

Annex E

Resolutions Adopted at the 65th Meeting

Resolution 2014-1

RESOLUTION ON ABORIGINAL SUBSISTENCE WHALING (AWS)

WHEREAS Resolution 1982-3 states that it is the purpose of the International Whaling Commission (IWC) to provide for the effective conservation and management of whale stocks;

WHEREAS the Commission recognises the importance of accommodating the needs of aboriginal people who are dependent upon whales for subsistence and cultural purposes and that the Commission intends that the needs of aboriginals shall be determined by the Governments concerned and explained in needs statements that are submitted to the Commission;

WHEREAS Aboriginal Subsistence Whaling (ASW) management is a fundamental and integral part of the duties to be performed by the IWC;

WHEREAS Resolution 1994-4 states that for aboriginal subsistence whaling the IWC objectives are to:

- (a) ensure that the risks of extinction to individual stocks are not seriously increased by subsistence whaling;
- (b) enable aboriginal people to harvest whales in perpetuity at levels appropriate to their cultural and nutritional requirements, subject to the other objectives; and
- (c) maintain the status of stocks at or above the level giving the highest net recruitment and to ensure that stocks below that level are moved towards it, so far as the environment permits;

WHEREAS Resolution 1994-4 also states that highest priority shall be accorded to the objective of ensuring that the risk of extinction to individual stocks are not seriously increased by subsistence whaling;

WHEREAS the Scientific Committee in its 2009 report endorsed an interim safe approach to setting catch limits for the Greenlandic hunt in 2008 and agreed that this should be considered valid for two blocks, i.e. up to, and including, the 2018 whaling season;

WHEREAS the Commission and the Scientific Committee have agreed that long-term scientific advice on ASW management should follow the *Strike Limit Algorithm (SLA)* approach;

WELCOMING the relevant work carried out by the Scientific Committee, especially the considerable progress in developing *SLAs* and providing management advice for the Greenlandic hunt;

NOTING WITH SATISFACTION the completion of the *SLA* for humpback whales off West Greenland which provides a more robust basis for providing long-term management advice to the Commission on the subsistence hunt of humpback whales off West Greenland;

WELCOMING ALSO the work of the Scientific Committee towards considering a multi-species *SLA*;

WELCOMING FURTHER the additional work undertaken on conversion factors within Greenland, including improved procedures for data collection and updating the

new information obtained (SC/65b/AWMP05¹) in line with the recommendations of the Scientific Committee in 2013 and **NOTING** that the Scientific Committee has agreed that annual update reports are unnecessary for its work, but has suggested that data are submitted directly to the Commission when it meets and incorporated as necessary into need statements;

NOW, THEREFORE, THE COMMISSION:

- (a) **EMPHASISES** the need to regulate ASW in the future through a more consistent and long-term approach;
- (b) **URGES** all Contracting Governments to participate more actively in the work of the ASW Sub-Committee;
- (c) **REQUESTS** the Scientific Committee to give high priority to all AWMP-related activities, including modelling and data collection and to complete, and, to the extent possible, accelerate its work on the development of agreed and validated *SLAs* for the Greenland hunt, at least by species, before 2018 in accordance with its current work plan as well as consider the integration of these *SLAs* so as to provide multispecies advice for the next quota period;
- (d) **FURTHER REQUESTS** the ASW Sub-Committee to address as a matter of urgency the following issues for the period 2014-18:
 - (i) standardised need statements, building on the work already carried out in the ASW Sub-Committee and by the *Ad-Hoc* ASW Working Group;
 - (ii) better understanding of the relationship between needs and consumption patterns for ASW hunts, including by collecting data on landings for each category, local consumption and use and the extent of monetary transactions; and
 - (iii) preparation of a proposal to update paragraph 13(a) of the Schedule to the International Convention on the Regulation of Whaling to reflect the *SLA* approach for consideration by IWC/66.
- (e) **THANKS** the Kingdom of Denmark for providing the updated 2014 needs statement for Greenland; and
- (f) **INVITES** the ASW countries to continue to provide regular data and improve information on all aspects of their hunts and needs.

¹Simon, M. 2014. Progress on conversion factors for the Greenlandic hunt. Paper SC/65b/AWMP05 presented to the IWC Scientific Committee, May 2014, Bled, Slovenia (unpublished). 10pp. [Paper available from the Office of this Journal].

