates for Antarctic minke whales continues to be a high priority as there is no agreed current estimate. The primary data being used are those collected from the IWC-IDCR/SOWER¹¹ cruises (1978/79 to 2003/04) that have been divided into three circumpolar series known as CPI, II and III. Standard analyses of minke whale abundance estimates from these surveys have shown an appreciable decline between CPII and CPIII. For some years now the Scientific Committee has been trying to obtain abundance estimates from more sophisticated analyses as part of its examination as to whether the decreases represent a real decline in abundance or whether there are other explanations for the differences (e.g. changes in the number of whales in the pack ice which is outside the survey area). This year the Committee received abundance estimates from two different methods, i.e. a standard hazard probability model and a spatial model. Although both showed an appreciable decline between CPII and CPIII, the absolute estimates for each method were very different; the Committee is investigating possible reasons for these differences. It expects to be able to provide its best estimate of abundance to the Commission at next year's meeting.

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

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

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

¹²Japan's research programme in the Antarctic.

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

4.1.2 Commission discussion and action arising

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

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

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

4.2 Western North Pacific common minke whales

4.2.1 Report of the Scientific Committee

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

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

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

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

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

4.2.2 Commission discussion and action arising

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

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

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

4.3 Southern Hemisphere humpback whales

4.3.1 Report of the Scientific Committee

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

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

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

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

4.3.2 Commission discussions and action arising

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

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

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

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

4.4 Southern Hemisphere blue whales

4.4.1 Report of the Scientific Committee

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

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

4.4.2 Commission discussion and action arising

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

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

4.5 Other small stocks – gray, bowhead and right whales

4.5.1 Western North Pacific gray whales

4.5.1.1 REPORT OF THE SCIENTIFIC COMMITTEE

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

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

¹³The Scientific Committee defines 'Comprehensive Assessment' as 'an in-depth evaluation of the status of all whale stocks in the light of management objectives and procedures... that ... would include the examination of current stock size, recent population trends, carrying capacity and productivity'.

¹⁴International Union for the Conservation of Nature.

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

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

4.5.1.2 COMMISSION DISCUSSION AND ACTION ARISING

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

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

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

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

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

4.5.2 *Right whales*

4.5.2.1 REPORT OF THE SCIENTIFIC COMMITTEE SOUTHERN HEMISPHERE RIGHT WHALES

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

NORTH ATLANTIC RIGHT WHALES

This small stock (around 400 individuals) is critically endangered and is vulnerable to ship strikes and entanglements. The 39 calves seen in 2009 represents the largest annual calf count on record. This information and positive growth rates in recent years are encouraging but the Committee remains concerned over continued anthropogenic mortality. It commended the recent actions taken to lower the possibility for ship strikes in the USA and Canada and urged continuation of the management efforts, in particular in relation to entanglement in fishing gear. The Committee repeated its previous recommendation that it is a matter of absolute urgency that every effort be made to reduce anthropogenic mortality to zero.

NORTH PACIFIC RIGHT WHALES

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

4.5.2.2 COMMISSION DISCUSSION AND ACTION ARISING

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

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

4.5.3 *Bowhead whales*

4.5.3.1 REPORT OF THE SCIENTIFIC COMMITTEE

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

4.5.3.2 COMMISSION DISCUSSION AND ACTION ARISING

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

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

5. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

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

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

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

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

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

The Russian Federation provided information on time to death and killing methods for all 127 gray whales and 2 bowhead whales taken in its 2008 hunt. Harpoons and floats were used for all whales in addition to either the darting gun or rifle or, in most cases both – a rifle being used to guarantee death. The average time to death for the two bowhead whales was one hour and five minutes. Ten of the gray whales were reported as 'stinky' and three gray whales had been struck and lost. The Russian Federation noted its continued co-operation with Norwegian scientists and that it hoped to continue to improve its hunting methods.

