

Chair's Report of the 63rd Annual Meeting

1. ELECTION OF CHAIR AND VICE-CHAIR

This item, originally scheduled to have been first on the order of business, was heard at the end of the meeting. The meeting Chair (see Item 2) indicated that following discussions in a private meeting of Commissioners, the election of Chair and Vice-Chair of the Commission would be held after the close of the 63rd Annual Meeting and be conducted by postal ballot.

2. INTRODUCTORY ITEMS

The 63rd Annual Meeting of the International Whaling Commission (IWC) took place at the Hotel de France, St Helier, Jersey from 11-14 July 2011. In the absence of the Acting-Chair of the IWC (Ambassador Anthony Liverpool, Antigua and Barbuda¹), the meeting was chaired by Herman Oosthuizen (South Africa). The meeting was attended by 59 of the 89 Contracting Governments and observers from 5 intergovernmental organisations and 40 non-governmental organisations were also present. A list of the delegates and observers attending the meeting is given as Annex A. The associated meeting of the Scientific Committee was held at the Radisson Blu Hotel, Tromsø, Norway from 30 May-11 June 2011. The Commission's other sub-groups met from 5-7 July 2011 at the Hotel de France, St Helier, Jersey.

2.1 Welcome address

The welcome address was given by Senator Alan Maclean, Minister for Economic Development of the States of Jersey.

On behalf of the States of Jersey the Senator was delighted to welcome the IWC to Jersey. He explained that although Jersey was located within the British Isles it was outside of the United Kingdom and also outside of the European Union. Jersey is not a colony, but instead is a Crown Dependency which enables the Island to be self-governing in all matters, including passing its own laws within its Parliament. He commented that Jersey's link with the United Kingdom and the rest of the Commonwealth is through Her Majesty the Queen, who as Sovereign is the Island's Head of State. The Sovereign is represented on the Island by the Lieutenant Governor, through whom official communications with Her Majesty's Government in the United Kingdom are directed.

Senator Maclean commented that although Jersey is a fairly small island it has a population of 96,000 people, about half of whom are indigenous to the Island. He noted that the Island's economy was a mix of financial services, tourism, agriculture and various forms of commerce with each of these sectors having a strong dependency on export. He went on to explain that although today Jersey has a relatively small fishing industry, historically it had dominated the economic life of the Island. In the 16th Century the development of the Newfoundland cod fishery had a profound effect on the Island, with records showing that in 1581 seventeen vessels left St Helier bound for the cod rich seas of the Gaspé Peninsular. Today that part of Canada has many examples of the influence brought to that region by Jersey settlers.

¹Ambassador Anthony Liverpool had previously announced his intention to step down from his role as Vice-Chair and Acting-Chair of the Commission effective from the 11 July 2011.

Fishing by Jerseymen in Newfoundland continued into the late 19th Century and at that time was the main wealth creator for the Island employing as many as 4,000 people.

Senator Maclean went on to say that agriculture now plays an important role in the Jersey economy. He noted that between 25 and 30 thousand tonnes of Jersey Royal potatoes are exported from the Island each year which command a premium price when they appear in supermarkets each spring. He also noted that the Jersey cow is perhaps the Island's most famous global export as it produces milk with a high butter fat content which makes it ideal for dairy herds. Commenting on the Island's financial services industry, he recognised that this was now the Island's major employer and revenue generator. The finance industry on Jersey was 50 years old in 2011 and Jersey's combination of stability and reliability had kept the Island at the forefront of global finance.

In closing Senator Maclean hoped that the Commission's meeting would be a successful one, and encouraged delegates to find time to enjoy the attractions and facilities provided by the Island.

2.2 Opening statements

The Chair welcomed the Government of Colombia who adhered to the Convention on 22 March 2011. Colombia made an opening statement and indicated it was honoured to become a full member of the IWC after a lengthy internal process to gain approval. It said that it would work to strengthen the Commission while defending conservation interests including promoting the non-lethal use of all cetaceans. Colombia went on to describe its own contribution to regional initiatives such as that of the marine corridor of the eastern Pacific where it was working in co-operation with other countries including Costa Rica, Panama and Ecuador to conserve cetaceans.

Colombia committed to take an active role in IWC decision-making so as to produce recommendations for research and study of cetacean populations which would lead to the continued development of measures for the non-lethal management of whale resources. Colombia stated its support for the moratorium on commercial whaling and also for the growth of ecological tourism including whalewatching which it recognised as providing alternative income for poorer coastal populations of Colombia. Colombia stated its support for the Buenos Aires Group of countries and welcomed the proposal to establish the South Atlantic Whale Sanctuary.

With regard to scientific research, Colombia promoted the need to study cetacean populations using non-lethal methods and considered that the number of whales hunted under scientific criteria were excessive and did not provide appropriate benefits. It stated that it was the right of coastal communities to benefit from the income which could be generated through whalewatching operations in the same way that other communities benefited from limited subsistence whaling. It also recognised the importance of involving civil society in the deliberations of the Commission. In closing, Colombia urged the need to achieve consensus in working towards measures which would guarantee the conservation and sustainable use of whales.

2.3 Credentials and voting rights

2.3.1 Credentials

The Secretary reported that the Credentials Committee (Japan, New Zealand and the Secretary) agreed that credentials were in order for most of the Contracting Governments present at the beginning of the meeting. There were a few outstanding issues to be resolved and the Credentials Committee met again on the evening of 11 July to deal with these matters.

2.3.2 Voting rights

The Secretary noted that the voting rights of Belize, Congo, Republic of Guinea, Laos, Mali, Mauritania, Slovak Republic, St. Lucia, St. Vincent and The Grenadines and Suriname had been suspended as from 29 May 2011 because of outstanding financial contributions. The voting rights of Cameroon, Côte d'Ivoire, Dominica, Nicaragua, Peru, Romania, Solomon Islands and Uruguay remained suspended from previous years because of continued outstanding financial contributions. In addition the voting rights of Gambia, Guatemala, Kenya and Senegal also remained suspended from previous years and additionally their financial contribution for the 2010/2011 financial year had been cancelled in accordance with Financial Regulation F5.

The Secretary noted that if and when voting commenced he would call on San Marino to vote first.

2.4 Meeting arrangements

The Chair recognised the improved standard of debate and respect which had developed at IWC in recent years. In order to ensure the continuation of this improvement he requested delegates keep their points of order to a minimum and to keep interventions brief and to the point. With regard to speaking rights of Inter-Governmental Organisations (IGOs), the Chair said he would allow them to make one intervention on one substantive agenda item and that any IGO wishing to speak should let him or the Secretary know in advance.

With regard to Non-Governmental Organisation (NGO) observers, the Chair proposed to develop the system of speaking rights. Instead of allowing NGOs to address the meeting during a dedicated 30 minute session as in previous years he suggested instead to allow six NGO speakers, to comprise three from each side of the debate, a total of 30 minutes interventions spread over three specific agenda items which, after informal discussions with NGOs, were to be Sanctuaries (Item 9), Environmental and Health Issues (Item 13) and Whalewatching (Item 15). The interventions would occur after all Commissioners had spoken and would remain at the discretion of the Chair.

A number of Contracting Governments indicated that several delegations had encountered problems obtaining a UK entry visa so as to attend IWC/63. The Secretary was asked to produce a report for the Commission's consideration on those countries which had not been able to attend. A summary of the Secretary's report and the associated discussions are recorded under Agenda Item 25.1.

2.5 Review of documents

The Chair drew attention to document IWC/63/1 which was a list of documents to be considered at the 63rd Annual Meeting. This list is provided in Annex B.

3. ADOPTION OF THE AGENDA

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

Japan acknowledged that its position on the draft agenda was well known and had been documented many times in the past. It noted that it had been actively involved in the 'Future of the IWC' process for several years and that it had seen substantial improvement in the ways and atmosphere of the organisation during that time. Noting that it respected these improvements and wished to strengthen them further it indicated that this year, as in recent previous years, it would refrain from making proposals to delete some agenda items.

At the invitation of the Chair, Japan referred to the Great East Earthquake and Tsunami which hit the eastern coast of Japan on 11 March 2011. It had caused a devastating loss of life and property throughout the coastal region and Japan expressed thanks for the numerous expressions of support it had received. A number of fishing communities had been wiped out, including Ayukawa which was one of the small type whaling bases. Given the extensive loss of human life and fishing facilities that had occurred, Japan recognised that it was now important to help the communities rise from their deep grief. Accordingly it noted its need to be able to use the sustainable resources of the marine environment, including cetacean resources, so as to continue the recovery which was taking place.

The Agenda was adopted by the meeting and is given in Annex C.

4. THE IWC IN THE FUTURE

4.1 Background

At IWC/59 in 2007 the Commission agreed to hold an intersessional meeting to discuss the future of the organisation given, amongst other things, the impasse that had been reached on discussions related to the Revised Management Scheme (RMS). At the intersessional meeting the Commission established a 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 in arriving at '*a consensus solution to the main issues it faces*'. The SWG met three times between IWC/60 in 2008 and IWC/61 in 2009.

At IWC/61 in 2009 the Commission recognised that the work on the Future of the IWC was not complete and agreed by consensus to extend the time allocated to the SWG until IWC/62 in 2010. The SWG was tasked with '*intensifying efforts to conclude a package or packages to allow the Commission to reach consensus on the major issues it faced*'. At that time the Commission also established a support group to assist the Chair in providing direction to the 'Future' process and in the preparation of material for submission to the SWG.

The support group met three times between 2009 and 2010, and on the basis of discussions at those meetings the Chair of the Commission submitted a report to the March 2010 meeting of the SWG that contained a set of ideas on how the IWC could function in the future. This document was entitled '*A Draft Consensus Decision to Improve the Conservation of Whales*'. The support group met a fourth time to consider comments on the draft Consensus Decision made at the SWG meeting and also subsequently in writing by a number of Contracting Governments. As a result of this process the Proposed Consensus Decision for the Conservation of Whales (hereafter the 'Proposed Consensus Decision') was developed by the Chair and Vice-Chair of the Commission and submitted to IWC/62 in 2010 for consideration.

The Proposed Consensus Decision was extensively debated at IWC/62 in 2010². At the end of the discussions, the Chair concluded that the Commission was not in a position to come to a consensus agreement on the measures contained in the Proposed Consensus Decision. He also noted that there had been support for a period of pause and reflection on work undertaken during the 'Future of the IWC' process. This pause for reflection took place between IWC/62 in 2010 and IWC/63 in 2011.

4.2 Commission discussions and action arising

New Zealand and the USA had submitted a proposed Resolution to Maintain Progress at the IWC (document IWC/63/7rev). In referring to its document, the USA recognised that there was an ongoing question as to how to handle the many differences and disagreements faced by the Commission. It suggested that given the Commission's recent good progress in agreeing Resolution 2011-1 by consensus, there was a need for a shared commitment that the Commission would continue working in this improved spirit. The USA did not believe that a Resolution was necessarily the best way to achieve that shared commitment and it did not wish to request a debate on the agreement of its proposed Resolution. Instead it hoped that other member governments would support the notion that the Commission continue to try and encourage dialogue and to build trust and consensus so that it could make progress and help the organisation to evolve. Therefore, as an alternative way of working, the USA asked the Chair if he would include language provided in the proposed Resolution in his report of the meeting. If other Contracting Governments were supportive of this idea, it would go a long way to showing that the Commission was able to work through the difficult issues that it faces.

The Chair thanked the USA for its intervention and asked if it was acceptable for the proposed Resolution to be withdrawn.

The Russian Federation indicated its support for the Resolution. Sweden supported the Resolution because it did not consider that the IWC functioned properly in fulfilling its role as the one global agreement that should engage in proper conservation of whale stocks and thus make possible the orderly development of the whaling industry. Denmark supported Sweden's comments and suggested this was a tide-over Resolution until such time as people were prepared to address the issues facing the organisation. Iceland supported Denmark and Sweden's views but also indicated that it could accept the Resolution's content being included in the report of the meeting. New Zealand endorsed the comments made by the USA, but clarified that New Zealand's objective was to facilitate a resolution to the differences within the Commission and not to facilitate the orderly development of the whaling industry.

Japan believed that for the last few years the IWC had made substantial progress in the way it discussed many issues and that the organisation should cherish that progress and strengthen it in future meetings. In that sense Japan fully supported the content and spirit of the proposal from the USA and New Zealand. Japan said it was flexible in the format of this important message, and would support it either in the form of a Resolution or as part of the Chair's Report. Portugal supported the inclusion of the material as either a Resolution or as part of the Chair's Report.

Argentina thanked the USA for its proposal, and although it had some problems seeing this material as being appropriate for a Resolution it said that the suggestion to include it as paragraphs in the Chair's Report would settle this concern and indicated it would be willing to undertake consultations on appropriate wording. Colombia, Chile and Australia supported Argentina's view. Spain also indicated support for inclusion of the material as part of the Chair's Report. Chile stated that the organisation should not be afraid of taking different positions to a vote if consensus could not be reached.

India was of the view that the IWC should develop a comprehensive plan of action to recover the depleted whale populations. This should address other threats to cetaceans including fisheries bycatch, ship strikes, ocean noise, sea pollution and impact of climate change on marine ecosystems and biodiversity. Considering the diverse role that the organisation has to play in future, India considered it would be prudent to rename the IWC as the International Whales Commission.

The Chair asked whether the Commission would agree to the paragraphs contained in the draft Resolution being included in his record of the meeting. Seeing no objection, the Chair noted that this would be done. Accordingly, as stated in document IWC/63/7rev, the Commission:

'acknowledged that very different views exist among the members regarding whales and whaling and that this difference had come to dominate the time and resources of the Commission at the expense of effective whale conservation and management.

Desiring to maintain progress achieved so far with regard to the future the Commission therefore agreed to: (1) encourage continuing dialogue amongst Contracting Governments regarding the future of the International Whaling Commission; (2) continue to build trust by encouraging Contracting Governments to coordinate proposals or initiatives as widely as possible prior to their submission to the Commission; and (3) encourage Contracting Governments to continue to cooperate in taking forward the work of the Commission, notwithstanding their different views regarding the conservation of whales and the management of whaling.'

5. WHALE STOCKS³

5.1 Antarctic minke whales

5.1.1 Report of the Scientific Committee

The Chair of the Scientific Committee referred to the Committee's ongoing work to conduct an in-depth assessment of Antarctic minke whales. In-depth assessments allow the Scientific Committee to determine the present status of stocks compared to their status in the past and to look at any trends in population level and possible causes of change. Ultimately the assessments are intended to identify if there are anthropogenic threats to the population status that need to be addressed, as well as highlighting priority species, populations and/or human activities that require action.

For Antarctic minke whales, an ongoing issue has been to develop a final set of abundance estimates from the circumpolar sets of cruise data obtained during the 1978/79-2003/04 austral summer seasons. At IWC/62 in 2010, the Scientific Committee had established two sets of abundance estimates using two different analytical techniques. These

²Ann. Rep. Int. Whaling Comm. 2010: 6-10.

³For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 13 [2012].

estimates differed appreciably from each other, and following considerable extra work by the Scientific Committee in 2011, the estimates are now much closer together and a work plan had been established to produce final estimates for next year. The Chair of the Scientific Committee reported that the Committee agreed that the final estimates for each of the survey areas lay between the numbers generated by the two methods.

The Scientific Committee agreed that though both methods showed a decline in the total abundance estimates for the Antarctic as a whole, the decline did not occur in all areas. The data showed that there was no significant decline in Areas III, IV and VI. However there was a decline in the population estimates for Areas I, II and V.

The Scientific Committee agreed that the declines in Areas I, II and V did reflect genuine changes in the abundance of Antarctic minke whales in the open water areas surveyed. The changes could be related to differences in ice cover, as animals may have congregated under pack ice which would have prevented research vessels from conducting survey operations. Alternatively the estimates could reflect a true decline in abundance or some combination of both of these options. The Scientific Committee considered that no analysis would be able to exclude the hypothesis that at least some true decline in abundance occurred. An investigation of the reasons for the change in abundance would require an understanding of the relationship between whale distribution and sea-ice, and especially in relation to pack-ice regions. Areas II and V encompass the Weddell and Ross Seas and in these two areas the ice configuration is particularly complex and highly variable. This year, the Scientific Committee had considered several papers on ice related whale distribution and also welcomed work by the Governments of Australia and Germany who were conducting aerial surveys in pack ice regions.

The Scientific Committee further reported on the second part of the in-depth assessment of Antarctic minke whales which was to use statistical catch-at-age analyses to estimate population dynamics. Such analyses can be used to explore possible changes in population abundance and environmental carrying capacity. The input data for the models included: (1) the catch history; (2) animal lengths, ages and sex as obtained both from commercial harvests and the JARPA programmes; and (3) the abundance estimates from the IDCR/SOWER circumpolar series and the JARPA programmes. This year, the Scientific Committee completed the development phase of the catch-at-age model and will now commence work on the technical specification of the analytical techniques. This will include a clear explanation of the model and its assumptions as well as a graphical representation of the results for key parameters. The model has the potential to explain changes in abundance over time in the context of mortality and recruitment but will not be able to explain why any changes may have occurred. The Scientific Committee also agreed that both series of population estimates from the IDCR/SOWER data should be used in the catch-at-age analyses, as well as the most recent catch-at-age data from JARPA II.

In regard to continuation of sighting surveys for Antarctic minke whales, the Chair of the Scientific Committee recalled that the IDCR/SOWER series of cruises were completed in 2009/10. For the 2010/11 season, the Committee expressed its regret that the sightings survey which the Committee had previously approved had been cancelled because of the violent actions of an anti-whaling NGO in the Antarctic research area. For the 2011/12 season, the JARPA II sighting

survey is planned to take place from two research vessels in an area south of 60°S and between 35°E and 175°E from December 2011 to March 2012. The primary objective will be the estimation of the abundance of Antarctic minke whales using IWC-SOWER procedures. Additionally opportunistic biopsy and photo-id studies of blue, southern right and humpback whales will be undertaken and a cruise report submitted to the next Scientific Committee meeting.

5.1.2 Commission discussion and action arising

Mexico congratulated the Scientific Committee on the progress made to estimate the abundance of minke whales in the Southern Ocean but noted its concern at the low population numbers that had been recorded for Areas I, II and V. It considered that this could be construed either as a change in distribution or as a true fall in population numbers. Japan also expressed its gratitude to the Scientific Committee for the progress they had made with the minke whale assessments and indicated its continuing support for the Committee's work. In relation to the apparent decline in numbers of minke whales around Antarctica, Japan noted that no cause had been suggested for such a decline, and that a very large scale mortality would have had to have occurred to reduce the population level to the extent suggested by the survey data. It suggested it was important to properly understand the background before making any judgement on the meaning of the population assessments being generated by the Scientific Committee.

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

5.2 Southern Hemisphere humpback whales

5.2.1 Report of the Scientific Committee

The Scientific Committee has been undertaking in-depth assessments of Southern Hemisphere humpback whales since 1992. Seven breeding stocks (labelled BS A-G) are recognised which are connected to feeding grounds in the Southern Ocean. Assessments for four of the breeding stocks have already been completed, these being: BSA (eastern South America); BSC (eastern Africa); BSD (western Australia); and BSG (western south America).

This year continued the focus on BSB which inhabits waters around the western coast of Africa from Guinea to western South Africa. Data are primarily available from Gabon (a breeding ground) and from western South Africa (a feeding ground and migratory corridor). The data support the hypothesis that there may be two sub-stocks (labelled B1 and B2) but the boundary between the sub-stocks remains unknown. The Scientific Committee undertook extensive interseasonal work and convened a dedicated two day pre-meeting to review the assessment of this breeding stock. During this work the Committee considered both a single stock and a two stock model. Consequently, the Scientific Committee have now completed the assessment of BSB to the extent possible given the available data.

In conclusion, BSB has probably recovered to about 50% of its pre-exploitation level although the probability interval around this estimate is quite wide. The two stock model considered by the Scientific Committee suggested that the B2 stock is appreciably more depleted than B1, although it was not possible to determine whether this was real or reflected incomplete sampling coverage of stock B2. Both the single and double stock models showed that the populations are increasing. In order to address the identified uncertainties additional data need to be collected on population abundance, trends and stock structure. Specific recommendations have been recorded in Annex H of the Scientific Committee Report (IWC/63/Rep1).

In 2012, the Scientific Committee will focus on breeding stocks E (western South Pacific) and F (central South Pacific). These assessments will take into consideration possible mixing of breeding stocks D and E on the feeding grounds. The Committee has established an intersessional group to undertake the preparatory work required for this assessment which it expects to complete by the end of the 2013 Scientific Committee meeting.

The Chair of the Scientific Committee also drew attention to the provision of additional information on breeding stocks A, C, D and G (Item 10.2.2 of the Scientific Committee report).

5.2.2 Commission discussion and action arising

The USA noted the contribution of one of its scientists to the Scientific Committee's field research on the assessment of humpback stocks off western South Africa and also previously off eastern Africa. Both of the stock assessments suggested a lower level of recovery than for some other stocks which had previously been assessed. The USA thanked the Scientific Committee for its hard work in completing the assessment of breeding stock B.

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

5.3 Southern Hemisphere blue whales

5.3.1 Report of the Scientific Committee

The Scientific Committee completed its circumpolar in-depth assessment of Antarctic blue whales in 2008. The assessment indicated that although this population is still severely depleted it appears to be increasing at around 8% annually. The Committee is now examining whether separate assessments can be carried out by population and Management Area. This will require information on abundance, distribution and stock structure by area and the Scientific Committee received relevant information at its 2011 meeting including an update on the results of the Alaguara (Chilean blue whale) long-term project which was conducted from 2004-10 and additional updates on the Southern Hemisphere Blue Whale Catalogue and the Antarctic Blue Whale Photo-identification Catalogue. A comparison of the images between the two catalogues has resulted in the first 10 year re-sighting of an individual from Chilean waters. The Scientific Committee re-iterated its recommendation that the blue whale photos collected by the JARPA programmes be compared with and incorporated into the Antarctic catalogue and results reported next year.

The Scientific Committee also received two papers on blue whale abundance estimates off Isla de Chiloé. This population may number less than 1,000 individuals and appears to be smaller than populations around Antarctica and off Western Australia. Additionally the Committee received several studies on molecular genetics which will play an important role in the more detailed assessments.

5.3.2 Commission discussion and action arising

Chile noted its ongoing support for the work being undertaken by the Scientific Committee to understand the status of blue whales both in the Southern Hemisphere and more specifically around the coast of Chile. Chile noted that at one time the population of blue whales off Chile was considered to have been one of the largest in the Southern Hemisphere. Despite the high concentration of blue whales off Isla de Chiloé, the Chilean blue whale population now appears to be smaller than those around Antarctica and off western Australia. Chile indicated that it would continue to

gather information so as to understand the population more fully. It also expressed its pleasure at the work that had been undertaken at the international level, especially in regards to the Southern Hemisphere Blue Whale Catalogue.

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

5.4 Western North Pacific gray whales

5.4.1 Report of the Scientific Committee

In 2010, the Commission endorsed a Scientific Committee recommendation of a conservation plan for the critically endangered population of western North Pacific gray whales. One of the components of this plan was to undertake a telemetry study to investigate the migration routes and breeding grounds of the population so as to provide a basis for mitigation measures. In 2010, an international collaborative telemetry programme was convened under the auspices of the IWC and succeeded in satellite tagging a 13 year old male known as 'Flex' off Sakhalin Island. For the first 68 days after the tag was applied Flex remained within 45km of the tag site. The whale then migrated across the Okhotsk Sea, Bering Sea and Gulf of Alaska, the last reported position before the tag stopped working being in USA waters within 20km of the central Oregon coast (i.e. along the path of the eastern gray whale migration).

The generally unexpected movement of Flex from the Sakhalin Island feeding area to the eastern Pacific resulted in a further examination of links between the western and eastern populations of North Pacific gray whales. However these links should be considered in the context of the results from genetic analyses which reveal significant differences between the western North Pacific Sakhalin feeding ground gray whales and eastern gray whales, even though there have been two genetic 'fingerprint' matches between the western and eastern populations as well as ten photo-id matches⁴.

The Scientific Committee considered that more information was needed to clarify the uncertainties around stock structure in North Pacific gray whales. Logistical problems and poor weather meant that only one tag was able to be applied during the 2010 season. For the 2011 season, the Scientific Committee agreed a protocol to tag and biopsy 12 individuals representing the non-calf, non-juvenile population of gray whales from Sakhalin Island. The Committee also encouraged the additional tagging of animals from the eastern population of gray whales, including those which are part of the Pacific Coast Feeding Group.

The Scientific Committee also received a number of other papers on western North Pacific gray whales, including a considerable amount of information collected off Sakhalin Island in recent years by oil and gas companies and others. To help assimilate this information, the Committee requested that a quantitative analysis of anthropogenic impacts on gray whales be presented to the 2012 Committee meeting.

In regard to conservation advice on western North Pacific gray whales the Scientific Committee made several comments and recommendations. These included a new consideration of the USA, Canada and Mexico as range states. The Committee also:

- (1) considered the problems of entanglement in fishing gear and welcomed Japan's efforts at mitigation;
- (2) re-emphasised their view of the importance of the IUCN western gray whale panel and urged its continuation;
- (3) recommended that monitoring and mitigation plans be implemented by all companies involved in the oil and gas industries of Sakhalin;

⁴This was considered further under Item 7.1.1.2.

