

Report of the Aboriginal Subsistence Whaling (ASW) Sub-Committee

Thursday 20 October 2016, Grand Hotel Bernardin, Portorož, Slovenia

SUMMARY OF MAIN OUTCOMES

Item and Agenda Item	Main outcomes
Item 3: REPORT OF THE AD-HOC ABORIGINAL SUBSISTENCE WHALING WORKING GROUP	After discussing the Report of the ASW Working Group, the Report of the Expert Workshop on Aboriginal Subsistence Whaling and a presentation by invited expert Dr Dorrough, the ASW Sub-committee commended the report of the Expert Workshop on Aboriginal Subsistence Whaling (IWC/66/ASW Rep01) to the Commission as an important component of the IWC's efforts to improve the way in which it considers aboriginal subsistence whaling, noting also its minority statement. It agreed to forward the recommendations from the Workshop (see Appendix 4) for further consideration by the Commission, recognising that some have important, legal, financial and procedural implications and noting the points raised in the discussion above. Given those implications, it may be that some of the recommendations should be considered intersessionally before final decisions or full endorsement is given.
Item 4: ABORIGINAL SUBSISTENCE WHALING MANAGEMENT PROCEDURE	The Scientific Committee reported on: (a) its work to complete the development of <i>SLAs</i> for the two remaining Greenland hunts, fin whales and common minke whales, by 2018 and (b) its schedule for future <i>Implementation Reviews</i> . The ASW Sub-committee welcomed the report of the Scientific Committee, thanked it for its work and endorsed its recommendations including adoption of the <i>WG-Bowhead SLA</i> . It looks forward to receiving the results of this work in advance of the 2018 Annual Meeting.
Item 5: ABORIGINAL WHALING SCHEME	The Commission has agreed that the Aboriginal Whaling Scheme (AWS) is intended to be a generic and overarching policy that, whilst recognising the differences amongst hunts, as far as possible, applies equally to all aboriginal hunting regimes managed by the IWC. The Scientific Committee reported that it has begun to review the provisions of the AWS, beginning with testing an 'interim allowance strategy'. It will also cover such matters as carryover within and among blocks, data requirements and abundance estimation guidelines. Ideally, the scientific components of the work will be completed during the 2017 Scientific Committee meeting i.e. well in advance of the 2018 Commission meeting when new aboriginal whaling limits are due to be established. The ASW sub-committee welcomed the report of the Scientific Committee and endorsed its recommendations.
Item 6: ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS	The Scientific Committee reported on research recommendations and management advice related to the Alaskan, Chukotkan, Makah, Greenlandic and Bequian ASW hunts. No changes to the existing catch/strike limits were recommended. The ASW sub-committee welcomed the report of the Scientific Committee and endorsed its recommendations.
Item 7: STATUS OF THE VOLUNTARY FUND	The Secretariat reported on voluntary contributions by Denmark, Switzerland and the USA. The funds supported the ASW Expert workshop and the attendance of an invited expert at this meeting (Dr Dorrough). The balance is now zero. The ASW Sub-committee and strongly encouraged Contracting Governments to make contributions

1. INTRODUCTORY ITEMS

The meeting was held on the morning of Thursday 20 October 2016 at the Grand Hotel Bernardin, Portorož, Slovenia. The list of participants is given as Appendix 1. The terms of reference of the Sub-committee are to:

consider relevant information and documentation from the Scientific Committee, and to consider nutritional, subsistence and cultural needs relating to aboriginal subsistence whaling and the use of whales taken for such purposes, and to provide advice on the dependence of aboriginal communities on specific whale stocks to the Commission for its consideration and determination of appropriate management measures (*Rep. Int. Whal. Commn* 48: 31).

1.1 Appointment of Chair

Joji Morishita, Vice-Chair of the Commission, opened the meeting and welcomed all participants, especially the native hunters who have travelled so far to attend. He noted that Jeannine Compton-Antoine (St Lucia) had chaired this group at the last meeting and intersessionally, but was unable to be here. He indicated that if acceptable to everyone, he was happy to chair the meeting. The sub-committee agreed.

1.2 Appointment of Rapporteur

Donovan (Secretariat) was appointed rapporteur, with assistance from the meeting team of IWC rapporteurs.

