

Annex P

Process for the Review of Special Permit Proposals and Research Results from Existing and Completed Permits as Modified at SC/66a in Light of Resolution 2014-5

1. SUBMISSION OF PROPOSALS

New proposals should be submitted to the Chair of the Scientific Committee at least **six months** prior to the Annual Scientific Committee Meeting (hereafter Annual Meeting) at which they are to be discussed, following a *pro forma* supplied by the Secretariat. Proposers may request that the proposal remains confidential. The proposal shall be structured in the manner given below.

(1) Objectives of the study:

The objectives should:

- (a) be quantified to the extent possible;
- (b) be arranged into two or three categories, if appropriate: 'Primary', 'Secondary' and 'Ancillary';
- (c) include a statement for each primary proposal as to whether it requires lethal sampling, non-lethal methods or a combination of both; and
- (d) include a brief statement of the value of at least each primary objective in the context of the three following broad categories objectives:
 - (i) improve the conservation and management of whale stocks,
 - (ii) improve the conservation and management of other living marine resources or the ecosystem of which the whale stocks are an integral part; and/or,
 - (iii) test hypotheses not directly related to the management of living marine resources;
- (e) include, in particular for d(i) and d(ii), at least for each primary objective, the contribution it makes to *inter alia*:
 - (i) past recommendations of the Scientific Committee;
 - (ii) completion of the Comprehensive Assessment or in-depth assessments in progress or expected to occur in the future;
 - (iii) the carrying out of *Implementations* or *Implementation Reviews* of the RMP or AWMP;
 - (iv) improved understanding of other priority issues as identified in the Scientific Committee Rules of Procedure (IWC, 2006, p.180); and
 - (v) recommendations of other intergovernmental organisations.

(2) Methods¹ to address objectives:

- (a) field methods, including:
 - (i) species, number (and see (c) below), time-frame, area;
 - (ii) sampling protocol for lethal aspects of the proposal; and
 - (iii) an assessment of why non-lethal methods, methods associated with any ongoing commercial whaling, or analyses of past data have been considered to be insufficient;

- (b) laboratory methods;
- (c) analytical methods, including estimates of statistical power where appropriate; and
- (d) time frame with intermediary targets.

(3) Assessment of potential effects of catches on the stocks involved:

- (a) a summary of what is known concerning stock structure in the area concerned;
- (b) the estimated abundance of the species or stocks, including methods used and an assessment of uncertainty, with a note as to whether the estimates have previously been considered by the Scientific Committee; and
- (c) provision of the results of a simulation study on the effects of the permit takes on the stock that takes into account uncertainty and projects: (1) for the expected life of the permit (i.e. n years); (2) for situations where the proposal is assumed to continue for: (a) a further n years; (b) a further $2n$ years; and (c) some longer period of years since the start of the proposal.

(4) A note on the provisions for co-operative research:

- (a) field studies; and
- (b) analytical studies.

(5) A list of the scientists the proposers intend to send to the intersessional review Workshop

2. THE REVIEW PROCESS

Intersessional Expert Workshop

The initial review of a new proposal, or interim and final reviews, shall take place at a small Expert Workshop with a limited but adequate number of invited experts (who may or may not be present members of the Scientific Committee). A limited number of scientists associated with the proposal should attend the Workshop in an advisory role, primarily to present the proposal and answer points of clarification. It is important that the composition of the expert group (hereafter 'the Panel') is considered balanced and fair (see below). The choice of experts shall be made by the Chair, Vice-Chair and Head of Science in conjunction with a Standing Steering Group (SSG) established by the Chair at an Annual Meeting, with special emphasis on the field and analytical methods provided in the proposal and estimation of the effect of catches on the stocks(s). The SSG shall be selected by the Chair, Vice-Chair and Head of Science, such that it represents an appropriate range of experience and expertise within the Scientific Committee². The selection process for the Panel shall occur in the manner described below. A schedule of events for the review process is shown in Table 1.

¹Where novel or non-standard methods are proposed, sufficient information must be given to allow these to be properly examined.

²Note: the SSG has thus far been agreed to be the four previous Scientific Committee Chairs.