- (4) encouraged sharing of information and co-ordination amongst companies to minimise noise disturbance to gray whales of Sakhalin; and
- (5) repeated its strong endorsement of the draft western gray whale conservation plan and encouraged all relevant parties to work together to refine and implement it.

5.4.2 Commission discussion and action arising

The Russian Federation thanked the different countries and organisations, including the IWC's Scientific Committee, who had collaborated in the project to tag the western North Pacific gray whale off Sakhalin Island. The Russian Federation referred to the tagging of a further 12 whales which was planned for the forthcoming season and it was grateful for the support received from the US delegation in making this extra work possible. For the genetic analysis, the Russian Federation planned to take biopsy samples from the same 12 whales that would be tagged, and also to take further biopsies from gray whales in the areas of Chukotka and Kamchatka. The resulting DNA samples would be analysed jointly by scientists from the Russian Federation, Japan and Republic of Korea. Noting that the Scientific Committee had made a recommendation to sample and photograph all gray whales landed at Chukotka through the aboriginal hunt, the Russian Federation indicated that they would request the aboriginal hunters undertake these tasks on a voluntary basis. In relation to the overall state of the western gray whale population, the Russian Federation recorded that not all scientists shared the view that this was a separate population or that it is close to becoming extinct. Instead they suggested the western population may instead be recovering in relation to the stocks of eastern gray whales. However, the Russian Federation said that it was nonetheless important to protect the western gray whale population and indicated it would do its best to lower the anthropogenic impact on the western population.

The USA referred to the results of the satellite tagging and drew attention to its funding of additional intersessional photo-id work. It announced that it would continue to fund research on western North Pacific gray whales and expected to send one of its scientific experts to participate in the forthcoming tagging work.

Mexico recorded its appreciation of the satellite tagging work and supported the additional photo-id and genetic studies on the western and eastern populations that were planned. It noted that the populations of gray whales inhabiting the lagoons of Baja California also had the potential to yield information relating to both western and eastern stocks. Japan congratulated the Scientific Committee and the associated scientists on their research and indicated that it would support the further work on tagging and photographic identification that was proposed by the Russian Federation. In this regard, it noted the IWC had established a working group on western gray whales and that Professor Kato would take part in this group.

Japan acknowledged that it is one of the range states for western North Pacific gray whales and recorded its great concern for the critically endangered status. In 2008, Japan strengthened its Fisheries Resources Protection Act to prohibit all forms of take for this species including incidental catch as well as the act of possession or sale of either whole or parts of this species in the Japanese market. It had also strengthened education programmes for fishermen and local government on the status of this species and called for cooperation from these bodies to strengthen local protection measures. Following from this Japan was pleased to report

that no incidental takes of gray whales had been reported along the Japanese coast since the beginning of 2007. Mexico commended Japan's efforts at avoiding incidental capture.

The Republic of Korea recalled that western Pacific gray whales were once abundant in Korean waters but had disappeared since the late 1960s due to over-exploitation. In order to protect these whale resources, the Republic of Korea designated this species as a living national monument in 1962. Noting the tagging of one western gray whale off Sakhalin Island, Republic of Korea thanked the Russian Federation and the USA for their collaborative work which had made the study possible. The Republic of Korea recalled that it had recently hosted a symposium on western Pacific gray whales with scientists from Japan and the USA and through the symposium had learned that the stock level could decrease further within a short period of time unless protection measures were implemented. In this regard it welcomed the additional work plan proposed by the Russian Federation and indicated it would like to co-operate with the plan.

The UK noted that new information on the presence of western gray whales along the west coast of North America raised the issue that small numbers of whales feeding off Sakhalin Island may be subject to further threats along their migratory route. Accordingly it requested the Scientific Committee to build on their current work to understand what these existing and emerging threats may be and to ensure this critically endangered population be conserved for the future.

While the USA supported further work on conservation status, it also drew attention to the cumulative impacts caused by the oil and gas related developments on the feeding grounds of this population and it supported the Scientific Committee's recommendations in this regard. Mexico and the UK also noted their concern regarding the oil and gas exploration activities taking place around Sakhalin Island, and Mexico reinforced the recommendations of the Scientific Committee to have a conservation plan comprising all range states under the IWC's sponsorship. The UK welcomed the Russian Federation's continued work to mitigate the effects of the industrial activities and urged range states and companies to engage with IUCN's western gray whale advisory panel and support the Scientific Committee's work to look at ways to best protect this population. Belgium shared these concerns, and noted that one company working in the area had announced plans for a further offshore oil and gas platform. It noted that the effects of previous oil and gas activities in 2010 had not yet been fully assessed. In September last year, Belgium, acting in the role of EU President addressed a demarche to the Minister of Natural Resource and Environment of the Russian Federation to gain clarification of the seismic survey offshore of Sakhalin Island. Like others, Belgium strongly supported the Scientific Committee's recommendations.

The Chair personally thanked the Scientific Committee and the collaborating range states for their continued efforts to secure the future of the western North Pacific gray whale. The Commission noted this part of the Scientific Committee report and endorsed its recommendations.

5.5 Southern Hemisphere right whales

5.5.1 Report of the Scientific Committee

The Chair of the Scientific Committee reported that the main discussions on the status of Southern Hemisphere right whales would occur during a Workshop in Argentina in September 2011.

The Scientific Committee received some encouraging information on the re-colonisation of former calving grounds around New Zealand and Namibia. There was also evidence for a continued increase in population levels off Australia at an annual rate of around 7% based on aerial surveys. The Committee recommended that images obtained by cruise ships and during the SOWER series should be included in the Southern Ocean right whale catalogue currently being developed under the auspices of the IWC.

5.5.2 Commission discussion and action arising

Argentina noted the importance of the forthcoming Right Whale Assessment Workshop given that the previous abundance estimate dates from 1988. It believed that the results of the Workshop would further support the nomination and development of Conservation Management Plans for South American right whales as discussed within the Conservation Committee. Argentina also recorded its support of the Scientific Committee's recommendations.

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

5.6 Other stocks of right whales and small stocks of bowhead whales

5.6.1 Report of the Scientific Committee

NORTH ATLANTIC RIGHT WHALES

The Scientific Committee received an update from the North Atlantic Right Whale Consortium for the period November 2009-October 2010. The most recent stock assessment reported a minimum of 345 individuals alive in 2005, while examination of a photographic catalogue suggested that there may have been as many as 473 alive in 2009. Five right whale deaths were documented during the reporting period as well as four new entanglement cases.

OTHER SMALL STOCKS OF RIGHT WHALES

No new information was provided for North Pacific right whales or bowhead whales from the Sea of Okhotsk or Spitsbergen.

The Scientific Committee continued to re-iterate its grave concern in relation to these small stocks, noting that as a matter of urgency every effort must be made to reduce anthropogenic mortalities to zero.

5.6.2 Report of the Conservation Committee

The Chair of the Conservation Committee noted the National Action Plan being developed by Chile to protect the Critically Endangered Chile-Peru population of southern right whales, which are believed to number less than 50 mature individuals. The plan is expected to give details on historical catches off Chile, the legal framework, current known status, threats, advances in public awareness and a set of actions to improve co-ordination among stakeholders. It will support the forthcoming southern right whale assessment and the development of a Conservation Management Plan for this stock.

5.6.3 Commission discussion and action arising

Chile recorded its concern for all cetaceans including the southern right whale for which it wished to ensure maximum protection. It noted that the National Action Plan was being developed to ensure recovery of this stock. Argentina supported Chile in its efforts to protect this small stock and urged them to continue working so as to achieve the necessary recovery.

The Commission noted these parts of the Scientific Committee and Conservation Committee reports and endorsed their recommendations.

5.7 North Pacific research cruises

5.7.1 Report of the Scientific Committee

The Chair of the Scientific Committee reported on a collaborative IWC programme being developed for the North Pacific called Pacific Ocean Whale and Ecosystem Research (IWC-POWER). The primary objective of the programme is to contribute scientific information to allow the assessment of large whales in the North Pacific and to determine trends in abundance and the causes of these.

An intersessional Workshop was held last year to develop the long term planning for this programme. The Workshop was successful in compiling the available information on stock structure and abundance for each species in the region, and went on to develop a list of priority species and topics to address perceived gaps in knowledge. A technical advisory group was also established to develop detailed short, medium and long term objectives and in particular to use existing population and environmental data to increase the statistical power of future surveys to detect species abundance trends. This is a major task which is still ongoing.

One important component of the IWC-POWER work is to use biopsy samples to assist in stock structure studies. The Scientific Committee noted that there has not yet been any resolution to the issue of obtaining appropriate CITES permits, including institutional permits, for biopsy samples collected outside of Japanese waters. The Scientific Committee strongly recommended that concerted efforts be made to resolve these difficulties and encouraged the Governments of the USA and Japan to work together on this issue.

The Scientific Committee noted its gratitude to the Government of Japan for providing a vessel for the 2010 and 2011 cruises and for its intention to provide one for the 2012 cruise which represented a major donation to the Committee's work. The Committee recognised that many of the populations being studied had not been assessed for decades and the data from the first three years will form an important component of the forthcoming in-depth assessment of sei whales. The Committee encouraged other range states to contribute to and collaborate with the IWC-POWER programme and also thanked the USA and Republic of Korea for their assistance with the cruises undertaken and planned so far.

The preliminary results from the 2010 survey as well as the plans for the 2011 and 2012 surveys were distributed in IWC/63/Rep1. The 2011 summer IWC-POWER cruise had three primary objectives: (1) to estimate the abundance of sei whales and other species as possible; (2) to collect biopsy samples from sei, fin and sperm whales; and (3) to collect photo-id data and biopsy samples for rare species including North Pacific right whales and blue whales.

The Chair of the Scientific Committee also noted that the IWC-POWER programme complements work being undertaken elsewhere through national programmes. For example, this year the Scientific Committee was pleased to receive a report of a Japanese systematic sighting survey conducted in the summer of 2010 in the North Pacific. Its goal was to examine the distribution and abundance of sei and Bryde's whales in parts of the western and central North Pacific using line-transect photo-id and biopsy methods.

5.7.2 Commission discussion and action arising

Japan was pleased to contribute a research vessel and crew for this important joint research activity in the North Pacific Ocean. Although the project only started last year, it had already provided interesting data including a preliminary estimate of sei whale abundance in the research area. Noting

that the 2011 cruise had just begun, Japan thanked the USA for its approval to undertake research activity within their 200 nautical mile zone as well the Republic of Korea and the IWC Secretariat for their ongoing support. In regard to the complication related to CITES permits Japan expressed its commitment to continuing to discuss this issue with the USA in order to find a solution. Overall, Japan expressed its gratitude to all parties concerned and its continued commitment to support of the IWC-POWER research programme.

The USA recorded its strong support for the IWC-POWER survey and noted that one of its scientists had joined the 2011 cruise. It looked forward to seeing the results of the research, and, like Japan, expressed its commitment to resolving the issue of CITES permits for biopsy samples collected outside of Japanese waters. Republic of Korea thanked Japan for the opportunity to take part in the 2010 IWC-POWER cruise and expressed its regret that it would not be able to join the 2011 cruise. However, it indicated it would like to take part in the 2012 cruise, and accordingly said it would take part in the cruise preparatory meeting scheduled to be held in September 2011 in Japan.

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

6. WHALE KILLING METHODS AND ASSOCIATED WELFARE ISSUES

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

The Working Group on Whale Killing Methods and Associated Welfare Issues met on Tuesday 5 July 2011. It was chaired by Herman Oosthuizen (South Africa) and was attended by delegates from 21 Contracting Governments. A summary of the Working Group's discussions is included below and the full report is available as Annex E.

6.1.1 Data provided on whales killed

The Working Group received reports from five member governments relating to the killing of cetaceans. A summary of information provided by New Zealand on the euthanasia of stranded cetaceans deemed beyond hope of rescue for the period April 2010-March 2011 was reviewed, as were reports from the USA, Denmark and St Vincent and The Grenadines giving data on their aboriginal hunts. A document was also provided by Norway giving data arising from its hunt of common minke whales in 2010.

6.1.2 Information on improving the humaneness of whaling operations

6.1.2.1 NATIONAL REPORTS

The Working Group received a report from Norway summarising the substantial improvements that had been made to the humaneness of its whaling operations in recent decades. In 1981 the use of cold harpoons had resulted in a 17% instant death rate and a mean time to death of over 11 minutes. However by 2002, use of the new penthrite grenades had caused these statistics to rise to roughly 80% instant deaths and a mean time to death of two minutes. Norway described its efforts to teach and train hunters and transfer this knowledge and technology to other hunts, for example those taking place in Canada, Greenland, Japan, Iceland, Alaska and others. Norway also reported that it participated in NAMMCO Expert Group Meetings.

The Working Group received a short PowerPoint and video presentation on the 2010 Alaskan aboriginal hunt. Due to ice and weather conditions, the percentage of struck

whales landed was lower in 2010 than the 15 year average of 77%. Ice and weather play a critical role in the success of the hunt and equipment failure can also contribute to losses. In regards to weapon and training improvements, the USA reported that most villages now have access to the new penthrite grenade and that these often result in instant kills. However, the programme is expensive. A single projectile costs more than US\$1,000 and transportation can also be expensive. For example, it costs US\$30,000 to ship ninety grenades from St Lawrence Island to Barrow by charter. The USA hoped that cooperation with the US Coastguard may reduce charter costs in the future.

6.1.2.2 UK WORKSHOP ON WELFARE AND ETHICS

At IWC/62 in 2010 the UK had informed the Commission of its intention to hold a non-IWC workshop on welfare and ethics and the Working Group received a summary of the workshop's extensive report (document IWC/63/WKM&AWI4). The report presented conclusions on a number of human-whale interactions including killing and euthanasia, use of whales in invasive research, whalewatching, ship strikes and entanglements. It made six recommendations to the IWC, with the last of these calling for the establishment of an *ad hoc* IWC Working Group to be tasked with considering the workshop report in detail and developing recommendations for how the IWC could adopt its conclusions, possibly by Schedule amendment or other decision at IWC/64 in 2012. There was extensive discussion of document IWC/63/WKM&AWI4 in the working group which is summarised below (see Annex E for a full account).

Norway noted that IWC/63/WKM&AWI4 contained many general aspects of animal welfare which were already implemented in Norwegian laws. However, it was disappointed that only fragments of the extensive information provided to the IWC on improvements in killing methods were reflected in IWC/63/WKM&AWI4, and then in a biased way. Norway stated that it found IWC discussions of this issue increasingly counterproductive and its primary discussions on this subject now occur within NAMMCO. It did not believe that a report with such serious shortcomings would contribute to a useful discussion of these very important issues. Denmark, Iceland and Japan supported these views.

Australia thanked the UK for its work. It stressed that the provision of data was an important component of improvements in animal welfare and it supported the UK's proposal for an intersessional Working Group. This was supported by Mexico, Argentina and Chile. The USA agreed that the IWC should take animal welfare issues into account and accordingly it supplied such data to the IWC but noted that hunter safety was a paramount concern. It supported the idea of an intersessional group but did not believe that the IWC would be in a position to adopt binding recommendations by 2012.

The differing views expressed meant that the Working Group did not develop a consensus on the UK's recommendation to establish an *ad hoc* Working Group, although all agreed on the importance of the general issue of animal welfare. The Chair of the Working Group requested that interested countries of all views should consult with the UK to see if a consensus approach could be developed by the Plenary.

6.1.3 Welfare issues associated with the entanglement of large whales

At IWC/62, the Commission received the report of a successful IWC Workshop on welfare issues associated with

the entanglement of large whales⁵. Australia, Norway and the USA provided the Working Group with a way to take forward recommendations from that Workshop including both long and short-term actions. The short term initiatives included:

- (1) convening a second Workshop to be held in Provincetown, USA in October 2011;
- (2) beginning capacity building in identified countries and regions; and
- (3) establishing a standing group of experts who would be able to advise member countries upon request.

The long term initiatives included:

- (1) assisting member countries to undertake research;
- (2) promoting cooperative research; and
- (3) identifying experts and sources of further information.

They also proposed an IWC Voluntary Fund and associated review process be established to assist with the cost of these actions. The Working Group was pleased to endorse these recommendations.

6.2 Commission discussions and action arising

National Reports and provision of welfare data

Germany thanked those Contracting Governments who provided information related to the killing of cetaceans and asked all members involved in whaling, particularly Iceland, to report in a similar way. Australia stated that the IWC is the lead international organisation on the conservation and management of whales and that data relevant to welfare is not freely provided by all Contracting Governments. While it was aware that other intergovernmental organisations have a parallel interest in such data, Australia did not view the other organisations as alternatives to the Commission. In relation to whaling, Australia stated that the limited provision of information from some Contracting Governments constrained the ability to assess welfare implications for whales and prevented the necessary dialogue from taking place that would improve welfare standards.

UK Workshop on Welfare and Ethics

The UK thanked the participants and co-sponsors of the workshop which it had convened to discuss animal welfare science and management policies globally. It introduced its proposal to establish an intersessional *ad hoc* group to examine the workshop recommendations to progress animal welfare and ethics issues within the IWC (IWC/63/10). The UK stated that the aim of the proposal was not to focus on killing methods but instead to build trust within the organisation by focusing on the wide range of threats faced by whales and the possibly negative welfare impacts upon them, and it welcomed participants to the proposed group.

Germany, Mexico and Argentina welcomed the recommendations of the UK welfare workshop and looked forward to the creation of the intersessional working group to further develop the recommendations. Australia recognised the importance of addressing welfare and ethics in all interactions with whales including not only whale hunting but also the conduct of scientific research, whalewatching operations and also during efforts to limit the wide range of human threats to whales. It expressed gratitude to the UK and WSPA for hosting the welfare and ethics workshop in which officials from Australia took part. Noting that previous IWC discussions on welfare had often become polarised and controversial, Australia

suggested that it is possible for progress to be made, just as it had been on the issue of entanglements. It stated that the workshop's recommendations would lead to practical steps to improve welfare, and it expressed interest in joining the proposed intersessional group which would consider the recommendations further.

Norway suggested that the impression of whale hunting given by some observers is of an unregulated and poorly controlled activity conducted by people without feelings for the animals or consequences for their actions. This might have been the case in the early days of whaling when the methods of hunting and killing were inefficient and unsatisfactory compared to the methods used today. During the last 20-30 years continuous work had been undertaken to improve whale hunting and though Norway does not consider the IWC to be a competent body to decide on animal welfare issues Norway has, nevertheless, carried out research on welfare and killing issues, submitted data on whale killing and participated in discussions on a voluntary basis. Data and results from a hunt of more than 5,500 whales and more than 25 scientific publications had been submitted in addition to the information provided to IWC Annual Meetings. Several other whaling countries had submitted similar data and publications on whale killing methods. This research had reformed and improved the hunt in many countries and for many species. Therefore Norway considered that there is no lack of information on how whaling is carried out today.

Norway indicated that these reports and publications show that the hunting of whales today, and of certain particular hunts, are probably the best regulated hunts of large animals anywhere in the world as regards rendering the animals unconscious and dead in a fast and painless manner. The potential welfare problems that might occur during whale hunting are, in practice, considerably reduced and the hunters are probably the best trained of any large animal hunters anywhere in the world. However IWC/63/WKM&AWI4 scarcely mentioned these realities and significant contributions, or did so in a biased and misleading way. Norway remarked that today the focus of discussions had changed from earlier important issues such as reductions of time to death to consideration of ethics and the lack of morality in killing whales for food. Norway stated that IWC/63/WKM&AWI4 dealt with several main items, including the ethics related to hunting, the growing whalewatching industry, issues related to ship strikes and science and entanglement issues. In regards to entanglement issues, Norway was the proposer of the first IWC Workshop on entanglement and is a co-sponsor of the proposed continuation of this work. Norway therefore limited itself to comment on the issue of killing where it had specific scientific and practical knowledge. The definition of whales used in the Workshop report included all 76 species of cetaceans, which according to the report need protection as they are regarded to be sentient animals. Norway remarked that whale hunters are also sentient, and that after many years of training and improvement in techniques they care for the whales they are hunting and do their utmost to kill and stun the whales as fast as possible.

About 1,000 large whales are killed for food annually by hunters, fishermen and today's small scale industry. However as this hunt has reduced, another large animal hunt has developed in Europe for the hunting of large terrestrial animals. In many of these hunts, where hundreds of thousands of animals are killed, and also in some culling operations, the hunting regulations are often poor if they exist at all. The training of hunters, the type of weapon and the ammunition

⁵Ann. Rep. Int. Whaling Comm. 2010, p15.

is usually not regulated at all. To Norway, the focus given by several nations and animal welfare organisations in the Commission to the relatively few whales that are killed for food compared to the lack of focus on the huge terrestrial animal welfare issue in the IWC member nations where this hunt takes place is remarkable.

Norway's view was that it is the right and responsibility of the relevant national authorities to progress animal welfare issues in accordance with generally accepted norms and standards and in accordance with their own national legislation. For example, some member states of the IWC use hunting practices and methods for exsanguination of livestock without prior stunning in slaughterhouses that is at variance with Norwegian welfare legislations. However Norway stated that it did not seek to over-rule these practices so long as they occur under the domain and jurisdiction of other countries. It is also common practice in hunting and slaughter that when a given stunning and killing method has been approved on the basis of careful professional scrutiny, as has been the case for the whale hunting in Norway, it is not customary to require continuous monitoring. Instead periodic checks are the normal procedure. Some observers, including IWC/63/WKM&AWI4, compare the time to death in whale hunting with the time to death of stunning and killing livestock in slaughterhouses. Slaughterhouse methods for stunning and killing are far from free of failures, and hunting and slaughterhouse practice cannot be directly compared without the results being biased. Whales, like terrestrial wildlife, are free roaming mammals that cannot be restrained and stunned prior to killing like livestock in slaughterhouses. Whales are wild animals, and the methods used to kill them must be compared with commonly accepted methods for the hunting of large terrestrial mammals. In such comparisons, most whale killing methods compare very favourably. When compared to stunning and slaughter, the effectiveness of whale hunts are close to, and in some cases may be better than, some stunning methods used for livestock with regard to capability to quickly render the animal unconscious and dead.

Norway commented that animal welfare concerns had been the driving force for its work on improvement to the whale hunt. Unfortunately, in recent years, Norway has experienced that the discussions in the IWC have become more and more irrelevant and sometimes counterproductive to this work. Accordingly it had moved its discussions on whale killing methods to NAMMCO. In conclusion, Norway found it difficult to support a workshop report which had such serious shortcomings and did not consider that the report would contribute to a constructive discussion on whale killing issues.

Japan and Iceland supported and endorsed Norway's statement and Japan and Sweden added that the issue is not about the importance of the issue of whale killing methods, it is more of an issue of trust. Sweden also remarked that if 1,000 large whales are killed annually by the hunts, then the IWC should proportionally address the much bigger problem of the several thousand small whales that are bycaught and drowned each year. Mexico expressed its hope that the shortcomings identified by Norway could be corrected by joint work between the intersessional group and Norway and other whaling countries.

The Russian Federation supported improvements in welfare and said that for the aboriginal hunt that it is obvious that there should be improvements in the killing methods so as to reduce times to death. However, it is extremely expensive to use modern weapons, and in the Russian

Federation the whalers live in poor communities. There are complaints from some scientists and observers that modern weapons are not the traditional aboriginal method of hunting the whales; instead they consider that aboriginal hunts should use small boats and traditional harpoons. The Russian Federation hoped that the proposed working group would consider these concerns.

The UK responded to the comments made and indicated that they had listened to the concerns. The proposed terms of reference for the working group specifically tasked it to review IWC/63/WKM&AWI4 in order to: (1) identify knowledge gaps and areas that would benefit from further research; and (2) refine the conclusions and recommendations to those of common agreement. The UK indicated it had shown flexibility on how it would take the work forward. However, it also recognised no consensus existed on the proposed *ad hoc* group so it stated that it would take the work forward intersessionally in collaboration with the countries that had expressed support and would report back to the next meeting.

Welfare issues associated with the entanglement of large whales

Australia stated that entanglement of large whales in man-made materials is among the most serious threats to marine mammals and expressed delight that the Commission was taking appropriate steps to address the issue. While many countries including Australia had introduced programmes to minimise and mitigate entanglements it is only the IWC that is in a position to exercise global leadership in bringing countries together to better understand the scale and nature of the problem and co-ordinate preventative measures. Australia noted the success of the first Workshop on Large Whale Entanglement held in Maui in 2010, and supported the conclusions from that Workshop especially in relation to building capacity for mitigation, reporting on entanglement events in important regions and focusing on broader options for entanglement prevention. Australia indicated it would continue working with Norway and the USA and hoped other Contracting Governments would also see the benefits of this action to improve the welfare of whales which may be at risk of entanglement.

Argentina welcomed the continued work on entanglements and considered that the joint work of Norway, the USA and Australia was an example of how IWC Contracting Governments can work together to solve sensitive issues.

