

Appendix 1

Resolutions Adopted at the 66th Meeting

Resolution 2016-1

Resolution on Enhancing the Effectiveness of the International Whaling Commission

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;

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.

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.

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.

Resolution 2016-2

Resolution on Improving the Review Process for Whaling under Special Permit

Noting the judgment of March 31, 2014 of the International Court of Justice in the case concerning Whaling in the Antarctic (Australia v. Japan: New Zealand intervening);

Noting the Court's view that Contracting Governments to the International Convention for the Regulation of Whaling ("the Convention") have a duty to cooperate with the International Whaling Commission and Scientific Committee;

Affirming that the Scientific Committee is required to review and comment on proposed special permits as stipulated under paragraph 30 of the Schedule to the Convention, and that it is appropriate for the Commission to receive and consider the reports and recommendations of the Scientific Committee and make such recommendations under Article VI of the Convention as it sees fit;

Underscoring the importance of the Commission considering these reports and recommendations of the Scientific Committee and, to that end, being able to make recommendations in sufficient time to allow the Contracting Government concerned to give such recommendations due regard, in exercise of its duty to cooperate, prior to issuing a special permit;

Acknowledging in this respect the Scientific Committee's advice to the Commission on new, ongoing and completed special permit programmes;

Recalling Resolution 2014-5, which *inter alia* instructed the Scientific Committee, in its review of new and existing special permit research programmes, to provide advice to the Commission on:

- (a) whether the design and implementation of the programme, including sample sizes, are reasonable in relation to achieving the programme's stated research objectives;
- (b) whether the elements of the research that rely on lethally obtained data are likely to lead to improvements in the conservation and management of whales;
- (c) whether the objectives of the research could be achieved by non-lethal means or whether there are reasonably equivalent objectives that could be achieved non-lethally;
- (d) whether the scale of lethal sampling is reasonable in relation to the programme's stated research objectives, and non-lethal alternatives are not feasible to either replace or reduce the scale of lethal sampling proposed; and
- (e) such other matters as the Scientific Committee considers relevant to the programme, having regard to the decision of the International Court of Justice, including the methodology used to select sample sizes, a comparison of the target sample sizes and the actual take, the timeframe associated with a programme, the programme's scientific output; and the degree to which a programme coordinates its activities with related research projects.

Gratefully acknowledging the constructive changes to the *Annex P: Process for the Review of Special Permit Proposals and Research Results from Existing and Completed Permits* (Annex P), adopted by the Scientific Committee at SC66a in 2015, and the efforts of the Scientific Committee and the Commission to improve other procedural matters;

Further recalling Resolution 2014-5, which *inter alia* requests that no further special permits for the take of whales are issued under existing research programmes or any new programme of whale research until:

- a. The Scientific Committee has reviewed the research programme to enable it to provide advice to the Commission in accordance with the instructions in Resolution 2014-5;
- b. The Commission has considered the report of the Scientific Committee and assessed whether the Contracting Government proposing or responsible for the special permit programme has acted in accordance with the review process described in Resolution 2014-5; and
- c. The Commission has, in accordance with Article VI of the Convention, made such recommendations on the merits or otherwise of the special permit programme as it sees fit.

Noting that the Government of Japan, notwithstanding Resolution 2014-5, issued special permits for its "New Scientific Whale Research Program in the Antarctic Ocean (NEWREP-A)" before: i) the Scientific Committee had

provided advice to the Commission in accordance with the instructions in Resolution 2014-5; ii) the Commission had considered the report of the Scientific Committee and assessed whether Japan had acted in accordance with the review process described in Resolution 2014-5 and, in accordance with Article VI, made such recommendations on the merits or otherwise of the special permit programme as it saw fit.

Further recalling Resolution 2007-1, in which the Commission recalled that it had repeatedly requested Contracting Parties to refrain from issuing special permits for research involving the killing of whales within the Southern Ocean Sanctuary.

