

## Review of the Southern Ocean Sanctuary

Delegation of Japan

Paragraph 7 (b) of the Schedule that established the Southern Ocean Sanctuary (SOS) specifies that: "... this prohibition shall be reviewed ten years after its initial adoption and at succeeding ten year intervals..."

In 2004, the Scientific Committee and the Commission carried out a review of the SOS.

### **Background**

In response to the Scientific Committee's request for advice from the Commission with respect to commonly agreed objectives for the Southern Ocean Sanctuary (Chairman's Report of the 49th Annual Meeting, p.29) the Commission, at the **50<sup>th</sup> Annual Meeting, adopted resolution 1998-3** which affirmed that the agreed objectives of the Southern Ocean Sanctuary are to provide for: (1) The recovery of whale stocks, including the undertaking of appropriate research upon and monitoring of depleted populations; (2) The continuation of the Comprehensive Assessment of the effects of setting zero catch limits on whale stocks; and (3) The undertaking of research on the effects of environmental change on whale stocks.

Further, at its meeting in **2001, the Commission agreed by consensus, instructions to the Scientific Committee for reviews of sanctuaries** (see Annex 1 to this document).

At its **meeting in 2002**, the Scientific Committee agreed that it should try to develop suggestions for evaluation criteria to make them more precise and operational and noted that, for future work, some mechanisms by which sanctuary proposals and the review process would benefit should be developed, including: (1) reviewing IWC sanctuaries in combination when biologically relevant; and (2) introducing Marine Protected Area (MPA) scientific concepts into sanctuaries and sanctuary proposals.

In **2002, the Commission adopted resolution 2002-1** which instructed the Scientific Committee that, in reviewing Sanctuaries, it includes the following principles in addition to those in the Instructions from the Commission to the Scientific Committee for Review of Sanctuaries approved by the 53rd Annual Meeting.

- 1) Temporary overlap of management measures, for example Para 10(e) of the Schedule and a sanctuary, cannot be used to invalidate any long-term scientific and conservation value of a given Sanctuary.
- 2) The application of the Precautionary Approach shall be determined in accordance to Principle 15 of the 1992 Rio Declaration.

At the meeting of the **Scientific Committee in 2003** an intersessional Steering Group was appointed to develop a process by which the Committee would complete the review and develop evaluation criteria. Tasks to be addressed by the Steering Group included:

- (1) Further develop generic criteria for reviewing Sanctuaries given feedback and clarification from the Commission.
- (2) Initiate the review of the Southern Ocean Sanctuary based on instructions from the Commission, by beginning to collate the information required to follow the Instructions.
- (3) Discuss a mechanism for reviewing IWC Sanctuaries in combination, where biologically relevant.
- (4) Discuss a mechanism for introducing Marine Protected Areas (MPA) scientific concepts, such as critical habitat, into IWC Sanctuaries and Sanctuary Proposals. In addition, consideration should be given to cooperating with appropriate international organisations to consider ways to evaluate non-whaling threats to cetaceans included within appropriate sanctuary/MPA boundaries.
- (5) Discuss a mechanism, such as a standard form to proposals, through which the Commission could assist

Member Countries in developing Sanctuary Proposals, if the Commission would welcome such a mechanism.

The intersessional Steering Group selected three external non-IWC affiliated scientists with acknowledged international expertise on developing, managing and/or conducting research in sanctuaries or MPAs and requested them to produce a report providing the following: (1) an initial review of the SOS given its objectives and the criteria developed by the Commission and the Scientific Committee and approved by the Commission; and, (2) advice on how to introduce MPA scientific concepts into IWC Sanctuaries and Sanctuary Proposals, and on establishing monitoring programmes.

A list of detailed questions to the reviewers is in Appendix I of their report (SC/56/SOS 5).

The external reviewers report, along with other relevant documents, was discussed at the intersessional meeting as part of the review held in Sorrento 28-29 June 2004. The report of the intersessional meeting (SC/56/Rep2) was subsequently reviewed by the Working Group at the **2004 meeting of the Scientific Committee** (Annex O).

In summary, the reviewers concluded that: “overall, the SOS – and IWC Sanctuaries in general – are not ecologically justified. The SOS is based on vague goals and objectives that are difficult to measure, lacks a rigorous approach to its design and operation, and does not have an effective monitoring framework to determine whether its objectives are being met. The SOS represents a “shotgun” approach to conservation, whereby a large area is protected with little apparent rationale for the boundary selection and management prescriptions within the sanctuary. While a vast array of ecosystem-level and precautionary conservation benefits have been invoked for the establishment of the SOS, in reality this large-scale sanctuary does little more than provide a false sense of security by assuming that protections for whale populations are in place.”