Presentation on the spring arctic bowhead whale hunt and the weapons improvement programme

Mr Eugene Brower, Chairman of the Alaska Eskimo Whaling Commission (AEWC) gave a short PowerPoint presentation on the AEWK hunt in the USA. He described the challenges involved in the hunt, most notably the problems associated with shifting fast ice which may cause pressure ridges to develop which prevent access to the open water or return to the safety of the land. He also described the traditional equipment used in the hunt including the open seal skin boats and the hand held harpoons. The harpoon is the primary weapon and has been developed with assistance from Norway so that it now incorporates a penthrite grenade which can reduce the time to death for a bowhead whale to four seconds, this being the length of time on the grenade's fuse. The secondary weapon is an eight gauge gun with a black powder propellant. The penthrite grenades have been distributed to 7 of the 11 AEWK villages and each one costs around US\$1,000, with domestic transportation costs

approaching US\$50,000. The presentation also showed the techniques used for harpooning and recovering a whale onto the fast ice, and the methods used to flense the carcass and distribute the proceeds throughout the community.

7. ABORIGINAL SUBSISTENCE WHALING⁶

The Aboriginal Subsistence Whaling Sub-committee met on 6 July 2011 under the Chairmanship of Joji Morishita (Japan). It was attended by delegates from 24 Contracting Governments although two of the four aboriginal whaling countries were absent from the meeting, these being the Russian Federation⁷ and St Vincent and The Grenadines. The Chair of the ASW Sub-committee noted that the Committee's discussions should be understood in the context of the absence of these two countries. The Chair of the Scientific Committee's Standing Working Group (StWG) on the Development of an Aboriginal Whaling Management Procedure reported on the outcome of the Scientific Committee's work and discussions. The full report of the ASW Sub-committee is available in Annex F.

7.1 Aboriginal Subsistence Whaling Management Procedure (AWMP)

7.1.1 Report of the Aboriginal Subsistence Whaling Sub-committee

7.1.1.1 PROGRESS WITH THE GREENLANDIC RESEARCH PROGRAMME

For several years, the Scientific Committee focused on developing assessment methods for common minke whales off West Greenland using the observed sex ratio in the catches. Despite enormous effort, a fully tested method proved elusive. Further developmental work on this approach will be of low priority since the Scientific Committee can now provide consensus reliable interim management advice for two 5-year blocks i.e. up to 2017 (see Annex F, Item 5.3). Long-term *Strike Limit Algorithms* or *SLAs* for the Greenland hunt are required before then. Those for common minke and fin whales will be most difficult and must take into account *RMP Implementations*. The Scientific Committee has assigned this high priority.

The Scientific Committee also examined a response to last year's recommendations for data collection with respect to conversion factors from edible products to whales. It recognised the logistical difficulty of collecting the data it had recommended in remote areas, but requested that more detail be provided to enable evaluation of the proposed programme next year.

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

7.1.1.2 PREPARATION FOR THE IMPLEMENTATION REVIEW FOR GRAY WHALES

Last year it was agreed that an immediate new *Implementation Review* was needed to evaluate *SLAs* for proposed hunting by the Makah tribe focusing on the small Pacific Coast Feeding Group (PCFG) that numbers around 200 animals. Considerable progress was made by the Scientific Committee during the year. Work is continuing to develop the necessary trials to incorporate uncertainty and determine whether the somewhat complex *SLA* proposed by the Makah tribe is safe. The Committee should complete the *Review* next year.

Extremely interesting information was received that gray whales from the western population can visit the eastern Pacific (see Item 5.4). This new information adds uncertainty to the understanding of gray whale stock structure. However, the Scientific Committee agreed that there is no need to revise stock structure assumptions at present and further range-wide studies are needed. Existing trials evaluate *SLAs* in the context of eastern gray whales only. The Committee stressed the need to estimate the probability of a western gray whale being taken in aboriginal hunts.

In discussion, it was noted that any agreed *SLA* must show acceptable performance in line with the objectives already provided by the Commission. If it does not meet such standards then alternatives would need to be developed and tested by the Scientific Committee.

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

7.1.2 Commission discussions and action arising

India recognised the onerous role of IWC in the conservation of whales and other cetaceans and offered its fullest cooperation. It supported the continued moratorium on killing of whales and therefore found it disturbing that a large number of whales are being caught reportedly for scientific research. With regard to the issue of aboriginal subsistence whaling, India considered that IWC should work to systematically reduce the dependence of aboriginal communities on whales by providing them alternate food resources and livelihoods, for example through whalewatching and eco tourism. India supported building a sustainable whalewatching industry. The Russian Federation responded to India's comments under Item 7.6.

7.2 Aboriginal Whaling Scheme

7.2.1 Report of the Aboriginal Subsistence Whaling Sub-committee

In 2002, the Scientific Committee recommended an Aboriginal Subsistence Whaling Scheme for Commission adoption that covered a number of practical issues⁸ and it reaffirmed its recommendation this year. It was recognised that Commission discussions of some aspects of this have not been completed and the ASW Sub-committee noted the Scientific Committee report.

7.2.2 Commission discussions and action arising

There were no discussions under this agenda item.

7.3 Aboriginal subsistence whaling catch limits

7.3.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales (annual review)

7.3.1.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Scientific Committee examined new information on stock structure and abundance, particularly in the context of the forthcoming *Implementation Review*. It was pleased to hear of two successful field efforts but noted that a new abundance estimate will not be available in time for the 2012 *Implementation Review*. However such an estimate is not a requirement for an *Implementation* and once available, a new estimate can be incorporated routinely into the *SLA* for the provision of management advice.

In 2010 in Alaska, 71 bowhead whales were struck of which 45 were landed; two were taken off Chukotka. The Scientific Committee reaffirmed its advice that results from the *Bowhead SLA* show that the present strike limits will not harm the stock.

⁶For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 13 (Suppl.) [2012].

⁷The Russian Federation was later able to join the Plenary meeting.

⁸*Ann. Rep. Int. Whaling Comm.* 2002: 12-15.

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

7.3.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Mexico recalled that the bowhead whales of the Bering-Chukchi-Beaufort seas had been severely depleted by whaling and were protected in 1931. However the stock is now over 10,500 animals. To a great extent this success is due to the excellent work of the Alaska Eskimos through their own Commission. They had been able to save the bowhead whale and they had been able to support whaling activities that are traditional. They had also promoted research activities for better management of the stock. Mexico considered that they had become an example for transparency and quality in their studies and wished that many of these types of studies would be funded by Greenland in relation to their hunt.

7.3.2 North Pacific Eastern stock of gray whales (annual review)

7.3.2.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

The Scientific Committee welcomed new information from Mexico and the west coast of the USA. It commended these valuable long-term monitoring programmes and recommended their continuation. It also encouraged a collaborative quantitative integrated analysis of data from them.

A total of 118 gray whales was landed in Chukotka in 2010; no whales were struck and lost but there was one stinky whale. The *Gray Whale SLA* remained the appropriate tool to provide management advice for the Chukotka hunt. It shows that the present catch limits will not harm the stock.

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

7.3.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no Commission discussions under this item.

7.3.3 Common minke whale stocks off Greenland (annual review)

7.3.3.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

EAST GREENLAND

For East Greenland in 2010, 9 common minke whales were struck and landed. In 2007, the Commission agreed to an annual quota of 12 from the stock off East Greenland for 2008-12. The present strike limit represents a very small proportion of the Central Stock and the Scientific Committee agrees it will not harm the stock.

WEST GREENLAND

For West Greenland in 2010, 179 common minke whales were landed and 7 were struck and lost. In 2009, the Scientific Committee was for the first time able to provide satisfactory management advice for this stock. Last year, the Commission agreed to reduce limits in accord with Scientific Committee advice. The Scientific Committee repeats its advice of last year that an annual strike limit of 178 will not harm the stock.

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

7.3.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no Commission discussions under this item.

7.3.4 West Greenland stock of fin whales

7.3.4.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

In 2010, four fin whales were landed and one was struck and lost. In 2007, the Commission agreed to a catch limit (for the

years 2008-12) of 19 fin whales struck off West Greenland. Last year, the Commission agreed that this should be reduced to 16 animals with a note that this will be voluntarily limited to 10 by Greenland. Using the agreed approach to provide interim advice, the Committee agreed that an annual strike limit of 16 (and therefore also 10) whales will not harm the stock.

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

7.3.4.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no Commission discussions under this item.

7.3.5 West Greenland stock of bowhead whales

7.3.5.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

In response to a request last year, the Secretariat wrote to Canada requesting information on the Canadian hunt of bowhead whales. The information received was incorporated into the Scientific Committee discussions.

The current working hypothesis being considered by the Scientific Committee is for a single stock of bowhead whales in this region. The Committee again recommended that genetic analyses to be presented to the 2012 meeting but recognised that much of the existing data are held by a non-member nation, Canada.

In 2010, three bowhead whales were harvested and biological samples were obtained from all three. In 2007, the Commission agreed to a quota for 2008 to 2012 of two bowhead whales struck annually (plus a carryover provision) but only with annual review. Using the agreed approach to provide interim advice, the Scientific Committee again agreed that the current catch limit for Greenland will not harm the stock.

The Scientific Committee took into consideration the Canadian catches from the same stock. If these continue at a similar level as in recent years, it will not change the Committee's advice. It was again recommended that the Secretariat should continue to contact Canada requesting information about catches and catch limits for bowhead whales.

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

7.3.5.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no Commission discussions under this item.

7.3.6 Humpback whales off West Greenland

7.3.6.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

A total of nine humpback whales were landed in 2010. Last year, the Commission established an annual strike limit of nine whales for the years 2010-12 with an annual review by the Scientific Committee. Using the agreed approach for providing interim advice, the Scientific Committee agreed that an annual strike limit of nine whales will not harm the stock.

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

7.3.6.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no Commission discussions under this item.

7.3.7 North Atlantic humpback whales off St Vincent and The Grenadines

7.3.7.1 REPORT OF THE ABORIGINAL SUBSISTENCE WHALING SUB-COMMITTEE

No information was provided to the Scientific Committee on 2010-11 catches by St Vincent and The Grenadines.

The sub-Committee strongly recommended that catch data, including the length of harvested animals, genetic samples and photographs be provided to the Scientific Committee. These animals are part of the large West Indies breeding population. The Commission adopted a total block catch limit of 20 for the period 2008-12. The Committee agreed that this block catch limit will not harm the stock.

In discussion, the Chair of the SWG noted that the Scientific Committee, while recognising the difficulties in collecting data in remote areas, had made a general recommendation encouraging data collection for all subsistence hunts.

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

7.3.7.2 COMMISSION DISCUSSIONS AND ACTION ARISING

Austria recognised the absence of St Vincent and The Grenadines but it wished to note that in 2010 the Commission agreed to waive the share portion of the annual financial contribution attracted by St Vincent and The Grenadines' annual hunt under the condition that they collect the samples and data requested by the Scientific Committee and submit those in time to the appropriate body. It is important that the Scientific Committee gets the data collection from all hunts so Austria asked the Secretariat to approach St Vincent and The Grenadines for more timely and complete submission.

7.4 Preparation for 2012 review of catch limits

7.4.1 Report of the Aboriginal Subsistence Whaling Sub-committee

The USA had submitted four documents to the Sub-committee under this item, and discussions were not limited to preparation for the 2012 review but also included broader and longer-term issues. Before discussing the individual items, the USA noted a general desire to address several unresolved issues regarding ASW. It believed it was not feasible to fully consider all the issues at a single meeting and it recommended a two-step process: short-term issues and longer-term issues. The latter could be addressed by a small *ad hoc* working group with membership, terms of reference and method of operation determined by the Sub-committee. It proposed that the group would: (1) review relevant past actions; (2) determine further work; and (3) suggest solutions.

7.4.2 Sub-committee discussions on specific proposals raised by the USA

7.4.2.1 REPLACEMENT OF THE TERM 'ABORIGINAL'

The USA introduced its proposal to replace the term 'aboriginal' with the term 'indigenous'. In recent years, some Commissioners have suggested that the term 'aboriginal' can be offensive and/or a misnomer. The USA proposed a number of actions to implement the change of terminology and several comments and clarifications were made in discussion. In conclusion, the Sub-committee noted the generally positive sentiments regarding the USA's proposal. However, noting the absence of some ASW countries and the expressed need for more time to consider the proposal, the Sub-committee recommended that the USA continues bilateral and multilateral discussions to try to develop a proposal that could be adopted by consensus at Plenary.

7.4.2.2 FACILITATING TECHNICAL EXCHANGE ON ASW HUNTS

The USA noted that in the past several countries had commented on the lack of exchange of information between ASW nations on common matters. In fact, they noted that delegations and hunters of the ASW countries regularly

discuss these matters including within the informal 'ASW caucus'. The USA suggested an approach to take this forward. Again, the Sub-committee noted the generally positive sentiments regarding the US proposal. It recommended that the USA continues bilateral and multilateral discussions with the two ASW countries not present prior to Plenary.

7.4.2.3 GUIDELINES FOR PREPARATION OF NEEDS STATEMENTS

The USA considered that although the definition of ASW suggests what material might be contained in a needs statement, there is no formal Commission guidance on what should be included. The USA proposed potential guidelines for needs statements but suggested the issue should be considered a long-term one. Again, the Sub-committee noted the generally positive sentiments regarding the US proposal. It recommended that the USA continued bilateral and multilateral discussions to try to develop a proposal that could be adopted by consensus at Plenary. It also recommended that a background document developed by the Head of Science on related matters (document IWC/63/13) be submitted to Plenary for information.

7.4.2.4 CONSIDERATION OF LONG-TERM ISSUES

The USA outlined a process to address long-term ASW issues including the idea of an *ad hoc* working group. It proposed that the group should comprise the four ASW countries and a small number of other interested parties including the Scientific Committee and the Secretariat so as to allow an in-depth study of the issues. A proposed list of issues was included to assist discussion in the Sub-committee as were terms of reference. There should be a progress report in 2012 and a final report at IWC/65 or beyond.

In discussion, it was noted that there would be minimal budgetary implications. It was also recognised that the Scientific Committee already consider longer periods than 5 years when testing *SLAs*. Denmark believed that it would be wise to work on this initiative over a 2-year period.

Again, the Sub-committee noted the generally positive sentiments regarding the US proposal. It recommended that the USA continued bilateral and multilateral discussions to try to develop a proposal that could be adopted by consensus at Plenary. Requests for additional work by the Scientific Committee should come from the Commission.

The proposal to establish the *ad hoc* group was considered by the Commission under Agenda Item 7.5 below.

7.5 Proposal to establish an *ad hoc* Aboriginal Subsistence Whaling Working Group

7.5.1 Introduction by the USA

The USA remarked that since last year it had heard a number of concerns expressed about the ASW process, some of which were listed in IWC/63/Rep3. In that Sub-committee, the USA had recommended a two-step process of dividing the issues into those that might be addressed short-term and those that might require a longer term to resolve. The USA had further proposed three short-term issues that might be considered at this meeting which were: (1) changing the word aboriginal in ASW; (2) advancing the exchange of technical hunting information between ASW parties; and (3) developing a standardised approach to needs statements. Based upon discussions in the Sub-committee and in subsequent consultations, the USA had decided not to pursue those three proposals in Plenary since they all required further work. In the ASW Sub-committee, the USA had also recommended the creation of a small *ad hoc* working group to address unresolved ASW issues. Such a small group would facilitate the in-depth consideration that the ASW

issues deserve. The USA was encouraged by the positive support received following the Sub-committee meeting and it had developed document IWC/63/12 proposing that the Commission establish an *ad hoc* ASW Working Group. Subsequent extensive consultations had led to a revision, IWC/63/12rev, which included changes to the Terms of Reference. The revision also included a reference to the list of possible unresolved ASW issues and clarification of the meanings of short-term (i.e. before IWC/64 in 2012) and long-term (meaning IWC/65). The USA noted that a request for assistance on ASW quota advice had already been made to the Scientific Committee through the report of the small working group on meeting frequency (IWC/63/Rep7) and so this requirement would not be addressed through the *ad hoc* group. The USA indicated it had consulted extensively on the revised proposal and hoped it could be adopted by consensus.

7.5.2 Commission discussions and action arising

Portugal, Spain, Colombia, St Kitts and Nevis and Poland (speaking on behalf of other EU Contracting Parties) supported the proposal.

Sweden welcomed the proposal and considered it essential for the IWC to reconsolidate its outdated rules on ASW. It noted that the Commission's ideas on ASW stemmed from the previous Whaling Convention from 1931, making the thinking and wording 81 years old. Sweden noted that one of the items that needed to be elaborated was needs statements and it recalled its surprise at seeing how such old rules were applied when the Commission considered the elaborate needs statements from the USA on the nutritional subsistence and cultural needs of the Makah tribe. With regard to commerciality, Sweden noted there were different attitudes to this even among the ASW countries, and that harmonisation and modernisation was needed. Lastly, the United Nations Declaration on the Rights of Indigenous Peoples as well as its Convention on the Law of the Sea shaped a completely different background for the Commission to operate under instead of the one that prevailed 65 or 80 years ago. Spain supported Sweden's comments.

Switzerland recognised that respect for indigenous knowledge, cultures and traditional practices contribute to sustainable and equitable development and proper management of the environment. Switzerland also recognised that indigenous people possess collective rights which are indispensable for their existence, well being and integral development as peoples. Moreover, indigenous people have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements and to have states honour and respect such treaties, agreements and other constructive arrangements. Switzerland recognised the United Nations Declaration on the Rights of Indigenous Peoples and was of the opinion that the IWC should act in the spirit of that declaration. Catch quotas were allocated to indigenous communities for their subsistence need in the past and the Commission should allocate such quotas in the future. Switzerland therefore supported the initiative by Denmark, the Russian Federation and the USA to form a Working Group, and said that it was most important to have this item well-prepared to allow the Commission to make the quota renewal decisions during next year's meeting. Switzerland also noted that there were other aspects on this item to be addressed including catch

quotas and a possible move from a five year period to a four or six year term and improvement of the hunting methods. Switzerland indicated it would like to participate within this Working Group if it should be established.

Argentina referred to the list of unresolved ASW issues and proposed inclusion of the relationship between tonnes and the number of whales, including the conversion factor. Argentina also indicated its interest in giving attention to issues related to animal welfare, efficiency of ASW operations and data collection from humpback whales including photographs of fins, sizes, samples for DNA analyses and other topics. Mexico indicated that they understood the logic behind a needs statement expressed in kilograms, but noting that whaling did not work that way, they agreed with Argentina and supported the need to standardise needs statements and enquired if Greenland would help develop the AWMP. Colombia supported Argentina and Mexico's comments.

Norway recorded its positive attitude to proposals which will make it easier for aboriginal people to improve their hunting methods and obtain their sustainable quotas. Norway said the sustainability question was determined by the Scientific Committee and it recognised that although the management procedures for aboriginal and commercial whaling are different, and probably have to be different, with stronger precautionary rules for the commercial hunt than for the aboriginal, both sets of procedures are safe and ensure sustainable catches. Apart from the differences in management procedures, Norway's opinion was that the work of the Scientific Committee as far as possible should follow similar rules for establishing abundance estimates, deciding stock identity questions, time periods between *Implementation Reviews* and phase out rules for the two types of whaling.

For this reason Norway did not think it was a good idea to take the discussion of these and other questions related only to the aboriginal hunt more or less out from the Commission to a special long term working group. Consequently Norway did not support the proposal.

However, Norway fully supported the ASW nations wish to improve the exchange of information on hunting techniques, equipment, hunter safety and animal welfare aspects of the hunts, and Norwegian scientists in the relevant fields would continue to assist aboriginal people on these issues in the future as they had done in the past. Norway also pointed out that such coordination work is ongoing in the North Atlantic Marine Mammal Commission. Iceland supported Norway's statement, and also indicated that it supported sustainable whaling in any form and this includes aboriginal subsistence whaling that is sustainable. From its perspective, what was important was sustainability, and it considered there were only two categories of whaling, sustainable whaling and non-sustainable whaling.

The Chair asked whether Norway or Iceland would block the consensus adoption of the proposal to establish the *ad hoc* group. Norway indicated that it had made a statement on a topic which it felt was important for the future normalisation of the organisation. However it recognised that there was a majority of voices in favour of the proposal and in line with the good spirit of cooperation it would not stand in the way of a consensus decision. Iceland supported this intervention from Norway.

The Chair then confirmed that the Commission had adopted by consensus the proposal outlined in IWC/63/12rev to establish an *ad hoc* Aboriginal Subsistence Whaling Working Group.

Argentina enquired how many participants the USA expected the group to comprise, and the USA responded that it envisaged a group with eight members, four of whom would be the ASW Contracting Governments and four would be non-ASW Contracting Governments to represent the different positions expressed at the IWC. Argentina indicated it would be willing to join the group, and asked if it would be possible for the Buenos Aires Group of Contracting Governments could have two members on the group. The Russian Federation noted that Switzerland had agreed to act as one of the four countries, and that after a preliminary conversation Austria and Japan had also agreed to participate. With Argentina this brought the total to four which was the total required, and in the interest of maintaining a small group the Russian Federation requested Argentina to discuss within the Buenos Aires Group so that it could represent their views and participate by itself on the *ad hoc* group. Argentina thanked the Russian Federation for its explanation and said it would discuss the matter within the Buenos Aires Group. Chile supported Argentina's comments. The USA indicated that in addition to working with the Chair and the Head of Science, it envisaged participation by at least one member of the Scientific Committee, possibly Dr Gales from Australia if he was willing to participate. The USA suggested that the final decision on membership of the Working Group be left to the Chair. The Russian Federation supported this suggestion and noted there would be a working discussion with the Buenos Aires Group.

7.6 Adoption of the report of the Aboriginal Subsistence Whaling Sub-committee

The Chair requested the adoption of the report of the ASW Sub-committee.

The Russian Federation agreed with the adoption of the report and thanked Mr Morishita for his excellent work. The Russian Federation referred to the intervention from India (Item 7.1.2), regarding the need to lower the quotas for the aboriginal hunt. The Russian Federation indicated that upon return to Moscow it would be requesting information from the Indian Government on why it had taken its position. Denmark concurred with the views of the Russian Federation. India responded that it had not said the quota of aboriginal communities should be reduced. Instead, it said there was need to systematically reduce the dependency of aboriginal communities on whales. It had not put a limit on the time that it would require for coming to a reduced quota but it did feel that there was a need for moving in that direction.

The Commission adopted the report of the Aboriginal Subsistence Whaling Sub-committee and endorsed its recommendations.

8. REVISED MANAGEMENT SCHEME

8.1 Revised Management Procedures (RMP)⁹

The RMP was designed by the Scientific Committee to set safe commercial catch limits 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.

⁹For full details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage. (Suppl.)* 13. [2012].

8.1.1 Report of the Scientific Committee

8.1.1.1 GENERAL ISSUES

MAXIMUM SUSTAINABLE YIELD RATE

An ongoing task for the Scientific Committee has been to review the range of values used for the Maximum Sustainable Yield Rate (MSYR) which relates to the productivity of the stocks. This review is necessary before the Committee can evaluate a Norwegian proposal to amend the *CLA*. At present, the range of values used for the MSYR is 1%-7% of the mature component of the population. This year, despite considerable work and progress, the Committee was unable to complete the review. However, it had agreed a detailed work plan to complete its review and finalise the approach for evaluating amendments to the *CLA* next year.

THE RELATIONSHIP BETWEEN THE PHASE-OUT RULE AND ABUNDANCE ESTIMATES BASED ON MULTI-YEAR SURVEYS

Following the changes to the RMP specifications and annotations agreed in 2010, the Scientific Committee next considered a change to the catch limit phase-out rule which logically leads directly from last year's changes. The change considered this year is to clarify that the phase-out rule will not come into play until eight years after the last abundance estimate when the abundance estimate is derived from a series of six surveys. This change has already been tested and so is in accord with the results of testing the RMP and its conservation performance. The Scientific Committee will be putting the full RMP and associated guidelines on the IWC website and will publish them in the *Journal of Cetacean Research and Management*.

MODIFICATION TO THE CATCHLIMIT COMPUTER PROGRAMME

The 'CatchLimit' computer programme is used to implement the *CLA*. A modification is required to update the code so as to allow input of a variance-covariance matrix of abundance estimates, which is one of the required quantities that must be provided in order to implement the *CLA*.

REQUIREMENTS AND GUIDELINES FOR CONDUCTING SURVEYS AND IMPLEMENTATIONS

An important component of the RMP is the Scientific Committee's requirements and guidelines for conducting surveys and *Implementations*. These guidelines provide features of acceptable abundance estimates. The Committee did not suggest additional changes to the guidelines this year, but did agree to examine the acceptability of abundance estimates that are derived from relatively new model-based analyses. Before next year the Scientific Committee will examine improved optimisation methods for conditioning trials which are used in *Implementation Reviews*.

8.1.1.2 IMPLEMENTATION PROCESS

WESTERN NORTH PACIFIC BRYDE'S WHALES

The *Implementation* for western North Pacific Bryde's whale was completed in 2007. Following on from this, Japan has been developing a proposal for a research programme to allow it to use a 'variant with research' option to determine catch limits. This year, Japan informed the Scientific Committee that instead of presenting a new research proposal it will provide new information on stock structure to the next *Implementation Review*. This is timely since the Committee agreed to begin preparations for the 2013 *Implementation Review* during next year's meeting.