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

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

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

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

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

5.1.2 Welfare issues associated with the entanglement of large whales

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

5.1.3 Other matters

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

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

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

5.2 Commission discussions and action arising

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

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

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

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

The Commission noted the Working Group's report.

6. ABORIGINAL SUBSISTENCE WHALING¹⁷

The meeting of the Aboriginal Subsistence Whaling Sub-committee took place on Wednesday 17 June 2009. It was chaired by Jorge Palmeirim (Portugal) and was attended by delegates from 28 Contracting Governments. The Chair of the Scientific Committee's Standing Working Group (StWG) on the Development of an Aboriginal Whaling Management Procedure reported the outcome of the Committee's work and discussions. A summary of the discussions of the Sub-committee is included below. The full Sub-committee report is available as Annex H.

6.1 Aboriginal Subsistence Whaling Management Procedure (AWMP)

6.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee

6.1.1.1 PROGRESS WITH THE GREENLANDIC RESEARCH PROGRAMME

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

6.1.1.2 PREPARATION OF THE IMPLEMENTATION REVIEW FOR GRAY WHALES

Part of the *Strike Limit Algorithm (SLA)* approach of the AWMP involves an *Implementation Review* every five years. The aim of such a review is to examine whether there is any information to suggest that the parameter space used to evaluate the *Gray Whale SLA* was inadequate. The expected review did not occur this year as the required abundance estimates were not available. The review will therefore now take place next year. The best manner in

¹⁶North Atlantic Marine Mammal Commission.

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

which to conduct the *Implementation Review* will be apparent at the latest by the time that papers need to be submitted under the Data Availability Agreement (i.e. 28 February 2010) and the Committee will be informed immediately. The Sub-Committee noted the report of the Scientific Committee and its recommendations.

6.1.2 Commission discussions and action arising

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

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

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

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

6.2 Aboriginal Whaling Scheme

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

6.3 Aboriginal subsistence whaling catch limits

6.3.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales

6.3.1.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

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

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

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

6.3.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

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

6.3.2 North Pacific Eastern stock of gray whales

6.3.2.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

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

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

The StWG Chair reported that a total of 127 gray whales (63 males, 64 females) were taken in the aboriginal hunt in Chukotka waters in 2008 and that three were struck and lost. He noted that the Committee reaffirmed its advice from last year that the *Bowhead Whale SLA* remains the most appropriate tool for providing management advice for this harvest. The results from the *SLA* show that the present strike limits are acceptable and will not harm the stock.

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

6.3.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

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

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

6.3.3 Common minke whale stocks off Greenland

6.3.3.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE EAST GREENLAND

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

WEST GREENLAND

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

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

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

OTHER

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

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

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

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

6.3.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

interim advice. There were no further comments and the Commission noted this part of the Sub-committee's report and endorsed its recommendations.

6.3.4 West Greenland stock of fin whales

6.3.4.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

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

In 2007, the Commission agreed to a quota (for the years 2008-12) of 19 fin whales struck off West Greenland. Last year the Committee agreed an approach for providing interim management advice and this was confirmed by the Commission. Such advice can be used for up to two five-year blocks whilst *SLAs* are being developed. Based on the application of the agreed approach, as last year, the Committee agreed that an annual strike limit of 19 whales will not harm the stock.

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

6.3.4.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

6.3.5 West Greenland stock of bowhead whales

6.3.5.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the SWG noted that the Committee has agreed at the previous two Annual Meetings to consider a single stock of bowhead whales in this region as the 'working hypothesis' while acknowledging that there is still some uncertainty about the population structure of bowhead whales in eastern Canada and Western Greenland. Expected new analyses did not appear this year and the Committee strongly encouraged provision of genetic analysis to evaluate the appropriateness of the hypotheses considered.