1.3 Review of Documents

The list of documents is given as Appendix 3.

1.4 Observer participation

The Chair noted that this will be the first meeting where the new rules of procedure on observer interventions will be in operation. He noted that he intended to implement this in the following manner.

- (1) All Contracting Countries who wished to do so would be allowed to speak first.
- (2) After this he would invite others to speak in the following order: (a) non-member countries; (b) intergovernmental organisations (IGOs); and (c) non-governmental organisations (NGOs) as is customary practice in many other fora.
- (3) The above approach will be subject to the available time (it is likely that there may only be time for 1-2 interventions against each agenda item) and he urged that interventions be brief and directly relevant to the Agenda Item.

2. ADOPTION OF AGENDA

The adopted agenda is given as Appendix 2.

3. REPORT OF THE *AD-HOC* ABORIGINAL SUBSISTENCE WHALING WORKING GROUP

At IWC/63 in 2011 the Commission endorsed a recommendation to form an *Ad Hoc* Aboriginal Subsistence Whaling Working Group (ASWWG). The Group's terms of reference are to identify and consider unresolved ASW issues, including *inter alia* those identified in the 2011 report of the ASW Sub-committee.

Of particular interest this year was the report of the IWC's Expert Workshop on Aboriginal Subsistence Whaling which took place in Maniitsoq, Greenland in September 2015 (IWC/66/ASW Rep01).

3.1 Report of the *Ad Hoc* Aboriginal Subsistence Whaling Working Group (ASWWG)

Michael Tillman, Chair of the ASWWG, introduced IWC/66/ASW Rep02, the 2016 report of the *Ad Hoc* Aboriginal Subsistence Whaling Working Group (ASWWG). He noted that the purpose of this report is twofold: (1) to remind the Sub-committee of the purpose and past activities of the ASWWG; and (2) to provide an update on the progress of its deliberations.

The ASWWG's purpose is 'to identify and consider unanswered ASW questions, including *inter alia*, those identified in the 2011 Report of the ASW Subcommittee, prior to the IWC's review of ASW catch limits in 2018 (IWC 67)'. Membership is comprised of the four member countries having ASW hunts, as well as four other member countries having a broad range of interests and two scientists chosen by the Scientific Committee. The Secretariat also participates in an *ex officio* capacity. Although the ASW WG primarily works by correspondence, there have been some face-to-face meetings such as that in 2012 in Panama (IWC64) to complete work on the five 'short-term' tasks the ASWWG had identified. The ASWWG's advice on these matters was presented to the ASW Sub-committee in IWC/64/ASW5 Rev1.

In response to a request from hunters, the ASWWG held a meeting with them in 2014 just prior to IWC65. The presentations and discussions at this meeting ranged broadly, covering, among other topics, the adoption or adaptation of modern technology in the hunts; the effects of climate change on ASW; sharing, barter and subsistence need; local use versus commercialization; and the availability and cost of weapons. The report of the meeting is given in IWC/65/ASW Rep 01 Rev1.

That special meeting also led to the recommendation that an IWC expert workshop on ASW be convened to consider the long-term issues of greatest concern, focusing primarily on removing ASW catch limits from political discussion and the careful development of an appropriate standardised needs statement.

The IWC agreed and, at the invitation of the Government of Denmark, the expert workshop was convened in Maniitsoq, Greenland, in September 2015. This meeting and its report (IWC/66/ASW Rep01) are discussed under Item 3.2.

The Chair of the ASWWG noted that unless it is assigned new tasks at this meeting, its priority is to complete its deliberations on the seven long-term issues and submit a final report to the ASW Sub-committee in 2018 (IWC67).

On behalf of the Sub-committee, the Chair thanked Tillman for his excellent and dedicated leadership of the ASWWG, as well as the members of the ASWWG. Their work is of great importance in helping to improve the process of adopting catch limits for the ASW hunts within the Commission.

Discussion of the ASWWG report can be found under Item 3.4.

3.2 Report of the Expert Workshop on Aboriginal Subsistence Whaling

Gitte Hundahl (Chair of the Expert Workshop Steering Committee) presented her summary of IWC/66/ASW Rep01, the Report of the IWC Expert Workshop on Aboriginal Subsistence Whaling. She did this as the Chair of the Workshop, former IWC Chair Bo Fernholm, was unable to attend.