CENTRAL NORTH ATLANTIC FIN WHALES

The North Atlantic fin whale *Implementation* was completed in 2009. At that time Iceland decided that it wished to pursue a 'variant with research' option. As for the Bryde's whale

case above, the focus would be to show that a particular stock structure hypothesis that was considered during the *Implementation* was actually of low plausibility. The Scientific Committee received two papers addressing this issue. It recognised that good progress had been made with the development of the research programme and looked forward to receiving a revised version of the research proposal at next year's meeting. The Committee also received an analysis of existing data that suggested the stock hypothesis in question is of low plausibility. The Committee suggested that these analyses are carried out in the context of *Implementation Simulation Trials* before next year's meeting. If Committee resources and scheduling permit, an *Implementation Review* for this species is proposed for 2014.

To assist with stock structure discussions of North Atlantic fin whales, the Scientific Committee welcomed an analysis of data from the Icelandic DNA registry and looked forward to similar future analyses. In addition, the Scientific Committee received new abundance estimates for fin whales and other species in European Atlantic waters. These estimates were derived from a model-based approach and the methodological issues raised will be considered next year.

WESTERN NORTH PACIFIC COMMON MINKE WHALES

At IWC/62 in 2010, an *Implementation Review* for western North Pacific common minke whales was initiated according to the formal schedule but it was recognised that the 2-year process would be challenging because of the complexity of the stock structure involved and the fact that whaling occurs on the migration path rather than on the feeding grounds. To deal with these challenges, the Scientific Committee undertook two, rather than the usual one intersessional Workshop. An enormous amount of work was undertaken intersessionally and during the Scientific Committee Annual Meeting. Considerable progress was made, especially with respect to clarifying the stock structure hypotheses and reviewing abundance estimates. Some simplification of one of the stock structure hypotheses has been agreed to. However, despite all of the hard work, it proved impossible to complete the first stages of the schedule on time, especially the 'conditioning'. The term conditioning is used to describe the process of ensuring that the computer models designed to mimic proposed hypotheses are consistent with the available data. This step must be completed before the Scientific Committee can use simulation testing to investigate the effects of uncertainties in the data.

Given the great complexity of this *Implementation* compared to the previous ones, the Committee agreed that the objectives of next year's meeting will effectively become a repeat of this year. This represents a 1-year delay from the normal timetable. A work plan (including an intersessional Workshop) has been developed that should guarantee completion of the necessary work so that final advice can be provided at the 2013 Annual Meeting.

IMPLEMENTATIONS TIMETABLE

The Scientific Committee reported its concerns over the feasibility of its future timetable for RMP work. In 2013 the Committee have scheduled both the final year of the *Implementation* for the western North Pacific common minke whale and the *Implementation Review* for the western North Pacific Bryde's whale. It is not possible to undertake two major *Implementations* or *Implementation Reviews* simultaneously and the Scientific Committee will review this matter further at IWC/64 in 2012.

8.1.1.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

Under the RMP, recommended catch limits must take into account estimates of mortality due to human factors such as bycatch and ship strikes. These factors also have other conservation and management implications outside the RMP context. Ship strikes are discussed by the Commission's Conservation Committee and entanglement has been discussed by the Working Group on Whale Killing Methods and Animal Welfare Issues.

The Scientific Committee's work on ship strikes was presented to the Conservation Committee (IWC/63/Rep5). The Committee's work on bycatch proceeds through its collaboration with the Food and Agriculture Organisation (FAO) on a shared bycatch database. The value of such a database is conditional on good data. As in previous years, the Scientific Committee recommended that all countries submit Progress Reports that include information on large whale mortality. In that regard the Committee was pleased to note that the Secretariat is developing a system for online submission of Progress Report information. A pilot system is under evaluation and the final version should be available for the submission of next year's reports to the Scientific Committee meeting in 2012.

The Committee welcomed the report of the 2010 Workshop on the Welfare of Entangled Whales, particularly the guidelines for collection and reporting of data on entanglements and the list of health assessment data items. It also welcomed the proposal for a follow-up Workshop in October 2011.

8.1.2 Commission discussions and action arising

8.1.2.1 EVALUATION OF MSYR RATES

Norway recalled that its proposal to amend the *CLA* was made in 2004 both to the Commission and in the Scientific Committee. The results were presented two years later with additional points provided by Norway in 2007. Norway noted this was four years ago and expressed its disappointment that no progress had been made on this issue, even though each year progress is promised. It expressed its hope that next year the Scientific Committee would revise the MSYR rates and also discuss proposals to amend the *CLA*.

8.1.2.2 CENTRAL NORTH ATLANTIC FIN WHALES

Monaco noted that Iceland caught 125 fin whales in 2009 and 148 in 2010 under objection to the moratorium on commercial whaling. Monaco stated that if whaling is to take place it should do so under scientific advice. It also suggested that the catches were in excess of a limit of 48 recommended by the Scientific Committee as part of the work of the Scientific Assessment Group convened during the 'Future of the IWC' process. Monaco commented that fin whales are considered endangered by the IUCN. It advised Iceland to be precautionary in any further increases of their catches from a stock which is considered vulnerable and fragile. The UK supported these comments.

In responding to Monaco's comments, Iceland indicated that the Scientific Committee had not recommended a catch limit of 48 fin whales. It noted that as part of the output of the Scientific Assessment Group (SAG)¹⁰ a series of catch numbers were put forward and that 48 was the lowest of those numbers. Instead Iceland stated that its catch limits for North Atlantic fin whales were based on scientific assessments generated within the NAMMCO scientific committee, which were based on the RMP developed by

¹⁰Document IWC/M10/SWG6 Report of the Scientific Assessment Group.

the IWC's Scientific Committee. Iceland was certain that its catch numbers were conservative and also well below the maximum sustainable yield. In regard to the statement that fin whales are endangered, Iceland noted that this was based on the global IUCN assessment which is dominated by the depleted status of fin whales in the Southern Hemisphere. The stock of fin whales around Iceland is close to pre-exploitation levels and is completely independent of the stock in the Southern Hemisphere, and so cannot in any way be considered to be endangered.

The Chair of the Scientific Committee clarified that last year, the Scientific Committee reviewed the work of the Scientific Assessment Group. It presented several different potential catch limits between 46 and 155 which were dependent on different factors¹¹. The catch limit of 46 was derived from a tuning value of 0.72 (this being the tuning level previously approved by the Commission) and under stock structure hypotheses that did not require further research. The catch limit of 155 was derived from a tuning value of 0.60 (this tuning value being included at the request of some Contracting Governments) and under stock structure hypotheses that did require further research.

Mexico asked whether the number of whales taken by Iceland in 2009 and 2010 (125 and 148 respectively) exceeded the catch limits generated by the Commission's agreed tuning level of 0.72. The Chair of the Scientific Committee responded that this was the case; the value of 155 was relevant if the 0.60 tuning level and the use of variant 2 (which needs research) was considered acceptable.

New Zealand commented that Iceland's fin whale catch is problematic both from a process and a conservation point of view. The fact that Iceland has chosen to apply its own methodologies, not enforced by the Commission and to take whales vastly in excess of previous practices in recent years has caused enormous concern within this Commission and in the outside world. New Zealand indicated that it did not agree with this practice which it considered to be unlawful behaviour. The USA and Australia supported the comments made by Monaco, Mexico and New Zealand.

In regards to the debate on legality of whaling, Iceland noted that it has a legal reservation to the moratorium on commercial whaling so its whaling is fully legal. It also stated that it calculated its catch limits on a scientific basis and participated in the IWC's Scientific Committee. In layman's terms, Iceland said that its annual quota is 154 out of a total stock of roughly 20,000 whales, which from a common sense point of view it considered to be fully sustainable. Iceland drew a comparison between its North Atlantic fin whale hunt and the aboriginal bowhead hunt undertaken in Alaska which in both cases had catch quotas which were the equivalent of 0.65% of the total stock each year. Thus it considered its North Atlantic hunt had a roughly equivalent sustainability to the Alaskan aboriginal hunt.

Norway supported the right for Iceland to harvest its whales in a sustainable manner and supported Iceland's arguments.

8.1.2.3 WESTERN NORTH PACIFIC COMMON MINKE WHALES

The Republic of Korea recalled that North Pacific minke whales had been utilised as a traditional food for a long time. Since the introduction of the moratorium on commercial whaling in 1986 Republic of Korea has imposed a total ban on commercial whaling in its waters. However, the Republic of Korea reported that minke whales have now recovered to

a higher level than in the 1970s. Therefore they expect that someday the Commission will approve and recognise their long aspiration to resume harvesting of these animals.

The Republic of Korea also noted that the ICRW states that the conservation and use of whale resources should be based on the best scientific information available, and that this year the Scientific Committee commenced the first *Implementation Review* of the North Pacific minke whale; a process which was originally scheduled for completion in 2012. This has been deferred by one year and will now be finalised in 2013. Republic of Korea noted from the report of the Scientific Committee that more data including biological and ecological information appear to be needed to reduce uncertainties. It hoped that relevant countries and scientists would exert efforts to resolve this problem so that the RMP procedure could be completed by 2013.

Japan acknowledged the tremendous efforts of all scientists and the whole Scientific Committee who have engaged in the *Implementation Review* for this stock. Japan noted that it is regrettable that the process is delayed for one year, but recognised this is not because of lack of effort on the part of scientists. Japan noted that a variety of different hypotheses had been discussed in the Scientific Committee, and although the views of its own scientists were that some of the hypotheses are too complicated, Japan would continue to engage in the Scientific Committee discussions.

The UK noted that the last written specification of the RMP was published in 1999. There have since been a number of amendments, and last year the Scientific Committee made a recommendation in its report, which was approved by the Commission, which requested that the revised consolidated revised version of the RMP be published in full in the next Supplement to the *Journal of Cetacean Research and Management*. However the UK noted that the RMP had not been published in the latest edition of the Supplement to the *Journal*. Accordingly the UK asked the Secretariat to ensure the RMP is published in the next Supplement to the *Journal*. Mexico supported these comments, and also asked the Secretariat to post the RMP on the Commission's website at the time of publication.

The IWC Head of Science, who is also the Editor of the *Journal of Cetacean Research and Management*, responded that last year a number of changes had been agreed to the specifications of the RMP including that the maximum period of validity of catch limit calculations should be extended from five to six years to be consistent with the six year cycle of surveying which was already specified in the RMP. It was subsequently recognised that this change would require a consequential amendment to the phase-out rule which would have to be (and was) agreed by the Scientific Committee at its 2011 meeting. Therefore, it had been deemed more appropriate (and cost-effective) to publish the RMP when this consequential change had also been agreed. The Head of Science also confirmed that the updated RMP would be placed on the Commission's website at the time of publication in the *Journal*.

Chile requested clarification on why the Scientific Committee was recommending a modification of the RMP phase-out rule from eight to ten years. The Chair of the Scientific Committee responded that this was a necessary change to allow the Committee to utilise survey data obtained from the surveys which were conducted in blocks of six years, and that the Committee had already tested the inter-survey interval as being safe up to a period of ten years¹².

¹¹See *J. Cetacean Res. Manage. (Suppl.)* 12 [2011] pp.62-64.

¹²For a full account of the Scientific Committee's discussions see *J. Cetacean Res. Manage. (Suppl.)* 13 [2012].

8.1.2.4 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

There were no Commission discussions under this item.

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

8.2 Other

Before the RMP can be used, the IWC has agreed that measures must be in place to ensure that the agreed catch limits are not exceeded. It is this combination of scientific (under the RMP) and non-scientific factors (including amongst other things the need for observation and inspection schemes) that comprise the Revised Management Scheme (RMS).

At its 2006 Annual Meeting, the Commission accepted that an impasse had been reached at Commission level on RMS discussions. There have been no specific discussions on the RMS in Plenary since then although the RMS was included as part of the discussions on the 'Future of the IWC' held between 2007 and 2010 (see Item 4).

The USA made an intervention under this item to clarify its opinion on setting annual catch limits. It noted that the approaches for management of subsistence whaling and commercial whaling are different because the Commission has given different policy advice for the different types of hunt. The USA considered it inappropriate to apply the *Strike Limit Algorithm* for bowhead whales to commercial whaling catch limits. The Commission has adopted explicit management objectives for each type of whaling and this was done to provide guidance to the Scientific Committee when it was developing management procedures for each type of whaling, for example, while commercial whalers were not allowed to take whales from depleted populations (defined as 54% of the MSY stock level), aboriginal subsistence hunters were allowed this privilege. The USA stated that member countries should follow the advice from the Scientific Committee appropriate to the particular form of whaling that they have chosen to prosecute. Monaco, Mexico and Ecuador supported this statement.

9. SANCTUARIES

9.1 Issues raised in the Scientific and Conservation Committees

9.1.1 Report of the Scientific Committee

The Chair of the Scientific Committee reported that no new proposals for sanctuaries had been submitted to the Scientific Committee this year, but that this item would remain on the Committee's agenda.

9.1.2 Report of the Conservation Committee

The Chair of the Conservation Committee reported that the Agoa Sanctuary for marine mammals in the French Caribbean has been officially created. A steering committee had been established and both financial and human resources provided to ensure good governance of the Sanctuary and improve scientific knowledge.

The Chair of the Conservation Committee also reported that the second International Conference on Marine Protected Areas and Marine Mammals would take place in November 2011 in Martinique.

9.1.3 Commission discussions and action arising

The Commission noted the Scientific Committee and Conservation Committee's reports.

9.2 South Atlantic Whale Sanctuary

9.2.1 Introduction of the proposal

Brazil and Argentina introduced a joint proposal to amend the Schedule to create a South Atlantic Whale Sanctuary (SAWS). The amendment was the same as the one proposed each year between 2001 and 2008, except for the addition of a final sentence relating to the national waters of coastal states. The proposal was that the following text be inserted as a new subparagraph 7(c) in Chapter III of the Schedule:

In accordance with Article V(1)(c) of the Convention, commercial whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the South Atlantic Whale Sanctuary. This Sanctuary comprises the waters of the South Atlantic Ocean enclosed by the following line: starting from the Equator, then generally south following the eastern coastline of South America to the coast of Tierra del Fuego and, starting from a point situated at Lat 55°07,3'S Long 66°25,0'W; thence to the point Lat 55°11,0'S Long 66°04,7'W; thence to the point Lat 55°22,9'S Long 65°43,6'W; thence due South to Parallel 56°22,8'S; thence to the point Lat 56°22,8'S Long 67°16,0'W; thence due South, along the Cape Horn Meridian, to 60°S, where it reaches the boundary of the Southern Ocean Sanctuary; thence due east following the boundaries of this Sanctuary to the point where it reaches the boundary of the Indian Ocean Sanctuary at 40°S; thence due north following the boundary of this Sanctuary until it reaches the coast of South Africa; thence it follows the coastline of Africa to the west and north until it reaches the Equator; thence due west to the coast of Brazil, closing the perimeter at the starting point. This prohibition shall be reviewed twenty years after its initial adoption and at succeeding ten-year intervals, and could be revised at such times by the Commission. Nothing in this sub-paragraph shall prejudice the sovereign rights of coastal states according to, *inter alia*, the United Nations Convention on the Law of the Sea. With the exception of Brazil, this provision does not apply to waters under the national jurisdiction of coastal states within the area described above, unless those States notify the Secretariat to the contrary and this information is transmitted to the Contracting Governments.

Brazil noted that the supporting statement for the proposed Sanctuary had been developed by an international team of whale research and conservation experts and had been presented to, and discussed by, the Scientific Committee. Brazil was therefore confident that the proposal had scientific merit, given that it focused on a region where cetacean populations were depleted by commercial whaling and are still in need of protection. It noted that whilst some species such as right and humpback whales are recovering, they remain at levels well below estimated initial stocks. Other species such as the blue and fin whales are in much worse shape and little is known about the distribution of surviving animals. For other species like sperm whales knowledge in this area is all but fragmentary. Possible concentrations of whales in areas beyond national jurisdictions indicated the need for comprehensive, basin wide conservation measures to be taken.

Brazil explained that the proposal was not limited to the protection of whales from direct takes as it would also provide a framework for international cooperation and scientific research. The development of non lethal use of cetacean resources through whalewatching in a coordinated manner would further benefit coastal communities in the region.

Brazil recalled that previous proponents of the Sanctuary had already obtained the support of 60% of member states the last time the proposal was voted upon, although in the spirit of compromise the proponents had refrained from requesting a vote since 2008. Dialogue during this period had improved the proposal by making it optional for interested countries to include their own waters in the Sanctuary. Brazil stated that although it wished for the proposal to be adopted by consensus, they felt that it was now time to bring the proposal to a vote again should that be necessary.

Argentina as co-sponsor of the proposal firmly supported the non lethal use of cetaceans. It said it had a long tradition of whalewatching and in 1983 it was the first country in South America where such activities began in the breeding area of southern right whales. Argentina explained that the Sanctuary proposal was designed to promote and establish a non lethal management zone for cetaceans. It recalled that it had a long tradition of non lethal research that included a 40 year photo-id programme for southern right whales which had been used to provide scientific information to designate the proposed Sanctuary. Argentina explained that the Sanctuary proposal would give long term protection and recovery for cetacean populations. It would also promote regional conservation and education and contribute to development of responsible tourism and whalewatching all along the coasts of the region.

Argentina supported Brazil's comments in respect of the history and background of the proposal and it hoped that the Commission would adopt the proposal by consensus at IWC/63.

9.2.2 Commission discussions

Costa Rica, Colombia, the USA, Australia, Poland (on behalf of the other EU contracting parties present at IWC), Mexico, Ecuador, UK, Hungary, Chile, India, Panama, Uruguay, Germany, New Zealand, Denmark, Israel, Monaco, Switzerland, Portugal and Spain all spoke in support of the proposal. Many expressed their hope that the proposal could be adopted by consensus. Colombia considered that as well as providing a chance for the recovery of depleted whale populations, the Sanctuary would also be a tool to provide economic, cultural and social development to poor coastal areas through the development of whalewatching and tourism activities. Australia said the Sanctuary would be a complementary measure to the moratorium as it would protect feeding and breeding areas for marine cetaceans, and that it saw the contribution of marine sanctuaries to conservation as being of primary importance. The UK also believed that sanctuaries were a key element in the conservation of whales as they protect feeding and breeding grounds and it hoped the IWC would attach a high priority to creating this Sanctuary and to respecting existing ones. Monaco said that scientific research amply demonstrated that whale sanctuaries are an effective measure for allowing the recovery and conservation of whale stocks. Spain noted that when the proposal was first made in 2001 the proposers had not, at that time, been able to demonstrate support from non-member coastal states. However since that time the proposal had been much improved and the objections had been overcome.

Denmark said that on previous occasions it had announced its positive stance towards real sanctuaries fulfilling a number of defining requirements and that this was the reason why it had not previously supported the South Atlantic Sanctuary proposal. However, the Danish parliament had decided that Denmark should support the current proposal should it be put to a vote. In relation to any future proposals, Denmark said that it would maintain its traditional position on new sanctuaries, not least in that they would require a positive recommendation from the Scientific Committee. Furthermore, Denmark considered that the support of the coastal states would be of crucial importance and that new proposals would have to contain provisions regulating all human activities within the Sanctuary including fishing, sea transport and oil exploration to name but a few. Switzerland requested that the item remain open as there may be inadequate time to come to a decision.

Palau recalled that in May and September 2002, it had voted against a joint proposal by Australia and New Zealand to establish a South Pacific Whale Sanctuary. It had opposed that proposal because it was not convinced that the species of whale inhabiting the South Pacific had been scientifically proven as being threatened with extinction. Palau indicated that it would vote in the same way in regards to the South Atlantic Whale Sanctuary if a vote was called. The Russian Federation supported the creation of sanctuaries on a case by case basis, and recalled that the proposal for the South Atlantic Whale Sanctuary was a part of the 'Future of the IWC' process. It said there was an agreement to take such a decision as a package and the Russian Federation did not agree to the creation of global sanctuaries while the whaling moratorium is enforced. The Russian Federation requested Brazil and Argentina to withdraw their proposal so as not to destroy the process of the Future of the IWC. Cameroon supported the Russian Federation's comments that this proposal was part of the 'Future of the IWC' process, and like Switzerland asked that the item remain open. Iceland recalled that the proponents of this proposal were not eager to establish the Sanctuary when the Commission was working towards a package deal as this was one of the main elements in the package which they rejected. Iceland fundamentally rejected the proposal as there was no scientific basis or justification for such a Sanctuary. St Kitts and Nevis indicated it would not be able to support the proposal in its current form as it believed it was an emotional response to a very important marine resource. It preferred a more legitimate scientific approach to management and the use of sanctuaries only in extreme circumstances and as part of an ecosystem approach. It considered that the proposal was contentious because it restricted legitimate marine resource use activities.

The Instituto de Conservacion de Ballenas of Argentina spoke on behalf of the Latin American NGOs present at IWC/63. It recalled that the species and stocks of whales of the South Atlantic were heavily affected by large scale commercial whaling which had systematically wiped out the populations in the region. The adoption of a moratorium had made it possible to begin recovery of the most affected stocks; nevertheless several more decades would be needed in order for the initial populations to recover, especially considering the other threats faced by cetacean populations. It considered that the creation of this Sanctuary would immediately put a stop to these threats, including whale hunting, and would allow for protection to be extended to feeding and breeding grounds. It also said that the partial recovery of some species had made it possible to develop tourism that has benefited innumerable coastal populations and national economies and that the Sanctuary was designed to respect the rights of people who were benefitting from the presence of these whales. It noted that the creation of the Sanctuary was consistent with Article 194 of the United Nations Convention on the Law of the Sea, and emphasised that all sanctuaries needed to be respected.

The IWMC World Conservation Trust believed that sanctuaries were not a tool for conserving endangered species, but instead they offered protection for all species, including those that are abundant. Since no whale hunting actually takes place within the boundaries of the Sanctuary it would be a symbolic development which would be lauded by those opposing whaling and used as leverage to construct more sanctuaries. Ultimately the proliferation of sanctuaries and marine protected areas constricted fisheries and reduced the supply of protein food to poor people

around the world. Instead what is needed is a management system based on science under which whale harvesting could take place at sustainable levels. If this was achieved, whale sanctuaries would be completely unnecessary for conservation. It noted that the IWC has an RMP which was developed with safety against depletion as its first aim. It has been endorsed by the Commission and recommended for adoption by the Scientific Committee. It recalled that in 2004 the Scientific Committee was told by experts that the Southern Ocean Sanctuary was a failure with no clear objectives, no performance measures, little rationale behind boundary selection and was not ecologically justified. In its view there was no clear recommendation from the Scientific Committee that the South Atlantic Whale Sanctuary was required for conservation purposes. It appreciated that this proposal been on the agenda for many years, but persistence did not equate to best practice.

After hearing the discussion the Chair noted that a majority of countries had supported the establishment of a South Atlantic Whale Sanctuary. However five countries had spoken in opposition to the proposal and three said they were not in a position to join a consensus. The Russian Federation had requested the sponsors to withdraw the proposal.

The delegations of Japan, on behalf of Cambodia, Cameroon, Côte d'Ivoire, the Gambia, Iceland, Norway, Nauru, Mongolia, Mauritania, Guinea-Bissau, Grenada, Kiribati, Morocco, Republic of Korea, Ghana, Palau, Togo, the Russian Federation, Tuvalu, St Kitts and Nevis and St Lucia, said they were not willing to participate in a vote on the proposal because they considered that reverting to voting could be harmful to the constructive dialogue and atmosphere in the Commission that have been achieved in recent years.

The sponsors of the proposal made it clear that they wished the proposal to be put to the vote if consensus was not possible. Many other speakers supported the right of sponsors of a proposal to have that proposal put to a vote if consensus could not be achieved.

The Chair ruled that consensus could not be achieved and asked the Secretary to prepare for a vote.

At that point, Japan, Cambodia, Cameroon, Côte d'Ivoire, the Gambia, Iceland, Norway, Nauru, Mongolia, Mauritania, Guinea-Bissau, Grenada, Kiribati, Morocco, Republic of Korea, Ghana, Palau, Togo, Tuvalu, St Kitts and Nevis and St Lucia left the meeting room¹³.

There were extensive informal consultations on the procedural situation facing the Commission. There was no agreement on how the quorum rule in the Commission's Rules of Procedure applied to this situation or on how to resolve the procedural impasse facing the Commission.

The Commission decided to establish an Intersessional Group to consider the interpretation of the Commission's Rules of Procedure regarding the quorum necessary for a decision to be taken and, if appropriate, to present for the consideration of the Commission at IWC/64 in 2012 a proposal to amend the Rules so as to clarify the matter.

While recognising the diversity of views in the Commission on the issue, the Commission recognised the importance of a South Atlantic Whale Sanctuary to many member Governments. The Commission resolved:

- (a) to continue to discuss the establishment of a South Atlantic Whale Sanctuary as the first substantive agenda item at IWC/64; and

- (b) that, if consensus cannot be reached on the item, a decision will be taken in accordance with the Commission's Rules of Procedure.¹⁴

10. SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

For many years Japan has referred to the hardship suffered by its four community-based whaling communities at Abashiri, Ayukawa, Wadoura and Taiji since the implementation of the commercial whaling moratorium. Japan recalled that this issue was part of the 'Future of IWC' process and constituted an important part of the Chair and Vice-Chair's proposal for consensus. At the start of the meeting, Japan had said that it would like to reserve the right to propose an amendment to paragraph 10 of the Schedule to provide a quota for small-type whaling for adoption either by consensus or other means. Japan indicated that it was aware that this proposal would not attract consensus and given the very positive consensus movement surrounding the proposal from UK and co-sponsors on improving the effectiveness of IWC operations it had no intention of bringing a dividing issue to the floor. At the same time Japan hoped there would be willingness from other member countries for the rest of IWC/63 to be concluded in the same spirit of co-operation and good dialogue that had already prevailed.

