

Resolution on Enhancing the Effectiveness of the International Whaling Commission

Submitted by Australia, Brazil, Mexico, New Zealand and the United States of America

Noting that 2016 is the 70th anniversary of agreement to the International Convention for the Regulation of Whaling;

Recognising that there are different views concerning the priority of the Commission's objectives and mandates among Commission member states due to the different positions on whales and whaling;

Notwithstanding the difference in positions, aware of the importance of ensuring the Commission's institutional and governance arrangements are aligned with best practice for contemporary multilateral treaty bodies;

Acknowledging the progress the Commission has made in this respect, including through *inter alia*, strengthening the Finance and Administration Committee, moving to a biennial meeting pattern, establishing a Bureau to facilitate the work of the Commission during the intersessional period, enhancing the role of civil society in the Commission and creating an Operational Effectiveness Working Group;

Recognising that the Commission's continued effectiveness is contingent upon further reform;

Noting that a more comprehensive review of the Commission's institutional and governance arrangements will enable the efficient prioritisation of opportunities for reform;

Further noting that independent reviews are best practice in multilateral treaty bodies, and have been used to strengthen institutional and governance arrangements in a number of organisations;

Now, therefore the Commission:

Agrees to a comprehensive, independent review of the Commission's institutional and governance arrangements, based on Terms of Reference contained in the annex to this resolution;

Calls upon Contracting Governments to make voluntary contributions to support this review;

Agrees to establish, during the 66th meeting of the Commission, a Steering Group of Contracting Governments representing a range of views and interests to select a panel to conduct the review in the intersessional period;

Agrees that the review will be conducted by a panel of three independent reviewers selected by the Steering Group, in consultation with the Chair and Vice-Chair of the Commission, following a limited tender application process¹;

¹ Limited tender means seeking applications from a small number of suitably qualified people or organisations as opposed to a process open to any applicants.

Agrees that the review panel submit a report to the Executive Secretary, in accordance with the Terms of Reference contained in the annex to this resolution, for discussion at the 67th meeting of the Commission;

Agrees that the Secretariat circulates the report to Contracting Governments and Accredited Observers, and to the Working Group on Operational Effectiveness; and

Requests that the Working Group on Operational Effectiveness consider the report and submit a proposal to guide the Commission in responding to the recommendations of the review at least 60 days in advance of the 67th meeting of the Commission.

Annex

Terms of Reference for an Independent Review of the International Whaling Commission

Objective:

The International Convention for the Regulation of Whaling was signed in 1946. Significant reform has been achieved over the past decade in particular; however, there is still much that needs to be done to bring the Commission into line with best practice for contemporary multilateral treaty bodies, including with regard to principles of transparency, accountability, credibility and effectiveness.

A review is proposed to identify opportunities to align the Commission's institutional and governance arrangements with best practice for multilateral treaty bodies, and enhance the Commission's effectiveness.

Qualifications:

The review will be carried out by a review panel made up of three experts.

The review panel members should have a demonstrated understanding of multilateral treaty bodies, and experience reviewing large international organisations and/or multilateral treaty bodies. The review panel members will be required to confirm the absence of a conflict of interest.

Scope:

The review panel will undertake a comprehensive review of the Commission's institutional and governance arrangements. The review will be conducted in a cost-effective manner and assess *inter-alia*:

- i. The organisation of the Commission's work, including the role, functioning, effectiveness, and governance of its sub-groups;
- ii. The process for agreeing work programs and strategic direction;
- iii. Methods and effectiveness of communication between the Commission and its subsidiary bodies;
- iv. The process for allocation of the Commission's resources to subsidiary bodies;
- v. The role, functioning, effectiveness and governance of the Secretariat;
- vi. The Commission's rules of procedure and financial regulations.

Out of scope:

The review will not take account of the Commission's objectives or mandate. The review will not specifically assess or provide recommendations on *inter alia*:

- i. The text of the International Convention for the Regulation of Whaling;
- ii. The Schedule of the International Convention for the Regulation of Whaling;
- iii. The conservation and management status of cetaceans;
- iv. Contracting Governments' compliance with the Convention and Schedule;
- v. Aligning the Commission's operations with the International Court of Justice's judgment in the case concerning *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*.

Method:

The review will be conducted through a desktop review of relevant materials, including *inter alia* the Commission's rules of procedure, resolutions, official reports, and the work of its subsidiary bodies. The Secretariat will assist to ensure all required documents are available. The review will consider the findings of the reviews of multilateral treaty bodies and other intergovernmental organisations.

The members of the review panel may consult with representatives of Contracting Governments, the Secretariat, and accredited Observers to the Commission.

Work schedule:

The review will commence by 1 May 2017. The review panel will keep the Secretariat and Chair of the Working Group on Operational Effectiveness informed of its work, and present its initial findings, for information, to the Executive Secretary by 30 October 2017. The review panel will submit a final report to the Executive Secretary by 1 March 2018.

The Secretariat will circulate the final report to Contracting Governments and observers 120 days before IWC67.

Deliverables:

The review panel's final report to the Commission will include:

- i. A comprehensive review of the Commission's institutional and governance arrangements (including an Executive Summary);
- ii. Recommendations for reform that will enhance the Commission's effectiveness (recommendations should be prioritised);
- iii. A draft roadmap for implementing the recommendations;
- iv. Proposed performance indicators to track the implementation of reform measures.

Selection process:

The Steering Group will request applications from any suitably qualified individuals to be selected for membership of the review panel.

Interested parties should submit a brief proposal (maximum 10 pages) responding to these Terms of Reference by 1 March 2017. The proposal must include a detailed budget.