The broad objective of the expert workshop was to assist the Commission – through this sub-committee - in its efforts to improve ASW management in accordance with IWC Resolution 2014-4. Greenland hosted the workshop in the town of Maniitsoq. This gave participants an opportunity to visit an ASW community. The Workshop was financed by voluntary contributions to the ASW fund (and see Item 7 of this report).

External academic experts were invited with expertise in: diet; nutritional, cultural and socio-economic needs; evolution in traditional societies in the modern world; and international law. Experts from all five ASW communities also presented the workshop with insight and suggestions. The Workshop was open to all interested Contracting Governments and observers.

She highlighted some of the main issues addressed in the report, noting the value of reading the full report. She stressed that this was an expert workshop focusing on expert recommendations rather than the views of governments.

The Workshop noted that whaling for purposes of aboriginal subsistence needs has been recognised as a distinct type of whaling by the IWC since the Convention was signed in 1946. It also noted that the question of the sustainability of requested catch limits had not been controversial for any hunt since 2009 due to the successful work of the Scientific Committee in the development of *Strike Limit Algorithms (SLAs)*.

It was noted that while there is broad support for ASW within the Commission, catch limits have not all been agreed by consensus since 2002, mainly due to differences of opinion in relation to aspects of need. The existence of a subsistence need for whaling was confirmed in all the present five ASW communities today (Alaska, Makah, Greenland, Chukotka and Bequia). The IWC has agreed that needs have nutritional, social, economic and cultural aspects and it was emphasised at the Workshop that great diversity exists among ASW communities. The Workshop acknowledged that it is the responsibility of governments concerned to determine need and to present information to the Commission about such needs.

The Workshop recognised the difficulty of formally quantifying needs given the nature of the elements involved (cultural and nutritional) some of which are qualitative. It was agreed that there is no single way to calculate need given the diversity of the communities concerned and the factors involved. The Workshop agreed that ASW need does not exist only 'upon proof'. It was also emphasised that ASW cultures change in response to internal and external circumstances (e.g. climate, socio-economic and technical development and political priorities), and that this does not negate or diminish their status. With respect to technology, it can bring benefits in terms of more efficient and safer hunts.

A key component of the Workshop was to consider the dimension of international law. Invited legal experts informed the Workshop that over the past two decades, a growing body of norms protecting and promoting the

human rights of indigenous peoples has been developed internationally, including the right to development and self-determination.

The Workshop emphasised that the IWC should keep up-to-date with these important and ongoing developments in international law. More specifically, the IWC should reflect on the specific status and rights of indigenous peoples in the application and interpretation of the ASW framework under the ICRW and align its practice with what Contracting Governments have committed to with respect to the advancement and implementation of such rights elsewhere in the international system.

A number of proposals¹ for the Commission's consideration can be found in the report based on international experience in other fora. This includes tasking the Secretariat to establish international contacts, and giving a stronger voice to ASW communities themselves at the IWC. It was felt by the experts that an increased focus on this would help the IWC overcome its difficulties when deciding on catch limit proposals and contribute to depoliticising decision making.

Hundahl was pleased to note that in light of the report, the Bureau had agreed to improve the focus on this matter by agreeing that an invited expert would attend the Commission meeting (see Item 3.3 below).

The Workshop recognised that no formal general guidelines exist for information on need and that a previous attempt to develop such guidance was never finalised. The expert Workshop appreciated the extensive information on 'needs' that has been provided over the years. It was therefore recommended that all the available information be compiled and presented on the IWC web site to ease access and present an overview of past information (see Item 3.5 below).

The Workshop agreed that there was no need to repeat information in extensive need statements, and that additional information be provided only when new information is needed or changes to catch limits are envisaged. Emphasis was placed on allowing the necessary flexibility given the large variety of hunts, while at the same time ensuring a basis for the Commission to reach a decision on catch/strike limits. To underline this, the Workshop also recommended that the expression 'need statement' be replaced by 'description of needs relating to catch limit requests'.

The Workshop also provided some advice on improvements to the process of the IWC receiving catch limit requests, discussing them and approving catch limits.