11. SCIENTIFIC PERMITS

Since IWC/61 Japan has issued permits for taking minke, fin and humpback whales in the Antarctic (JARPA II) and for taking minke, Bryde's, sei and sperm whales in the North Pacific (JARPNI). However Japan agreed to continue suspending the take of humpback whales through its Antarctic research programme in the 2010/11 season as long as progress is being made in the discussions on the future of IWC.

At its 2011 meeting the Scientific Committee reviewed results of existing permits, of new or continuing proposals and also considered and modified its own procedure for reviewing scientific permit proposals. A full record of these discussions is provided in the Scientific Committee report.¹⁵

At IWC/63, extensive discussions, particularly relating to issues surrounding Sanctuaries, and Finance and Administration affairs meant that time was not available to receive the Scientific Committee's report on this issue or to discuss Scientific Permits during the Commission Plenary.

12. SAFETY ISSUES AT SEA

This item was included on the agenda at the request of Japan. Despite a number of consensus Resolutions and statements made at the IWC¹⁶ and at the International Maritime Organisation¹⁷ protest activities had again been launched against the JARPAII research vessels during the 2010/11 austral summer. Japan stated that the sabotage activities of the Sea Shepherd Conservation Society had once again escalated and included deliberate collisions between vessels

¹⁴The Commission's progress and agreements on these issues were recorded in document IWC/63/20.

¹⁵*J. Cetacean Res. Manage. (Suppl.)* 13 [2012]

¹⁶Resolution 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.

¹⁷Resolution MSC.303(87) of the 87th Maritime Safety Committee on Assuring Safety During Demonstrations, Protests or Confrontations on the High Seas.

¹³Given the implications of this with respect to whether the meeting could now be considered quorate, the Chair called for a private Commissioners' meeting.

at sea, the use of lasers and improvised weapons as well as the use of strengthened wires and ropes intended to entangle vessel's propellers. On 18 February 2011, Japan was forced to withdraw its research vessels from the Southern Ocean in order to protect the safety of its vessels and their crew.

Contracting Governments continued to support the right to legitimate and peaceful forms of protest but expressed their on-going deep concern over the further escalation of the confrontations. Several Contracting Governments noted that the IWC is not the competent body to address matters of vessel safety at sea and recognised the role of the International Maritime Organisation in this respect. The responsibility of the relevant port and flag states for the Sea Shepherd Conservation Society vessels was also noted and the Governments involved reported on the actions they were taking.

12.1 Resolution on Safety at Sea

Japan introduced its Resolution on Safety at Sea which it had developed in consultation with New Zealand, Australia, Netherlands and the USA. It explained that the content of the Resolution criticised actions that endanger lives and property at sea and also made reference to the previous relevant Resolutions adopted by the IWC and the IMO. Japan expressed its hope that the Resolution would be adopted by consensus.

Australia stated that it attaches great importance to safety at sea. Its firm position was that nothing less than full compliance with domestic and international laws is acceptable. Australia noted that it had fulfilled, and continues to fulfil, all of its international legal obligations arising out of events in the Southern Ocean. Australia believed that the Resolution would send an important message as it recalls Contracting Governments' respect for the right to peaceful protest, but also confirms that the Commission and its Contracting Governments condemn any actions that are a risk to human life and property at sea. The USA associated with these remarks and the Netherlands also indicated its support for the Resolution. New Zealand appreciated the consultative approach taken by Japan and the spirit of consensus and constructive dialogue. New Zealand recorded that as a maritime nation it took its obligations under both domestic and international law seriously, as was demonstrated by the investigation that was undertaken by its Maritime Agency when a New Zealand flagged vessel and a Japanese flagged vessel collided in the Southern Ocean in January 2010. New Zealand recorded its grave concerns that activities related to whaling in the Southern Ocean had escalated in recent years. While it respected the right to peaceful protest it did not condone illegal or dangerous protest activity. Safety at sea is the highest priority and in December 2010 New Zealand recalled that it had joined Australia, the USA and the Netherlands in calling upon the masters of all vessels involved in confrontations in the Southern Ocean to take responsibility for ensuring that safety of life at sea is their highest priority. Poland (on behalf of the European Union states), India, Iceland, the Russian Federation and Republic of Korea all expressed their support for the Resolution.

Resolution 2011-2 on Safety at Sea was duly adopted by consensus and its text is provided at Annex D.

13. ENVIRONMENTAL AND HEALTH ISSUES

Resolution 1998-5 established a regular Commission Agenda Item under which the Scientific Committee reports annually on research progress on environmental concerns,

and Contracting Governments can report on national and regional efforts to monitor and address the impacts of environmental change on cetaceans and other marine mammals.

At its 2011 meeting, the Scientific Committee had considered its full range of topics under this agenda item including: (1) the 2011 State of the Cetacean Environment Report (SOCER); (2) pollution, including review of the POLLUTION 2000+ Phase II programme and an update on the Deepwater Horizon oil spill; (3) cetacean emerging and resurging diseases (CERD); (4) anthropogenic sound; (5) climate change, including a review of the report from the Workshop on the Effects of Climate Change on Small Cetaceans and future plans for a Workshop on Anthropogenic Impacts on Arctic Cetaceans as proposed at IWC/62 in 2010; and (6) other habitat related issues.

This agenda item also provided for discussion on human health effects arising from the consumption of cetaceans¹⁸. At IWC/62 in 2010, several Contracting Governments had requested the Secretariat to re-establish contact with the World Health Organisation (WHO). Following this request a reply had been received from the WHO (document IWC/63/9).

At IWC/63, extensive discussions, particularly relating to issues surrounding Sanctuaries and F&A Committee affairs, meant that time was not available to receive the Scientific Committee's report on this issue or to discuss environmental and health issues during the Commission Plenary.

14. CONSERVATION MANAGEMENT PLANS

Conservation management plans (CMPs) are discussed by the Scientific Committee under its agenda item on whale stocks¹⁹ and also by the Conservation Committee (see Annex G).

At its 2011 meeting the Scientific Committee repeated its strong endorsement of the draft western gray whale conservation plan and encouraged all relevant parties to work together to refine and implement it. It also agreed that sufficient data exists on Arabian Sea humpback whales and the possible anthropogenic threats to them to begin the process of developing a conservation management plan.

At IWC/61 in 2009 the Commission established a Small Advisory Group within the Conservation Committee to oversee development of CMPs. At IWC/62 in 2010, the Small Advisory Group was directed to develop clear policy principles for CMPs and to produce agreed guidelines which would assist countries wishing to develop their own CMPs and assist the determination of conservation priorities for the implementation of CMPs. In 2011 the Conservation Committee was pleased to receive guideline documents on CMPs as developed by the Small Advisory Group. The documents provided a framework and templates to assist member countries who wish to develop a CMP. In addition, the guiding documents also contained a proposal to reconstitute the Small Advisory Group as a Standing Working Group of the Conservation Committee which would work closely with the Scientific Committee.

The Conservation Committee had also considered and endorsed a set of funding principles for the management of IWC voluntary funds on CMPs, and it was informed that a number of Contracting Governments were making

¹⁸See Resolution 1998-11 on Concern about Human Health Effects from the Consumption of Cetaceans and Resolution 1999-4 on Health Effects from the Consumption of Cetaceans.

¹⁹*J. Cetacean. Res. Manage. (Suppl.)* 13 [2012].

arrangements to prepare a draft CMP for South American populations of southern right whales for presentation to IWC/64 in 2012.

At IWC/63, extensive discussions relating to issues surrounding Sanctuaries and to F&A Committee affairs meant that time was not available to receive the Conservation Committee's report on this issue or to discuss Conservation Management Plans during the Commission Plenary.

15. WHALEWATCHING

While the Scientific Committee deals exclusively with scientific aspects of whalewatching, in 2007 it was suggested that the Conservation Committee could usefully address aspects related to management, including the implementation of the Scientific Committee's recommendations in this area, socio-economic aspects and international co-operation.

At its 2011 meeting the Scientific Committee continued its work to assess the impacts of whalewatching on cetaceans, conducted a review of whalewatching off Norway, reviewed the report of the steering group of the large-scale whalewatching experiment (LaWE) and reviewed the scientific aspects of the report from the Commission's intersessional whalewatching Workshop held in Argentina in December 2010²⁰.

The Conservation Committee also considered the report of the December 2010 intersessional Workshop on whalewatching. In addition, it received an update on the work of its Standing Working Group on Whalewatching (SWG-WW) which included:

- (1) an updated strategic plan for whalewatching following development work which had taken place in March 2011;
- (2) proposals for the future role of the SWG-WW; and
- (3) an expansion of the SWG-WW to include two members from the Scientific Committee.

Extensive discussions at IWC/63 on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to receive the Conservation Committee's report on this issue or to discuss matters relating to whalewatching during the Commission Plenary.

16. CO-OPERATION WITH OTHER ORGANISATIONS

Co-operative arrangements have continued and been strengthened with a number of other Intergovernmental Organisations including the Convention on Migratory Species (CMS), the International Council for the Exploration of the Seas (ICES), the Inter-American Tropical Tuna Commission (IATTC), the Agreement on the International Dolphin Conservation Programme (AIDCP), the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), the North Atlantic Marine Mammal Commission (NAMMCO), the International Union for the Conservation of Nature (IUCN), the North Pacific Marine Science Organisation (PICES), the Protocol on Specially Protected Areas and Wildlife (SPAW) of the Cartagena Convention for the Wider Caribbean and the International Maritime Organisation (IMO). Details of the Scientific Committee's working with these organisations are provided in their report²¹.

Extensive discussions at IWC/63, particularly relating to issues surrounding Sanctuaries and F&A Committee affairs, meant that time was not available to discuss the Scientific Committee's report on this issue or to discuss matters related to co-operation with other organisations during the Commission Plenary.

17. OTHER SCIENTIFIC COMMITTEE ACTIVITIES AND WORK PLAN

17.1 Small cetaceans

In 1991, the Commission adopted a Resolution on Small Cetaceans²² which recalled its request of the previous year for the Scientific Committee to draw together information on stocks subjected to significant directed and incidental takes, and requested the Scientific Committee to continue this work, including those stocks which were not reviewed.

As part of this work, at its 2011 meeting the Scientific Committee undertook a review of the taxonomy, population structure and status of North Atlantic and Mediterranean Ziphiidae (beaked and bottlenose whales) including direct and incidental takes and an assessment of a number of common threats including noise, plastic ingestion, gas embolism and climate change.

The Scientific Committee also reviewed progress on previous recommendations relating to:

- (1) vaquita;
- (2) harbour porpoise;
- (3) franciscana;
- (4) Indo-Pacific humpback dolphin;
- (5) white whales and narwhals;
- (6) killer whales;
- (7) boto; and
- (8) small cetaceans of the Caribbean and western tropical Atlantic.

In addition, the Scientific Committee recommended a series of nine proposals for funding under the Commission's voluntary fund for Small Cetacean Conservation Research. This is in addition to one project endorsed by the Scientific Committee at its 2010 meeting (Threatened Franciscanas: Improving Estimates of Abundance to Guide Conservation Actions) which had already been supported.

17.1.1 Commission discussions and action arising

Italy announced that it was very pleased to make a voluntary donation to the fund for Small Cetacean Conservation Research of £25,000 to provide further support for the projects recommended by the Scientific Committee. France also reported that it would give a contribution to the same fund of 15,000 Euros to permit research and conservation for small cetaceans.

The Secretary then read a statement on behalf the following accredited NGO observers to the IWC: American Cetacean Society, Animal Welfare Institute, Campaign Whale, Humane Society International, International Fund for Animal Welfare, Pro-Wildlife, Oceancare, Whaleman Foundation, World Society for the Protection of Animals and Worldwide Fund for Nature. The statement indicated that following the recent and tragic loss of the baiji the above mentioned organisations were pleased to announce a combined contribution of £10,300 to the voluntary fund for Small Cetacean Conservation Research. The intention of the contributions was to support the important research proposals selected and endorsed by the Scientific Committee

²⁰J. Cetacean. Res. Manage. (Suppl.) 13 [2012].

²¹J. Cetacean Res. Manage. (Suppl.) 13 [2012].

²²Rep. int. Whal. Comm. 42:48 [1992].

at its 2011 meeting, as well as future research projects to help conserve threatened small cetacean species and populations and to facilitate the participation of scientists from developing countries in the Scientific Committee's sub-committee on small cetaceans. The organisations also hoped that the excellent and critical work of the sub-committee would continue and expand with the support of all IWC Member States in the future.

Extensive discussions on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to receive the Scientific Committee's report on this issue or to permit further discussion of issues related to small cetaceans in the Plenary session.

17.2 Regional non-lethal research partnerships

The Southern Ocean Research Partnership (SORP) was proposed by the Australian Government to the IWC in 2008 with the aim of developing a multi-lateral, non-lethal scientific research programme that will improve the coordinated and cooperative delivery of relevant scientific information to the IWC. A framework and set of objectives for SORP, as well as a process for evaluating requests for funding under the IWC/SORP research fund were presented, discussed and endorsed by the Commission and Scientific Committee in 2010.

At its 2011 meeting the Scientific Committee received a report of intersessional progress with the SORP which included updates on revisions to the existing projects following feedback from the Scientific Committee in 2010.

At IWC/63, extensive discussions on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to receive the Scientific Committee's report on this issue or to permit further discussion of issues related to SORP in the Plenary session.

17.3 Other activities

17.3.1 Stock definition

Examination of the issues of population structure and stock definition play an important role in much of the Scientific Committee's work, whether for the RMP, AWMP or general conservation or management. In recognition of this, the Committee established a working group to review the theoretical and practical aspects of the stock concept in relation to management several years ago. The Committee previously endorsed a set of guidelines for ensuring sufficient quality of genetic data used for developing management advice, and continues to develop guidelines for statistical analysis of genetic data.

At IWC/63, extensive discussions on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to receive the Scientific Committee's report on this issue or to permit further discussion of issues related to stock definition in the Plenary session.

17.3.2 DNA testing

This item is included in the Scientific Committee's agenda in response to Commission Resolution 1999-8²³. At its 2011 meeting the Scientific Committee discussed the continued collection and archiving of tissue samples from catches and bycatches and also reviewed genetic methods for species, stock and individual identification. In addition the Committee reviewed results of amendments to sequences already deposited in *GenBank* and discussed matters relating to reference databases and standards for diagnostic registries.

Extensive discussions on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to receive the Scientific Committee's report on this issue or to permit further discussion of issues related to DNA testing in the Plenary session.

17.3.3 Working methods

17.3.3.1 SCIENTIFIC COMMITTEE PROGRESS

At its 2011 meeting the Scientific Committee discussed ways to improve its working methods which included: (1) examination of the consistency of abundance estimates; (2) improved collaboration between the Scientific Committee and the Conservation Committee; (3) procedures relating to Scientific Committee pre-meetings; and (4) issues relating to the role of Convenors.

17.3.3.2 COMMISSION DISCUSSIONS AND ACTION ARISING

In relation to the Scientific Committee's proposal to improve consistency of abundance estimates, Chile asked if the list would include all abundance estimates which has been considered by the Committee. The Chair of the Scientific Committee responded that the purpose of the list was to clarify all the estimates that have been considered in previous papers and to determine the ones which have been accepted by the Commission.

Extensive discussions on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to receive the Scientific Committee's report on this issue or to permit discussion of issues related to Scientific Committee working methods in the Plenary session.

17.4 Scientific Committee future work plan

The following work plan was produced by the Scientific Committee Convenors, with the agreement of the Scientific Committee, after the close of the Committee meeting. The work plan took 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.

17.4.1 Revised Management Procedure (RMP)

The following issues are high priority topics:

GENERAL ISSUES

- (1) Refine the data and assumptions on which the meta-analyses of environmental impacts on growth rate and of increase rates at low population size are based;
- (2) complete the MSYR review;
- (3) specify and run additional trials for testing amendments to the *CLA*;
- (4) finalise the approach for evaluating proposed amendments to the *CLA*;
- (5) evaluate the Norwegian proposal for amending the RMP;
- (6) modify the Norwegian 'CatchLimit' program to allow variance-covariance matrices to be specified for the abundance estimates. Compare the results from the modified program with those from the 'accurate' version of the Cooke program for some cases; and
- (7) run the full set of revised results for the North Atlantic fin whales, the Western North Pacific Bryde's whales, and the North Atlantic minke whales using the Norwegian 'CatchLimit' program and place the results on the IWC website (carryover from the 2010 work plan).

²³Ann. Rep. Int. Whaling Comm. 1999: 55.

PREPARATIONS FOR IMPLEMENTATIONS

The Committee is concerned over the feasibility of its future timetable of work, particularly given the delay in the western North Pacific common minke whale *Implementation Review*. It has previously noted that it was not possible to undertake two major *Implementations* or *Implementation Reviews* simultaneously. This will be taken into account when discussing Items 1, 3, 4 and 5 below next year.

- (1) Prepare for the 2013 *Implementation Review* for the western North Pacific Bryde's whales;
- (2) examine whether and when the optimisation method used when conditioning trials fails to find the actual minimum of the objective function and any implications of this for previous results of *Implementation Simulation Trials*;
- (3) review a revised research proposal for North Atlantic fin whales for the 'variant with research' to be submitted to the 2012 meeting;
- (4) prepare for the 2014 *Implementation Review* for North Atlantic minke whales;
- (5) prepare for the 2014 *Implementation Review* for North Atlantic fin whales; and
- (6) review a proposal for a *pre-Implementation assessment* of North Atlantic sei whales.

IMPLEMENTATION FOR THE WESTERN NORTH PACIFIC MINKE WHALES

- (1) Review results of intersessional Workshop; and
- (2) complete the work assigned to the 'First Annual Meeting' in accordance with the guidelines.

17.4.2 Aboriginal Whaling Management Procedure (AWMP)

The following issues are high priority topics:

- (1) continue work on the development of *SLAs* for the Greenlandic hunts with a focus on common minke whales and fin whales;
- (2) complete the *Implementation Review* for eastern gray whales with a focus on the PCFG;
- (3) complete an *Implementation Review* for B-C-B bowhead whales;
- (4) develop guidelines for *Implementations* and *Implementation Reviews*;
- (5) provide management advice for the appropriate subsistence hunts; and
- (6) review the Greenlandic programme to provide information on conversion factors.

17.4.3 Bowhead, right and gray whales (BRG)

The following issues are high priority topics:

- (1) review any new information on North Pacific gray whale stock structure and movements, and if necessary, provide information to the SWG on the AWMP relevant to the *Implementation Review*;
- (2) review stock structure and abundance in a more comprehensive manner for Eastern Canada and West Greenland bowhead whales, if appropriate data and analyses are provided;
- (3) review the report of the southern right whale Workshop to be held in Argentina during September 2011; and
- (4) review new information on all stocks of right whales, western North Pacific gray whales, and small stocks of bowhead whales.

17.4.4 In-depth assessment (IA)

The following issues are high priority topics:

- (1) to further resolve the reasons for the differences between estimates of abundance of Antarctic minke whales between the OK and (hazard-probability and trackline conditional independence) SPLINTR models, and thus provide agreed estimates of abundance at next year's meeting;
- (2) to apply the statistical catch-at-age models using the full suite of available data so that the results may be considered at next year's meeting; and
- (3) to continue the examination of the differences between minke whale abundance in CPII and CPIII, by further investigation of the relationship between sea ice and minke whale abundance.

17.4.5 Bycatch and other human-induced mortality (BC)

The following issues are high priority topics:

- (1) collaboration with FAO on collation of relevant fisheries data and joining FIRMS;
- (2) progress in including information in National Progress Reports;
- (3) estimating risk and rates of bycatch and entanglement;
- (4) development of methods to estimate mortality from ship strikes;
- (5) continuing development and use of the international database of ship strikes; and
- (6) review of information on other sources of mortality.

17.4.6 Stock definition (SD)

The following issues are high priority topics:

- (1) review draft guidelines for genetic analyses and DNA data quality;
- (2) statistical and genetic issues concerning stock definition;
- (3) TOSSM; and
- (4) terminology review and unit-to-convert.

17.4.7 DNA (DNA)

The following issues are high priority topics:

- (1) review genetic methods for species, stocks and individual identifications;
- (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.

17.4.8 Environmental concerns (E)

The following issues are high priority topics:

- (1) SOCER;
- (2) review progress on POLLUTION 2000+ Phase II;
- (3) review progress of CERD working group;
- (4) review new information on effects of anthropogenic sound on cetaceans and approaches to mitigate these effects;
- (5) review progress on recommendations from Climate Change Workshops;
- (6) update plans for an Arctic Anthropogenic Impacts on Cetaceans Workshop; and
- (7) review marine renewable energy development pre-meeting.

17.4.9 Ecosystem modelling (EM)

The following issues are high priority topics:

- (1) explore how ecosystem models might contribute to developing scenarios for simulation testing of the RMP;

- (2) review other issues relevant to ecosystem modelling within the Scientific Committee;
- (3) review ecosystem modelling efforts undertaken outside the IWC; and
- (4) review any new information on ecosystem model skill assessment.

17.4.10 Southern Hemisphere whales other than Antarctic minke whales (SH)

The following issues are high priority topics:

- (1) Southern Hemisphere humpback whales:
 - (a) begin assessment of breeding stocks E and F;
 - (b) review new information from the Arabian Sea;
 - (c) review new information from other breeding stocks; and
- (2) review new information on Southern Hemisphere blue whales in preparation for assessment.

17.4.11 Small cetaceans (SM)

The following issues are high priority topics:

- (1) status of Ziphiids in the North Pacific;
- (2) voluntary funds for small cetacean conservation research;
- (3) review progress on previous recommendations; and
- (4) review takes of small cetaceans.

17.4.12 Whalewatching (WW)

The following issues are high priority topics:

- (1) assess the impacts of whalewatching on cetaceans.

Additional items:

- (2) review reports from Intersessional Working Groups:
 - (a) Large-Scale Whalewatching Experiment (LaWE) steering group;
 - (b) LaWE budget development group;
 - (c) online database for world-wide tracking of commercial whalewatching and associated data collection;
 - (d) swim-with-whale operations; and
 - (e) in-water interactions;
- (3) review the scientific aspects of the report from the Conservation Commission;
- (4) review whalewatching in the region of the next meeting;
- (5) consider information from platforms of opportunity of potential value to the Scientific Committee;
- (6) review of whalewatching guidelines and regulations; and
- (7) review of collision risks to cetaceans from whale-watching vessels.

17.4.13 Scientific Permits (SP)

The following issues are high priority topics:

- (1) review of activities under existing permits;
- (2) review of new or continuing proposals;
- (3) review results of specialist meeting to review the modified JARPEN II special permit, if submitted; and
- (4) plan for final review of results from Iceland's scientific take of North Atlantic common minke whales.

17.5 Adoption of the Scientific Committee Report

Despite the time constraints which meant that not all aspects of the Scientific Committee Report could be presented and discussed in the Commission Plenary, the Commission adopted the Scientific Committee Report and its recommendations, including the future work plan.

18. CONSERVATION COMMITTEE

The Conservation Committee met on 6 July and was chaired by Lorenzo Rojas-Bracho (Mexico). Delegates from 24 Contracting Governments participated and its report is given at Annex G. The Conservation Committee's discussions on whalewatching, whale sanctuaries and conservation management plans are included under Items 15, 9 and 14 respectively of this report. The Commission's discussions and actions arising from the other items considered by the Conservation Committee are summarised below.

The Conservation Committee considered the following items:

- (1) investigation of inedible 'stinky' gray whales;
- (2) ship strikes, including the report of the joint IWC/ACCOBAMS workshop held in September 2010 and the report from the Ship Strikes Working Group;
- (3) southern right whales in Chile and Peru;
- (4) National Reports on Cetacean Conservation; and
- (5) other matters including collaboration between the Scientific Committee and the Conservation Committee, progress under the voluntary fund for small cetacean conservation research, consideration of a correspondence group report on strengthening IWC financing and establishment of a Conservation Committee Vice-Chair.

Under 'Other Items' the Committee also briefly considered the Honolulu Commitment on Marine Debris and the forthcoming second International Conference on Marine Mammal Protected Areas.

Time constraints meant that not all aspects of the Conservation Committee's report could be presented and discussed in the Commission Plenary. However, following discussion at a private meeting of Commissioners the Chair confirmed that Alexandre de Lichtervelde (Belgium) had been appointed as Vice-Chair of the Conservation Committee. Following this the Chair, on behalf of Commissioners, apologised that a full discussion of the other Conservation Committee issues could not take place and asked for the adoption of the Conservation Committee report.

Australia agreed that it was appropriate to adopt the Conservation Committee's report, but requested that given the extensive work which had been achieved intersessionally on Conservation Management Plans and Whalewatching that time be made available to discuss these items as a priority at IWC/64 in 2012. Mexico, as Chair of the Conservation Committee, agreed with Australia and noted that this was the longest report the Conservation Committee had produced to date which reflected both the amount of work achieved and the necessity to prioritise discussion on these topics at the Commission's next meeting.