Resolution 2014-2**RESOLUTION ON HIGHLY MIGRATORY CETACEANS**

NOTING that nearly all marine cetacean species¹ are highly migratory and thus critically dependent on international cooperation for their conservation and management;

RECALLING that the ICRW Schedule currently lists management measures for only 17 of these species;

NOTING that Articles 65 and 120 of the United Nations Convention on the Law of the Sea provide that States shall cooperate with a view to the conservation of marine mammals and, in the case of cetaceans, work through the appropriate international organisations for their conservation, management and study both within and beyond the exclusive economic zone;

RECOGNISING that efforts by coastal States to protect these migratory species depend upon concerted, additional conservation efforts on the High Seas;

NOTING further that for the majority of cetacean species the main conservation threats involve factors, such

as entanglement, marine debris and traffic, that cannot be solved through IWC action alone, but require the co-operation of other relevant organisations;

NOW, THEREFORE, THE COMMISSION:

DECIDES to seek enhanced collaboration in the conservation of migratory cetaceans with other intergovernmental organisations whose co-operation is essential to secure the lasting protection of these species in the world ocean;

REQUESTS the Secretariat to conduct consultations and develop a draft work plan with regard to sharing of data and research priorities;

INVITES Contracting Parties to raise the need for increased international collaboration regarding highly migratory cetaceans in relevant international fora, with a view to contributing to the conservation efforts of the IWC; and

DECIDES to review progress at the 66th Meeting of the Commission.

¹The most recent list used by the IWC Scientific Committee includes 88 species of cetaceans of which 81 are marine or mainly marine. Of the marine species, all but seven belong to the families listed as Highly Migratory in Annex I of the UN Convention on the Law of the Sea. *Source: J. Cetacean Res. Manage.* 13(1): x-xi [2013].

Resolution 2014-3**RESOLUTION ON CIVIL SOCIETY PARTICIPATION AND TRANSPARENCY AT THE IWC**

NOTING that Principle 10 of the Rio Declaration calls upon States to, *inter alia*, ‘facilitate and encourage public awareness and participation by making information widely available’;

RECALLING the importance of transparency in international environmental agreements;

RECOGNISING the valuable contributions of observers to meetings of the International Whaling Commission;

FURTHER recalling Resolution 2011-1 on improving the effectiveness of operations within the International Whaling Commission;

AWARE that during the last decade international law and practice relating to transparency and participation in international decision-making has continued to develop, with the coming into force of relevant conventions at the global and regional level;

MINDFUL of the good practices adopted by the Commission to facilitate NGO participation since 2007;

CONVINCED that advances made in NGO participation can be further enhanced without placing administrative burdens on member governments, the Secretariat or committees of the Commission;

DETERMINED that Commission procedures for NGO participation should be brought into line with current international good practice so as to improve the transparency and governance of the organisation;

NOW, THEREFORE, THE COMMISSION:

REAFFIRMS the important role of civil society participation in its proceedings and in ensuring that the IWC remains an open, transparent and fully accountable organisation; and

ADOPTS the amendments to the Rules of Procedure of the Commission contained in the Annexes to this Resolution.

Annex A**CHANGES TO THE RULES OF PROCEDURE OF THE INTERNATIONAL WHALING COMMISSION**

These amendments are shown as changes to the Rules of Procedure and Financial Regulations as adopted at the 64th Annual Meeting (http://iwc.int/document_2385.download). New text for inclusion is in bold italics; old text for deletion is struck out.

B. Meetings

1. The Commission shall hold a regular [] Biennial Meeting in such place as the Commission may determine. Any Contracting Government desiring to extend an invitation to the Commission to meet in that country shall give formal notice two years in advance. A formal offer should include:
 - (a) which meetings it covers, i.e. Scientific Committee, Commission sub-groups, [] Biennial Commission Meeting;
 - (b) a proposed time window within which the meeting will take place; and
 - (c) a timetable for finalising details of the exact timing and location of the meeting.

Attendance by a majority of the members of the Commission shall constitute a quorum. Special Meetings of the Commission may be called at the direction of the Chair after consultation with the Contracting Governments and Commissioners.