It agreed that an early dialogue among stakeholders is essential in relation to catch limits proposals. It was noted that the IWC offers little assistance in this regard and that it was left to the governments concerned. It was recommended that consideration of catch limits renewal be initiated earlier than at present, and no later than the year before the present quotas are to be renewed. A transparent and open early dialogue was encouraged to ensure a fair process and a no surprises policy.

To achieve this, the Workshop developed a time table (Table 2 in the report and appended to this report) for consideration by the Commission and this sub-committee. Hundahl also noted that it was the view of the Workshop that any potential conflict between ASW and whale watching on the same population was largely a political issue suited for bilateral consultation of governments concerned.

The Workshop encouraged Governments to stay committed to an improved process and ensure early follow up to enhance the efficiency of ASW management, including assigning priority to discussions of this sub-committee.

In conclusion, she noted that this was the first IWC expert workshop on this issue held in more than 30 years. The IWC has gained important experience since then and the world outside the IWC has developed. The Workshop was very well attended by all major groupings, the Chair and Vice-Chair of the Commission, the Chair of this sub-committee, observers and ASW communities; all expressed a commitment to ensuring a more efficient management.

On behalf of the Sub-committee, the Chair thanked Hundahl for summarising the Workshop report. He also thanked Prof. Fernholm for his excellent chairing of the Workshop, the whole Steering Committee for its dedicated work to ensure a valuable and stimulating Workshop in the beautiful venue of Maniitsoq and the Governments of Denmark, Switzerland and the USA for their voluntary contributions that made the workshop possible. Discussion of the Workshop report can be found under Item 3.4.

¹ The full conclusions and recommendations of the Workshop are provided in Appendix 4, along with a minority statement made at the Workshop.

3.3 Invited Speaker on Indigenous People's Rights

At the request of the Chair of the ASW Sub-committee and the Chair of the ASW working group, Dr Dalee Dorough, who had attended the Workshop as an invited expert, was asked to give a short presentation. She is an Expert Member of the United Nations Permanent Forum on Indigenous Issues and is Associate Professor at the Department of Political Science at the University of Alaska.

Dr Dorough addressed the international human rights law developments specifically concerning Indigenous peoples. Her presentation introduced the central objectives of international human rights law, including the obligations of Governments to act in certain ways and to refrain from certain acts to promote and protect human rights and fundamental freedoms of individuals or groups, consistent with the purposes and principles of the UN Charter. She noted the interrelated, interdependent and indivisible nature of human rights and referenced the International Bill of Human Rights [UDHR, ICCPR and the ICESCR] and noted that since 1948 the UN has adopted some 80 human rights instruments, including the UN Declaration on the Rights of Indigenous Peoples [2007].

She stressed that the fundamental objective of each of the human rights instruments specifically concerning Indigenous peoples has been to embrace the unique cultural context of Indigenous Peoples and to outline state responsibilities in relation to the survival of Indigenous Peoples as distinct peoples, particularly with respect to the two international instruments, the UN Declaration and the International Labor Organization Convention No. 169, and the new regional OAS Declaration on the Rights of Indigenous Peoples.

Regarding each of the three instruments, she identified major highlights leading to finalization of the UN Declaration and its status as a pivotal UN international human rights instrument in favour of Indigenous Peoples. She emphasized that each instrument must be read in context and consistent with the interrelated nature of the human rights affirmed in each instrument. This was followed by examples of provisions that highlight Indigenous Peoples' right to self-determination, the profound relationship of Indigenous Peoples to their lands, territories and resources; the right to determine their own priorities for development; the right to pursue their own economic activities related to subsistence and the legitimate, traditional economies of Indigenous Peoples and their reliance upon marine resources, including whaling. She also emphasized Article 41 of the UN Declaration, which calls upon "other intergovernmental organizations shall contribute to the full realisation of the provisions of this Declaration", including the IWC as a significant inter-governmental organisation.

This substantive part of the presentation was followed by a brief description of all the Indigenous-specific mandates established by the UN intent upon ensuring the continuing role of Indigenous Peoples within the UN, including the Voluntary Fund, the Permanent Forum on Indigenous Issues, the Special Rapporteur and the Expert Mechanism. In addition, a quick survey of the other significant developments affirming the rights of Indigenous peoples by other intergovernmental fora, e.g. IUCN's rights based approach; FAO; IFAD; and others.