The Commission then adopted the report of the Conservation Committee and agreed that high priority would be given to the discussion of Conservation Committee items at IWC/64 in 2012.

19. CATCHES BY NON-MEMBER NATIONS

At IWC/62 in 2010 the ASW Sub-committee had asked the Secretary to contact the Government of Canada to request information on catches and catch limits for the Canadian hunt. A response had been received from the Government of Canada and the information circulated to the Scientific Committee and ASW Committee. In 2011 these Sub-committees requested the Secretary to contact the Government of Canada again to request catch information for the current year. Additionally the Scientific Committee had requested the Secretary to contact the Government of Indonesia to request information on whale catches which take place there.

Extensive discussions on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to discuss catches by non-member nations in the Plenary session.

20. INFRACTIONS, 2010 SEASON

The Infractions Sub-committee, chaired by Lars Walløe (Norway) met on 11 July 2011 and was attended by delegates from 19 Contracting Governments. The Committee's full report is provided as Annex H and a summary of catches by IWC member nations in the 2010 and 2010/11 seasons is provided at Annex I.

At IWC/63, extensive discussions on issues surrounding Sanctuaries and F&A Committee affairs meant that time was not available to discuss the Infractions Sub-committee's report which was adopted without comment.

21. FINANCIAL AND ADMINISTRATIVE MATTERS

The F&A Committee met on 7 July 2011. Donna Petrachenko (Australia) was appointed as Chair of the Committee and the Secretariat as rapporteurs. The report of the meeting is provided at Annex J.

St Kitts and Nevis, Morocco, Antigua and Barbuda and the Russian Federation asked the Secretary to report on the difficulties which had been encountered by several countries in obtaining a visa to attend IWC/63. That report and the discussions which followed are recorded under Item 25.1.

21.1 Annual Meeting arrangements and procedures

21.1.1 Report of the Finance and Administration Committee

21.1.1.1 NEED FOR A TECHNICAL COMMITTEE

The F&A Committee suggested that this item be retained on the Agenda since, although the Technical Committee had not been required since IWC/51 in 1999, it may be needed in the future.

21.1.1.2 THE WORK OF THE INTERSESSIONAL CORRESPONDENCE GROUP ON MATTERS RELEVANT TO THE SCIENTIFIC COMMITTEE

The F&A Committee considered options for separating the meetings of the Scientific Committee and the Commission as a part of the work of the Intersessional Correspondence Group on matters relevant to the Scientific Committee. The perceived benefits of separating the meetings were: (1) to allow time to develop an Executive Summary to the Scientific Committee report; and (2) to allow more time for Contracting Governments to consider the report of the Scientific Committee before the Commission meeting commenced.

The Chair of the Scientific Committee did not foresee any problems in separating the meetings but noted that it may be necessary to establish a rule of procedure to ensure all scientific analysis presented to the Commission was first reviewed by the Scientific Committee.

The unplanned trial run that occurred this year (with the Scientific Committee meeting in Norway and the Commission in Jersey) had been successful but the F&A Committee noted that there had not been enough time between the meetings. It suggested that: (1) the best time for the Scientific Committee was in late May/early June; (2) the separation period should be 100 days or longer; (3) the rule of confidentiality applied to the Scientific Committee's report should be removed; and (4) the change to the Commission's financial year would be possible. The Committee recommended, in principle, separation of the meetings.

21.1.1.3 FREQUENCY OF COMMISSION MEETINGS

The F&A Committee reported on the advantages in reducing the frequency of Commission meetings which were: (1) cost savings to the Commission; (2) cost savings to individual Contracting Governments in attending Commission meetings; and (3) the opportunity for a greater focus on specialist intersessional work.

There was general support for a move to biennial meetings after IWC/64 in 2012 and for the setting of ASW quotas for a period of 6 years rather than the current 5 years. It was suggested that the Conservation Committee should continue to meet on an annual basis, perhaps co-located with the Scientific Committee meeting. A number of other concerns were raised, including the need to set a two year budget, the possible need to establish a Standing Committee, the requirement to update any rules of procedure which relate to the frequency of meetings and a need for a mechanism to share the cost savings between the Commission and host country. A small group consisting of Brazil, Denmark, Germany, Japan and the USA was established to prepare a short document for Plenary on actions to permit a move to biennial meetings from 2012 onwards. The small group met on 7 July and their report is provided at Annex K. In summary, the group endorsed the universal support for continuing with Annual Meetings of the Scientific Committee and made recommendations which *inter alia* related to:

- (1) the meeting frequency of the Commission's other subsidiary bodies;
- (2) the establishment of a Standing Committee to guide the Commission's work during the two year intersessional period;
- (3) a request to the Secretary to review the changes that would be necessary to the Commission's rules and procedures for the Commission to change to a two yearly meeting cycle;
- (4) the requirement to set aboriginal subsistence whaling quotas for an even number of years;
- (5) the requirement to set budgets and scientific research programmes for two years;
- (6) a mechanism for sharing the financial savings equally between the Commission and host governments; and
- (7) for the small group to make recommendations on any further unforeseen issues.

The group also recommended that a drafting group be set up so as to present proposals to IWC/64 in 2012 on the terms of reference and membership of the Standing Committee, with the members of the small group offering to form the basis of the drafting group. The Chair of the F&A Committee clarified that the Committee was seeking the Commission's approval for the work of the group to continue so that it could make a report to IWC/64 in 2012.

21.1.2 Commission discussions and action arising

The USA requested confirmation that by adopting the report of the small group on frequency of Commission meetings (Annex K) that the Commission was requesting the Scientific Committee to provide advice on options for generating Aboriginal Subsistence catch limits for an even number of years to IWC/64 in 2012. The Chair of the Scientific Committee confirmed that the Committee would indeed provide that advice to the Commission next year. Japan also requested that the small group present a checklist to IWC/64 in 2012 of the changes that would be required to allow the Commission to move to biennial meetings. This checklist should include any necessary changes to the Schedule (related to annual review of aboriginal whaling catch limits) and to the Commission's rules and procedures.

Switzerland, Iceland, New Zealand, Colombia, France, USA and Japan requested to take part in the intersessional work of the small group.

The Commission adopted the parts of the F&A Committee report relevant to these subjects and also adopted the report of the small working group and endorsed any recommendations.

21.2 Website

21.2.1 Report of the Finance and Administration Committee

TRANSLATION

The French translations of the 15 most popular pages of the IWC website have been updated; to date five of these priority pages have been translated into Spanish and the remainder are being translated during IWC/63. The Secretariat noted that a move to a fully trilingual site would require much work, costing £50,000 to £60,000.

WEBSITE REBUILD

The new IWC website is under construction and should be complete by IWC/64. The new design was chosen to improve clarity and ease of access to information and documents. Improving the hosting of the site should avoid any outages during busy periods. The new site will contain two extranets for both Member Governments and the Scientific Committee which will not be accessible to members of the public. In the future, part of the site will be dedicated to helping school children access issues and information and ultimately all historical IWC-related documents will be made available. The Secretariat would welcome feedback and suggestions from delegates.

The Secretariat agreed to provide a Beta version of the website to Contracting Governments prior to IWC/64 in 2012 together with a document outlining the proposed changes.

21.2.2 Commission discussions and action arising

Monaco saluted the work of the Secretariat in providing web pages in various languages and was also pleased to see the continuous development of the website and the proposed introduction of special pages for children. With regard to the future design of the web pages Monaco signalled that the website should properly and fully reflect the identity and mandate of the organisation and commented that the current whale portrait images used on the opening page did not do so. It asked the Secretariat to also include pictures of whale hunting from sustainable aboriginal sources all the way up to large scale industrial whaling so as to provide a more balanced impression of the Commission's remit.

The Commission adopted this section of the F&A Committee report and endorsed any recommendations.

21.3 Review of IWC's Rules of Procedure²⁴

21.3.1 Report of the Finance and Administration Committee

At IWC/62 in 2010 the Commission endorsed a recommendation from the F&A Committee that the Secretary should review the Commission's rules and procedures, including its financial rules and procedures in comparison with other intergovernmental organisations and submit a report to the F&A Committee at IWC/63 in 2011. The F&A Committee indicated it had now received the Secretary's report which identified four areas for review, these being:

- (1) NGO participation;
- (2) support for developing countries attending IWC meetings;

- (3) facilitating decision making at IWC; and
- (4) changes to the way the Secretariat receives cash payments.

In addition, the UK had submitted a package of proposals for improving the effectiveness of operations within the IWC. These proposals included consideration of the following areas:

- (1) the relationships between Contracting Governments and between Contracting Governments and the Secretariat;
- (2) financial matters including the payment of membership dues;
- (3) procedures for adopting, recording and announcing IWC decisions;
- (4) procedures relating to the use of scientific advice by the Commission; and
- (5) participation by observers.

The measures were intended to provide an overall package which would help improve effectiveness and would avoid piecemeal changes to the Rules of Procedure.

NON-GOVERNMENTAL ORGANISATION PARTICIPATION

IWC/63/F&A3rev reviewed areas of IWC practice relevant to NGO observers, and in particular the IWC's use of a dedicated NGO session to allow speaking rights at Plenary meetings. Concerns identified include:

- (1) when observers speak as part of the 'NGO session' they do not have a pre-determined agenda item and so interventions can lack structure;
- (2) Contracting Governments are not easily able to respond to claims or comments made; and
- (3) it is difficult to achieve an appropriate balance of observers.

The review showed that the use of a dedicated NGO session was unique to IWC. All other IGOs contacted allowed NGOs to speak during Plenary at the discretion of the Chair resulting in them only being called to speak after all Contracting Governments and if there was time available.

Under current IWC practice NGO observers are precluded from contributing to specific discussions. IWC/63/F&A4 proposed that the Rules of Debate be clarified so as to allow for the participation of observers at the invitation of the Chair in the same sessions as substantive agenda items are discussed.

While some countries supported NGOs being able to speak during the debate on substantive agenda items, others had concerns. The UK was asked to reconsider their proposal in the light of the debate and make alternative suggestions to the Commission meeting. Some countries also supported opening the F&A and Budgetary Sub-committee to observers (on the premise that the committees could go into closed session when necessary). The F&A Committee did not reach any consensus recommendation on NGO participation.

FINANCIAL SUPPORT FOR THE PARTICIPATION OF DEVELOPING COUNTRIES

The F&A Committee noted that the IWC's approach to funding developing country attendance is governed by Article 3(5) of the ICRW. However during the 'Future of the IWC' process the IWC recognised the importance of providing financial assistance to developing countries taking part in the extra meetings which were held and an interim procedure was developed to distribute voluntary funds.

Many of the other intergovernmental organisations contacted as part of the IWC Secretary's review of the organisation's rules and procedures were in the process of

²⁴This item was opened for discussion on the second day of the Plenary session so as to allow adequate time for Commission discussions aimed at reaching agreement by consensus.

either considering or introducing mechanisms to support developing country participation including:

- (1) the use of voluntary contributions;
- (2) the use of central budget funding; and
- (3) providing travel and *per diem* expenses for attending certain special events.

Given the diversity of approaches and the limitations of Article 3(5) it was suggested that a working group be established to report to IWC/64 in 2012 on potential ways forward. Accordingly the F&A Committee endorsed a request for the Secretary to undertake further work on funding for developing countries ahead of IWC/64 in 2012.

FACILITATING DECISION MAKING

The report of the F&A Committee noted that the Commission has clear procedures in place for decision making by voting. However the Commission has recently committed to making every effort to reach its decisions by consensus. Some Commissioners had said that it would be helpful if, before finally reaching consensus (or, if not possible, voting), that the final proposal as modified during the debate be made available in writing. As the distribution of papers may cause delay, the F&A Committee considered that minor text changes to proposed consensus decisions could be made available via projection screens in the meeting room. Accordingly the F&A Committee discussed the following series of reforms:

- (1) initial drafts of all decisions be circulated at least one day before a decision is reached;
- (2) Commission decisions would only be considered adopted when the final text had been circulated and approved by Plenary; and
- (3) the final report of each Commission meeting to be completed within two months of the end of each meeting.

There was general support within the F&A Committee for having the text of proposed decisions circulated in advance, but this should be a flexible requirement. There was also support for on screen tracking of minor changes, the requirement for text copies of principle decisions and the use of English as the official language with translations to be provided where possible. The Secretariat was requested to draft further wording for any necessary rule changes with support from the Commissioner for New Zealand.

PROPOSED CHANGES TO FINANCIAL PRACTICES

IWC/63/F&A3rev introduced a proposal to modify the Financial Regulations so that the Secretariat would no longer accept Financial Contribution payments in cash. Additionally IWC/63/F&A4rev proposed a number of financial reforms as follows:

- (1) the rule that payments should be received the day before the start of the meeting be applied to new members;
- (2) payments would be by bank transfer from an account belonging to the state or a state institution (cash payments would no longer be accepted);
- (3) audited accounts to be placed on the Commission's website;
- (4) meetings of the F&A Committee should be open to observers unless decided otherwise so as to deal with private matters; and
- (5) meetings of the Budgetary Sub-committee should be open to observers who express a willingness to make voluntary financial contributions.

After extensive discussion in the F&A Committee there was a general view that payments by bank transfer were acceptable and that cash should only be used in exceptional circumstances or by prior agreement with the Chair of the Commission. The small group of countries that had expressed an interest were asked to discuss the use of cash payments in order to make a proposal to Plenary. There was general approval that the audited Financial Statements should be placed on the Commission's website.

RELATIONS BETWEEN CONTRACTING GOVERNMENTS AND THE IWC

The F&A Committee considered four possible improvements proposed by the UK to the relationships between Contracting Governments and between Contracting Governments and the IWC Secretariat:

- (1) the opportunity for member governments to designate an additional point of contact (e.g. an Alternate Commissioner) as this would help maintain contact during a change of Commissioner;
- (2) all circular communications to be sent to both Commissioner and Alternate Commissioner;
- (3) circular communications to be sent to observers and posted on the Commission's website (excluding confidential material); and
- (4) all IWC meeting papers to be archived on the IWC website.

There was general support for the proposals as amended by the UK (i.e. that designation of a second governmental contact point be optional), and it was suggested that the two categories of circular communication which would remain confidential would be:

- (1) those relating to staff issues; and
- (2) those relating to infractions which had not yet been submitted to the Infractions Sub-committee.

With these changes there was general consensus within the F&A Committee on the improvements.

TRANSPARENCY OF SCIENTIFIC ADVICE

The F&A Committee recognised the important role of science in IWC decisions and considered a UK proposal that all scientific analyses to be used for decisions of the Commission would first be reviewed by the Scientific Committee before they could be considered by the Commission Plenary²⁵. Additionally, a proposed Resolution requested the Scientific Committee to review its operations and rules of procedure with respect to enhancing transparency and verifiability of its advice.

The Chair of the Scientific Committee referred to their standing agenda item on Working Methods of the Committee which already provided an annual opportunity to Scientific Committee members to review the Committee's practices. The UK noted that because the Scientific Committee represented an important component of the IWC decision making process it was necessary for the Committee to be included in the overall review process. It was suggested that it may be more appropriate to ask the Scientific Committee if there were any aspects the Commission could help with in the light of its own review, and the Chair of the Scientific Committee indicated that she would be happy to present the results of the Scientific Committee's ongoing annual reviews to the Commission.

²⁵This issue was also considered as point (3) under Item 21.1.1.2.

21.3.2 Commission discussions and action arising

NON-GOVERNMENTAL ORGANISATION PARTICIPATION

The USA, Argentina, Israel, Switzerland, Mexico, Colombia, Monaco and Chile thanked the Chair of the F&A Committee for her report. The USA actively supported the productive participation of observers covering all viewpoints at IWC as it believed it would make the organisation stronger and better able to work through its differences. It was pleased the Chair had decided to invite observers to comment on specific agenda items during Plenary this year (Item 2.4). It hoped that this experience would eventually result in the Commission allowing observers to comment on all agenda items, time permitting. The USA also supported the inclusion of observers in the F&A Committee meetings provided the Chair of that Committee retains the ability to go into closed session should it be necessary as for personnel or other sensitive matters. Switzerland associated with the views of the USA, considering that NGOs can bring fruitful thoughts to IWC debates and would be able to play an important role in the future.

Argentina on behalf of the other countries of the Buenos Aires Group expressed its support for the active and constructive participation of NGOs in every activity of the Commission including written and verbal presentations. It believed this would make a major contribution to effectiveness and transparency of the IWC. Mexico stated that members of civil society organisations had a right to be heard and that limiting their participation encouraged frustrated behaviour. It considered that the best way to deal with environmental and conservation issues were by encouraging the participation of all interested parties, including effective access to all documents. Colombia supported Argentina and Mexico's comments and supported the improved participation of all actors as essential to the Commission's future. It commented that focusing interventions on agenda items would be helpful in maintaining the constructive spirit and respect which is critical for Commission recommendations to be implemented. It saw NGO participation as an exercise in transparency. Chile commented that NGO participation was a Chilean national policy and it wished to see members of civil society participating in debates at IWC.

Israel spoke in favour of improved transparency, less restrictions and greater participation for NGOs in all items on the IWC's agenda. It considered that there are accepted international principles in other organisations which the IWC could learn from which involve approval of the NGO on the merits of its activities. Israel noted that questions of balance or viewpoint are not usually considered. Monaco considered that the issue of NGO participation is one of the main priorities for the current meeting. It stated that the involvement of civil society was an essential tool in modern governance and that giving the floor to NGOs should not be seen as a privilege but is instead a moral and intellectual obligation. It viewed allowing NGOs to intervene on substantive items as progress but it was still far from what is needed as 30 minutes NGO interventions out of a total of roughly 35 hours represented less than 2% of speaking time.

The UK stated that the development of NGO speaking rights was one part of a package intended to improve the overall governance of the IWC which it considered must be a priority at this meeting. With regard to NGO participation the UK indicated it had modified its original proposals in order to achieve a consensus amongst EU countries present at IWC but noted it would continue to look at the process to see if the IWC could gain further improvements to NGO participation in the future. It stressed its overall package

was about governance, not whales, and it hoped that its package could gain support from all governments regardless of their position on whaling. The UK considered that the governance reforms it was proposing were seen as standard under comparable multi-lateral environmental agreements, and as such the measures should be without controversy and appropriate for adoption by consensus. The UK referred to the compromises it had made and expressed its delight that the EU group of nations had now agreed to support the reformed package of measures.

Iceland noted that the IWC is an organisation of states and that the delegates represent governments which in turn represent civil society in the respective countries. It was not convinced that increased NGO participation would improve the IWC, and like Norway it was not in favour of improving NGO participation. Denmark was also not in favour of improving NGO participation and noted that there was a reason for the different practices in use at IWC. It considered that a more lax treatment of NGOs would not bring benefits, and that it would need to be convinced of the appropriateness of any changes over time. It indicated it could accept a modernisation of the present system such as the one instituted by the Chair where NGOs spoke after Contracting Governments for a total of not more than 30 minutes and limited to three points on the agenda, with both sides of the debate represented.

The Chair noted that there had been an extensive debate in the F&A Committee on this subject and recognised that no agreement was made. The F&A Committee had asked the UK to revise its proposal in the light of the debate, and with these revisions having been made by the UK the Chair asked for the Commission to adopt this part of the F&A Committee report. Receiving agreement, the Chair stated that the Commission adopted this part of the F&A Committee report and endorsed any recommendations.

FINANCIAL SUPPORT FOR THE PARTICIPATION OF DEVELOPING COUNTRIES

Palau, St Kitts and Nevis and the Russian Federation thanked the Chair of the F&A Committee for their work on financial support. Palau requested to become a member of the small working group that would report on this topic to IWC/64 in 2012, but noted it would require funding if the group was to organise a meeting (as opposed to working by correspondence). Japan recorded its strong interest in this issue and its previous support for the participation of developing countries through the interim fund developed during the Future the IWC process. It noted that if the working group was to report at IWC/64 in 2012 (as opposed to before it) then actual action may be delayed to 2014 if the Commission was to move to a biennial cycle. It therefore asked the working group to report at least 60 days ahead of the Annual Meeting to allow any possible action to be agreed at IWC/64 in 2012, rather than having to wait until 2014.

The Russian Federation recalled that the work undertaken so far had reviewed the practices of 15 other intergovernmental organisations with regard to their support for developing countries. However the review had not looked at how these organisations supported countries with economies in transition. It therefore requested that the small working group also consider not just how to apply financial support to developing countries, but also to countries with transitional economies. Nauru noted that as a small developing country in the middle of the Pacific it was important for them to be able to attend any meetings associated with the management of the sea or sea bed as the ocean constituted its only natural resource and it thanked those countries who had been able to support its participation in the past.

St Kitts and Nevis agreed with the approach being used by the F&A Committee to research other international organisations and their practices in supporting developing countries attendance. It noted the limitations with regard to 3(5) of the ICRW but recalled that in the past the IWC had been able to use innovative ways to assist developing country participation in Commission meetings. It believed that the work of the F&A Committee in seeking cross references with other intergovernmental organisations should continue and it requested that all aspects of the recommendations of the F&A Committee report, including the issue of contributions, would be cross referenced with the norms and practices of other organisations as the issue of contributions would have most effect on developing countries. It urged the greatest possible amount of consultation on the proposals for governance reform, and requested that consultations take place not just with EU countries but with all IWC Contracting Governments so as to allow the opportunity for changes to be agreed by consensus.

The Commission adopted this section of the F&A report and endorsed any recommendations.

FACILITATING DECISION MAKING

Monaco supported the general trend of the F&A Committee work but observed that the push for avoiding a vote is having a perverse effect on the financing of the Commission. In order to vote you need to have paid the contribution. However if no voting is taking place there may not be an incentive to pay the contribution. Monaco considered the F&A Committee should examine this more closely, and suggested that the Commission should reflect on the difficulty of reaching consensus at all costs. It stated that there are different perspectives and interests, and that there is a case to be made for having a clear vote on important issues.

The Commission adopted this section of the F&A report and endorsed any recommendations.

PROPOSAL FOR CHANGING THE WAY THE SECRETARIAT RECEIVES PAYMENTS

Ghana indicated that although it had attempted to pay its financial contributions for IWC/63 by bank transfer this had not been possible and instead a cash payment had been necessary. It requested that if the intention was to stop the use of cash payments then they should be phased out progressively. It also noted that there are certain countries who only receive the necessary funds at the time Commissioners have to leave and that it would be difficult for those countries to comply with the proposed change.

St Kitts and Nevis supported Ghana in registering its concern with the proposal from the F&A Committee. It recognised the need to ease the Secretariat's difficulties in handling cash in overseas countries and the need for proper accounting processes to be in place. It asked why a bankers draft drawn from a government account is not acceptable in the same way as a wire transfer. It noted that countries may not have access to funds until immediately before a meeting and that the process of bank transfer may take several days. However a draft can be obtained immediately and did not present concerns with regard to lack of transparency. At the request of the Chairman the Secretary indicated that the Commission currently had a procedure in place²⁶ to allow Contracting Governments to pay arrears of contributions by banker's draft, however the procedure indicated that the draft must clear before payment is considered to have been received by the Commission. Antigua and Barbuda

spoke in support of the need to see greater transparency and associated itself with the comments of Ghana and St Kitts and Nevis. It stated that as for many developing countries it found that funds may only become available at very short notice and it requested there be further discussion before a final decision is taken on the F&A Committee proposal. Republic of Korea and Iceland supported the need to make special provisions in order to allow cash payments under special circumstances. Togo noted that this year its Ministry of Finance had not paid the full amount of its financial contribution, which resulted in the Commissioner having to pay the remaining balance in cash from his own account upon arrival at IWC/63. It suggested this was one example of where the measure proposed by the F&A Committee would hinder the ability of countries to pay their financial contributions and enjoy the right to vote.

New Zealand recorded its disappointment that this issue had become a test of the divisions within the IWC as it considered this should be an area where it would be possible for all Contracting Governments to work together. It observed that a lot of the discussion was covering examples of singular situations, which in themselves were not a reason to prevent the establishment of a general rule. Its view was that this issue should be addressed and resolved at the current meeting in a way that was clear and brought all Contracting Governments together.

The Chair noted that there was no consensus on this part of the report and proposed to leave the item open²⁷.

RELATIONS BETWEEN CONTRACTING GOVERNMENTS AND THE IWC

Japan indicated it could support the proposal to make IWC circular communications available via the Commission's website, but asked that a system be developed for defining what material would be confidential. As part of this, it requested that should a Contracting Government wish to circulate material which it requested be kept confidential then this would be respected.

In response to a query from Antigua and Barbuda the Chair of the F&A Committee clarified that the proposal to identify an additional point of contact would be optional. With this clarification the Commission adopted this part of the F&A Committee report and endorsed any recommendations.

TRANSPARENCY OF SCIENTIFIC ADVICE

There was no discussion under this item and the Commission adopted this part of the F&A Committee report and endorsed any recommendations.