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

In 2007, the Commission agreed to a quota (for the years 2008-12) of two bowhead whales struck annually off West Greenland but the quota for each year shall only become operative when the Commission has received advice from the Scientific Committee that the strikes are unlikely to endanger the stock. Greenland noted that three bowhead whales were taken in 2009 using the 2008 carryover (no bowhead whales were harvested by Greenlandic whalers in 2008). In 2008, the Committee developed an agreed approach for determining interim management advice. The Committee again agreed that the current catch limit will not harm the stock. It was also aware that catches from the same stock have been taken by a non-member nation, Canada¹⁸. It noted that should Canadian catches continue at a similar level as in recent

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

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

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

6.3.5.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

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

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

6.3.6.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

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

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

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

6.3.6.2 COMMISSION DISCUSSIONS AND ACTION ARISING

St. Vincent and The Grenadines noted that it would submit its report in advance of next year's meeting and took note of the requirement for genetic samples. The Commission noted this part of the Sub-committee's report and endorsed its recommendations.

6.3.7 *Humpback whales off West Greenland*

6.3.7.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Chair of the StWG noted that the Committee was first asked to provide management advice for humpback whales off West Greenland in 2007. He further noted that humpback whales found off West Greenland belong to a separate feeding aggregation whose members mix on the breeding grounds in the West Indies, with individuals from other similar feeding aggregations. Given this, the Committee has agreed that the West Greenland feeding aggregation is the appropriate management unit to consider when formulating management advice. Last year it had

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

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

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

6.3.7.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

6.3.8 *Proposed Schedule amendment from Denmark/Greenland*

6.3.8.1 INTRODUCTION

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

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

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

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

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

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

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

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

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

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

6.3.8.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

23 JUNE 2010

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

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

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

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

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

24 JUNE 2010

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

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

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

25 JUNE 2010

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

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

7. REVISED MANAGEMENT SCHEME

7.1 Revised Management Procedure (RMP)¹⁹

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

7.1.1 Report of the Scientific Committee

7.1.1.1 GENERAL RMP ISSUES

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

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

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

7.1.1.2 THE IMPLEMENTATION PROCESS

The Commission was reminded that an *Implementation* is the process the Committee follows for a given species and region to ensure that the key uncertainties related to *inter alia* stock structure, abundance and catches are adequately addressed. Once the Commission confirms that the Committee should go ahead with the *Implementation* process, there are a series of steps that must be followed over a two-year period, encompassing three annual meetings and two intersessional workshops. After an *Implementation* is completed the Committee conducts regular *Implementation Reviews* to see if new information requires revision of the simulation trials.

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

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

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

7.1.1.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

The RMP estimates a limit for the number of non-natural removals, not simply a catch limit for commercial whaling. It is therefore important to estimate the numbers of whales removed from the population by indirect means. The Scientific Committee's work in this area has focused on: (1) estimating bycatch using fisheries data and observer programmes (which involves co-operation with FAO²⁰) and genetic data from market sampling; and (2) estimating mortality from ship strikes. With respect to the former, discussions this year focused on genetic analyses of market samples of whale meat from Japan. It was noted that access to data in national DNA registries could *inter alia* assist in improving bycatch estimates and the Committee recommended that such access is granted under the Data Availability Agreement.

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

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

7.1.2 Commission discussions and action arising

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

7.2 Revised Management Scheme (RMS)

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

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

8. SANCTUARIES

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

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

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

9. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

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

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

²⁰Food and Agriculture Organization of the United Nations.

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

10. SCIENTIFIC PERMITS²¹

10.1 Review of results from JARPN II²²

10.1.1 Report of the Scientific Committee

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

10.1.1.1 THE PANEL'S REPORT

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

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

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

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

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

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

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

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

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

²²JARPN II is a long-term research programme primarily aimed at feeding ecology in the context of contributing to the 'conservation and sustainable use of marine living resources in the western North Pacific, especially within Japan's EEZ.' The programme involves the taking of 150 minke whales, 50 Bryde's whales, 50 sei whales and 10 sperm whales annually in the western North Pacific.

