

Annex O

Report of the Working Group to Review Sanctuaries and Sanctuary Proposals

Members: Zerbini (Convenor), Hall (co-Convenor), Almeida, Bell, Bjerge, Butterworth, Currey, de la Mare, Donovan, Double, Feindt-Herr, Fortuna, Gerber, Gilles, Goodman, Gunnlaugsson, Holm, Iñiguez, Kelly, Kitakado, Leaper, Lovell, Lundquist, Marcondes, Matsuoka, Melcón, Moore, S., Morishita, Moronuki, Okazoe, Oosthuizen, Palazzo, Paniago, Pastene, Rendell, Reyes, Rodríguez-Fonseca, Rojas-Bracho, Santos, Simmonds, Sironi, Thuok, Uøya, Weinrich.

1. INTRODUCTORY ITEMS

1.1 Opening remarks

The Conveners welcomed the participants to the meeting and noted the Working Group would have three meeting sessions this year.

1.2 Election of Chair

Zerbini and Hall were elected as Chairs.

1.3 Appointment of rapporteurs

Hall also acted as rapporteur.

1.4 Adoption of the Agenda

The adopted Agenda is given as Appendix 1.

1.5 Documents available

The document relevant to the discussions of the Working Group was SC/66a/SAN01.

2. PREPARATION FOR THE DECADAL REVIEW OF THE SOUTHERN OCEAN SANCTUARY

The Commission is expecting the completion of the second decadal review of the Southern Ocean Sanctuary (SOS). At last year's meeting, the Committee established an *ad hoc* Working Group to facilitate the review process, but noted the difficulty in conducting it without fully specified scientific objectives for the Sanctuary (IWC, 2015, p.67). The Scientific Committee established an intersessional email group to compile and provide scientific information on distribution, abundance and trends, catch, threats and status to assist the Commission in developing such objectives.

The Scientific Committee agreed in 2004 that the involvement of external reviewers (e.g. non-regular members of the Scientific Committee) in the review of the SOS had been largely positive and that involvement of external reviewers should continue, both for future Sanctuary reviews and reviews of future sanctuary proposals (IWC, 2005, p.50). At last year's meeting, there were different views in relation to the method used to involve external experts in the 2004 review with limited support for external reviewers operating independently from the Scientific Committee and further clarification on this process was requested from the Commission (IWC, 2015, pp.67-68).

A process for the review and refined objectives of the SOS were proposed to the Conservation Committee (IWC/65/CC05) and were agreed by consensus by the Commission (IWC, In press, p.12). This process included holding a joint

Workshop of the Scientific Committee and the Conservation Committee to review the SOS. The Commission also agreed that the Scientific Committee should develop its own procedures for the involvement of external reviewers.

In discussion, the Working Group **agreed** to review the scientific aspects of the SOS during next year's meeting (SC/66b) according to the refined objectives (see Appendix 2) and terms of reference (see Appendix 3) outlined in IWC/65/CC05 and agreed by the Commission. The discussions, conclusions and recommendations from the Working Group will be included in the Scientific Committee report and will be presented at a joint meeting of the Conservation Committee and the Scientific Committee expected to occur after SC/66b. The review process is illustrated in Appendix 4. A Steering Group established under Item 4, below, will coordinate the review of the SOS.

The Working Group also **agreed** that external reviewers would be invited to complete the review in conjunction with, not independently of, members of the Scientific Committee during SC/66b. It was noted that the process to select the reviewers needed to be carefully considered, taking into account *inter alia* that the IWC can only regulate whaling; this must be explained to potential reviewers. It was **agreed** that the complement and balance of external reviewers would be decided by the Steering Group, with the goal of obtaining a fair and objective review. Careful efforts would be made to avoid potential conflicts of interest and emphasis would be given to including external reviewers whose expertise is relevant to the review of sanctuaries and sanctuary proposals, which is not to be found already within members of the Scientific Committee. The invited expert group may include individuals that are not cetacean specialists.

SC/66a/SAN01 provided a summary of the previous SOS review and some considerations relevant to the upcoming review, including an overview of scientific research conducted in the SOS and the Indian Ocean Sanctuary. The authors welcomed comments and additions to the paper. In discussion, it was **agreed** that this document would be very useful in the review of the SOS and that an updated version should be presented at next year's meeting.

Morishita stated that while SC/66a/SAN01 provided a good summary of background, its considerations were written based on a position of those who were opposed to whaling. He observed that IWC member states have different positions regarding whales and whaling and many states take a position for the sustainable use of whale resources and would take different approaches on the review items. Therefore he emphasised that the review should be done with recognition that there is such a difference in positions among member states because that will lead to unambiguous and scientifically constructive discussions in the SOS review.