21.3.3 Draft Resolution on Improving the Effectiveness of Operations within the International Whaling Commission

The United Kingdom originally proposed a draft Resolution on Improving the Effectiveness of Operations within the International Whaling Commission within the 60 day framework required by the IWC's Rules of Procedure. The draft Resolution included an Annex which contained a series of amendments to the Commission's rules and procedures. Following discussion of the draft Resolution during the F&A Committee it was re-submitted to the Commission Plenary by Poland (acting in its role of President of the European Union) on behalf of the European Union member states who were members of the IWC. St Kitts and Nevis and The Russian Federation made separate points of order in relation to the tabling of the amended draft resolution by

²⁶See footnote to Financial Regulation F.

²⁷This item was subsequently closed without further discussion following the consensus agreement of Resolution 2011-1 on Improving the Effectiveness of Operations within the International Whaling Commission.

Poland on behalf of the European Union member states. As part of its point of order the Russian Federation noted that the European Union was not a party to the IWC and drew a parallel with the Gaborone amendment to CITES which would permit accession to CITES by regional economic integration organisations such as the European Union. The Russian Federation observed that although being drafted in 1983 the Gaborone amendment had not yet entered force because it had not been ratified by the required number of countries because of concerns over separatism. Following discussion and agreement in a private Commissioner's meeting the draft Resolution was re-submitted by the UK and Poland, Belgium, Czech Republic, Denmark, Germany, Estonia, Spain, France, Italy, Luxembourg, Hungary, the Netherlands, Austria, Portugal, Finland and Sweden.

The UK introduced the revised document and commented that the vast majority of the document now contained either proposals presented by the Secretariat during its review or reflected conclusions reached at the F&A Committee. It commented that the package of proposals was modest and did not differ from the issues and practices that were acceptable to all states at other international fora. The changes which had been made to the draft Resolution were:

- (1) the inclusion of a new pre-ambular paragraph to recognise the Scientific Committee's regular review of its own procedures;
- (2) the inclusion of an operative paragraph to request the Secretary to report back to IWC/64 in 2012 on the issue of providing assistance for the participation of developing countries;
- (3) a request in an operative paragraph to the Scientific Committee to continue its practice of reviewing its operations and Rules of Procedure; and
- (4) the inclusion of an operative paragraph to request the Secretary to convene a working group to consider the role of observers at meetings of the Commission following experience gained at IWC/63 in 2011.

With regard to the Annex to the Resolution the UK described the amendments to the Rules of Procedure which were proposed or had been modified in the light of suggestions during discussion at F&A Committee and other consultations. They were as follows:

- (1) the inclusion of a new paragraph A.2 to invite Contracting Governments to designate an additional point of contact which would remain constant in the event of a change of Commissioner;
- (2) with regard to changes to Section C on observer participation the UK said that following discussions and consultations it had withdrawn its original proposals and this rule now stood as it did previously;
- (3) the inclusion of a new paragraph in Section E to ensure all Contracting Governments are aware of the exact text of a decision before adoption;
- (4) for Section E.2 (a) the deletion of the words 'unless the Commission decides otherwise' so as to ensure complete clarity that voting rights were only available to those who had paid their dues;
- (5) for Section H.2 (h) a new duty for the Secretary to maintain the Commission's public website;
- (6) for Section M.4 (b) to ensure that scientific data or advice received from sources other than the IWC's Scientific Committee be reviewed by the Scientific Committee before it comes to the Commission;
- (7) an amendment to paragraph M./5 to post the report of the Scientific Committee on the Commission's website;

- (8) a new paragraph O.2 requiring that the text of decisions adopted at Annual Meetings be placed on the Commission's website within a 14 day period of the end of the meeting;
- (9) an amendment to paragraph P.2 requiring the Chair's Report of the annual Commission meeting to be posted on the Commission's website within 2 months of the end of the meeting;
- (10) a new paragraph P.3 requiring that all circular communications from the Chair or Secretary to Contracting Governments be placed on the Commission's website (excepting those deemed confidential); and
- (11) a change to paragraph Q.4 requiring documents held in the Commission's archive from 2011 onwards, and earlier if feasible, to be archived on the Commission's public website.

The changes to the Financial Regulations described in the Annex to the Resolution were as follows:

- (1) an addition to paragraph C.5 requiring that the Commission's audited Financial Statements be placed on the Commission's website;
- (2) a change to paragraph E.2 indicating that payment of dues must be by bank transfer from an account belonging to a state institution and that cash, cheques, money orders and credit cards would not be accepted; and
- (3) a new paragraph E.5 indicating that membership dues shall not count as having been received by the Commission until funds had cleared to the Commission's account.

In regards to the issue of receiving cash payments, the UK explained that while the procedural rules of other conventions do not expressly state that payment must be by bank transfer it noted that the implication is that payment should be by this method, and it cited the rules of CCAMLR, ICCAT and CMS in support of its argument. The UK also explained that cheques could not be considered an appropriate form of payment as it would be hypothetically possible to purchase a shell company and then use it to establish a bank account (and cheque book) in a name which could impersonate an agency or other institution of a Contracting Government. In this way, the UK argued that it would be possible for actors other than Contracting Governments to pay membership dues by cheque. In closing its introduction the UK stated that having heard the Commission's recent debate it would consider removing the proposed final sentence to rule E.2 which stated that cash, cheques, money orders and credit cards would not be accepted if this change would make the proposals more acceptable to Contracting Governments.

21.3.4 Commission discussions on the proposed Resolution **DISCUSSION ON THE RESOLUTION TEXT**

Many Contracting Governments thanked the UK and the other sponsors of the draft Resolution, acknowledged their flexibility in accepting different viewpoints so as to build consensus and indicated support for the draft Resolution. Costa Rica, Mexico, Argentina, Germany, USA, France, Colombia, Brazil, New Zealand, Monaco, Chile and Ecuador indicated that they would have preferred the first version of the draft Resolution which included expanded speaking rights for NGO observers. Many of these countries stated that they understood the reasons why this part of the proposal had been removed, and the USA, France, Chile and New Zealand reflected on the need for ongoing discussions

regarding NGOs and the opportunity afforded by the Chair's initiative at IWC/63 to introduce NGO participation by a more gradual route.

In relation to the request to the Secretary to report to the 64th Annual Meeting on options for providing assistance to developing countries, Japan asked that this report be made at least 60 days prior to IWC/64 so as to allow decisions to be made at that meeting. The UK thanked Japan for its sensible suggestion and amended the text to request the Secretariat to report 100 days ahead of IWC/64.

Mexico and Colombia supported the proposal for posting Circular Communications arising from the Secretary or the Chair of the Commission on the website, and also the proposal to make the report of the Scientific Committee available ahead of the Commission meeting.

Mexico, Argentina, Colombia, Brazil and the USA supported the proposed changes to the way the Secretariat receives payments. They suggested that the use of bank transfers would remove any negative perception associated with the use of cash and would result in greater transparency for the Commission in handling contributions as well as improved security for the Secretariat staff. Costa Rica noted that although it had an economy that was in transition, and also had associated problems with its budgeting process, it had nevertheless been able to make its payment to the Commission a year in advance. Argentina and Brazil observed that the Commission's financial year did not coincide with the January to December financial year as used by several Contracting Governments. This had caused difficulties in ensuring timely payment and they suggested it may be necessary to consider the possibility of amending timings so as to allow countries who had paid dues in the previous year to vote the following year.

In response to a question from St Kitts and Nevis, the UK clarified that payment would be regarded as having been received by the Commission once it had cleared into the Commission's account. St Kitts and Nevis stated that any changes to the payment system must reflect the capability and reality in each member country, and that the overall Resolution must not appear punitive or discriminatory to any member of the organisation. The UK considered that all Contracting Governments were in a position to use the universally available system of bank transfers as they were a normal part of commercial business operations. Iceland referred to the need to make arrangements for dealing with any special circumstances such as economic crises which may arise for Contracting Governments making payments by bank transfer.

St Kitts and Nevis asked whether there should be an assessment of the effect of the proposed changes and deadlines on the Secretariat's ability to meet the new obligations. The UK indicated that the Secretariat had had adequate time to consider the proposed changes and had not raised any concerns about the additional burdens which would be placed upon them.

Antigua and Barbuda proposed four changes to the Resolution, these being:

- (1) to change the phrase 'international environmental law' to 'law for marine resource conservation and management';
- (2) to change the words 'financial governance' to 'fiscal administration';
- (3) to remove the preambular paragraph stating that effectiveness can be enhanced without placing undue administrative burdens as this constituted an unknown leap of faith; and

- (4) to remove references in the Resolution to Article 3(5) of the Convention because compliance with the Convention was already implied.

St Kitts and Nevis supported the removal of references to Article 3(5) as it represented a pointed accusation to developing countries that their votes were being bought. Iceland supported points (1) and (4) as made by Antigua and Barbuda. The UK responded that (1) it would remove the word 'environmental' and use the phrase 'international law'; (2) it wished to retain the use of the word financial and (3) that it did not accept the other amendments as it believed the Resolution was clear as it was currently drafted. With regard to Article 3(5) the UK considered that inclusion of this reference was helpful for outside observers.

New Zealand stated that the draft Resolution must be considered against the background of the last three years work by the Commission which had generated a greatly improved level of trust across the IWC divide. While the Commission had not been able to complete the 'Future of the IWC' process New Zealand hoped that there was still a common commitment to maintain trust and respect as the Commission continued with its period of reflection. New Zealand warned that the trust could not be maintained if there was no attempt to resolve the fundamental differences that beset the Commission. It therefore considered it foolish to abandon efforts to build trust through the presentation of intractable positions. It urged both the sponsors of the Resolution and those who had concerns to proceed in this light.

DISCUSSION ON THE RESOLUTION ANNEX AND CHANGES TO RULES OF PROCEDURE

The Chair then invited discussion on each proposed change to the Rules of Procedure.

CHANGE TO RULE OF PROCEDURE PARAGRAPH A2

The proposed change was to add a new paragraph A.2 as follows (changes in ***bold italics***):

2. *In addition to the Commissioner, each Government party to the Convention should either designate another person to be its Alternate Commissioner or create a focal or contact point (which could be an e-mail address) to act as an additional means of communication between the Chair and Secretary of the Commission and that Government. The details shall be communicated to the Secretary through recognised diplomatic channels. Contact details of the Alternate Commissioner or the focal or contact point shall also be posted on the Commission's website.*

Cameroon suggested this paragraph was unnecessary given that the Secretary already had all the contact details for Commissioners. Japan commented that currently the names of the Commissioners are posted on the IWC website but not their contact information. In view of this, it noted that the proposal would create a situation where the contact details of the Alternate Commissioner or the contact point would be placed on the website, but not the contact details of the Commissioner and asked whether this was intentional. The UK explained that it wanted to enable there to be one contact point within any Contracting Government to receive communications and it was seeking to avoid the situation where the Commissioner receives excess correspondence as he or she would probably have many other duties. Japan also noted that its delegation had more than one Alternate Commissioner but that the proposal, as currently worded, suggested the existence of only one. It suggested it would be appropriate to make the reference to the Alternate Commissioner in paragraph A.2 plural. The UK explained that the proposal would allow one of the Alternates to be

the point of contact and that the drafting of the proposal would not preclude the appointment of other alternates. New Zealand considered the absence of contact information on the website for Commissioners may cause inconsistencies because of the way different Contracting Governments organise themselves. The UK replied that its intention was to establish at least one point of contact between Contracting Governments and the outside world, and it would be happy to include the word Commissioner in the proposed change to the last sentence of paragraph A.2.

Japan asked if the last sentence regarding the posting of details, particularly e-mail addresses, of the Alternate Commissioner on the website could be deleted because of the number of cyber attacks it had been experiencing. It said that currently only Commissioner's names were placed on the website, and their contact details were given out by the Secretariat upon request from Contracting Governments or independent researchers. It considered that the placing of e-mail addresses on the website would remove one layer of protection from cyber attacks. Antigua and Barbuda supported this point. The UK responded that the contact details need not include an email address as a conventional postal address would also be appropriate.

Antigua and Barbuda, Japan and Iceland requested that the word 'should' in the first line of the proposed paragraph A.2 be changed to 'may' because the decision to designate an Alternate Commissioner should be the decision of individual Contracting Governments. The UK responded that from an international legal point of view, 'should' is a word of encouragement, rather than an obligation which would require the use of the word 'shall'. The UK considered that the use of the word 'should' would provide sufficient flexibility to Contracting Governments

CHANGE TO RULE OF PROCEDURE E. ON DECISION MAKING

The proposed change was to add a new paragraph to the Rules of Procedure under the heading E as follows:

A decision of the Commission taken at a meeting is not deemed adopted until the text has either been distributed to delegates or presented to them by electronic means and then approved by the Commission, whether by consensus or by vote. The text shall normally be distributed or presented in one working language and conveyed in the other working languages by oral interpretation. This rule applies both to decisions of the kinds specified in Rule J, and to other decisions of the Commission, except those relating only to the conduct of the current meeting. If the text of a proposed decision is amended, the revised text shall be distributed or presented in accordance with this rule. The authentic text of any such decision shall be the English version.

Palau noted that the Commission seeks to make its decisions by consensus, and in this regard proposed the addition of the words 'preferably the former' to the end of the first sentence to ensure consensus decision making supremacy. The UK responded that the need for consensus was well expressed elsewhere in the Rules of Procedure and it did not believe there was a need to provide commentary within Paragraph E on this point.

Japan noted that as currently drafted the proposal allowed the written submission and adoption of a decision in a language other than English, but that the authentic text would nonetheless be in English. It suggested this was not a logical approach. The UK explained that although the original text may be in a different language, a provision elsewhere in the Rules of Procedure required that decisions would be published in other working languages within 14 days and that the interpreted versions would allow all Contracting Governments to understand what was being

proposed. Japan indicated this would leave many delegations in an uncomfortable situation of only hearing a proposal via interpretation and not being able to see a written English version. In light of this UK proposed to amend the phrase 'one working language' to 'English'. Japan and Iceland supported this change. Cameroon, supported by France, expressed its disappointment and indicated it had struggled to allow French to become a working language within the Commission.

St Kitts and Nevis asked why the text of a decision would be distributed to delegates as indicated in the first sentence of the proposal instead of being distributed to Commissioners or Alternate Commissioners as the designated persons. The UK explained that the reference to delegates rather than Commissioners was necessary because under the current circumstances the text of all proposed decisions was distributed into all pigeonholes, not just those of Commissioners. St Kitts and Nevis responded that the term 'delegate' includes everyone who attends the meeting from Commissioners to NGO observers, and that the proposal as currently drafted meant that Commissioners cannot make a decision unless the paper is circulated to delegates. In this regard St Kitts and Nevis proposed the replacement of the word 'delegates' with 'duly authorised Government representatives' as this would not prevent distribution to all members but would avoid the situation where a delegate did not happen to receive a pre-circulated document and subsequently caused a decision taken by Contracting Governments to be illegal. New Zealand suggested that the phrase 'members of the Commission' would be a better alternative to 'duly authorised Government representatives' as this was the language used earlier in the Rules of Procedure. St Kitts and Nevis and Iceland agreed with New Zealand's proposal. The UK indicated it could accept this proposal but noted that it is only right that decisions before this Commission should be made available to observers as well as Contracting Governments.

However, in accepting this change, the UK highlighted that if the text is presented to members of the Commission electronically then observers would automatically see it and so a distinction would be required between the presentation of material electronically or by written text. Iceland remarked that the purpose of the proposed paragraph was to condition the entry into force of a decision to a distribution or presentation to members of the Commission. It did not prevent the distribution or presentation of text by electronic means to other delegates. The UK responded that it felt that Commission meetings should be open and transparent and that observers must have an ability to see the proceedings, and so even if written texts are not circulated to them they still see texts that are presented to everyone by electronic means. The UK indicated that the current drafting of the rule could allow for the exclusion of observers. New Zealand stated that this was a rule on decision making which had no intention to exclude observers. Antigua and Barbuda and Japan supported New Zealand's comment. Japan also highlighted that the first sentence addressed two issues simultaneously, these being the method for distribution and a condition of decision making. It suggested it may be better to place these issues in separate sentences. Monaco suggested moving the words 'whether by consensus or vote' from the end of the first sentence to immediately after the words 'taken at a meeting' as a way of addressing Japan's point. The UK responded that it wished to highlight the visibility of any decision before it is adopted, not add confusion to who had actually taken the decision, and that

it believed the text was clear in its present form with the amendments previously discussed.

CHANGE TO RULE OF PROCEDURE E.2.(A) ON SUSPENSION OF VOTING RIGHTS UNTIL PAYMENT IS RECEIVED

The proposed change was to the final sentence of paragraph E.2.(a) was as follows:

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

St Kitts and Nevis remarked that this change removes the flexibility of Commissioners to decide the application of voting rights and would lead to an absolute situation where the Commission would be unable to, for example, consider situations beyond normal working such as those of national disaster. Iceland urged the need to look at the relationship between suspension of voting rights and lack of payment in a broad context, as it noted that other conventions such as CITES and CBD did not link voting rights to payments. In view of this it supported St Kitts and Nevis and indicated it would like to keep the wording unchanged. Japan drew attention to Provision F.5.(e) of the Financial Regulations which allows any Contracting Government to pay part of its arrears of contributions in order to re-establish voting rights and questioned whether the proposed change may require Contracting Governments to pay their entire arrears and therefore create an inconsistency within the Rules of Procedure. The Russian Federation agreed with the points made by St Kitts and Nevis and Japan. Poland intervened on behalf of the EU member states to indicate that it was not able to accept the suggestion to leave the wording unchanged as it would be against the good governance that it stood for.

The UK responded that it wished the relationship between payment of dues and voting rights to be very clear and referred to provisions of the UN Charter and General Assembly Rules which clearly indicate that voting rights are suspended if payment of dues is not made after two years. With regard to the possible inconsistency raised by Japan the UK suggested that the two procedural rules must be read together and do not cause an inconsistency and that the proposed removal of wording did not have an impact on the provision in Section F.5.(e).

CHANGE TO RULE OF PROCEDURE E.2.(B) ON VOTING RIGHTS FOR NEW CONTRACTING GOVERNMENTS

The proposed change to Rule of Procedure E.2.(b) was as follows:

- (b) The Commissioner of a new Contracting Government shall not exercise the right to vote either at meetings or by postal or other means: (i) until 30 days after the date of adherence, although they may participate fully in discussions of the Commission; and (ii) unless the Commission has received the Government's financial contribution or part contribution for the year prescribed in Financial Regulation E.3. *the day before the first day of the Annual or Special Meeting concerned.*

Japan questioned whether this proposed change would preclude any country which had initiated the process of bank transfer two days before the meeting but for whom the transfer did not complete until after the meeting started. The UK responded that the proposed change applied only to new Contracting Governments as the scenario outlined by Japan already applies to existing Contracting Governments.

ESTABLISHMENT OF RULE OF PROCEDURE H.(H) ON THE COMMISSION'S WEBSITE

The proposed change was to include a new Rule of Procedure H.(h) as follows:

- (h) *maintain the Commission's public website, which shall be continuously accessible to the extent possible subject to maintenance requirements and technical constraints.*

Japan noted that the proposal referred to the Commission's *public* website, whereas in other places the document referred to the Commission's website and asked whether this was intentional. The UK referred to discussions in the F&A Committee which indicated that the new website would have both a public and a private section and said its view was that the least possible material should go in the private section so as to secure transparency. Japan considered that the use of the two formulations would cause a problem, especially given the discussions about the public and private sections of the website. Japan drew attention to the proposed requirement later in the document to place the Scientific Committee report on the Commission website, and suggested this may be confusing when the original intention was to place it on the public website. The UK thanked Japan for raising this point, confirmed its intention was for the report to be placed on the public part of the website and suggested the inclusion of the word *public* would be helpful both in this context and when dealing with the placement of Circular Communications on the website.

ESTABLISHMENT OF RULE OF PROCEDURE M.4.(B) ON SCIENTIFIC ADVICE

The proposed change was to include a new Rule of Procedure 4.(b) as follows:

- (b) *Any ad hoc committee, sub-committee or working group established to provide scientific advice shall report to the Scientific Committee, which shall review the report of such committee, sub-committee or working group, and, as appropriate, make its own recommendations on the subject matter.*

New Zealand thanked the UK for its drafting of this proposal which it considered to be an improvement on the earlier version considered by the Finance and Administration Committee.

Palau made a general comment on Section M on Committees. It drew attention to the absence of meetings of the Technical Committee since 1999, and contrasted it with the method of establishment of the Conservation Committee at IWC/55 in 2003. Given the meetings of the Conservation Committee that had taken place since 2003 it suggested that perhaps the Conservation Committee should be included under paragraph M.1 as a Standing Committee and perhaps a more elaborate sub-section of terms reflecting the existence of the Conservation Committee should be included in these comprehensive changes to the Rules of Procedure. New Zealand responded that it considered Palau's suggestion to be a good idea, but one to be taken forward at another time because it was a rather different concept to the material currently under consideration. Palau thanked New Zealand for its support and requested its assistance in drafting such a proposal amendment in time to meet the 60-day deadline ahead of IWC/64 in 2012.

MODIFICATION TO RULE OF PROCEDURE M.5 ON THE SCIENTIFIC COMMITTEE REPORT

The proposed change was to modify Rule of Procedure M.5 as follows:

5. The preliminary report of the Scientific Committee should be completed and made available to all Commissioners *and posted on the Commission's website* by the opening date of the Annual Commission Meeting *or within 14 days of the conclusion of the Scientific Committee meeting, whichever is the sooner.*

St Kitts and Nevis questioned why a preliminary report would be placed in the public domain. The Head of Science clarified that the word 'preliminary' dated from the need to produce a report in the short time interval between the end of the Scientific Committee and start of the Commission meeting when only typewriters and cutting and pasting of paper were available as production methods. With computer technology it was now possible to produce a final report within the necessary timeframe. He also noted that the report of the Scientific Committee is a Report of the Committee as agreed by its participants and presented to the Commission. The Commission's job is not to change the Scientific Committee Report because that has been adopted by its participants but, of course, to comment upon it and endorse it should it so wish. Japan noted that under the present situation the Scientific Committee's report already has a large circulation despite being confidential until the opening of the Commission meeting, at which point it becomes a public document. In view of this Japan and Grenada suggested removing the word 'preliminary'. St Kitts and Nevis agreed to this, but suggested use of the phrase '*The official report of the Scientific Committee..*'.

Japan recalled earlier discussion in the F&A Committee that the proposed change was acceptable to Contracting Governments only upon the understanding that scientific analyses which had not been reviewed by the Scientific Committee would not form the basis for discussion or decision at the Commission meeting – in other words there would be no new input between the Scientific Committee and Commission meeting that would form the basis for decision.

Republic of Korea questioned the objective of the proposed change and suggested that placing the words '*...within fourteen days of the conclusion of the Scientific Committee Meeting and in any case by the opening date of the Annual Commission Meeting at the latest*' after 'all Commissioners' would be appropriate.

The UK agreed to remove the word 'preliminary', and in relation to Republic of Korea's enquiry confirmed that the intention was for the Scientific Committee Report to be published within fourteen days of the end of its meeting or by the start of the Annual Meeting whichever is earlier. The UK also clarified that it would add the word 'public' before 'website' in the proposed change.

ESTABLISHMENT OF A RULE OF PROCEDURE O.2 ON RECORDS OF COMMISSION DECISIONS

The proposed change was to create a Rule of Procedure O.2 as follows:

2. *The text of each Commission decision adopted at a meeting in accordance with Rule E, or by post, shall be placed on the Commission's website in all working languages within 14 days of the conclusion of the meeting or adoption of the decision by post.*

St Kitts and Nevis suggested the inclusion of the phrase '*...of the Commission...*' between the words 'languages' and 'within'. The UK noted that it would make reference to the Commission's *public* website in this proposed rule change.

CHANGE TO RULE OF PROCEDURE P.2 ON POSTING OF THE CHAIR'S REPORT OF ANNUAL COMMISSION MEETINGS

The proposed change to Rule of Procedure P.2 was as follows:

2. The Chair's Report of the most recent Annual Commission Meeting shall be *posted on the Commission's website within two months of the end of the meeting in the original language of the report and in other languages within three months. It shall be published in the Annual Report of the year just completed.*

St Kitts and Nevis suggested the inclusion of the word 'the' before the phrase '*...other languages within three months*' because of the absence of a clear definition for languages. Monaco enquired if the Chair's Report can be written in any language other than English, and Iceland indicated that it had a preference for the report to be in English and would like the phrase 'original language' replaced by 'English'. In response to a question from the UK, the Secretary clarified that it was normal practice to draft the report in English and indicated that the report was translated after the English version had been distributed. New Zealand noted that the official language of the Commission is English and therefore the Report has to be made in English regardless of the nationality of the Secretary at the time. It also noted that the translation of a large document will take a lot of time so the time limit should be applied only to the English version and flexibility given with the other working languages. This was supported by Iceland. Monaco supported New Zealand's intervention and remarked that as the official language of the Commission was English the Chair's Report should be provided in this language in the first instance. Monaco, supported by France, hoped that the translations into the other working languages would be provided quickly and not pending too many months.

The UK indicated it was helpful for Contracting Governments to have the English version of the report as soon as possible, and that the norm elsewhere was to have production around two months after the end of the meeting. It suggested there may be a possibility to reduce the overall length of the Chair's Report so as to allow the report to be produced within this deadline. Responding to New Zealand's intervention, the UK suggested that the Report should be provided in the other languages as soon as possible so as to give the Secretary flexibility in terms of the translation exercise.