Table 1

Timetable for the review of a new Special Permit proposal with example dates assuming the Scientific Committee meeting starts on 1 June.

| Action | Schedule of events | Example dates* |
|---|-----------------------------------|----------------|
| Receipt by Chair of Special Permit proposal (can request that it is confidential) | >6 months prior to Annual Meeting | 30 November |
| Distribute proposal to Vice-Chair, Head of Science and SSG | 1 week | 7 December |
| SSG suggest names for the Expert Workshop | 2 weeks | 21 December |
| Make proposal available to the Scientific Committee | | 21 December |
| Observers indicate their interest in participating in the Workshop | | 4 January |
| Chair, Vice-Chair and Head of Science develop list of experts and reserves | 2 weeks | 4 January |
| Final comments from SSG | 1 week | 11 January |
| Invitation and documents to Panel | 1 week | 18 January |
| Committee member's reviews/analyses due at the Secretariat | 1 week | 25 January |
| Committee member's reviews/analyses sent to Specialists and Proponents | | 1 February |
| Hold Workshop | >100 days prior to Annual Meeting | 22 February |
| Final Workshop report made available to Proponents | >80 days prior to Annual Meeting | 13 March |
| Distribution of the Proposal, Workshop report and comments from Proponents to the Committee | >40 days prior to Annual Meeting | 22 April |
| Discussion within the Committee | Annual Meeting | From 1 June |
| Submission to Commission | As soon as SC Report available | 28 June |

*Normally to the nearest Friday.

Table 2

Timetable for periodic and final reviews with example dates assuming the Scientific Committee meeting starts on 1 June.

| Action | Schedule of events | Example dates* |
|--|--|------------------|
| Announce intention to conduct periodic and final reviews | 2 Annual Meetings prior | |
| Proponents submit a preliminary data description document explaining the data to be available for the Workshop | 2 months before the Annual Meeting prior to the Workshop | 1 April |
| Requests for use of data submitted as papers | 4 weeks prior to meeting | 4 May |
| Final data description documents and data themselves available in electronic form | 1 month after end of Annual Meeting | 14 July |
| Information on likely analytical methods to be submitted to the Workshop sent to the Secretariat | 9 months prior to Annual Meeting | 31 August |
| Distribute documents to Vice-Chair, Head of Science and SSG | 1 week | 7 September |
| SSG suggest names for the specialist Workshop | 2 weeks | 21 September |
| Announcement of review to IWC and call for observers | | 12 October |
| Chair, Vice-Chair and Head of Science develop list of specialists and reserves | 2 weeks | 12 October |
| Final comments from SSG | 1 week | 19 October |
| Invitation and documents to specialists | 1 week | 26 October |
| Indications of interest by Scientific Committee observers | | 2 November |
| Receipt and circulation of results/review documents from Special Permit research (including to IWC Scientific Committee members) | >6 months prior to Annual Meeting | 30 November |
| Observers confirm wish to attend | | 3 December |
| Committee member's reviews/analyses due at the Secretariat | 1 month | 4 January |
| Committee member's reviews/analyses sent to Specialists and Proponents | | 11 January |
| Hold Workshop | >100 days prior to Annual Meeting | Fri. 22 February |
| Final Workshop report made available to Proponents | >80 days prior to Annual Meeting | 13 March |
| Distribution of result documents, Workshop report and comments from Proponents to the SC | >40 days prior to Annual Meeting | 22 April |
| Discussion within the Committee | Annual Meeting | From 1 June |
| Submission to Commission | As soon as SC report available | 28 June |

*Normally to the nearest Friday.

Choice of specialist group

The Scientific Committee Chair, Vice-Chair and Head of Science will take into account the comments made in IWC (2010; 2011; 2012), recognising that some of these issues reflected availability of selected Panel members. In particular, the goal is to obtain a full, fair, independent, balanced and objective review and careful efforts will be made to avoid any inferences of potential conflicts of interest. Emphasis will be given to including outside experts (non-Scientific Committee members) but the precise balance will depend on the subject matter. The Panel membership will include experts in the relevant field and/or analytical methods used in the Permit activities which may include those that are not specialists in whales.