It was noted that not all the objectives of the review process are scientific and that the Commission made it clear that the review should be carried out by the Conservation and Scientific Committees according to their respective mandates. The authors clarified that not all the information in the paper SC/66a/SAN01 was of a scientific nature, but was included for completeness.

Table 1

Terms of reference and membership of the Steering Group established to prepare for the review of the SOS and the SAWS proposal.

Group	Terms of Reference	Membership
Plan for the review of the SOS and the SAWS proposal	(1) Solicit contributions and collate the necessary information to assist with the review of the scientific aspects of the SOS and the SAWS proposal. (2) Identify potential external scientists with recognised expertise in research fields relevant to the review of the SOS and SAWS proposal to attend the SAWS review Workshop and the Scientific Committee meeting and assist with the reviews. (3) Coordinate the reviews of the scientific aspects of the SOS and the SAWS proposal.	Zerbini (Chair), Almeida, Bjørge, Butterworth, de la Mare, DeMaster, Donovan, Fortuna, Hall, Iñiguez, Leaper, Morishita, Oosthuizen, Paniego, Rojas-Bracho

Table 2

Timeline for the completion of the review of the SOS and the SAWS proposal.

Action	Timeline
Steering Group to receive suggestions from SC members for potential external reviewers to assist with the reviews of the SOS and SAWS proposal. Names of the reviewers should be provided to the Chair of the Steering Group via the following email: <i>alex.zerbini@noaa.gov</i> .	By 31 August 2015
Steering Group to liaise with potential invited experts.	By 2 October 2015
Finalise list of external reviewers to attend workshop and SC/66b.	By 15 October 2015
Receipt of revised SAWS proposal if being developed.	By 1 January 2016
Submission of documents for the SAWS proposal and SOS review.	By 1 May 2016
Pre-meeting for the review of SAWS proposal.	3 June 2016
Scientific Committee will review the report of the SAWS proposal pre-meeting and conduct the review of the SOS.	SC/66b
Joint meeting of the Scientific Committee and the Conservation Committee.	Will take place after SC/66b, dates TBA intersessionally

3. PREPARATION FOR THE REVIEW OF THE SOUTH ATLANTIC WHALE SANCTUARY PROPOSAL (SAWS)

At last year's meeting, the Scientific Committee received a revised SAWS proposal and advised that more details on issues of monitoring and objectives would facilitate the review. Further clarification was requested from the Commission with regards to the review process and the inclusion of external reviewers.

Almeida reported that Brazil and the co-sponsors of the SAWS proposal are working towards addressing the recommendations made by the Scientific Committee during last year's meeting. Because no further guidance to the review of the SAWS proposal was received from the Commission, the Working Group **agreed** on Terms of Reference for the review (see Appendix 5), which were developed based on previous instructions to review Sanctuaries and Sanctuary proposals provided by the Commission (IWC, 2002), on the recommendations provided by the Scientific Committee as a result of the review of the SOS in 2004 (IWC, 2005, pp.50-51), and on the terms of reference established by the Commission for the upcoming review of the SOS (IWC, In press, p.12).

The Scientific Committee **agreed** that the review of the SAWS proposal would be conducted during a pre-meeting to be held immediately before SC/66b and that it would also include external reviewers if necessary, who would be invited to complete the review in conjunction with, not independent of, the Scientific Committee. The primary objective of the pre-meeting would be to review the SAWS in the light of their stated scientific objectives. The report of the pre-meeting would be reviewed by the Scientific Committee at SC/66b and the conclusions and recommendations of the Committee will be discussed during the joint meeting of the Scientific Committee and the Conservation Committee after SC/66b. The review process of the SAWS proposal is illustrated in Appendix 4.

A revised SAWS proposal, if being developed, should be submitted to the Scientific Committee by 1 January 2016 (details in Item 4), but efforts to identify and invite external

reviewers will be initiated before this date. It was agreed that the Steering Group would be able to reconsider the choice of reviewers if the proposal contents were such that different expertise was needed.

It was proposed that the IWC Sanctuaries can be seen as subset of Marine Protected Areas (MPAs) and that the Sanctuaries and Sanctuary proposals should be reviewed in that context. An observation was made that IWC sanctuaries fall within the Convention on Biological Diversity's (CBD) definition of Marine Protected Areas, and that recently an authoritative publication (Caveen *et al.*, 2015) has provided an extensive worldwide review of MPAs, both national and international, in all their various forms. It was suggested that the reviews to be conducted would benefit from input from the authors of this review. Some members disagreed that IWC Sanctuaries are a subset of MPAs because MPAs are typically under control of sovereign states where regulation can occur at multiple levels. In addition, some members indicated that the IWC Sanctuaries would not be consistent with the CBD's definition of an MPA. It was **agreed** that the Steering Group would determine the relevance of including literature pertaining to MPAs as background material for the review of the SOS and the SAWS proposal. Noting there is confusion about the definition of the precautionary principle and the precautionary approach, and whether or not the two were equivalent it was **recommended** that this aspect also be referred to the Steering Group.