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

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

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

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

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

10.1.1.2 DISCUSSION OF THE REPORT WITHIN THE SCIENTIFIC COMMITTEE

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

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

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

10.1.2 Commission discussions and action arising

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

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

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

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

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

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

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

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

10.2 Review of results from other existing permits

10.2.1 Report of the Scientific Committee

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

10.2.2 Commission discussions and action arising

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

²⁵JARPA II is a large-scale Antarctic programme that commenced with the first year of a two-year feasibility study during the austral summer of 2005/06. The objectives are defined by Japan as: (1) monitoring of the Antarctic ecosystem; (2) modelling competition among whale species and developing future management objectives; (3) elucidation of temporal and spatial changes in stock structure; and (4) improving the management procedure for Antarctic minke whale stocks. JARPA II will focus on Antarctic minke, humpback and fin whales and possibly other species in the Antarctic ecosystem that are major predators of Antarctic krill. During the 2-year feasibility study a maximum of 850±10% Antarctic minke whales and ten fin whales will be killed and sampled in each season. Annual sample sizes for the proposed full-scale research (lethal sampling) are 850±10% Antarctic minke whales, 50 humpback whales and 50 fin whales. No humpback whales have yet been taken.

²⁶A proposed permit by Iceland, primarily for feeding ecology studies for the take of 100 common minke whales, 100 fin whales and 50 sei whales in each of two years was presented at the 55th Annual Meeting in 2003. In the event, Iceland has issued permits to take 38 common minke whales in 2003, 25 minke whales in 2004, 39 minke whales in 2005, 50 minke whales in 2006 and 39 minke whales in 2007. This programme has finished its sampling phase.

10.3 Review of new or continuing proposals

10.3.1 Report of the Scientific Committee

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

10.3.2 Commission discussions and action arising

The Commission noted this part of the Scientific Committee report.

10.4 Improving procedures for reviewing scientific permit proposals

10.4.1 Report of the Scientific Committee

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

10.4.2 Commission discussions and action arising

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

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

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

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

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

11. SAFETY ISSUES AT SEA

This item was included on the agenda at the request of Japan in view of protest activities of the Sea Shepherd Conservation Society that despite a number of consensus Resolutions and statements²⁷ had again been launched against JARPA II research activities in the Southern Ocean during the austral summer of 2008/09.

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

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

12. ENVIRONMENTAL AND HEALTH ISSUES

12.1 Scientific Committee activities²⁸

12.1.1 Report of the Scientific Committee

12.1.1.1 CLIMATE CHANGE

The Scientific Committee endorsed the recommendations from the second IWC workshop on climate change (the first being in 1996) which was held in Siena, Italy in February 2009. The primary goal of the workshop was to determine how climate change may affect cetaceans, how to best determine these effects, and how to improve conservation under climate changes described in the 4th report of the International Panel on Climate Change. The Commission’s attention was drawn to those recommendations of immediate concern to the Commission and Contracting Governments, i.e.: (1) that the IWC member countries and relevant organisations take potential effects of climate change on cetaceans seriously and include these considerations in relevant conservation management initiatives, including implementation of emission control; (2) that funding be provided to ensure the continuation of long-term datasets given their great value; and (3) that emphasis be given to studies which allow comparison between contrasting regions where data on a wide range of ecosystem components are available. The Scientific Committee also requested that the Commission urges policy makers, regulators and others involved in cetacean management to consider tertiary effects of climate change via appropriate risk assessment approaches. It therefore also recommended that management plans are devised to address these impacts in addition to primary and secondary impacts. The February 2009 workshop also made recommendations with respect to climate change and small cetaceans (see section 15.1).

12.1.1.2 ECOSYSTEM MODELLING

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

²⁷Resolution 2006-2 on the Safety of Vessels Engaged in Whaling and Whale Research-related Activities; Resolution 2007-2 on Safety at Sea and Protection of the Marine Environment; the statement issued by the Commission at its intersessional meeting in March 2008.

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

²⁹Convention for the Conservation of Antarctic Marine Living Resources.