In reviewing the SOS, the participants of the intersessional meeting agreed that:

- (1) Whales are not effectively protected from whaling in the SOS, because such Sanctuaries apply only to commercial whaling, and because (apart from stocks that migrate to the IOS) whales also migrate outside of the SOS boundaries; and
- (2) The boundaries of the SOS were appropriately established for some, but not for all stocks.

Further, at its meeting in **2004, the Scientific Committee** developed a series of recommendations that, once the overall objectives of the SOS have been refined, would allow these objectives to be evaluated, and would **facilitate evaluation in future reviews**.

- (1) The purpose(s) of the SOS (and other IWC Sanctuaries) should be better articulated through a set of refined overall objectives (e.g. preserving species biodiversity; promoting recovery of depleted stocks; increasing whaling yield). In particular, the relationships between the RMP and the Sanctuary programme should be articulated.
- (2) Appropriate performance measures both for Sanctuaries in general, and the SOS in particular, should be developed. These performance measures should link the refined objectives of the SOS with monitoring programmes in the field.
- (3) Systematic inventory and research programmes should be established or further developed so as to build the required information base for a Sanctuary management plan and subsequent monitoring programmes.
- (4) A Sanctuary management plan should clearly outline the broad strategies and specific actions needed to achieve Sanctuary objectives (e.g. how to protect  $x\%$  of a given feeding area for stock  $y$ ).
- (5) A monitoring strategy that measures progress toward achieving the Sanctuary objectives should be developed and subsequently implemented. A key component of this monitoring strategy would be the development of tangible indicators to monitor progress.

(6) Review criteria that reflect the goals and objectives of the Sanctuary (as described above) should be established.

(7) The Sanctuary management plan should be refined periodically to account for ecological, oceanographic and possible other changes in an adaptive fashion.

In addition, the Committee agreed that the involvement of independent external reviewers in the review of the SOS had been largely positive and that involvement of external reviewers should continue, both for future reviews and reviews of future Sanctuary proposals.

**At the 2004 meeting, the Commission noted and endorsed these recommendations.**

### **Proposed process**

At its meeting in 2014, the Scientific Committee should initiate the review process by assembling the information necessary for the Commission to establish scientific objectives.

The Commission should establish scientific objectives relevant to the Southern Ocean Sanctuary to be used for the review by the Scientific Committee.

At its meeting in 2015, the Scientific Committee should appoint an intersessional Steering Group (as it did in 2003) to facilitate the review of the SOS. The Head of Science should provide institutional support to the intersessional Steering Group.

The intersessional Steering Group should appoint a panel of external non-IWC affiliated scientists whose primary tasks would be: i) to evaluate progress made by the IWC in addressing the conclusions and recommendations of the three external non-IWC affiliated scientists that reviewed the SOS in 2004 as well as the recommendations of the Scientific Committee in that year that were endorsed by the Commission (see background section above) and, ii) to evaluate the extent to which the Commission's agreed objectives for the SOS are being met.

In conducting its work the panel should take account of the Instructions from the Commission to the Scientific Committee for Reviews of Sanctuaries (ANNUAL REPORT OF THE INTERNATIONAL WHALING COMMISSION 2001 Annex E) (Annex 1 of this document) and Resolution 2002-1 (Annex 2 of this document). Where it finds that little or no progress has been made with respect to the recommendations of the three external scientists and the SC in 2004 the panel should provide advice regarding how progress could be made. The panel should provide its report 60 days prior to the beginning of the 2016 meeting of the SC.

An intersessional meeting should be held immediately prior to the 2016 meeting of the SC to review the report of the panel and to further address instructions from the Commission for the review of sanctuaries. Participants at the intersessional meeting should include members of the intersessional Steering Group, any other members of the SC and observers. The report of the intersessional meeting should be reviewed by the SC at its 2016 meeting.

The 2016 Commission meeting will review the results of the Scientific Committee to complete the SOS review process.

## Annex 1

### **Instructions from the Commission to the Scientific Committee for Reviews of Sanctuaries (ANNUAL REPORT OF THE INTERNATIONAL WHALING COMMISSION 2001 Annex E)**

Amendments to the Schedule, including the establishment of Sanctuaries 'shall be based on scientific findings' (Article V2b). There is a divergence of views within the Commission as to the extent to which other issues (e.g. socio economic and cultural) can be used as the basis for Sanctuaries. Clearly, the Scientific Committee shall only consider scientific aspects when reviewing existing sanctuaries or proposals for new sanctuaries.