4. WORK PLAN AND BUDGET CONSIDERATIONS

The Working Group established a Steering Group to coordinate the review of the SOS and the SAWS proposal. The Terms of Reference and membership of this group are provided in Table 1.

The Working Group agreed on a work plan to complete the review of the SOS and the SAWS proposal. Actions and timeline for this plan are provided in Table 2. The Working Group also agreed on outlined agendas for the review of the SOS (Appendix 5) and the SAWS proposal (Appendix 6).

Items of budgetary implications include the invitation of external reviewers for review of the SOS and the SAWS proposal and will be dealt by the Steering Group. It is assumed that the money could be found in the regular Scientific Committee Invited Participant budget.

5. ADOPTION OF REPORT

The reported was adopted on 30 May 2015 at 15:10. Zerbini thanked the participants for their contributions to the Working Group and Hall for her outstanding work as rapporteur. The Working Group acknowledged the Chair's effort to guide the discussions.

REFERENCES

- Caveen, A., Polunin, N., Gray, T. and Stead, S. 2015. The controversy over Marine Protected Areas - science meets policy. *Springer Briefs in Environmental Science*: 160pp.
- International Whaling Commission. 2002. Chair's Report of the 53rd Annual Meeting. Annex E. Instructions from the Commission to Scientific Committee for Reviews of Sanctuaries. *Ann. Rep. Int. Whaling Comm.* 2001:65.
- International Whaling Commission. 2005. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 7:1-62.
- International Whaling Commission. 2015. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 16:1-87.
- International Whaling Commission. 2014. Chair's Report of the 65th Meeting. [Available at: <https://www.iwc.int/chairs-reports>; in press as *Chair's Report of the 65th Meeting of the International Whaling Commission*, 2016].

Appendix 1

AGENDA

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| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 1.1 Opening remarks 1.2 Election of Chair 1.3 Appointment of rapporteurs 1.4 Adoption of the Agenda 1.5 Documents available | <ol style="list-style-type: none"> 2. Preparation for the decadal review of the Southern Ocean Sanctuary 3. Preparation for the review of the South Atlantic Whale Sanctuary Proposal 4. Work plan and budget considerations 5. Adoption of the report |
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Appendix 2

SOUTHERN OCEAN WHALE SANCTUARY OBJECTIVES¹

Taking into account the objectives referred to in the original proposal by France and subsequently agreed by the Commission, it is proposed that the objectives could be stated as follows.

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| <ol style="list-style-type: none"> (1) Contribute to the rehabilitation of a marine ecosystem damaged by the over-exploitation of whales and allow for the restoration of a complex of whale species and populations. (2) Secure a long-term satisfactory habitat for cetaceans and other marine life. (3) In combination with the Indian Ocean Sanctuary, fully protect at least one population of each of the great whales throughout its migratory range and life-cycle, i.e. on feeding and breeding grounds, to provide for their long-term conservation. | <ol style="list-style-type: none"> (4) Provide a reference area to allow for the collection of information on levels and trends on unexploited and recovering whale populations. (5) Allow for the monitoring of the recovery of ecosystems without their being disturbed by further commercial whaling. (6) Allow for coordinated research on the effects of environmental change on whale stocks. (7) Allow for the Comprehensive Assessment of the effects of setting zero catch limits on whale stocks. (8) Allow for application of the Revised Management Procedure (RMP) to be phased in over limited geographic ranges and species. |
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Appendix 3

TERMS OF REFERENCE FOR THE REVIEW OF THE SOUTHERN OCEAN SANCTUARY²

The second decadal review of the Southern Ocean Whale Sanctuary (the Sanctuary) will be undertaken by the Commission's Conservation Committee and Scientific Committee.

A special intersessional meeting will be held to undertake the Sanctuary review.

Taking into consideration the 2001 Instructions from the Commission to the Scientific Committee for Review of Sanctuaries (IWC, 2002), and Resolution 2002-1 on Guidance to the Scientific Committee on the Sanctuary review process (IWC, 2003), in particular the following principles:

- 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; and
- the application of the Precautionary Approach shall be determined in accordance to Principle 15 of the 1992 Rio Declaration.