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

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

SOCER

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

OTHER

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

12.1.2 Commission discussions and action arising

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

12.1.2.1 CLIMATE CHANGE, INCLUDING A CONSENSUS RESOLUTION

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

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

³⁰POLLUTION 2000+, has two aims: to determine whether predictive and quantitative relationships exist between biomarkers (of exposure to and/or effect of PCBs) and PCB levels in certain tissues; and to validate/calibrate sampling and analytical techniques.

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

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

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

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

12.1.2.2 ECOSYSTEM MODELLING

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

12.1.2.3 POLLUTION 2000+

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

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

12.2 Reports from Contracting Governments

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

12.3 Health issues

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

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

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

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

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

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

13. WHALEWATCHING

13.1 Scientific Committee activities

13.1.1 Report of the Scientific Committee³³

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

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

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

13.1.2 Commission discussions and action arising

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13.2 Conservation Committee activities

13.2.1 Report of the Conservation Committee

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

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

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

13.2.2 Commission discussions and action arising

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

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

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

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

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

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

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

14. CO-OPERATION WITH OTHER ORGANISATIONS

14.1 Report of the Scientific Committee³⁵

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

14.2 Commission discussions and action arising

The Commission noted the Scientific Committee's report.

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

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

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

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

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

15.1 Small cetaceans

15.1.1 Report of the Scientific Committee

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

The Scientific Committee also reviewed progress on previous recommendations.

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

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

³⁶The Agreement was approved in November 2009.

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

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

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

15.1.2 Commission discussions and action arising

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

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

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

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

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

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

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

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

15.2 Regional non-lethal research partnerships

15.2.1 Presentation by Australia

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

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

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

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

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

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

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

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

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

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

15.2.2 Report of the Scientific Committee

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

15.2.3 Commission discussions and action arising

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

15.3 Other activities

15.3.1 Report of the Scientific Committee

15.3.1.1 STOCK DEFINITION

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

Scientific Committee discussions this year again focused on: (1) statistical and genetic issues related to stock definition; and (2) review of progress with the TOSSM project (Testing of Spatial Structure Models) to develop simulation tools that can be used to examine the performance of current and future genetic methods to investigate stock structure in a management context. In relation to the former, the Committee agreed that a clear understanding of the reliability of each genetic dataset is essential for correct interpretation in terms of stock structure and re-emphasised the importance of developing

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

15.3.1.2 DNA TESTING

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

15.3.1.3 IDCR/SOWER CRUISES

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

15.3.1.4 WORKING METHODS

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

15.3.1.5 ELECTION OF OFFICERS

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

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

These are reported under section 3 of this report.

15.3.2 Commission discussions and action arising

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

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

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

15.4 Scientific Committee future work plan

15.4.1 Report of the Scientific Committee

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

15.4.1.1 RMP

The following issues are high priority topics:

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

15.4.1.2 AWMP

The following issues are high priority topics:

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

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

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

15.4.1.3 BYCATCH AND OTHER ANTHROPOGENIC REMOVALS (BC)

The following issues are high priority topics:

- (1) collaborate with FAO on collation of relevant fisheries data and joining FIRMS;
- (2) estimation of rates of entanglement and entanglement mortality;
- (3) progress in including information in national Progress Reports;
- (4) review of methods to estimate mortality from ship strikes;
- (5) continue development of the international database of ship strike incidents; and
- (6) review methods for assessing mortality from acoustic sources and marine debris.

15.4.1.4 BOWHEAD, RIGHT AND GRAY WHALES

The following issues are high priority topics:

- (1) assess the stock structure and abundance of the Eastern Canada and West Greenland bowhead whales in order to advise the Commission as requested in Schedule 13(b)(3)(iv);
- (2) perform the annual review of catch information and new scientific information for the B-C-B Seas stock of bowhead and Eastern North Pacific gray whales in order to advise the Commission as requested in Schedule 13(b)(1) and (2);
- (3) review new information on all stocks of right whales, Western North Pacific gray whales, and the small stocks of bowhead whales; and
- (4) review the report of the intersessional Steering Group on the assessment of southern right whales.