Now, therefore the Commission:

1. **Agrees** to establish a Standing Working Group (“the Working Group”), in accordance with Article III.4 of the Convention. The Working Group will be appointed by the Bureau on the basis of nominations from Contracting Governments, to consider the reports and recommendations of the Scientific Committee with respect to all new, ongoing and completed special permit programmes and report to the Commission, in accordance with the Terms of Reference contained in the Appendix to this resolution.
2. **Agrees** that the discussion of special permit programmes be afforded sufficient priority and time allocation to allow for adequate review at both Commission and Scientific Committee meetings;
3. In order to facilitate the Commission’s timely and meaningful consideration of new, ongoing and completed special permit programmes, **Requests** Contracting Governments to submit proposals for new special permit programmes, and review documentation for ongoing and completed special permit programmes, at least six months before the Scientific Committee meeting held in the same year as a Commission meeting (see the indicative process set out in paragraph 9 of the Appendix);
4. In order to facilitate the Scientific Committee’s review of new, ongoing and completed special permit programmes, **Requests** Contracting Governments to provide members of the Scientific Committee unrestricted and continuing access to all data collected under special permit programmes that are:
 - a. used in the development of new programmes; or
 - b. included in ongoing or final programme reviews.

Data made available in accordance with this request shall be used only for the purposes of evaluation and review of special permit programmes.

5. **Instructs** the Scientific Committee to inform the Commission as to whether Scientific Committee members had unrestricted and continuing access to data collected under special permit programmes, and analyses thereof;
6. **Further instructs** the Scientific Committee to provide its evaluation of proposals to the Commission in the same year as a Commission meeting (regardless of when the Scientific Committee’s review commences), and to make necessary revisions to its procedures for reviewing special permit programmes, including Annex P, to incorporate the expectation that Contracting Governments will schedule any special permit programmes in accordance with the process outlined in paragraph 3;
7. **Agrees** that the Commission will consider the reports of the Scientific Committee and of the Working Group at the first Commission meeting after the Scientific Committee has reviewed the new, ongoing or completed special permit programme in question and, taking into account those reports, the Commission will:
 - a. form its own view regarding:
 - i. whether the review process has adequately followed the instructions set out in Annex P and any additional instructions provided by the Commission ;
 - ii. whether the elements of a proposed special permit programme, or the results reported from an ongoing or completed special permit programme, have been adequately demonstrated to meet the criteria set out in the relevant terms of reference in Annex P, and any additional criteria elaborated by the Commission; and
 - iii. any other relevant aspect of the new, ongoing or completed special permit programme and review in question;

- b. provide any recommendations or advice it considers appropriate to the responsible Contracting Government regarding any aspect of the new, ongoing or completed special permit programme, including affirming or modifying any proposed recommendations or advice proposed by the Scientific Committee.
- c. provide any direction it considers appropriate to the Scientific Committee.
- d. make public a summary of the Commission's conclusions in this respect, by way of publication on the Commission's website, within 7 days of the end of the Commission meeting.

Appendix

Terms of Reference for a Standing Working Group on Special Permit Programmes

Membership:

1. The Standing Working Group on Special Permit Programmes ("the Working Group") will consist of Commissioners or other Contracting Government delegates, and represent the range of opinions on the issue of special permits. The Chair of the Scientific Committee will also participate in the Working Group.
2. The Contracting Government proposing or responsible for the special permit programme in question may participate in the Working Group as an observer only. As an observer, this Contracting Government may provide information to the Working Group at the Working Group's request, to assist its work.
3. The Working Group will elect from its membership a Chair and Vice Chair. The Chair and Vice Chair will be responsible for ensuring that the business of the Working Group is carried out efficiently and in accordance with this Resolution.