2. Before the end of each [] Biennial Meeting, the Commission shall decide on: (1) the length of the next [] Biennial Commission Meeting and associated meetings []; and (2) which of the Commission’s sub-groups need to meet.
3. The Scientific Committee shall meet annually. Other committees and sub-committees shall meet biennially, prior to the meeting of the Commission. However, this does not preclude intersessional work by these committees and sub-groups from continuing.

4. The Bureau shall meet in those years in which the Commission does not meet, and shall otherwise meet as required to fulfill its functions in accordance with Rule M.9. ***The Chair may invite Contracting Governments who are not members of the Bureau, as appropriate, to attend in-person Bureau meetings.***

C. Observers

1. (a) Any Government not a party to the Convention or any intergovernmental organisation may be represented at meetings of the Commission by an observer or observers, if such non-party government or intergovernmental organisation has previously attended any meeting of the Commission, or if it submits its request in writing to the Commission 60 days prior to the start of the meeting, or if the Commission issues an invitation to attend.
- (b) Any non-governmental organisation which expresses an interest in matters covered by the Convention may be accredited as an observer. Requests for accreditation must be submitted in writing to the Commission 60 days prior to the start of the meeting and the Commission may issue an invitation with respect to such request. Such submissions shall include the standard application form for non-governmental organisations, which will be provided by the Secretariat. These applications shall remain available for review by Contracting Governments. Once a non-governmental organisation has been accredited through the application process above, it will remain accredited until the Commission decides otherwise.

Observers from each non-governmental organisation will be allowed seating in the meeting. However, seating limitations may require that the number of observers from each non-governmental organisation be limited. The Secretariat will notify accredited non-governmental organisations of any seating limitations in advance of the meeting.

- (c) The Commission shall levy a registration fee and determine rules of conduct, and may define other conditions for the attendance of observers accredited in accordance with Rule C.1.(a) and (b). The registration fee will cover attendance at the Biennial Commission Meeting to which it relates and any other meetings of the Commission or its subsidiary groups as provided in Rule C.2 in the interval before the next Biennial Commission Meeting.
2. Observers accredited in accordance with Rule C.1.(a) and (b) are admitted to all meetings of the Commission and the Technical Committee, and to any meetings of Committees and all subsidiary groups of the Commission and the Technical Committee, except the Commissioners-only meetings, meetings of the Bureau and closed meetings of the Finance and Administration Committee.
3. ***Observers accredited in accordance with rule C.1.(a) and (b) will have speaking rights during Plenary sessions and sessions of Commission subsidiary groups and Committees to which they are admitted to under C.2, in accordance with the Rules of Debate of the Commission. Observers might also submit documents for information to the delegations and observers participating in such sessions, provided these are submitted through the Secretariat at least 48 hours before the session in which they are intended to be made available, and are duly authored or endorsed by the accredited organisation making the submission, which is to be held responsible for its contents.***
(...)

M. Committees

8. The Finance and Administration Committee shall advise the Commission on expenditure, budgets, scale of contributions, financial regulations, staff questions, and such other matters as the Commission may refer to it from time to time. ***The Chair of the Finance and Administration Committee may close to observers at his or her discretion, portions of meetings of the Committee during which sensitive matters such as personnel questions will be discussed.***
(...)

P. Reports and communications

1. Commissioners should arrange for reports on the subject of whaling published in their own countries to be sent to the Commission for record purposes.
2. The Chair's Report of the most recent Biennial Commission Meeting or Meeting of the Bureau shall be posted on the Commission's public website in English within two months of the end of the meeting and in the other working languages as soon as possible thereafter. It shall be published in the Annual Report of the year just completed.
3. All individual and circular communications from the Chair or Secretary to Contracting Governments shall be sent to both the Commissioner appointed under Rule A.1., and to his/her Alternate designated or to the focal or contact point created under Rule A.2. They should also be sent to all accredited intergovernmental observers. All circular communications from the Chair or Secretary to Contracting Governments shall be posted on the Commission's public website on despatch, unless the Chair, after consulting with the Bureau, deems that a confidential communication is warranted (applicable only for staff issues, infraction cases and information provided by Contracting Governments with a request that it remain confidential), in which case the communication should be sent to the Contracting Governments alone. A list of dates and subject titles of such confidential communications shall be presented to the next Biennial Meeting or to the Bureau in years when the Commission does not meet.