Format and observers

Following discussions at IWC (2012), at the discretion of the Chair, Workshops will normally follow a format of two types of sessions: (1) open sessions where a limited number of scientists associated with the proposal present

the proposal and answer questions; and (2) closed sessions where only the Panel members discuss the proposal and develop the report. There may be a final closing session for the Panel to ask further questions of clarification. For these reasons, Workshops will be held at a venue convenient for proponents.

Scientific Committee members are allowed to attend the same sessions as the proponents as observers (they will be referred to as observers from here on). These observers will not normally participate in discussions unless invited to do so by the Chair under special circumstances³ (*cf* the rule for observers to the Committee's meeting).

In addition, any Scientific Committee member may submit reviews or analyses relevant to the review for consideration of the Panel following the agreed time frame outlined in Tables 1 and 2.

³Note: this has been interpreted as allowing observers who submit papers with substantial analyses to be allowed to present them in a similar manner to proponents who present papers e.g. through a short PowerPoint presentation (*cf* the 2014 JARPA II review).

The admittance of observers has logistical implications for the hosting of the Workshop. The importance of hosting the Workshop in a venue convenient for the proponents is important given the alternating open and closed sessions. Deadlines for registering interest in attendance are given in Tables 1 and 2.

Procedure for review of new proposals

The Chair shall circulate the proposal to the Vice-Chair, Head of Science and SSG, normally within **1 week** of receipt.

- (1) The SSG shall examine the proposal and in particular the field and analytical methods and, normally within **2 weeks**, suggest names for consideration for the Panel (if these experts are not members of the Committee they shall include a rationale for their choice) and the suggestions will be available to all SSG members.
- (2) The Chair, Vice-Chair and Head of Science will develop a proposed final list (with reserves) for consideration by the SSG within **2 weeks** and begin the process of establishing the time and venue of the Workshop taking into account the availability of the proposed experts and the scientists associated with the proposal.
- (3) The SSG will send final comments within **1 week**.
- (4) The Chair, Vice-Chair and Head of Science will agree a final list (with reserves); the proposal (with a note concerning any restrictions) will be sent to the selected experts and reserves - the process thus far will have taken about six weeks since the proposal has been received.

The Workshop will take place at least **100 days** before the Annual Meeting. In addition to the selected experts it will include at least one of the Chair, Vice-Chair and Head of Science, one of whom shall chair the Workshop.

Terms of reference for the scientific review of new proposals – complete section modified at SC/66a

The primary objective of the Scientific Committee and the Expert Panel Workshop will be to review the proposal in the light of the stated objectives following the guidelines in the *pro forma* provided by the Secretariat. Recall, the three broad categories of objectives are: (A) improve the conservation and management of whale stocks; (B) improve the conservation and management of other living marine resources or the ecosystem of which the whale stocks are an integral part; and (C) test hypotheses not directly related to the management of living marine resources. In particular, the review shall:

- (1) comment briefly on the perceived importance of the stated primary objectives from a scientific perspective and for the purposes of conservation and management, noting particularly the relevance of each to the work of the Scientific Committee⁴;
- (2) evaluate whether the objectives of the research could be achieved by non-lethal methods or whether there are reasonably equivalent objectives that could be achieved non-lethally⁵;
- (3) for broad categories of objectives A and B, evaluate 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. This evaluation should include whether the proposal demonstrates the likely magnitude and relevance of improvements to conservation and management arising from the achievement of the programme objectives;

- (4) evaluate whether the design and implementation of the programme are reasonable in relation to achieving the programme's stated research objectives⁶, and in particular, evaluate whether sample sizes and the spatial and temporal scales⁷ are reasonable in relation to the programme's stated research objectives and whether non-lethal alternatives are not feasible to either replace or reduce the size of the lethal sampling being proposed;
- (5) assess the degree to which the programme coordinates its activities with related research projects⁸;
- (6) provide advice on the likely effects of the catches on the stock or stocks involved under various scenarios of length of the programme. This will include *inter alia* examination of abundance estimates provided and may involve a different analysis to that provided in the original proposal, including assumptions that short permit proposals may be projected further into the future;
- (7) determine whether the programme has specified intermediate targets that would allow for an adequate review of progress relative to programme objectives; and
- (8) consider any other relevant matters as decided by the Scientific Committee.