Methods

4. The Working Group will work by correspondence in the intersessional period, or, if convenient or cost-effective, in face to face meetings.
5. The Working Group will consider the reports and recommendations of the Scientific Committee with respect to all new, ongoing and completed special permit programmes, and provide a factual, accessible and succinct report at least 30 days in advance of the Commission meeting. The Working Group will present its report verbally to the Commission plenary. The Commission may draw on the report in its consideration of any relevant item of business submitted in accordance with Rule J1 or J2 of the Rules of Procedure.
6. The Working Group will begin by considering the Scientific Committee's review of Japan's Southern Ocean whaling programme, known as "New Scientific Whale Research Program in the Antarctic Ocean (NEWREP-A)". The Working Group will also consider the Scientific Committee's subsequent reviews of special permit programmes.
7. The Commission will consider the operation of the Working Group at its 67th meeting.

Reporting

8. For each new, ongoing and completed special programme considered by the Scientific Committee, the Working Group will produce the following:
 - a. A high-level summary of the outcomes and recommendations of each review of new, ongoing and completed special permit programmes conducted by the Scientific Committee, to aid the Commission's understanding of the Scientific Committee's advice;
 - b. Advice on whether each review process has complied with the procedures set out in Annex P, and any additional procedures provided by the Commission, whether in resolutions or otherwise;
 - c. A summary of the Scientific Committee's view on whether the elements of a proposed special permit programme, or the results reported from an ongoing or completed programme, have been adequately demonstrated to meet the criteria set out in the relevant terms of reference in Annex P, and any additional criteria elaborated by the Commission, whether in resolutions or otherwise;
 - d. Recommendations to improve the communication of the outcomes of each review and the management of reviews, including time allocation, procedural management and data availability; and
 - e. Any other relevant information or advice from the Scientific Committee arising from the new, ongoing or completed special permit programme and review in question.

Indicative process

9. An indicative process for the preparation of the Working Group’s report within the biennial meeting cycle is as follows:

Potential submission of a special permit proposal and/or scheduled ongoing or final review
Expert Panel review
Scientific Committee (a) review in the year between Commission meetings
Working Group receives the report of the Scientific Committee (a)
Potential submission of a special permit proposal and/or scheduled ongoing or final review (if not already submitted under step 1), followed by Expert Panel review
Scientific Committee (b) review in the year of a Commission meeting
Working Group receives the report of the Scientific Committee (b)
Working Group prepares its report and provides it to the Commission at least thirty days in advance of the Commission meeting
Working Group presents its report at the Commission meeting

Resolution 2016-3

Resolution on Cetaceans and Their Contributions to Ecosystem Functioning

ACKNOWLEDGING that cetaceans make significant contributions to ecosystem functioning that are beneficial for the natural environment and people;

RECOGNISING the need to integrate the values of biodiversity and the contributions made by cetaceans to ecosystem functioning into decision-making processes related to the conservation and management of cetacean populations;

FURTHER RECOGNISING the ever increasing understanding of the value of cetaceans from a social, economic and ecological perspective;

ALSO FURTHER RECOGNISING that the Commission has identified the importance of research on the effects of environmental changes on cetaceans due to increasing threats faced by cetaceans, including climate change, pollution, ship strikes, and entanglement among others;

AWARE that increasing scientific evidence suggests that whales enhance ecosystem productivity by concentrating nitrogen and iron near the surface through the release of faecal plumes, in some cases equivalent to that required to support localised prey consumption, such as has been reported for blue whales, sperm whales and humpback whales among others;

b) **CONSIDERING** that, because of their large size, live whales represent an important store of carbon while their carcasses efficiently export carbon from the surface waters to the deep sea. These carcasses also serve as important feeding opportunities for a variety of deep sea species, many of which are exclusively found on such "whale falls", thus creating small but significant ecosystems on their own and contributing to biodiversity in great depths;

ALSO CONSIDERING that iron defecated by whales may contribute to the stimulation of carbon export into the Southern Ocean and thus whales may play a role in regulating atmospheric CO₂ levels;

RECALLING Resolution 2001-9, which acknowledged that better understanding of marine ecosystems would contribute to the conservation and management of living marine resources, and prioritised the study of interactions between whales and fish stocks; and

NOTING the wide collaboration of the IWC with other international governmental conventions and organisations.