She concluded by noting that these actions reflect extraordinary progressive development of international law and that numerous other standards have been developed or are emerging in relevant international fora nearly every day, including jurisprudence at the local, national and international levels that is also contributing to greater understanding of the content of Indigenous human rights. She concluded by drawing attention to the International Law Association's work on the UN Declaration and urging the IWC to substantively integrate international Indigenous human rights norms into the work of the IWC because they reflect the "minimum standards" necessary for the survival, well-being and dignity of Indigenous peoples as well as the clear, corresponding State responsibilities and obligations.

On behalf of the Sub-committee, the Chair thanked Dr Dorough for her excellent presentation and for taking the time to travel such a long distance to assist and inform the IWC. Discussion of her presentation and related issues occurs under Item 3.4.

3.4 Discussion and Recommendations (including work plan)

3.4.1 Discussion

There was considerable discussion of the Maniitsoq report and its recommendations.

Discussion of the work described under Items 3.1-3.3 began with the presentation by Dr Dorough.

Argentina thanked Dr Dorough and noted its strong support for Indigenous peoples' rights. For Argentina, Aboriginal Subsistence Whaling is the recognition, within the IWC, of indigenous people's rights to their means of subsistence. It asked for her advice on competing rights, noting that in this context, whales are a shared resource and the rights of other indigenous communities also have to be considered and respected, as stated in Article 46; for example, those that consider whales as a sacred animal, or use them in some other non-lethal way such as

whalewatching. They believe that establishment of procedures to grant ASW quotas also helps to secure and grant the rights of other indigenous communities for this shared resource.

Noting Article 46(2) of the *UN Declaration* and the rights of others, Dr. Dorough acknowledged the support for Indigenous peoples and their human rights and then explained that no right is absolute; that there is a constant tension between all competing rights and interests. However, Article 46(2) sets out strict criteria necessary for any 'limitation' and she noted that such criteria must be met by governments as well as the fact that greater weight must be given to rights affirmed in the UN Declaration. Thus first and foremost, governments must be responsive to the rights of Indigenous Peoples as beneficiaries and short of a hierarchy of rights, the spirit and intent as well as the rights affirmed in the UN Declaration must be respected and recognised.

Austria also thanked Dr Dorough and requested additional information on the definition of Indigenous peoples. Dr. Dorough stated that there is no formal, official definition of the term *Indigenous Peoples*. However, the UN has adopted a working definition of the term that contains some objective criteria, including the historical continuity of such peoples with pre-invasion and pre-colonial societies that developed on their territories; consider themselves distinct from other sectors of society; determined to preserve, develop and transmit to future generations their ancestral territories and their identity as Indigenous peoples as well as other similar criteria.

The Russian Federation underlined aboriginal rights to harvest and expressed doubt about the point raised by Argentina and underlined that the response provided by Dr. Dorough answered the question.

The USA noted that it is home to over two million Native Americans and it is committed to promoting and protecting the collective rights of indigenous peoples as well as the human rights of all individuals. It welcomed the participation of Dr. Dorough and acknowledged her perspectives. Her presentation reminded the Commission that governments have collectively recognised the subsistence rights of indigenous peoples and that the Commission must take this into account in its work. Such rights are directly relevant to the Commission's management of aboriginal subsistence whaling. It reiterated the Workshop view that indigenous cultures can and will change without this negating or diminishing their status or rights (for example Arctic environmental changes mean that communities there have no choice but to change).

The Kingdom of Denmark thanked all involved for the workshop in Maniitsoq and Dr Dorough for her presentation. It hoped that both these excellent initiatives will make an important difference to the way ASW issues are discussed in the IWC. It noted the Government of Greenland's policy on the blue economy and to further increase focus on food security and self-sufficiency, including marine mammals.

It also noted the need for the ASW Sub-committee and the Commission to work in a transparent manner through a consistent and long term approach. To achieve this two issues were highlighted: (1) the importance to keep momentum going from the workshop and the need for dialogue amongst delegations to address the unresolved ASW issues identified in 2011; and (2) the importance of taking in to account UN instruments in consideration of the unresolved issues, especially related to Indigenous peoples rights to develop their own society in their own premises, considering that Inuit are part of the modern world.