Annex B

CHANGES TO THE RULES OF DEBATE OF THE INTERNATIONAL WHALING COMMISSION

These amendments are shown as changes to the Rules of Procedure and Financial Regulations as adopted at the 64th Annual Meeting (http://iwc.int/document_2385.download).

New text for inclusion is in ***bold italics***; old text for deletion is ~~struck-out~~.

A. Right to Speak

1. The Chair shall call upon speakers in the order in which they signify their desire to speak, ***with the exception***

of accredited Observers, which should be allowed to speak only after all Commissioners desiring to speak do so. As a general rule, Observers will only be allowed to speak once at each Agenda item under discussion, and at the discretion of the Chair.

2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion.

Resolution 2014-4**RESOLUTION ON THE SCIENTIFIC COMMITTEE**

NOTING reiterated concerns expressed in relation to the conservation status and the increasing threats that various cetacean stocks are facing;

RECALLING Resolution 2003-1 on the Berlin Initiative on Strengthening the Conservation Agenda of the International Whaling Commission;

FURTHER RECALLING more than fifty Resolutions of the International Whaling Commission addressing the work of the Scientific Committee¹, particularly regarding the increasing and evolving work over decades on conservation aspects, including small cetaceans;

RECOGNISING the value of the Scientific Committee's work on these conservation issues for the Commission and the Conservation Committee;

NOTING that the Scientific Committee has been discussing aspects related to increasing the support of the Scientific Committee on conservation related issues and has agreed, *inter alia*, to improve communication with the Commission and keep track of recommendations;

FURTHER NOTING that the work of the Scientific Committee oriented toward issues related to other threats than direct takes, has increased over the last decades but has received little funding;

AWARE of the different views between member states on the regulatory competence of the IWC with regard to small cetaceans;

BELIEVING that Commission procedures for the Scientific Committee should be updated to reflect its breadth of work over the last decades;

NOW, THEREFORE, THE COMMISSION:

DIRECTS the Scientific Committee to continue to improve its work towards conservation-related matters including an increasing allocation of funding for conservation oriented research, such as investigation on conservation or mitigation measures, while taking into consideration other core activities as provided for by the Convention;

AGREES to establish a working group between the Conservation Committee and the Scientific Committee in order to propose a procedure to facilitate the implementation and follow-up of conservation recommendations;

DIRECTS the Working Group on Operational Effectiveness and Cost Saving Measures to provide for closer engagement of the Commission in the setting of the Scientific Committee's work plans by formulating advice to the Scientific Committee on:

- research priorities and any specific scientific advice the Commission may require at its next meeting; and
- the Scientific Committee's two-year detailed work plans particularly where it will assist the Scientific Committee in scheduling activities and reporting over its two following annual meetings;

REQUESTS the Scientific Committee, including its sub-committees and working groups, to improve reporting efficiency by providing consolidated reports covering the two-year intersessional period wherever possible.

INSTRUCTS the Secretariat to annually prepare a compilation of concerns and recommendations expressed by the Scientific Committee related to conservation aspects and to forward it to contracting and non-contracting governments, intergovernmental organisations and other entities as appropriate, at the same time drawing their attention to any particular advice contained therein and offering more detailed advice if that should be sought;

ADOPTS the amendments to the Rules of Procedure of the Commission contained in the Annex II to this Resolution;

FORWARDS to the Scientific Committee the proposed amendments to the Rules of Procedures of the Scientific Committee in Annex III for their consideration, with a view to adopting amended rules at the Commission's next meeting after considering advice from the Scientific Committee; and

CONSOLIDATES the mandate of the Small Cetaceans Standing Sub-Committee by adopting the following terms of reference:

- review the distribution and stock structure of small cetaceans;
- review information on the status of the stocks of small cetaceans and provide an assessment of the threats to the stocks concerned;
- advice on ways in which those threats can be eliminated or mitigated;
- review developments on topics and recommendations that were subject of previous reports; and
- coordinate with other Scientific Committee sub-committees and working groups, where appropriate, to further address topics related to environmental concerns, whale watching, RMP, AWMP, human induced mortality, among others.

¹Annex I: Compiled list of IWC Resolutions addressing the work of the Scientific Committee 1976-2012.