NOW THEREFORE THE COMMISSION:

ACKNOWLEDGES increasing scientific data suggesting that whales enhance nutrient availability for primary production;

RECOGNISES the need to include consideration of the contributions made by live cetaceans and carcasses present in the ocean to marine ecosystem functioning in conservation, management strategies and decision making;

ENCOURAGES Contracting Governments to work constructively towards integrating considerations related to the role played by live cetaceans in regulating and supporting ecosystem functioning, in future decisions, agreements and resolutions;

RESOLVES to review the ecological, management, environmental, social and economical aspects related to the contributions of cetaceans to ecosystem functioning to people and natural systems, as a matter of importance;

DIRECTS the Conservation Committee to undertake the review previously identified and directs the Conservation and Scientific Committees to further incorporate the contribution made by live cetaceans to ecosystem functioning into their work;

ASKS the Scientific Committee to screen the existing research studies on the contribution of cetaceans to ecosystem functioning, to develop a gap analysis regarding research and to develop a plan for remaining research needs; and

DECIDES to increase collaboration and co-operation with governmental and non-governmental, regional, and international organisations to work on the contributions made by live cetaceans to ecosystem functioning issues, including the Commission for the Conservation of Antarctic Marine Living Resources, the Food and Agricultural Organisation of the United Nations, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, among others.

Resolution 2016-4

Resolution on Minamata Convention

ACKNOWLEDGING that the United Nations Environment Programme (UNEP) and the World Health Organisation (WHO) have identified the adverse effects of pollution from mercury as a serious problem worldwide for human health and the environment.

WELCOMING the adoption in 2013 of the Minamata Convention on Mercury, the objective of which is to protect human health and the environment from the anthropogenic emissions and releases of mercury and mercury compounds.

AWARE that cetaceans which have a worldwide distribution in marine and freshwater ecosystems, can act as sentinels of ecosystem change and are vulnerable to environmental contaminants such as methylmercury.

AWARE of the "AMAP Assessment of Mercury in the Arctic" (2011) and of the "AMAP Assessment of Human Health in the Arctic" (2015) carried out by expert working groups of the Arctic Council, which drew attention to the adverse effects of persistent contaminants, in particular mercury pollution, on Arctic human populations;

RECOGNISING that the Commission has adopted several Resolutions¹ expressing concerns on the negative impacts of environmental degradation on cetaceans including in respect to mercury;

RECALLING Resolutions 1996-8, 1998-11, 2000-6, 2001-10 and 2014-2 that foster collaboration between the IWC and other intergovernmental organisations related to pollution, among others;

ALSO RECALLING the precautionary approach enunciated in the Principle 15 of the Rio Declaration on Environment and Development (UNEP, June 1992);

CONSIDERING that the IWC has a continuing role to play in monitoring and providing guidance on scientific research related to levels of mercury in cetaceans;

WELCOMING the results of the POLLUTION 2000+ research programme, endorsed by the IWC at its 65th Annual Meeting;

MINDFUL that the IWC with its specific responsibility in the management and conservation of whale stocks may have an interest in cooperating with other intergovernmental organisations with common concerns.

NOW THEREFORE THE COMMISSION:

WELCOMES the adoption of the Minamata Convention and encourages its effective implementation;

DECIDES to seek collaboration with the Conference of the Parties of the Minamata Convention to exchange information, contribute in monitoring mercury levels in cetaceans and advance progress for the protection of cetacean health and related issues;

INVITES Contracting Governments, as well as relevant intergovernmental organisations, to promote non-lethal scientific research programmes related to monitoring the presence and trends in levels of mercury and mercury compounds observed in cetacean populations as indicators of ocean health and to continue providing available data to the Scientific Committee on this matter;

INVITES ALSO Contracting Governments to co-operate together and with the WHO to assess the impact of mercury and mercury compounds on human health and on the marine environment including the provision of related monitoring data.