The Sub-committee **agreed** that it would be valuable for Dr Dorough to give a presentation to the Commission Plenary and she kindly agreed.

In response to questions by Chile on the timeline and process described in Table 2, it was noted:

(a) the discussion of a possible 7-year block in 2018 was in response to possible complications arising out of the short time between the end of the Commission meeting and the start of the new hunting season as explained in the footnote to the Table; and

(b) one objective of developing the process and timeline provided in the table was to avoid the unfortunate circumstance that occurred in 2012 when catch limits were not adopted for the Greenlandic hunt. The text (Table 2 stage 16) referred to the possibility of alternative proposals being discussed before closing the meeting (as has occurred in the past) such that every effort to agree catch limits was explored.

Chile noted that the issue of what should happen if no proposal obtained a $\frac{3}{4}$ majority was important. This was not discussed at the Workshop. It also suggested that the footnote to Table 2 be deleted.

Argentina referred to the issue it had raised at the Maniitsoq workshop with respect to the change in wording in the definition of subsistence use from '*each whale*' in 1979 to '*such whales*' in the definition adopted by the Commission in 2004 within the definition of subsistence use. It believed that this change, which arose from the adoption of the report of a small working group, should be revisited as it did not believe that the Commission had understood the implications of this change. Other delegations believed that this was unnecessary. They believed that the Commission had approved and adopted the work of the small working group in the normal manner by consensus. They believed that the definition was appropriate and reflected the nature of subsistence use in an

appropriate manner and reflected, in particular, the situation in countries with isolated communities and long coastlines.

Several delegations expressed their thanks to the organisers and participants of the Workshop for an important and comprehensive report. They believed that it provided a good platform on which to base future discussions. They noted that it provided a number of useful recommendations, including on improvements to procedures, taking into account the Commission's biennial cycle, making it easier and more transparent for the Commission when agreeing ASW quotas. This includes aligning the timetable with the biennial meeting cycle. They also noted that a number of the recommendations in the report have important, legal, financial and procedural implications. All of the recommendations should be considered carefully by the Commission and it may be that some should be considered intersessionally before final decisions or full endorsement is given.

Argentina reiterated the statement Iñiguez had made at the Workshop that 'the report and its recommendations raised legal implications that need to be considered very carefully by the Government of Argentina and the rest of the members of the Buenos Aires Group. He also considered that the report contained recommendations that are beyond the mandate of the IWC. For the reasons expressed, he is unable to join the consensus.'

The USA noted that the Workshop resulted in a series of recommendations for the IWC to consider, which can be broadly separated into two categories: those where action should be considered and those where action should be undertaken. The first group is mainly comprised of recommendations regarding consideration of the rights of indigenous peoples, and improved communication with the UN Permanent Forum on Indigenous Issues and/or the UN Inter-Agency Support Group on Indigenous Issues. The USA supports such action. Regarding the second group of recommendations, the USA highlighted especially those related to changing the name of need statements, the draft outline for the provision of such information and the development of an improved timeline and process. These will increase the transparency and effectiveness of the Commission in its decision-making and contribute to a 'no-surprises' culture. The USA would like to see such a process adopted at IWC66 so that it can be applied during the 2018 catch limit renewal.

With respect to the ASWWG, the USA thanked its Chair for his outstanding leadership and the ASWWG for the progress it has made on difficult issues. However, it noted that more work needs to be done. The USA will continue to participate in the Working Group to its projected end in 2018.

After the Governments had had the opportunity to comment, the Chair opened the floor to the representative of NAMMCO who wished to speak on this issue and who had attended the Maniitsoq workshop. She congratulated the IWC for an important and interesting meeting and the bringing together of experts from outside the traditional 'marine mammal world'.

She noted that NAMMCO's focus is on the right to sustainable and responsible use of marine mammals and that it does not distinguish between indigenous or other hunts, only sustainability. She highlighted two issues from the workshop:

- (1) that indigenous people have substantial rights embedded in customary international law - denying quotas and insisting on need statements was seen as being in violation of these internationally acknowledged rights and instruments; and
- (2) culture and society is not static and fixed in time but changes due to external factors (e.g. climate, politics, and economics - Indigenous people's societies have a right to develop and change without this affecting their status or rights.