Procedure for periodic and final reviews

For ongoing research without a defined final year, a periodic review shall take place in accordance with either the advice provided under Item (5) of the Workshop to review new proposals or on the advice of a periodical (normally around six years) review Workshop and taking into account the availability of the proponents. The final review shall normally take place no later than three years after the final take under Special Permits. The periodic and final reviews shall be based on documents provided by the proposers and other members of the Scientific Committee **six months** before the Annual Meeting at which the Workshop report is to be presented. Information on the analytical methods likely to be used in documents presented to the Workshop that might assist with the selection of appropriate experts shall be circulated **nine months** before the Annual Meeting.

The Chair shall circulate the information on the analytical methods to the Vice-Chair, Head of Science and SSG, normally within **1 week** of receipt.

- (1) The SSG shall examine the information available on the field and analytical methods and, normally within **2 weeks**, suggest names for consideration for the Expert Workshop (if these experts are not members of the Committee they shall include a rationale for their choice) and the suggestions will be available to all SSG members.

⁶For broad categories of objectives A and B, and with respect to methods and sample size, 'reasonable' is determined by a demonstration that methods and sample sizes are necessary and sufficient.

⁷With respect to spatial and temporal scales, assess whether the timeframe, as well as the seasonal and spatial distribution of lethal or non-lethal sampling are appropriate.

⁸This will include assessment of whether the degree of coordination is sufficient to ensure that the field and analytical methods are appropriate and best practice to achieve the stated objectives and whether the degree of coordination is sufficient to avoid unnecessary duplication.

⁴Include whether the programme objectives are sufficiently defined to enable an evaluation of the likely contribution of the different data sets to objectives.

⁵The comparison of lethal and non-lethal means should be based on their potential to meet the programme objectives (or their reasonable equivalents) based on power analyses and feasibility, including effort and time frames required to produce comparable results.

- (2) The Chair, Vice-Chair and Head of Science will develop a proposed final list (with reserves) for consideration by the SSG within **2 weeks** and begin the process of establishing the time and venue of the Workshop taking into account the availability of the proposed experts and experts associated with the proposal.
- (3) The SSG will send final comments within **1 week**.
- (4) The Chair, Vice-Chair and Head of Science will agree a final list (with reserves); the proposal (with a note concerning any restrictions) will be sent to the selected experts and reserves - the process thus far will have taken about 6 weeks since the information on analytical methods has been received.
- (5) The full documents shall be circulated no later than 6 months before the Annual Meeting.
- (6) Responses to those documents shall be submitted no later than one month before the Workshop.

The Workshop will take place at least **100 days** before the Annual Meeting. In addition to the selected experts it will include at least one of the Chair, Vice-Chair and Head of Science, one of whom shall chair the Workshop.

Availability of data relevant to the periodic or final review

The decision to hold periodic or final reviews shall take place two Annual Meetings prior to the Specialist Workshop. **Two months** before the Annual Meeting prior to the Specialist Workshop, the proponents of the programme shall submit a preliminary⁹ data description document that explains the data that will be available for the Workshop. That document will:

- (a) outline the data that will be available, including by broad data type (e.g. sighting data, catch data, biological data): the years for which the data are available; the fields within the database (e.g. for sightings data: species, date, time, school size; visibility; perpendicular distance etc.); the sample sizes;
- (b) provide references to data collection and validation protocols and any associated information needed to understand the datasets or to explain gaps or limitations;
- (c) where available, provide references to documents and publications of previous analyses undertaken of data collected during the programme; and
- (d) contact details of who should be approached if scientists have questions regarding the data before submitting formal applications for them.

Members of the Scientific Committee and participants in the Expert Workshop who wish to submit papers to the specialist Workshop should submit applications to the data holders in the data holders' data access protocol format via the Data Availability Group (DAG¹⁰). In accordance with a trial agreement reached at the 2014 Annual Meeting (see IWC, 2015, p.82), such requests should normally be developed for submission as a document to the Scientific Committee **four**

weeks before the Scientific Committee meeting¹¹. This will allow other members of the Scientific Committee (including the data holders) to consider alternative analyses. The final data description document and the data themselves shall be available in electronic format **one month** after the close of the Annual Meeting. The timetable is displayed in Table 1.