Annex I

COMPILED LIST OF IWC RESOLUTIONS ADDRESSING THE WORK OF THE SCIENTIFIC COMMITTEE 1976-2012

IWC 31st Annual Meeting

- 1979-3 Resolution in relation to the establishment of a whale sanctuary in the Indian Ocean.

IWC 32nd Annual Meeting

- 1980-6 Resolution aimed at discouraging whaling operations outside IWC regulations.
- 1980-8 Resolution concerning extension of the Commission's responsibility for small cetaceans.

IWC 33rd Annual Meeting

- 1981-7 Resolution relating to pollutants in whales.

IWC 38th Annual Meeting

- 1986-2 Resolution on special permit for scientific research².

IWC 39th Annual Meeting

- 1987-1 Resolution on scientific research programmes.

IWC 42nd Annual Meeting

- 1990-3 Resolution on small cetaceans.

IWC 43rd Annual Meeting

- 1991-4 Resolution on the Revised Management Procedure.
- 1991-5 Resolution on small cetaceans.

IWC 44th Annual Meeting

- 1992-2 Resolution on the need for research on the environment and whale stocks in the Antarctic region.
- 1992-3 Resolution on the Revised Management Scheme.
- 1992-4 Resolution on a sanctuary in the Southern Hemisphere.

IWC 45th Annual Meeting

- 1993-4 Resolution on addressing small cetaceans in the IWC.
- 1993-5 Resolution on research related to conservation of large baleen whales in the Southern Oceans.
- 1993-12 Resolution on research on the environment and whale stocks.

IWC 46th Annual Meeting

- 1994-2 Resolution on small cetaceans.
- 1994-4 Resolution on a review of Aboriginal Subsistence Management Procedures.
- 1994-5 Resolution on the Revised Management Scheme.
- 1994-8 Resolution on scientific permits.
- 1994-12 Resolution on promotion of research related to conservation of large baleen whales in the Southern Oceans.
- 1994-13 Resolution on research on the environment and whale stocks.
- 1994-14 Resolution on whalewatching.

IWC 47th Annual Meeting

- 1995-7 Resolution on surveys intended to provide abundance estimates for the implementation of the Revised Management Scheme
- 1995-9 Resolution on whaling under special permit³.

IWC 48th Annual Meeting

- 1996-2 Resolution on whalewatching.
- 1996-4 Resolution on small cetaceans.
- 1996-6 Resolution of provisions for completing the Revised Management Scheme.
- 1996-8 Resolution on environmental change and cetaceans.

IWC 49th Annual Meeting

- 1997-5 Resolution on special permit catches in the Southern Ocean by Japan.
- 1997-7 Resolution on environmental change and cetaceans.
- 1997-8 Resolution on small cetaceans.

IWC 50th Annual Meeting

- 1998-2 Resolution on total catches over time.
- 1998-3 Resolution on the Southern Ocean Sanctuary.
- 1998-4 Resolution on whaling under special permit.
- 1998-5 Resolution on environmental changes and cetaceans.
- 1998-10 Resolution to consider establishment of a mechanism to improve communications between the Commission and its Scientific Committee.

IWC 51st Annual Meeting

- 1999-2 Resolution on special permits for scientific research.
- 1999-4 Resolution on health effects from the consumption of cetaceans.
- 1999-5 Resolution for the funding of high priority scientific research.
- 1999-7 Resolution on small populations of highly endangered whales.
- 1999-8 Resolution on DNA testing.
- 1999-9 Resolution on Dall's porpoise.

IWC 52nd Annual Meeting

- 2000-7 Resolution on environmental change and cetaceans.
- 2000-8 Resolution on western North Atlantic right whales.

IWC 53rd Annual Meeting

- 2001-3 Resolution on western North Pacific gray whale.
- 2001-4 Resolution on the incidental capture of cetaceans.
- 2001-7 Resolution on Southern Hemisphere minke whales and special permit whaling.
- 2001-9 Resolution on interactions between whales and fish stocks.
- 2001-12 Resolution on Dall's porpoise.
- 2001-13 Resolution on small cetaceans.

IWC 54th Annual Meeting

- 2002-1 Guidance to the scientific committee on the sanctuary review process.

IWC 55th Annual Meeting

- 2003-1 The Berlin Initiative on strengthening the conservation agenda of the International Whaling Commission.
- 2003-3 Resolution on Southern Hemisphere minke whales and special permit whaling.