REQUESTS the Scientific Committee to provide at IWC67 a summary of the current state of knowledge on the presence of heavy metals, with emphasis on mercury compounds, in cetaceans worldwide, and to identify areas of ocean health and human health concerns, and geographic areas where research should be prioritised in this regard; and

REQUESTS that the Secretariat share this Resolution with the Secretariat of the Minamata Convention and seeks ways to collaborate with its objectives.

¹ Resolutions 2012-1, 2001-10, 2000-7, 2000-6, 1999-4, 1998-11, 1998-5, 1997-7, 1996-8, 1995-10, 1994-13, 1993-13, 1993-12, 1993-11 and 1981-7

Resolution 2016-5

Resolution on the Critically Endangered Vaquita

AWARE that there exist differences in views between member states on the regulatory competence of the IWC with regard to small cetaceans, and noting that this Resolution does not seek in any way to prejudice different members' positions;

NOTING that the biology of vaquita and concerns about incidental mortality in the shark and totoaba fishery were first mentioned in the published report of the IWC Scientific Committee's first meeting on small cetaceans, Montreal, 1974 (IWC, 1975).ⁱ

NOTING that the Commission first passed Resolution 1994-3, which acknowledged the immediate need to eliminate incidental catches of vaquita throughout the entire range of the species;

AWARE that the International Union for the Conservation of Nature (IUCN) listed the vaquita as Critically Endangered in 1996, and the population has significantly declined since then as a result of bycatch in entangling fishing nets (gillnets);

RECALLING IWC Resolution 2007-5 which urged members of the IWC and the world community to support Mexico's efforts to prevent the extinction of the vaquita by reducing bycatch to zero in the immediate future and assisting in providing financial resources and technical as well as socio-economic expertise;

RECALLING the repeated recommendations of the IWC Scientific Committee, the International Committee for the Recovery of the Vaquita (CIRVA) and the IUCN that gillnets must be eliminated from the vaquita's range in order to reduce bycatch to zero;

CONCERNED about the recent escalation of the illegal totoaba fishery and the illegal international trade of totoaba swim bladders, which has precipitated a dramatic decline in vaquita numbers over the last five years;

DEEPLY CONCERNED that the estimated total abundance of vaquitas in 2015 was 59 (95% CI 22–145), compared to previous estimates of 567 (95% CI 177–1,073) in 1997 and 245 (95% CI 68–884) in 2008;

FURTHER CONCERNED that at least three vaquita were killed by totoaba gillnets in March 2016, despite strong enforcement efforts in the Upper Gulf of California;

NOTING the Scientific Committee's strong endorsement of the recommendations contained in the June 2016 CIRVA-7 report;ⁱⁱ

NOTING the recent adoption of IUCN Resolution 013 on "Actions to avert the extinction of the vaquita porpoise (*Phocoena sinus*)" and CITES Decision 17.X^a "Totoaba - *Totoaba macdonaldi* – Opportunities for international collaboration within the CITES framework"

RECOGNISING the hardships faced by the fishing communities of the Upper Gulf in light of the gillnet ban, and mindful of the need to develop and support alternative livelihoods such that these communities can overcome these challenges;

NOW THEREFORE THE COMMISSION:

EXPRESSES DEEP CONCERN that the vaquita numbers less than 59 animals and is facing imminent extinction;

AFFIRMS that only a permanent, complete, and effective gillnet ban in all fisheries operating in the Upper Gulf of California will prevent the imminent extinction of the vaquita;

COMMENDS the Mexican Government for the Strategy on the Comprehensive Care of the Upper Gulf of California that includes an interagency enforcement programme, a two-year gillnet ban (from May 2015), compensation for fishermen and those who work in fishery-related activities and the development of alternative fishing gear;

COMMENDS the Mexican Government on the announcement of a permanent ban on gillnets in the Upper Gulf of California gillnet exclusion zone from April 2017 and the programme to remove derelict fishing gear in the Upper Gulf of California.