Applications for the access to data for the purpose of periodic or final review, should follow the recommended approach of Procedure B of the IWC SC Data Availability Agreement (IWC, 2004). In order to facilitate this process, requests submitted in advance (see above) will then be considered at the Scientific Committee Meeting. Initially, data requesters, data owners and the DAG will discuss the request early in the Meeting. This will provide opportunities for clarification and possible amendment of proposed studies. If there is disagreement over the acceptability of the request (e.g. whether analytical methods are appropriate and within the terms of reference of the Workshop), this will be referred by the DAG to the appropriate sub-committee or an *ad hoc* group. In the hopefully rare event that disagreement remain after the sub-group discussion, then the DAG will be authorised to take the final decision on the request. Data forms and requests can then be signed/authorised at the meeting. Data owners will provide the data in a prompt manner (usually within two weeks of the data becoming formally available one month after the close of the Annual Meeting) in accordance with the agreed protocols.¹²

Terms of reference for continuing and final reviews under Special Permits – complete section modified at SC/66a

The primary objective of the Scientific Committee and the Expert Panel Workshop will be to review the scientific aspects of the research under Special Permits in the light of the stated objectives following the guidelines in the *pro forma* provided by the Secretariat. In particular, the review shall:

- (1) for continuing programmes, evaluate whether the design and implementation of the programme, including sample sizes, continue to be reasonable in relation to achieving the programme's stated research objectives^{4,6};
- (2) for continuing programmes, evaluate whether the temporal and spatial scale of lethal sampling continues to be reasonable in relation to the programme's stated research objectives^{5,6,7}, and non-lethal alternatives are not feasible¹³ to either replace or reduce the scale of lethal sampling proposed:
 - (i) compare sample sizes from the original research proposal and the achieved sample sizes, and assess the effect of any discrepancy on the ability to achieve the programme's stated research objectives.

⁹By use of the word 'preliminary', it is recognised that some information (e.g. exact sample sizes) may not be available but the document will be broadly complete including approximate sample sizes.

¹⁰In order to enable the DAG to function if one or more members are unavailable, the usual membership of the DAG (Chair, vice-Chair and Head of Science) will be expanded to include the Chair of the Special Permit working group and the Chair(s) of the most relevant sub-group(s). Any decisions (which should be few) can be taken with a quorum of three.

¹¹While Committee members can still submit requests to the DAG after the meeting in accordance with the timeframe in the Tables, they should be aware that the process may take a longer time and the request may not be accepted.

¹²Collaborative studies are encouraged and have produced valuable results in the past but are not mandatory. For clarification, it is noted that the reference to offers of co-authorship within the DAA is not intended to allow the data owners to veto presentation of an analysis but rather to ensure that they are offered co-authorship which they may accept or decline. If data owners do not agree with analyses then they have time to respond with papers of their own given the DAA timeline.

¹³In this case, the interpretation of 'feasible' or 'related' will be left to the opinions of the reviewers.

- (ii) assess whether, in light of developments since the commencement of the programme, the objectives of the programme could be achieved by non-lethal means, or whether there are reasonably equivalent objectives that could be achieved non-lethally^{5,14,15}.
- (3) assess the extent of the programme's scientific output, and whether this is appropriate in light of the stated research objectives and the time elapsed;
- (4) assess the degree to which the programme coordinated or continues to coordinate its activities with related research projects^{8,13};
- (5) evaluate other contributions to important research and information needs that were not part of the original set of objectives of the research program;
- (6) in the case of continuing reviews, provide advice on:
 - (i) whether the programme continues to have specified intermediate targets that would allow for adequate review of progress in relation to programme objectives;
 - (ii) evaluate how well the initial, or revised, objectives of the research have been met to date, and for broad categories of objectives A and B, include the extent to which progress has been regarding improvements in the conservation and management of whales;
 - (iii) practical and analytical methods, including for non-lethal methods, that can improve research findings relative to stated objectives;
 - (iv) appropriate sample sizes to meet the stated objectives, especially if new methods are suggested under item (ii);
 - (v) effects on stocks in light of new knowledge on status of stocks; and
 - (vi) when future review(s) should be convened;
- (7) consider any other relevant matters as decided by the Scientific Committee; and
- (8) for final reviews, evaluate how well the initial, or revised, objectives of the research have been met, and for broad categories of objectives A and B, include the extent to which results have led to demonstrated improvements in the conservation and management of whales.