She commented that matters of the level of cash and monetary transactions are irrelevant with respect to the status of indigenousness. She concluded by emphasising the importance of the Workshop in including the world outside the IWC especially with respect to internationally recognised Indigenous people's rights. Incorporation of these should streamline ASW quota approval where NAMMCO's view is that the essential and determining question should be sustainability of hunts.

The ASW sub-committee then heard a statement on behalf of the AEW (Alaska Eskimo Whaling Commission) made by John Hopson, its Vice Chairman. He provided information on the extremely difficult environmental conditions in northern Alaska and the isolation of the villages and the enormous distances involved. He noted the unique traditions and practices of each of the 11 whaling villages and the common appreciation of the ocean and the great contribution of marine mammals to the diet, with the whales being the greatest single resource. The average landings of (one whale can yield between 12 and 20 tons of food and the average annual catch since 1977 has been about 42 whales). He stressed the enormous benefit this provides to the community, the responsibility of the whaling Captains and the sharing of the whale amongst the communities; the whale is key to food security. He emphasised that despite the great changes caused throughout history both by commercial whaling and now climate change, the Inupiat and Siberian Yupik people remain the people of the whale. It is at the heart of the

political, cultural and social organisation of the communities as well as their nutritional and psychological health. He emphasised the healthy status of the bowhead whale population, numbering around 17,000 and growing at over 3% per year. He explained the stress caused since 1977 by the threat that the IWC may reduce or halt the hunt – a threat that may be repeated in 2018. He concluded by asking where else in the world were a people subject to this kind of ongoing political threat and where else would this not be considered a shocking violation of the basic human right to food and self-determination?

The NGO Centro de Conservacion Cetacea noted that 50 Latin American NGOs had signed a statement supporting indigenous rights but believing that the terms of reference for the Workshop were too restrictive as they focussed virtually exclusively on that issue. They urged that the Workshop report should therefore be rejected.

3.4.2 Conclusions

In light of the discussions above the ASW sub-committee **commends** the report of the Expert Workshop on Aboriginal Subsistence Whaling (IWC/66/ASW Rep01) as an important component of the IWC's efforts to improve the way in which it considers aboriginal subsistence whaling, noting also its minority statement. It **agrees** to forward the recommendations from the Workshop (see Appendix 4) for further consideration by the Commission, recognising that some have important, legal, financial and procedural implications and noting the points raised in the discussion above. Given those implications, it may be that some of the recommendations should be considered intersessionally before final decisions or full endorsement is given. At a more specific level, the Sub-committee noted:

- (a) that the presence of Dr Dorrough is in part a response to recommendation (1) of the Workshop and a commitment to ensuring consistency of ASW management with indigenous peoples' rights under international law;
- (b) that it **endorsed** the change of name from 'need statements' to 'Description on the [insert name] hunt relevant to catch/strike limit requests' in light of recommendation (8) and refers to discussion under Item 3.5 below with respect to the outline for such statements and use of the IWC website;
- (c) that the value of a process such as that in Table 2 (see Appendix 4) is emphasised (see recommendation 9 of the workshop); and
- (d) as discussed under Item 7 below, it strongly **encourages** IWC member states and interested organisations to contribute to the fund established at IWC/65 (see recommendation 10 of the Workshop).

The Chair noted that the recommendations from the Workshop should also be considered when developing a draft workplan for the ASW sub-committee and the ASWWG for the next biennial period.

The ASW Sub-Committee also **recommends** that the ASWWG continues its valuable work prior to the 2018 Biennial Meeting of the Commission and it thanks Dr Tillman for agreeing to continue to lead this working group.

3.5 Progress with the ASW section of the IWC website

Donovan reported on his work to provide a 'dummy' new section on the ASW section of the IWC website. This was undertaken at the request of the Chairs of the ASW sub-committee and the ASWWG and based upon the suggestions made in IWC/66/ASW Rep01. The focus was on descriptions of the hunt. He demonstrated the work undertaken thus far. He had chosen the Greenlandic hunts as an example, recognising that as a multispecies hunt it was the most complex. The text was based upon the most recent documents produced by the Kingdom of Denmark. An introductory page explains the background to the sections on the descriptions of the hunts. It notes that it provides a summary of the most recent documentation on the hunts and includes a link to all of the relevant documentation submitted over the years. The information is presented under several broad headings with a page for each. It is recognised that different local circumstances mean that the nature of the information by hunt may be different. The broad headings are:

- Introduction;
- Information on recent catches;
- Information on the history, culture and nutritional significance of the hunts;
- Information on hunting methods;
- The most recent IWC Scientific Committee advice on the status of the whale populations;
- Information on international and national regulations.