Taking into account the objectives for the Sanctuary, the Commission instructs the Conservation Committee and Scientific Committee according to their respective mandates

¹Government of Australia. The Southern Ocean Whale Sanctuary: Proposed Way Forward For The Second Decadal Review. Attachment B. Paper IWC/65/CC05 presented to the Conservation Committee of the International Whaling Commission, Portoroz, Slovenia, 14-18 September 2014 (unpublished). 9pp. [Paper available from the Office of this Journal].

²As above, Attachment A.

to:

- (1) provide advice on the status and trends of whale stocks in the Southern Ocean Whale Sanctuary in so far as these are known. Assess the present and potential threats to whale populations and their habitats in the area of the Sanctuary and the complementary Indian Ocean Sanctuary and how the Sanctuaries address these;
- (2) consider whether the Sanctuary is consistent with other measures to protect whales from anthropogenic and other environmental factors;
- (3) assess the effects of the Sanctuary and the complementary Indian Ocean Sanctuary in terms of:
 - (a) the protection of whales in breeding areas, feeding grounds, and/or migratory routes; and
 - (b) international agreements concerning biodiversity and conservation of nature;
- (4) evaluate whether the Sanctuary allows for the conduct of scientific research useful for meeting IWC objectives or coordinated integrated research and monitoring programmes across the range of issues of global relevance; and
- (5) provide advice on whether the sanctuary is consistent with the precautionary approach.

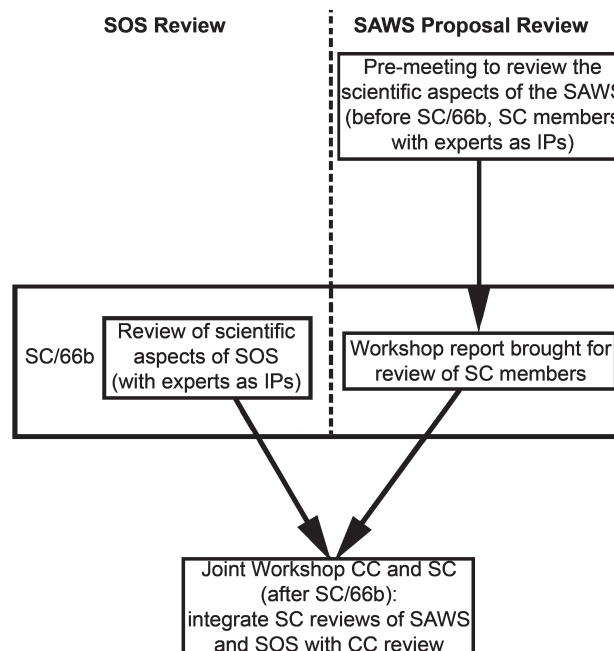
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International Whaling Commission. 2002. Chair's Report of the 53rd Annual Meeting. Annex E. Instructions from the Commission to Scientific Committee for Reviews of Sanctuaries. *Ann. Rep. Int. Whaling Comm.* 2001:65.

International Whaling Commission. 2003. Chair's Report of the Fifty-Fourth Annual Meeting. Annex F. Resolution adopted during the 54th meeting. Resolution 2002-1. Guidance to the Scientific Committee on the Sanctuary review process. *Ann. Rep. Int. Whaling Comm.* 2002:89.

Appendix 4

PROCESS FOR THE REVIEW OF THE SOS AND THE SAWS PROPOSAL



Appendix 5

TERMS OF REFERENCE FOR THE REVIEW OF THE SOUTH ATLANTIC WHALE SANCTUARY PROPOSAL

The review of the Proposal of the South Atlantic Whale Sanctuary (SAWS) will be undertaken by Scientific Committee taking into consideration the 2001 Instructions from the Commission to the Scientific Committee for Review of Sanctuaries (IWC, 2002), recommendations from the Scientific Committee for future review of Sanctuary and Sanctuary Proposals from IWC (2005), and Resolution 2002-1 on Guidance to the Scientific Committee on the Sanctuary review process (IWC, 2003), in particular the following principles:

- 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; and

- the application of the Precautionary Approach shall be determined in accordance to Principle 15 of the 1992 Rio Declaration.

Taking into account the terms of reference for the SOS review, proposed evaluation criteria to review the SAWS proposal are the following.

- (1) Provide advice on the status and trends of whale stocks in the SAWS in so far as these are known. Assess the present and potential threats to whale populations and their habitats in the area of the Sanctuary and how the SAWS address these.
- (2) Consider whether the SAWS is consistent with other measures to protect whales from anthropogenic and other environmental factors.