URGES the Mexican Government to eliminate any exemptions to the ban, which can facilitate illegal fishing for totoaba, and to prohibit the use of any gillnets within the range of the vaquita;

ENDORSES the recommendations of the IWC Scientific Committee, in particular the urgent need to strengthen enforcement efforts against illegal fishing in Mexico and totoaba smuggling out of Mexico and into transit and destination countries; the urgent need to remove active and ghost gillnets from the range of the vaquita; and the need to maintain the acoustic monitoring programme as a key action in support of any recovery strategy;

URGES all Contracting Governments to follow the recommendations in CITES Decision 17. X^a and strengthen enforcement actions to eliminate the illegal international trade in totoaba swim bladders, in particular those countries where totoaba products are consumed or in transit, including the United States and China;

URGES Contracting Governments to support Mexico's efforts to prevent the extinction of the vaquita by assisting in providing financial resources as well as technical and socio-economic expertise;

REQUESTS the IWC Secretary to forward a copy of this Resolution to the CITES, FAO and IUCN Secretariats.

ⁱ IWC (1975) Report of the meeting on smaller cetaceans, Montreal, April 1–11, 1974. *Journal of the Fisheries Research Board of Canada*, 32, 887–983.

ⁱⁱ Report of the Scientific Committee, Bled, Slovenia. 7-19 June 2016. IWC/66/Rep01(2016) p77.

^a Paper Number not allocated at time of writing.

Resolution 2016-6

Resolution on the Creation of a Fund to Strengthen the Capacity of Governments of Limited Means to Participate in the Work of the IWC

RECALLING the terms of Article III.5 of the International Convention for the Regulation of Whaling, whereby "the expenses of each member of the Commission and of his experts and advisers shall be determined and paid by his own Government";

RECOGNISING that a large number of developing countries are members of the IWC and that some have financial difficulties that limit their full participation in the work of the IWC;

DESIRING, within the terms of the Convention, to ensure the fullest possible participation of all Contracting Governments in the work of the Commission;

RECOGNISING that financial assistance to strengthen the scientific and technical capacity of member governments to participate fully in the work of other intergovernmental organizations is provided by other intergovernmental organizations; and

RECALLING the voluntary financial support provided to Contracting Governments in Capacity to Pay Groups 1 and 2 during the special meetings of the Small Working Group tasked with advancing the 'Future of the IWC' process;

NOW THEREFORE THE COMMISSION:

DECIDES to create a 'Voluntary Assistance Fund' so as to facilitate Contracting Governments in Capacity to Pay Groups 1 and 2 that are not EU Member States or members of the Organisation for Economic Cooperation and Development, (hereinafter eligible Groups 1 and 2 Governments), to participate fully in the work of the Commission;

DECIDES that the sources of the Fund shall be voluntary contributions obtained from Contracting Governments or from national or international bodies or entities interested in facilitating eligible Groups 1 and 2 Governments to participate fully in the work of the Commission;

DECIDES that for reasons of fair representation, Contracting Governments that are willing to contribute to the Fund shall not place individual country-specific restrictions on the choice of beneficiaries of their contributions and shall not specifically finance participation by means other than contributions to the Fund;

DECIDES that payments from the Fund shall be made in accordance with the lesser of the amount provided for in the International Civil Service Commission's Daily Subsistence Allowance and UN travel rules, or the amount provided for in the domestic rules of the eligible Groups 1 and 2 Governments, and shall ensure that all beneficiaries are treated in the same way;

DECIDES that the initial capital of the Fund shall be the amount of voluntary contributions provided for support of developing countries during the 'Future of the IWC' process that remain unspent;

ENCOURAGES Contracting Governments and **INVITES** others in a position to do so, to make contributions to the Fund;

REQUESTS the Secretary with advice from the Bureau to administer the Fund subject to the financial regulations and audit rules of the Commission, giving priority to eligible Group 1 Governments;

REQUESTS the Secretary to provide timely estimates to the Commission of the funding required to facilitate the full participation of eligible Groups 1 and 2 Governments in the work of the Commission, as well as of the balance available in the Fund and to indicate any shortfall;

DECIDES that the Fund shall be available to the eligible Groups 1 and 2 Governments to participate fully in the Commission's work based on guidelines for the administration of funding in Annex 2;

DECIDES that these guidelines should be kept under review and further amendments be proposed to the Commission as appropriate to ensure effective prioritisation and use of available funds in a manner consistent with Article III(5) of the International Convention for the Regulation of Whaling

DECIDES that a review of the performance of the Fund shall take place at the 69th Meeting of the International Whaling Commission;

ADOPTS the amendments to its Financial Regulations and an additional Appendix thereto, as contained in Annexes 1 and 2 to this Resolution.