#### **General**

In reviewing existing sanctuaries, the Scientific Committee should give primary attention to assessing how well the scientific aspects of the agreed objectives of the sanctuary have been met and how well they might be met if the sanctuary continues.

In reviewing proposed sanctuaries, the Scientific Committee should give primary attention to considering the scientific feasibility of meeting the scientific aspects of the stated objectives, and, if necessary, recommend amendments to the objectives, or changes to the proposal to better meet its objectives.

#### **Specific**

The following specific guidelines relate primarily to the review of proposed sanctuaries but should also be used in reviewing existing sanctuaries where relevant. The Commission instructs the Scientific Committee to:

1. Provide advice on the status and trends of whale stocks in the (proposed) sanctuary in so far as these are known. Assess whether the sanctuary distinguishes between species and stocks that are depleted and apparently slow to recover, those that are increasingly rapidly, and those that are abundant and not threatened. Assess the present and potential threats to whale stocks and their habitats in the area of the (proposed) sanctuary and how the (proposed) Sanctuary addresses these. Such factors may include inter alia: a. whaling; b. fishing, including by-catch; c. oil and gas exploitation, including seismic surveys; d. shipping; e. whalewatching; f. climatic change; g. other environmental factors.

It should also consider the relationship of the (proposed) Sanctuary with other existing measures to protect whales from such anthropogenic and other environmental factors.

2. Assess the anticipated effects of the proposed sanctuary in terms of:

- a. Improving protection of whales, in breeding areas, feeding grounds and/or migratory routes;
- b. Improving the conservation of breeding sites, migratory routes and/or feeding grounds; and
- c. Complementing existing or potential protection including the Commission's current management regime and regional and international agreements concerning biodiversity and conservation of nature.

3. Provide advice on whether the proposed boundaries of the sanctuary are ecologically appropriate.

4. Provide advice on whether the sanctuary addresses the issue of critical habitat\* and non-critical whale habitat.

5. Evaluate whether the sanctuary may contribute to or impede the conduct of scientific research useful for meeting IWC objectives and facilitate coordinated and integrated research and monitoring programs.

6. Provide advice on whether the sanctuary is consistent with the precautionary approach.

\* Critical habitat as referred to in point 4 is not the same as the term used in the USA's domestic legislation.

## **Annex 2**

### **Annual Report of the International Whaling Commission 2002 54th Annual Meeting, 2002**

#### **Resolution 2002-1 Guidance to the Scientific Committee on the Sanctuary review process**

RECALLING that amendments to the Schedule, including the establishment of Sanctuaries, require criteria for their periodic review by the Scientific Committee.

CONVINCED that the establishment of Sanctuaries for conservation purposes represents an integral part of best management practices for wildlife in general.

NOTING that sanctuaries were established and have been maintained for a number of reasons, of which scientific considerations, although important, should not be definitive in the validation process. When considering scientific arguments for sanctuary evaluation, if consensus is not possible, then a precautionary approach should prevail.

RECALLING FURTHER that since 1995, the IWC has recognised the need for a broader understanding of environmental changes and threats affecting whale stocks in the Antarctic marine ecosystem and recommended the application of precautionary principles in their discussions. On several occasions there was consistent support within the SC (2002) for the precautionary approach, specially when dealing with Arctic and Antarctic resource management. (SC/54/IA7, IA11, IA15, SC/54/E3, E11, E16, SC/54/IA7, IA11, IA18, SC/54/BRG4).

RECOGNISING that if there is no consensus on specific issues within sanctuaries, the Precautionary Approach should limit the negative impacts of environmental uncertainty (e.g. effects of climate change over sea-ice dynamics and feeding habitat accessibility and unforeseen problems in the RMP to the other regions where it was applied). In such cases, currently established sanctuaries complement the provisions of paragraph 10 e) of the Schedule as an integral management strategy.

TAKING INTO ACCOUNT that sanctuaries of appropriate spatial and temporal scales are consistent with the practice of establishing large-scale areas closed to harvest as essential components of best management practices. These no-take regions should therefore be regarded independently of any other management actions or the provisions of paragraph 10(e) of the Schedule to the Convention. The long-term provisions and dimensions of an individual sanctuary depend on factors other than those determining the Commission's short-term management policy.

NOW, THEREFORE, THE COMMISSION:

INSTRUCTS the Scientific Committee that, in reviewing Sanctuaries, it includes the following principles in addition to those in the Instructions from the Commission to the Scientific Committee for Review of Sanctuaries approved by the 53rd Annual Meeting.

- 1) Temporary overlap of management measures, for example Para 10(e) of the Schedule and a sanctuary, cannot be used to invalidate any long-term scientific and conservation value of a given Sanctuary.
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