IWC 56th Annual Meeting

- 2004-1 Resolution on western North Pacific gray whale.

IWC 57th Annual Meeting

- 2005-1 Resolution on JARPA II.

IWC 61st Annual Meeting

- 2009-1 Consensus Resolution on climate and other environmental changes and cetaceans.

IWC 63rd Annual Meeting

- 2011-1 Resolution on improving the effectiveness of operations within the International Whaling Commission.

IWC 64th Annual Meeting

- 2012-1 Resolution on the importance of continued scientific research with regard to the impact of the degradation of the marine environment on the health of cetaceans and related human health effects.

²Resolutions replaced afterwards by Resolution 1995-9.

³Resolution on whaling under special permit that replace resolutions 1986-2 and 1987-1.

Annex II

AMENDMENTS TO THE COMMISSION'S RULES OF PROCEDURE AND FINANCIAL REGULATIONS

These amendments are shown as changes to the Rules of Procedure and Financial Regulations as adopted at the 64th Annual Meeting (http://iwc.int/document_2385.download).

New text for inclusion is in **bold italics**; old text for deletion is ~~struck out~~.

CHANGES TO RULES OF PROCEDURE

M. Committees

4. (a) The Scientific Committee shall review the current scientific and statistical information with respect to whales and whaling, shall review current scientific research programmes of Governments, other international organisations or of private organisations, shall review the scientific permits and scientific programmes for which Contracting Governments plan to issue scientific permits, **shall review current and potential threats and methods to mitigate them in order to maintain cetacean populations at viable levels, shall provide conservation and management advice where appropriate**, shall consider such additional matters as may be referred to it by the Commission or by the Chair of the Commission, and shall submit reports and recommendations to the Commission.
- (b) Any *ad hoc* committee, sub-committee or working group established to provide scientific advice shall

report to the Scientific Committee, which shall review the report of such committee, sub-committee or working group, and, as appropriate, make its own recommendations on the subject matter.

CHANGES TO FINANCIAL REGULATIONS

C. General Financial Arrangements

1. There shall be established a Research Fund and a General Fund, and a Voluntary Fund for Small Cetaceans.
 - (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.

Annex III

PROPOSED AMENDMENTS TO THE RULES OF PROCEDURES OF THE SCIENTIFIC COMMITTEE

These amendments are shown as changes to the Rules of Procedure and Financial Regulations as adopted at the 64th Annual Meeting (http://iwc.int/document_2385.download).

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The Scientific Committee, established in accordance with the Commission's Rule of Procedure M.1, has the general terms of reference defined in Rule of Procedure M.4.

In this regard, the DUTIES of the Scientific Committee, can be seen as a progression from the scientific investigation of whales and their environment, leading to assessment of the status of the whale stocks and the impact of *direct* catches **and any other non-direct removal threats** upon them, and then to provision of **conservation and management advice on cetacean stocks and the regulation of lethal and non-lethal whaling activities**. This can be defined in the following terms for the Scientific Committee to:

Encourage, recommend, or if necessary, organise studies and investigations related to whales and whaling [Convention Article IV.1(a)]

Collect and analyse statistical information concerning the current condition and trend of whale stocks and the effects of whaling activities on them [Article IV.1 (b)]

Study, appraise, and disseminate information concerning methods of maintaining and increasing the population of whale stocks [Article IV.1 (c)]

Provide scientific findings on which amendments to the Schedule shall be based to carry out the objectives of the Convention and to provide for the conservation, development and optimum utilisation of the whale resources [Article V.2 (a) and (b)]

Publish reports of its activities and findings [Article IV.2]

In addition, specific FUNCTIONS of the Scientific Committee are to:

Review current threats and methods to mitigate them in order to maintain cetacean populations at viable levels [Rule of Procedure M.4]

Provide conservation and management advice [Rule of Procedure M.4; Rep. int. Whal. Commn 31:30-31; ARIWC 1998:46; 2003:58]

Receive, review and comment on Special Permits issued for scientific research [Article VIII.3 and Schedule paragraph 30]

Review research programmes of Contracting Governments and other bodies [Rule of Procedure M.4]

SPECIFIC TOPICS of current concern to the Commission include:

Comprehensive Assessment of whale stocks [Rep. int. Whal. Commn 34:30; 44:32; 45:48; ARIWC 1999:55; 2000:57; 2001 Annex C:2; 2001 Annex C:4; 2003:103; 2004:66]

Implementation of the Revised Management Procedure [Rep. int. Whal. Commn 42:47-48; 43:40; 45:43-44; 46:45-46; 47:51; 48:47; ARIWC 1998:42; 1999:55]

Assessment of stocks subject to aboriginal subsistence whaling *and Aboriginal Subsistence Whaling Management Procedure* [Schedule paragraph 13(b); *Rep. int. Whal. Commn*45:42-43; *ARIWC 1998:42; 2004:66*]

Development of the Aboriginal Subsistence Whaling Management Procedure [*Rep. int. Whal. Commn*45:42-3]

Effects of environmental change on cetaceans [*Rep. int. Whal. Commn* 32:37; 43:39-40; 44:35; 45:49; 47:52; 48:47; *ARIWC 1998:43-44; 1999:53; 1999:53-54; 2000:56-57; 2001 Annex C:5; 2003:103; 2009:95; 2012:77*]

Scientific aspects of whale sanctuaries [*Rep. int. Whal. Commn*30:34; 33:21-2; 43:41; 45:63; *ARIWC 1998:42-43; 2002:89*]

Scientific aspects of small cetaceans [*Rep. int. Whal. Commn*31:31; 41:48; 42:48; 43:51; 44:31-32; 45:41-42; 47:49-50; 48:49; *ARIWC 1998:43-44; 1999:55-56; 2001 Annex C:2-3; 2001 Annex C:6; 2001 Annex C:7*]

Scientific aspects of whale watching [*Rep. int. Whal. Commn*45:49-50; 47:48]

Human induced mortality [*ARIWC 1998:42; 1998:43-44; 1999:55; 2001 Annex C:2-3*]

Special permits [*Rep. int. Whal. Commn* 45:46; 46:46-47; *ARIWC 1998:43; 1999:52-53; 2003:103; 2005:66*]

DNA [*ARIWC 1999:55*]

Stock definition [*ARIWC 1999:55*]

(...)

A. Membership and Observers

- Any non-governmental organisation sending an accredited observer to a meeting of the Commission may nominate a scientifically qualified observer to be present at meetings of the Scientific Committee. Any such nomination must reach the Secretary not less than 60 days before the start of the meeting in question and must specify the scientific qualifications and relevant experience of the nominee. The Chair of the Scientific Committee shall decide upon the acceptability of any nomination but may reject it only after consultation with the Chair and Vice-Chair of the Commission. Observers admitted under this rule shall not participate in discussions but the papers and documents of the Scientific Committee shall be made available to them at the same time as to members of the Committee. *They may present and discuss documents and papers for consideration by the Scientific Committee, participate on sub-committees, and they shall receive all Committee documents and papers.*
(...)

C. Organisation

- The Scientific Committee shall include standing sub-committees and working groups by area or species, or other subjects, and a standing sub-committee on small cetaceans. The Committee shall decide at each meeting on sub-committees for the coming year.

- The sub-committees and working groups shall prepare the basic documents, *inter alia*, on the identification, status and trends of stocks, including biological parameters, *threats, mitigation measures* and related matters as necessary, for the early consideration of the full Committee.
- The sub-committees shall concentrate their efforts on stocks of large cetaceans, particularly those which are currently exploited, or for which exploitation is under consideration, or for which there is concern over their status. ~~but they may examine matters relevant to all cetaceans where appropriate.~~
- The Chair may appoint other sub-committees as appropriate.
- The Committee shall elect from among its members a Chair and Vice-Chair who will normally serve for a period of three years. They shall take office at the conclusion of the annual meeting at which they are elected. The Vice-Chair shall act for the Chair in his/her absence.

The election process shall be undertaken by the heads of national delegations who shall consult widely before nominating candidates. The Vice-Chair will become Chair at the end of his/her term (unless he/she declines), and a new Vice-Chair will then be elected. If the Vice-Chair declines to become Chair, then a new Chair must also be elected. If the election of the Chair or Vice-Chair is not by consensus, a vote shall be conducted by the Secretary and verified by the current Chair. A simple majority shall be decisive. In cases where a vote is tied, the Chair shall have the casting vote. If requested by a head of delegation, the vote shall proceed by secret ballot. In these circumstances, the results shall only be reported in terms of which nominee received the most votes and the vote counts shall not be reported or retained.