Annex 1

Amendments (shown in *bold italics*) to the IWC's Financial Regulations

C. General Financial Arrangements

1. There shall be established a Research Fund, a General Fund, a Voluntary Fund for Small Cetaceans, a Voluntary Fund for Aboriginal Subsistence Whaling, and a Voluntary Conservation Fund, ***and a Voluntary Assistance Fund to facilitate Contracting Governments in Capacity to Pay Groups 1 and 2 that are not EU Member States or members of the Organisation for Economic Cooperation and Development, (hereinafter eligible Groups 1 and 2 Governments), to Participate fully in the Work of the Commission (the Voluntary Assistance Fund).***
 - (a) The Research Fund shall be credited with voluntary contributions and any such monies as the Commission may allocate for research and scientific investigation and charged with specific expenditure of this nature. The Research Fund shall have a balanced distribution among activities, defined according to conservation priorities and the work of the Commission, including small cetaceans.
 - (b) The General Fund shall, subject to the establishment of any other funds that the Commission may determine, be credited or charged with all other income and expenditure.
 - (c) The details of the Voluntary Fund for Small Cetaceans are given in Appendix 1.
The General Fund shall be credited or debited with the balance on the Commission's Income and Expenditure Account at the end of each financial year.
 - (d) The details of the Voluntary Fund for Aboriginal Subsistence Whaling are given in Appendix 2.
 - (e) The details of the Voluntary Conservation Fund are given in Appendix 3.
 - (f) ***The details of the administration of funding from the Voluntary Assistance Fund to facilitate eligible Groups 1 and 2 Governments to Participate fully in the Work of the Commission are given in Appendix 4.***

Annex 2

Appendix 4

Guidelines for administration of funding from the Voluntary Assistance Fund to facilitate Governments in Capacity to Pay Groups 1 and 2 that are not EU Member States or members of the Organisation for Economic Cooperation and Development to participate fully in the work of the Commission

Introduction

The purpose of the Voluntary Assistance Fund is to facilitate Governments in Capacity to Pay Groups 1 and 2 that are not EU Member States or members of the Organisation for Economic Cooperation and Development to participate fully in the work of the Commission.

1. Definitions

Capacity to Pay Groups 1 and 2 – means the groups identified by the Commission in calculating the financial contributions from each Contracting Government.

Voluntary Assistance Fund to facilitate eligible Governments in Capacity to Pay Groups 1 and 2 to Participate fully in the Work of the Commission (“Voluntary Assistance Fund”) – means the fund of the same name identified in IWC Financial Regulation C(1)(f) and Appendix 4.

2. Eligibility

Eligible countries are Contracting Governments in Capacity to Pay Groups 1 and 2 that are not in arrears and are not European Union Member States or members of the Organisation for Economic Cooperation and Development, (hereinafter eligible Groups 1 and 2 Governments). In any given year, the categorization of Groups 1 to 4 will be taken from the most recent Commission Circular allocating Contracting Governments to capacity to pay groups.

Funds provided to eligible Governments under the Voluntary Assistance Fund must be used for the purposes identified in each respective application.

Contracting Governments may request funds relating to travel and subsistence for full participation in IWC meetings and activities including capacity building exercises, scientific research, and conservation and welfare activities.

For the purpose of these guidelines, full participation entails that a sponsored delegate from the eligible Contracting Government:

- Takes forward the work of the Commission as an officer of the IWC or its subsidiary bodies; as a member of the Bureau; as a member of an IWC Working Group or subsidiary body; by making a presentation; or by reporting back from one of those bodies; or

- Attends an IWC activity for the purposes of training and capacity building for the benefit of the Contracting Government.