- (3) Assess the effects of the SAWS and complementary Sanctuaries in terms of:
 - (a) the protection of whales in breeding areas, feeding grounds, and/or migratory routes; and
 - (b) international agreements concerning biodiversity and conservation of nature.
- (4) Provide advice on whether the proposed boundaries of the sanctuary are ecologically appropriate.
- (5) Evaluate whether the SAWS allows for the conduct of scientific research useful for meeting IWC objectives or coordinated integrated research and monitoring programmes across the range of issues of global relevance.
- (6) Provide advice on whether the sanctuary is consistent with the precautionary approach.
- (7) Evaluate whether performance measures of the SAWS link objectives with field monitoring programmes.
- (8) Provide advice on whether the SAWS Management Plan:
 - (a) outline broad strategies and actions needed to achieve the Sanctuary's objectives;
 - (b) present indicators to measure progress toward achieving the Sanctuary objectives; and
 - (c) includes a provision for periodic review and refinement to account for ecological, oceanographic and possibly other changes in an adaptive fashion.
- (9) Evaluate whether the SAWS establishes review criteria that reflects the goals and objectives of the Sanctuary.

REFERENCES

- International Whaling Commission. 2002. Chair's Report of the 53rd Annual Meeting. Annex E. Instructions from the Commission to Scientific Committee for Reviews of Sanctuaries. *Ann. Rep. Int. Whaling Comm.* 2001:65.
- International Whaling Commission. 2003. Chair's Report of the Fifty-Fourth Annual Meeting. Annex F. Resolution adopted during the 54th meeting. Resolution 2002-1. Guidance to the Scientific Committee on the Sanctuary review process. *Ann. Rep. Int. Whaling Comm.* 2002:89.
- International Whaling Commission. 2005. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 7:1-62.

Appendix 6

OUTLINE AGENDA FOR THE REVIEW OF THE SOUTHERN OCEAN SANCTUARY

- (1) Review previous evaluations of the SOS.
- (2) Review available information on status, trends and potential threats to whales in the SOS.
- (3) Identification of and consideration of other measures to protect whales from human impacts within the Sanctuary area¹.
- (4) Assess the effectiveness of the SOS and the adjacent IOS in terms of:
 - (a) protection of whales from human impacts in breeding, feeding and migratory areas; and
 - (b) international agreements¹.
- (5) Using examples (e.g. SORP), evaluate if the Sanctuary allows for and encourages conducting scientific research useful for:
 - (a) providing advice towards meeting IWC conservation and management objectives; and
 - (b) coordinated and integrated research and monitoring programmes across issues of global relevance (e.g. climate change, ship strikes, entanglement).
- (6) Assess whether the SOS is consistent with the precautionary approach in accordance to Principle 15 of the 1992 Rio Declaration¹.

Appendix 7

OUTLINE AGENDA FOR THE REVIEW OF THE SOUTH ATLANTIC WHALE SANCTUARY PROPOSAL

- (1) Review previous evaluations of the SAWS.
- (2) Review available information on status, trends and potential threats to whales in the SAWS.
- (3) Identification of and consideration of other measures to protect whales from human impacts within the Sanctuary area¹.
- (4) Assess the effectiveness of the SAWS and the adjacent IWC Sanctuaries in terms of:
 - (a) protection of whales from human impacts in breeding, feeding and migratory areas; and
 - (b) international agreements¹.
- (5) Provide advice on whether the proposed boundaries of the sanctuary are ecologically appropriate.
- (6) Using examples (e.g. SORP), evaluate if the Sanctuary allows for and encourages conducting scientific research useful for:
 - (a) providing advice towards meeting IWC conservation and management objectives; and
 - (b) coordinated and integrated research and monitoring programmes across issues of global relevance (e.g. climate change, ship strikes, entanglement).
- (7) Assess whether the SAWS is consistent with the precautionary approach in accordance to Principle 15 of the 1992 Rio Declaration¹.
- (8) Evaluate whether the SAWS establishes review criteria that reflects the goals and objectives of the Sanctuary.
- (9) Provide advice on whether the SAWS Management Plan:
 - (a) outlines broad strategies and actions needed to achieve the Sanctuary's objectives;
 - (b) presents performance measures to measure progress toward achieving the Sanctuary objectives;
 - (c) evaluate whether performance measures of the SAWS links objectives with field monitoring programmes (e.g. estimation of abundance and trends); and
 - (d) includes a provision for periodic review and refinement to account for ecological, oceanographic and possibly other changes in an adaptive fashion.

¹Suggest that this is better addressed by the joint Scientific Committee/Conservation Committee Workshop.