Reports of Workshops (applies to new proposals, periodic reviews and final reviews)

The Chair is responsible for the level and nature of participation of the scientists involved in the proposal,

which should be limited to: (1) providing information to the invited experts in addition to that contained in the proposal or research results; and (2) answering questions posed by the invited experts. The specialist group should attempt to reach consensus on the individual issues referred to above, but where this is not possible, the rationale behind the disagreement should be clearly stated in the Workshop report. The final report of the Workshop shall be completed at least 80 days prior to the Annual Meeting and will be made available to the proponents.

Circulation to the Scientific Committee

The original special permit proposal, *or* the original result documents from ongoing or completed special permit research, the report of the specialist Workshop, and any revised permit proposal (following the agreed protocol), *or* any revised results, from the Contracting Government shall be submitted to Scientific Committee members no later than **40 days** before the Annual Meeting. The revised proposal, *or* revised results, will also be submitted to the members of the specialist group and they will be invited to submit joint or individual comments on that revision to the Annual Meeting.

Discussion at the Scientific Committee

The report of the Expert Workshop will be discussed but not amended by the Scientific Committee. The comments of the Scientific Committee will be included in the Scientific Committee report. The original proposal and any revised proposal, the Expert Workshop report (and subsequent comments on any revised proposal), and the Scientific Committee report will then be submitted to the Commission and become publicly available in accordance with the Commission's Rules.

REFERENCES

- International Whaling Commission. 2004. Report of the Scientific Committee. Annex T. Report of the data availability working group. *J. Cetacean Res. Manage. (Suppl.)* 6:406-08.
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- International Whaling Commission. 2010. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 11(2):1-98.
- International Whaling Commission. 2011. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 12:1-75.
- International Whaling Commission. 2012. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 13:1-74.
- International Whaling Commission. 2015. Report of the Scientific Committee. *J. Cetacean Res. Manage. (Suppl.)* 16: 1-89.

¹⁴For broad categories of objectives A and B, where 'reasonably equivalent' is defined as having similar likely benefits in terms of improvements to conservation and management of whales.

¹⁵Evaluate the merits of replacing lethal sampling with non-lethal sampling, considering developments in non-lethal sampling protocols since the onset of the research program.

Appendix 1

PAST OR EXPECTED EXPERT ('ANNEX P') WORKSHOPS TO REVIEW NEW, ONGOING OR COMPLETED SPECIAL PERMIT PROGRAMMES

Table 1

Past or expected Expert ('Annex P') Workshops to review new, ongoing or completed special permit programmes.

| Subject | Status | Proposed dates | References |
|------------------------------|-------------------|----------------|--------------------|
| JARPN II (ongoing programme) | Completed in 2009 | N/A | IWC (2010a; 2010b) |
| Icelandic (final review) | Completed in 2012 | N/A | IWC (2014a) |
| JARPA II (ongoing programme) | Completed in 2014 | N/A | IWC (2015) |
| JARPN II (ongoing programme) | Expected in 2016 | Early 2016 | IWC (2014b) |
| NewRep-A | Completed in 2015 | N/A | SC/66a/Rep06 |

References

- International Whaling Commission. 2010a. Report of the Expert Workshop to Review the Ongoing JARPN II Programme, 26-30 January 2009, Yokohama, Japan. *J. Cetacean Res. Manage. (Suppl.)* 11(2):405-50.
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- International Whaling Commission. 2014a. Report of the Expert Workshop to Review the Icelandic Special Permit Research Programme, 18-22 February 2013, Reykjavik, Iceland. *J. Cetacean Res. Manage. (Suppl.)* 15:455-88.
- International Whaling Commission. 2014b. Research Proposal for Special Permits: Proposal to hold an IWC Workshop for the Periodic Review of JARPN II. Paper SC/65b/SPRP01 presented to the IWC Scientific Committee, May 2014, Bled, Slovenia (unpublished). 2pp. [Paper available from the Office of this Journal].
- International Whaling Commission. 2015. Report of the Expert Workshop to Review the Japanese JARPA II Special Permit Research Programme, 24-28 February 2014, Tokyo, Japan. *J. Cetacean Res. Manage. (Suppl.)* 16:369-409.