Funds from the Voluntary Assistance Fund may not be used to pay salaries of Contracting Government employees or payment of Contracting Governments' annual subscriptions and other financial contributions.

If funds are requested for travel to IWC meetings, allocations from the Fund will be in accordance with the lesser of the amount provided for in the International Civil Service Commission's Daily Subsistence Allowance and UN travel rules, or the amount provided for in the domestic rules of the eligible Groups 1 and 2 Governments, so that all sponsored delegates receive fair and consistent treatment from the IWC.

Requests shall be limited to funding necessary for the attendance of one member of the delegation per eligible Groups 1 and 2 Government at each meeting. The participant must be an official member of the Contracting Government delegation.

3. Application process

The Secretariat shall notify Contracting Governments no less than 180 days in advance of the meeting of the dates and venues of Commission meetings.

Applications for funding from the Voluntary Assistance Fund must be received 90 days before the date on which the activities to be funded are expected to occur.

Applications for travel to a meeting or event shall include a budget based on the lesser of the amount provided for in the International Civil Service Commission's Daily Subsistence Allowance and UN travel rules, or the amount provided for in the domestic rules of the eligible Groups 1 and 2 Governments.

Applications for funding from the Voluntary Assistance Fund must specify:

- the activities to be funded;
- estimated travel costs including air fare and per diem expenses;
- if the application is for travel to a meeting or event, the total number of delegates eligible Groups 1 and 2 Government will be sending to that meeting or event;
- if the application is for capacity building, scientific research, and conservation and welfare activities, how those activities contribute to IWC work plans;
- the applicant's experience, qualifications, and expected contribution to that meeting or event;
- declaration of interest, i.e. any funding or support received from elsewhere; and
- that the applicant eligible Groups 1 and 2 Government has determined the amount of expenses to be accurate.

Application forms will be made available through the IWC website and applications should be sent to secretariat@iwc.int

Where funds have been requested for travel to IWC meetings, based on the funding available and the prioritisation procedure set out below, the Secretariat will prepare a list of sponsored delegates. The final list of delegates that may be supported will be dependent upon the funds raised and funding is not guaranteed for all eligible countries. Delegates will be notified at least 30 days before the meeting whether or not they will receive funding from the Voluntary Assistance Fund.

4. Disbursement of funds

Where funds have been requested for travel to IWC meetings, upon approval of an application consistent with Section 3 above, the Secretariat will hold the funds until such time as each respective Government provides instructions to the Secretariat to effect the payment. Upon receipt of instruction from each respective Government, the Secretariat will purchase travel tickets as previously determined in each respective application. The Daily Subsistence Allowance and terminal expenses will be disbursed, based on actual presence and actual receipts respectively, after closure of the meeting. Where funds have been requested for purposes other than travel to IWC meetings, the Secretariat will disburse funds in a timely manner to the Government while ensuring adequate oversight of all disbursements.

5. Prioritisation

In the event of a shortfall in funding to support the participation of all eligible Groups 1 and 2 Governments, the prioritisation process below shall be followed:

The following principles shall be applied to the allocation of funding from the Fund:

- i. Eligibility (section 2 above)
- ii. Priority for eligible Group 1 Governments
- iii. Balanced representation of a range of views and interests
- iv. Balanced distribution across the activities of the IWC in line with the priorities identified by the Commission; and

v. Consideration shall be given to provision of partial funding in order to maximise the number of funding recipients.

At any time in applying these criteria, the Secretariat may seek advice from the Chair and Bureau in order to support a funding decision.

6. Reporting

The Secretariat will provide a progress update to each Commission meeting on work to support countries of limited means to participate in the work of the Commission, including administration of the Voluntary Assistance Fund. The Secretariat will also report on the criteria used to allocate the Voluntary Assistance Fund, including any amendments needed in the event of a shortfall of Funds.