Given that the proposed rule change would require the Chair's Report to be produced within two months, the Secretary asked if there was still a need to produce the Chair's Summary Report since if this was no longer required more resources could be given to production of the main report which would aid compliance with the new deadline. The UK responded that as part of its overall package the text of all decisions adopted would be published within 14 days of the close of the meeting, and that given this it recognised that the production of a summary report may become a casualty of the need to produce a full report within two months if the Commission agreed. Iceland agreed that the summary report was not necessary if a full report was available within two months.

CREATION OF RULE OF PROCEDURE P.3 RELATING TO CIRCULAR COMMUNICATIONS

A new Rule of Procedure P.3 was proposed as follows:

3. *All individual and circular communications from the Chair or Secretary to Contracting Governments shall be sent to both the Commissioner appointed under Rule A.1. and to his/her Alternate designated or to the focal or contact point created under Rule A.2. They should also be sent to all accredited intergovernmental observers. All circular communications from the Chair or Secretary to Contracting Governments shall be posted on the Commission's website on despatch, unless the Chair, after consulting with the Advisory Committee, deems that a confidential communication is warranted (applicable only for staff issues and infraction cases), in which case the communication should be sent to the Contracting Governments alone. A list of dates and subject titles of such confidential communications shall be presented to the next Annual Meeting.*

Japan noted that the Commission has three types of Circulars, these being:

- (1) to Contracting Governments and Commissioners;
- (2) to Members of the Scientific Committee; and
- (3) to all, i.e. to Contracting Governments, Commissioners and Members of the Scientific Committee.

It asked whether the Chair of the Scientific Committee had any views on whether communications to the Scientific Committee might have a different level of confidentiality to the other circulars. The Chair of the Scientific Committee responded that most of its Circulars were general information which could go on the public website, although on occasion Contracting Governments had requested that material not be released publically. Overall Japan indicated that it could go along with the general nature of the proposed changes, but noted that the Chair, in consultation with the Advisory Committee, will decide which Circulars would be considered confidential. It asked that in addition to this, a Contracting Government could also request that material it submitted for circulation be considered confidential, and that this request be recognised. Responding to this, the UK suggested the words ‘and information provided by Contracting Governments with a request that they remain confidential’ be placed at the end of the phrase given in parenthesis in the proposed text for paragraph P.3. Japan thanked the UK for their flexibility and agreed to the change.

Japan also noted the need to insert the word ‘public’ in relation to the Commission’s website to which the UK agreed for both Paragraphs P.2 and P.3.

MODIFICATION TO RULE OF PROCEDURE Q.4 ON ARCHIVING OF COMMISSION DOCUMENTS

A modification to Rule of Procedure Q.4 was proposed as follows:

4. All meeting documents shall be included in the Commission’s archives in the form in which they were considered at the meeting. *All such documents dating from 2011 onwards, and also earlier years where feasible, shall be archived on the Commission’s website in an accessible fashion by year and category of document.*

Japan noted the need to include reference to the Commission’s public website.

MODIFICATION TO FINANCIAL REGULATION C.5 ON POSTING OF AUDITED ACCOUNTS TO THE WEBSITE

A modification to Financial Regulation C.5 was proposed as follows:

5. The accounts of the Commission shall be audited annually by a firm of qualified accountants selected by the Commission. The auditors shall certify that the Financial Statements are in accord with the books and records of the Commission, that the financial transactions reflected in them have been in accordance with the rules and regulations and that the monies on deposit and in hand have been verified. *The most recent audited Financial Statements and the audit report shall be submitted to the Annual Meeting and posted on the Commission’s public website.*

St Kitts and Nevis asked if there were any rules regarding posting of the audited report to the website before it is seen by the Commission. The Secretary responded that current practice is for the Commission’s auditors to send their report directly to Contracting Governments after the completion of the audit. The Secretary also noted that the audited accounts are provided to the Budgetary Sub-committee, and also if necessary to the F&A Committee for their consideration. Japan noted the possibility that the audited statements may include information related to personnel or individuals and that the Commission would have to accept that this

type of information would also become public if this rule change was agreed. St Kitts and Nevis requested that the F&A Committee have opportunity to consider the audited accounts before they are made public. The UK responded that it considered it was important that the audited accounts were made public, and that they did not require the approval of the F&A Committee. It suggested that in terms of sequencing the accounts could be placed on the public website at the time of the Annual Meeting, which would mean that they would become available after the F&A Committee had met. St Kitts and Nevis agreed to this proposal.

MODIFICATION TO FINANCIAL REGULATION E.2 ON METHOD OF PAYMENT OF ANNUAL FINANCIAL CONTRIBUTIONS

A modification to Financial Regulation E.2 was proposed as follows:

2. Payment shall be in pounds sterling, drafts being made payable to the International Whaling Commission and shall be payable within 90 days of the said request from the Secretary or by the following 28 February, the “due date” whichever is the later. It shall be open to any Contracting Government to postpone the payment of any increased portion of the amount which shall be payable in full by the following 31 August, which then becomes the “due date”. *Payment shall be by bank transfer from an account belonging to the Contracting Government or to a state institution of that Government. Cash, cheques, money orders and credit cards shall not be accepted.*

Republic of Korea proposed that the words ‘Other means of payment may be allowed under special circumstances after prior consultations between the Contracting Government and the Secretariat’ be substituted for the final sentence of the proposed modification to paragraph E.2. It explained that that would allow for the Commission to respond to special circumstances such as bankruptcy or to guard against the possibility of cyber attacks. Iceland supported this, and proposed an alternate form of words for the final sentence: ‘Other means of payment may only be used in exceptional circumstances or by prior agreement with the Chair of the Commission’ so as to provide consistency with the language of the F&A Committee report. In recognition of previous discussions Antigua and Barbuda wished to add the words ‘or bank draft’ after the phrase ‘Payment shall be by bank transfer...’

In response the UK re-stated its position that contributions by parties should only be made through bank transfer, and that if helpful it would be prepared to remove the last sentence of the proposed change that referred to cash and cheques. However it would not accept any other amendments to this paragraph.

In relation to Iceland’s suggestion the UK considered that it would place a huge burden on the Chair for he or she to determine when exceptional circumstances should be applied. In relation to the request from Antigua and Barbuda on bankers drafts the UK referred to earlier discussions and said that after consultations with the UK Treasury and the EU Director-General for Budgetary Affairs it considered that bankers drafts were similar to cheques and consequently had issues relating to clarity and security and that it was not prepared to accept this change.

New Zealand recognised the strong statement made by the UK and the co-sponsors of the proposal, but expressed concern on providing a rigid rule on payments in view of the unknown nature of all circumstances which may arise. In view of Iceland’s point New Zealand recognised the need for financial transparency but also wondered that if such exceptional circumstances were openly reported to the Commission that it might be possible for them to be addressed.

St Kitts and Nevis referred to its earlier intervention where it explained that the use of bank drafts was critical for developing countries. It noted that a draft for over \$US 10,000 must have a source of funds associated with it, and the draft also contains a section indicating which account it has been drawn from. It asked the UK what specific problems they would have in terms of transparency for a draft as against a transfer. It suggested that it was possible to go to a bank and make a transfer under the name of the Government of the UK without it necessarily coming from the UK if the appropriate checks and balances are not made, which have to be made regardless of whether or not a transfer or a draft is arranged. It repeated that it had serious problems with transfers because funds are not normally made available in developing countries until immediately prior to a meeting and the quickest way to get funds to the Secretariat is by certified bank draft that would include the name of the Government on whose account that money is drawn from.

Antigua and Barbuda, supported by Grenada, responded to the UK's statement and stated that banker's drafts and cheques are different in that the account from which the draft is to be prepared must have sufficient funds to cover the amount requested and in fact a debit is made from the account at the same time the transaction is processed. Thus there was no likelihood that a draft would not clear. Antigua and Barbuda supported the comments made by St Kitts and Nevis on the realities faced by developing countries in that funds do not become available until immediately prior to a meeting and requested others to be open minded in this respect. Antigua and Barbuda referred to the UK's earlier example of a fictitious shell company and noted that whilst the scenario described by the UK may have been possible 20 years ago, in today's financial environment the opening of an account for a company requires production of articles of incorporation and a decision of the board of directors to open an account at the specified financial institution. It also requires the identification documentation of the signatories and a certification of good standing from the Companies Register and these things are subject to legal enquiry. It said that these procedures ensured the account was legal. Antigua and Barbuda recalled the caution not to enact laws in government that one cannot live with in opposition and it remarked that for many Contracting Governments from developed states the changes being contemplated would be straightforward. However given the vagaries of financial systems it suggested that tomorrow may be a different story for such states and that there should be a willingness to be open minded and to examine the realities faced some Contracting Governments.

Poland spoke on behalf of the European Union countries to underline that the proposed provision was crucial to the EU and its member states in terms of maximising transparency. Ecuador noted that the GNI and growth of Antigua and Barbuda and St Kitts and Nevis was larger than its own, and expressed its amazement that, given those Governments also had a central bank, it could not do a wire transfer from the Government. As a developing nation Ecuador faced the same problems of liquidity and that in order to have proof of where funds originated and were to be transferred to it believed that payment of dues should be from a public account. Mexico noted there must be a difference between cheques and transfers and drafts and recalled the Secretary's earlier explanation that it had received drafts that had not been paid as can happen with personal cheques. In light of this it considered that the situation was clear and that drafts

might cause problems to the Secretariat. St Kitts and Nevis challenged the earlier submission from the Secretary on drafts which had not been honoured because when a bank issues a certified draft it indicates that funds are available. It re-iterated that a draft is issued by a bank where an account is debited and this guarantees payment but a cheque is issued by an individual.

Iceland noted that although this issue was most relevant to developing countries it was not limited to them. It recalled the examples of where a country can be subjected to terrorism or other unforeseeable circumstances which would preclude them from making payments in the stipulated way. Accordingly it urged the need to make a provision for exceptional and unforeseen circumstances.

The UK again stated that its position on the issue of further amendments was not negotiable either for itself or the co-sponsors of the proposal. It recognised the different opinions in the room, but indicated it could not make further changes.

AMENDMENT OF FINANCIAL REGULATION E.3 ON PARTICIPATION OF NEW CONTRACTING GOVERNMENTS

Amendment of Financial Regulation E.3 was proposed as follows:

3. New Contracting Governments whose adherence to the Convention becomes effective during the first six months of any financial year shall be liable to pay the full amount of the annual payment for that year, but only half that amount if their adherence falls within the second half of the financial year. The due date for the first payment by new Contracting Governments shall be defined as 6 months from the date of adherence to the Convention or before the first day of **its participation in** any Annual or Special Meeting of the Commission **in which it participates**, whichever is the earlier.

There were no discussions on this proposal.

CREATION OF FINANCIAL REGULATION E.5 ON METHOD OF RECEIPT OF MEMBERSHIP DUES

A new Financial Regulation E.5 was proposed as follows:

5. *For the purpose of application of Rule of Procedure E.2, payments of membership dues shall not count as having been received by the Commission until the funds have been credited to the Commission's account.*

St Kitts and Nevis said that this proposal was unacceptable and insisted that a certified bank draft should be acceptable as a form of payment rather than having to wait until the funds had deposited in the Commission's account. It also noted that if the proposed change on extraordinary circumstances proposed under E.2 was accepted it could cause a conflict with paragraph E.5 because the Secretariat could receive a draft under such circumstances but not be in a position because of the location of the meeting to deposit the draft at a bank. In this way it did not agree to payment being deemed paid only when credited to the Commission's account. It suggested that contrary to the views of the UK there was still room to arrive at a consensus agreement and urged the continuation of dialogue. Antigua and Barbuda, Iceland, Grenada and Kiribati supported these views.

FORMATION OF A DRAFTING GROUP

Having heard the above debate the Chair noted that there had been agreement on some points but not on others. The UK agreed to produce a revised document and indicated that although some aspects of its proposal were non-negotiable it was happy to meet with others as part of a drafting group to see if consensus could be achieved. The Chair thanked the UK for this response and proposed a drafting group comprising New Zealand, Japan, Iceland, one of either St

Kitts and Nevis or Antigua and Barbuda, one of the Latin-American countries and then also Poland and the UK. St Kitts and Nevis declined to take part in the group because of the non-negotiable views of the UK. Iceland recalled the desire to find a compromise consensus and agreed to take part. Japan noted that some issues were straightforward whereas others would be more difficult to resolve and it may not be efficient to place all the issues into one group. The UK agreed with this, indicated it would produce the document with changes that had already been agreed and suggested that the drafting group should concentrate on the financial issues.

REPORT OF THE DRAFTING GROUP

New Zealand acted as co-ordinator of the drafting group and reported on the group's progress. The changes to the Resolution agreed by the group were as follows:

- (1) the deletion of the word 'environmental' in the second and fifth preambular paragraphs;
- (2) in the last preambular paragraph, starting with the words 'Mindful of the need..', the group agreed to delete the specific reference to developing countries because Article III.(5) of the Convention refers to all members and does not identify categories of membership, and also to delete the reference to limitations of Article III.5 so as to read 'Providing assistance for the participation in international conferences or meetings of delegates given Article III.5 of the Convention...'; and
- (3) in the third operative paragraph the group provided a time frame of 100 days before the meeting for the presentation of the Report that is requested of the Secretary and also deleted the specific reference to Article III.(5).

With regard to the Annex the changes reported were as follows.

- (1) Paragraph 2 was reworked to add clarity that there is discretion and now as part of this it contains an invitation to establish an additional means of communication between the Commission and the Contracting Governments.
- (2) On Rule E. the agreement was to separate the provision of the text to members as a pre-condition for the adoption of the decision but at the same time to make it clear the text is to be made simultaneously available to all other accredited participants. So whether the text is circulated as a document or put up on the screen by electronic means, it will be available to all but it is the conditionality of provision to Commission members that relates to the effectiveness of the decision.
- (3) For the last line of Rule E.2(b) the final words 'unless the Commission decides otherwise' have been deleted. This change was part of a series of changes that relate to alterations later in the document.
- (4) The insertion of the word 'public' in relation to all references to the Commission's website.
- (5) For Rules M.4.(b), M.5 and O.2 the changes discussed by Plenary were incorporated.
- (6) For Rule P.2 the group modified the rule to make it clear that the Chair's Report shall be posted on the Commission's public website in English within two months of the end of the meeting and in the other working languages as soon as possible thereafter to give an element of flexibility to the Secretariat.

- (7) The insertion into Rule P.3 of the language requested by Japan in respect of a situation where a Contracting Government requests that information provided to the Secretariat is to remain confidential.
- (8) For Rule Q.4 the changes discussed by Plenary were incorporated.
- (9) For Financial Regulation C.5 the group agreed a change which made it clear there that the requirement to make the audited Financial Statements available should be by the opening of the Annual Meeting which will give the Secretariat the opportunity to put them on the website after the F&A Committee has considered them.
- (10) In regard to Financial Regulations E.2 and E.5 the group retained the proposal made by the UK and the other co-sponsors for bank transfers to be the rule for payments. However to take account of the concerns that there maybe delays between payments of bank transfers and receipt by the Commission the group adjusted Financial Regulation E.5 on application of the procedure to provide flexibility on what is meant by received by the Commission. This meant that payment shall only count as being received when funds have been credited to the Commission's account, and to add flexibility this would be unless the payment has been made and the Commission is satisfied that the delay in receipt is due to the circumstances beyond the control of the Contracting Government. This procedure would deal with the unpredictable situation where the payment has been made but not received by the Commission.

The group was pleased to report these changes and New Zealand thanked the participants for their constructive discussions on the difficult areas.

The USA thanked the drafting group for its work and the UK, Iceland and St Kitts and Nevis as members of the group thanked New Zealand for its efforts in bring the group to agreement. The UK indicated the document as proposed was modest but addressed its principle concerns and hoped it could be adopted by consensus. The UK also referred to the compromise it had made on observer and civil society participation but said this had been a part of the negotiation. Japan urged the document be adopted by consensus, and that it not be treated as a win for any particular side, but instead as an achievement for the organisation as a whole. Ghana was pleased to receive the document and commended the commitment that had been shown and Morocco reflected that the new proposal, if accepted by consensus, would improve the effectiveness of the IWC and open room for further reforms through consultation and consensus between members.

The Chair asked if the proposals as revised by the drafting group could be adopted by consensus. Seeing no objections, the Chair confirmed the revised proposal was adopted as Resolution 2011-1 on Improving the Effectiveness of Operations within the International Whaling Commission. The final text of the Resolution is reproduced at Annex D. Poland, on behalf of the co-sponsors of the proposal indicated its gratitude for the cooperation on this proposal received from all members of the Commission. It was convinced that the proposal would make the IWC an improved organisation in terms of transparency and effectiveness.

21.4 Carbon neutral study

21.4.1 Report of the Finance and Administration Committee and Commission discussions

Because of time constraints caused by the extended discussion on Agenda Item 21.3 the Chair of the F&A

Committee referred Commissioners to the F&A Committee report on the carbon neutral study. There was no further Commission discussion on this item.

21.5 Formula for calculating contributions and related matters

21.5.1 Report of the Finance and Administration Committee and Commission discussions

Because of time constraints caused by the extended discussion on Agenda Item 21.3 the Chair of the F&A Committee referred Commissioners to the F&A Committee report on the formula for calculating contributions and related matters. There was no further Commission discussion on this item.

21.6 Report of the Intersessional Correspondence Group on strengthening IWC financing

21.6.1 Report of the Finance and Administration Committee

The Committee agreed that the work of the Intersessional Correspondence Group should continue under updated terms of reference as outlined in the report of the F&A Committee. Other Contracting Governments were invited to join the group and there was also a proposal to add a standing item on Fundraising to the agenda of the F&A Committee.

21.6.2 Commission discussions and action arising

There were no Commission discussions under this item.

21.7 Financial Statement, budgets and other matters considered by the Budgetary Sub-committee

21.7.1 Review of Provisional Financial Statement 2010/11

21.7.1.1 REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE

The Committee recommended the Provisional Financial Statement to the Commission subject to audit. It also recommended that annual reports on income and expenditure related to voluntary contributions be provided as this information will be useful in the future.

21.7.1.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no Commission discussions under this item.

21.7.2 Consideration of estimated budgets, 2011/12 and 2012/13

21.7.2.1 REPORT OF THE FINANCE AND ADMINISTRATION COMMITTEE

The Committee proposed 'budget scenario 2' for the Commission's approval. This represented a budget based on no increase in total expenditure.

21.7.2.2 COMMISSION DISCUSSIONS AND ACTION ARISING

There were no Commission discussions under this item.

21.7.3 Other

The F&A Committee recommended that all Contracting Governments make every effort to pay their dues promptly and also encouraged the Secretariat to strengthen its effort to obtain outstanding payments because these amount to over £400,000.

The F&A Committee also recommended the Commission endorse a proposal outlined in IWC/63/F&A10 for an expert to provide temporary technical assistance to the Secretariat at no cost. This person would assist in reducing conflicts between cetaceans and marine resource users.

Finally the F&A Committee thanked Andrea Nouak (Austria) for completing her three year term as Chair of the Budgetary Sub-committee. Martin Krebs (Switzerland) has agreed to take on the role. In addition, the USA agreed to take up the role of Vice-Chair for the Budgetary Sub-committee and the UK agreed to fill the vacant open seat.

21.8 Adoption of the Report of the Finance and Administration Committee

The Commission adopted the Report of the F&A Committee, including the recommendation to adopt 'budget scenario 2', and thanked Ms Petrachenko for her Chairmanship.

22. DATE AND PLACE OF ANNUAL AND INTERSESSIONAL MEETINGS

22.1 64th Annual Meeting in 2012

The Commission was pleased to accept an invitation from the Government of Panama to host the 64th Annual Meeting in 2012. Panama said that the meetings of the Scientific Committee, Sub-groups and Commission Plenary would take place in Panama City and proposed dates of 11 June-6 July 2012. It indicated it had supplied the Secretariat with a list of countries that would require visas as well as a directory of consulates and the special procedures it applied in the case of international conferences.

22.2 Future Commission meetings

No time or date was proposed for a meeting in 2013. The Commission agreed to discuss the possibility of moving to biennial meetings from 2012 onwards at its 64th Annual Meeting.

23. ADVISORY COMMITTEE

The Commissioner for the USA was elected onto the Advisory Committee for two years to replace the Commissioner for Belgium. The Advisory Committee therefore now comprises the Chair (vacant), Vice-Chair (vacant), the Chair of the F&A Committee (Australia), the Commissioner for Guinea and the Commissioner for the USA.

24. 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.

25. OTHER MATTERS

25.1 Problems encountered in obtaining a UK visa to attend IWC/63

At the private Commissioner's meeting on Sunday 10 July a number of Contracting Governments stated that several delegations had encountered problems obtaining a UK entry visa so as to be able to attend IWC/63. These concerns were repeated under Agenda Items 2.4 and 21. In light of this the Commissioners had requested the Secretary to prepare a report on these concerns for presentation to Plenary.

25.1.1 Secretary's report on delegations who had reported difficulties obtaining a visa to attend IWC/63

The Secretary introduced IWC/63/14 on information received by the Secretariat from delegations who had reported difficulties obtaining a visa to attend IWC/63. The document:

- (1) reviewed the dates when the location and timing of IWC/63 were announced and the associated publication of instructions to assist participants in obtaining visas;
- (2) provided a list of the delegations and observers who had contacted the Secretariat in the approaches to IWC/63 to indicate that they were encountering difficulties in obtaining visas;

- (3) outlined the steps the Secretariat had taken to resolve these concerns, including a response received from the UK Border Agency;
- (4) provided a list of delegations who had pre-registered to attend IWC/63 but who had not arrived;
- (5) summarised feedback from delegations on the nature of the problems encountered; and
- (6) suggested steps to ensure that the situation did not arise again in the future.

The Secretary stressed the importance he attached to this issue and invited comments from delegates as to how the Secretariat could best support all delegations seeking to attend IWC meetings.

25.1.2 Commission discussions and action arising

The UK provided an update on the steps it had taken to assist delegates in gaining visas. It indicated that on the second day of IWC/63 it had received a list of representatives from eight states who had not arrived in Jersey. It had immediately passed this information to the UK authorities. It was aware that one delegation had subsequently arrived, and another who had previously arrived in Paris had now received a visa. The UK had not been able to track the other delegations as details of the visa applications that had been made were not available but indicated that it would do so if that information could be made available. The UK stated that it wished to learn from this experience and would work with the Secretariat to ensure the situation did not occur again.

Israel said that before a country is approved to act as host an undertaking should be received to grant visas to all countries in advance of a meeting. It also suggested that while it may be beneficial to consider ways to attend meetings remotely, e.g. by web link as suggested in IWC/63/14, this should not be considered a solution to difficulties in obtaining visas. Monaco supported Israel's comments. Ghana suggested that letters of invitation sent to Contracting Governments are also sent to Commissioners to avoid the situation where correspondence may be mislaid. Mexico and Antigua and Barbuda thanked the UK for its willingness to work with the Secretariat to resolve the issue, and Antigua and Barbuda noted that it was critical that the Secretariat meet with the delegation from Panama as hosts of IWC/64 in 2012 so that specific entry requirements and advice on obtaining visas can be published as early as possible and any delays identified well in advance of the scheduled meeting. Monaco agreed with this and asked the Secretariat to post full information on the IWC web pages regarding the visa requirements for all participants including both Contracting Governments and observers. The Russian

Federation associated with Monaco's comments and noted the need to maintain a close relationship with the Ministry of Foreign Affairs in the host country. It commented that many consulates require an invitation in the language of the host country and indicated that it was important that the host appoint a person to be responsible for such matters. The Russian Federation was unsatisfied with the response given by the UK as a visa had not been issued to half of its delegation despite all consular requirements having been fulfilled. Ecuador noted that the UK hosts the headquarters of around 30 multilateral organisations and almost half of these have members drawn from outside the EU or Commonwealth. It therefore recommended that these organisations should consult with the UK authorities to ensure a facility is developed to assist delegates wishing to attend meetings convened by these organisations.

Japan noted that the situation with transit visas should also be considered, especially given the location of the next meeting in Panama and suggested that many delegations may be required to obtain a transit visa to pass through the USA. Japan also remarked that often a host country may not have an embassy based in the country of all Contracting Governments to the IWC with the result that delegates can be referred to an embassy in another country. However, upon arrival it can often be the case that the embassy to which delegates have been referred is also unable to issue a visa, resulting in a re-direct to a third country. Japan noted that host governments should provide a list of all embassies and consulates that were, and were not, able to issue entry visas as part of the information it provided.

Iceland noted that the issue had both long term and short term consequences. In the long term it was important to learn from the experience and prevent re-occurrence. In the short term Iceland suggested that IWC/63 should proceed on the basis of consensus and to refrain from other types of decision making in the absence of some delegates.

In response the Secretary thanked all speakers for their comments and stated that he would undertake the actions suggested, especially with regard to working with host countries to publish detailed information on the IWC website to assist delegates in obtaining visas for Annual Meetings.

25.2 Closure of the Meeting

The meeting was closed at 20.40 on Thursday 14 July 2011.

26. AMENDMENTS TO SCHEDULE

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