(...)

G. Financial Support for Research Proposals

- The Scientific Committee shall identify research needs.
- It shall consider unsolicited research proposals seeking financial support from the Commission to address these needs. A sub-committee shall be established to review and rank research proposals received 4 months in advance of the Annual Meeting and shall make recommendations to the full Committee.
- The Scientific Committee shall recommend in priority order those research proposals for Commission financial support as it judges best meet its objectives, *giving priority to the conservation status of cetacean stocks.*
(...)

H. Availability of data

- Accredited persons
Accredited persons are those scientists defined under sections A.1, 2, 3, 5 and 6 of the Rules of Procedure of the Scientific Committee. Invited participants are also considered as 'accredited' during the intersessional period following the meeting which they attend.

Resolution 2014-5**RESOLUTION ON 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);

RECALLING that the decision of the Court has no binding force except between the parties and in respect of the particular case [Article 59 of the Statute of the International Court of Justice];

RECOGNISING however that, as a decision of the principal judicial organ of the United Nations, the decision is a highly authoritative guide on how Article VIII of the International Convention for the Regulation of Whaling should be interpreted and applied;

RECALLING that the Court established several parameters for a programme for purposes of scientific research pursuant to Article VIII of the Convention that are relevant to the Commission's consideration of special permit programmes;

NOTING the Court's finding that the text of Article VIII contains two cumulative elements – 'scientific research' and 'for purposes of' – each of which must be satisfied [paragraphs 70-71 of judgment];

TAKING INTO ACCOUNT the Court's finding that the use of lethal methods will only be for purposes of scientific research where the elements of the programme's design and implementation are reasonable in relation to achieving its stated objectives [paragraphs 67, 88 of judgment], and that it would look to the authorising State to explain the objective basis for its determination that the use of lethal methods is for purposes of scientific research [paragraph 68 of judgment];

RECALLING the Court's finding that the elements relevant to the consideration of whether a programme's design and implementation are reasonable in relation to achieving its stated scientific objectives may include: decisions regarding the use of lethal methods, the scale of the programme's use of lethal sampling, 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 [paragraph 88 of judgment].

NOTING the Court's finding that the use of lethal sampling pursuant to Article VIII must not be on a larger scale than is reasonable in relation to achieving the programme's stated research objectives [paragraphs 94, 97 of judgment];

NOTING also the Court's view that a proposal for a programme of lethal research should include analysis of the feasibility of non-lethal methods, including as a means of assessing whether the programme uses lethal methods on a larger scale than is reasonable in relation to achieving its stated objectives [paragraphs 137, 142 of judgment];

NOTING also the Court's view that States parties to the Convention have a duty to co-operate with the IWC and the Scientific Committee and thus should give due

regard to recommendations calling for an assessment of the feasibility of non-lethal alternatives [paragraph 83 of judgment];

TAKING INTO ACCOUNT the Court's expectation that, in the evaluation of the possibility of granting any future permits under Article VIII paragraph 1, account will be taken of the reasoning and conclusions contained in the judgment [paragraph 246 of judgment];

RECOGNISING that the Court's findings and reasoning should inform decisions relating to the granting and evaluation of special permits for the taking of whales for purposes of scientific research by parties to the Convention;

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

URGING Contracting Governments to respect fully the wish of the Commission to ensure the conservation of whales in sanctuaries designated by the Commission;

NOW, THEREFORE, THE COMMISSION:

- (1) **INSTRUCTS** 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.

- (2) **INSTRUCTS** the Scientific Committee to consider and revise how it reviews special permit research programmes, including in relation to the *Annex P: Process for the Review of Special Permit Proposals and Research Results from Existing and Completed Permits*, in light of the matters set out in paragraph 1 above, for consideration by the Commission.
- (3) **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 above; and
 - (b) the Commission has considered the report of the Scientific Committee and assessed whether the proponent of the special permit programme has acted in accordance with the review process described above; and
 - (c) the Commission has, in accordance with Article VI, made such recommendations on the merits or otherwise of the special permit programme as it sees fit.
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