15.4.1.5 IN-DEPTH ASSESSMENT

The following issues are high priority topics:

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

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

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

The following issues are high priority topics:

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

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

15.4.1.7 SOUTHERN HEMISPHERE WHALES OTHER THAN ANTARCTIC MINKE WHALES

The following issues are high priority topics:

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

15.4.1.8 ENVIRONMENTAL CONCERNS

The following issues are high priority topics:

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

15.4.1.9 ECOSYSTEM MODELING (EM)

The following issues are high priority topics:

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

15.4.1.10 STOCK DEFINITION

The following issues are high priority topics:

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

15.4.1.11 WHALEWATCHING

The following issues are high priority topics:

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

15.4.1.12 SMALL CETACEANS

The following issues are high priority topics:

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

- (4) review progress on previous recommendations.

15.4.1.13 DNA

The following issues are high priority topics:

- (1) review genetic methods for species, stock and individual identification;
- (2) review of results of the 'amendments' work on sequences deposited in GenBank;
- (3) collection and archiving of tissue samples from catches and bycatches; and
- (4) reference databases and standard for diagnostic DNA registries.

15.4.1.14 SPECIAL PERMITS (SP)

The following issues are high priority topics:

- (1) consider need to revise 'Annex P'; and
- (2) mechanism to complete Panel Review.

15.4.2 Commission discussions and action arising

The Commission endorsed the programme recommended by the Scientific Committee.

15.5 Adoption of the Report

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

16. CONSERVATION COMMITTEE

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

16.1 Report of the Conservation Committee

16.1.1 Investigation of inedible 'stinky' gray whales

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

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

16.1.2 Ship strikes

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

16.1.2.1 WORK OF THE SHIP STRIKES WORKING GROUP AND SCIENTIFIC COMMITTEE

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

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

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

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

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

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

16.1.2.2 CONTRACTING GOVERNMENT REPORTS

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

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

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

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

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

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

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

16.1.3 Southern Right Whale Population of Chile-Peru

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

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

16.1.4 Conservation Management Plans

16.1.4.1 REPORT FROM THE SCIENTIFIC COMMITTEE

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

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

16.1.4.2 CONSERVATION COMMITTEE DISCUSSIONS

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

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

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

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

16.1.5 National reports on cetacean conservation

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

16.1.6 Other

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

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

16.2 Commission discussions and action arising

16.2.1 Investigation of inedible 'stinky' gray whales

There were no comments made.

16.2.2 Ship strikes

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

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

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

16.2.3 Southern Right Whale Population of Chile-Peru

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

16.2.4 Conservation Management Plans, national conservation reports and other matters

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

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

17. CATCHES BY NON-MEMBER NATIONS

There were no contributions or discussions under this item.

18. INFRACTIONS, 2008 SEASON

The Infractions Sub-committee, chaired by Bruno Mainini (Switzerland), met on 17 June. Delegates from 22 Contracting Governments were present. The Sub-committee's report is summarised below. The full report is given in Annex J.

The summary of catches by IWC member nations in the 2008 and 2008/2009 seasons is available as Annex K.

18.1 Report of the Infractions Sub-committee

18.1.1 Infractions reports from Contracting Governments

18.1.1.1 REPORTS FOR 2008

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

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

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

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

18.1.1.2 FOLLOW-UP ON EARLIER REPORTS

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

18.1.2 Surveillance of whaling operations

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

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

The following information was provided:

Denmark: Information on date, species, length, sex and the length and sex of any foetus if present is collected for

between 71-100% of the catch, depending on the item. The position of each whale killed is collected for 66% of the catch and the name of the area where whales are hunted is reported for most of the remainder. Information on killing methods and struck and lost animals is also collected.

USA: Information on date, time, species, position, length, sex, the length and sex of any foetus if present, killing method and number of struck and lost is collected for 97-100% of the catch. Biological samples are collected from at least 71% of animals.

Russian Federation: Information on date, time, species, position, length, sex, the length and sex of any foetus if present, killing method and numbers struck and lost is collected for 100% of the catch. Biological sampling was conducted on 44 gray whales.

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

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

18.1.4 Submission of national laws and regulations

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

18.1.5 Other matters

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

18.2 Commission discussions and action arising

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

19. NGO SESSION

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

20. ADMINISTRATIVE MATTERS

Agenda items 20 to 23 covering administrative and financial matters were considered first by the Finance and Administration (F&A) Committee that met on 17 June under the chairmanship of Anthony Liverpool (Antigua and Barbuda). Delegates from 26 Contracting Governments attended the meeting. The F&A Committee report is included as Annex M.

20.1 Annual Meeting arrangements and procedures

20.1.1 Need for a Technical Committee

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

The Commission agreed.

20.1.2 Other

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

20.2 IWC's website

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

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

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

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

20.3 Amendments to the Rules of Procedure and Financial Regulations

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

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

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

From:

For the purposes of the Financial Regulations the expression 'received by the Commission' means either (1) that confirmation has been received from the Commission's bankers that the correct amount has been credited to the Commission's account or (2) that the Secretariat has in its possession cash, or bankers draft/international money order of the correct value.

To:

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

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

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

From:

A5. Any other international organisation sending an accredited observer to a meeting of the Commission may nominate a scientifically qualified observer to be present at meetings of the Scientific Committee. etc

To:

A.5. Any **non-governmental** organisation sending an accredited observer to a meeting of the Commission may nominate a scientifically qualified observer to be present at meetings of the Scientific Committee. etc

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

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

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

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

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

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

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

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

20.4 Carbon-neutral study

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

21. FINANCIAL ASSISTANCE FOR DEVELOPING COUNTRY MEMBERS

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

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

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

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

22. FORMULA FOR CALCULATING CONTRIBUTIONS

22.1 Updating cut-off points defining capacity-to-pay groups

The Interim Measure adopted at the 54th Annual Meeting in 2002 for calculating financial contributions, was introduced to alleviate the financial burden of developing countries. In calculating contributions, the Interim Measure takes account of: (1) membership; (2) whaling activities; (3) the size of delegations to the Commission's Annual Meeting; and (4) a country's capacity to pay. With respect to capacity to pay, Contracting Governments are allocated into one of four groups depending on their Gross National Income (GNI) and their GNI per capita (GNIPC). The measure also takes into account the special position of 'Very Small Countries' as defined at IWC/57 in 2005.

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

22.2 Due date for financial contributions

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

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

22.3 Other matters

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

23. FINANCIAL STATEMENTS AND BUDGETS

The F&A Committee had received the report of the Budgetary Sub-committee that had worked intersessionally and had met during IWC/61 with Andrea Nouak (Austria) as Chair. The Budgetary Sub-committee had reviewed the provisional financial statement for 2008/2009 and the proposed budgets for 2009/2010 and 2010/2011.

23.1 Review of the Provisional Financial Statement, 2007/2008

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

23.2 Secretariat offices

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

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

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

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

23.4 Other matters

23.4.1 Debt owing to IWC following the 2006 Annual Meeting

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

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

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

23.4.2 Budgetary Sub-committee operations

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

23.4.3 Australian voluntary contribution

23.4.3.1 REPORT OF THE F&A COMMITTEE

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

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

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

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

23.4.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

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

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

23.4.4 Availability of documents

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

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

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

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

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

25. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

25.1 62nd Annual Meeting, 2010

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

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

25.2 63rd Annual Meeting, 2011

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

26. ELECTIONS AND ADVISORY COMMITTEE

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

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

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

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

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

27. SUMMARY OF DECISIONS AND REQUIRED ACTIONS

The Chair noted that the Secretariat had posted reports on the IWC website at the end of each day of the plenary.

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

28. OTHER MATTERS

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

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

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

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

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

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

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

29. AMENDMENTS TO THE SCHEDULE

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