The dummy website is consistent with the overall IWC website in style and makes use of text, graphics and photographs and links to the IWC document archives. The intention is that it is updated when new information becomes available. Donovan asked members of the ASW Sub-committee to provide any suggestions and

comments they had and indicated his willingness to continue the work for the other hunts in consultation with the relevant Governments and hunters and the ASWWG.

The Kingdom of Denmark commented that they will assist in the work of forming the webpage on ASW, which they found timely and in conjunction with continuing dialogue and improved communication.

The Sub-committee thanked Donovan for his good work thus far which, when complete, will provide a valuable resource. It agreed that he should continue his work for the other hunts in consultation with the relevant Governments and hunters and the ASWWG.

4. ABORIGINAL SUBSISTENCE WHALING MANAGEMENT PROCEDURE

In 2014, through Resolution 2014-4, the Commission emphasised the need to regulate ASW in the future through a more consistent and long term approach. This Resolution *inter alia* requested the Scientific Committee to give high priority to all AWMP-related activities.

Donovan, the Chair of the Scientific Committee’s SWG on the AWMP (hereafter the Chair of the SWG) reported on the two years of work undertaken by the Committee on this topic (IWC/66/Rep1(2015)²: and IWC/65/Rep1(2016)). The Committee has continued to give high priority to ASW related work and the focus was twofold: (1) continue to work on developing SLAs for the remaining Greenland hunts; and (2) progress work on finalising the scientific aspects of the Aboriginal Subsistence Whaling Scheme.

In 2008, the Committee developed and the Commission endorsed, a safe ‘interim’ approach to providing advice on Greenland hunts that is valid for up to two quota blocks. It is thus working to finalise long-term *Strike Limit Algorithms (SLAs)* for all of the Greenlandic hunts in time for the Commission’s 2018 Biennial Meeting.

A summary of the status of the Committee’s work and the future workplan is given in Table 1.

Hunt	Year SLA developed	Next Implementation Review
Alaskan bowhead	2000	Start 2017
Chukotka gray	2001	Start 2018
Makah gray	2011	Start 2018
West Greenland humpback	2014	Start 2020
West Greenland bowhead	2015	Start 2022
West Greenland fin	2017	2023 estimated
West Greenland/East Greenland common minke	2017/18	2024 estimated
Greenland multispecies	2018/19 estimated	n/a

Before discussing the details of the work, he reiterated the Scientific Committee’s view that the AWMP (and RMP) approach is of broad relevance to the work of the Committee when examining status and the effects of human-related mortality. The modelling framework and approach to dealing with uncertainty is of wide application, for example when assessing the effects of bycatch in fishing gear or ship strikes (see Item 7 in both reports) and the rangewide assessment of gray whales (Item 9.2 in SC/66a and Item 9.1.3 in SC/66b).

4.1 Progress with *Strike Limit Algorithms* for Greenland Subsistence Whaling [Item 8.1 in SC66a and SC66b]

4.1.1 Report of the Scientific Committee

WEST GREENLAND BOWHEAD WHALE HUNT

As can be seen in Table 1 of this report, the Scientific Committee completed the *WG-Bowhead SLA* at its 2015 meeting, thanks to considerable work from two teams of developers and intersessional workshops. The Committee recommended the *WG-Bowhead SLA* to the Commission as the best approach to providing long-term management advice for the Greenland hunt. It also recommended that information on Canadian catches be an important component of the 2021 *Implementation Review*. A new abundance estimate of bowhead whales that included Canadian waters will be discussed at the 2017 meeting.

WEST GREENLAND FIN WHALE HUNT

The Chair of the SWG reported that the Scientific Committee agreed in 2015 that from a conservation perspective, it was acceptable to try to develop an *SLA* for this hunt on the assumption that the animals off West Greenland comprised a single population represented by the abundance estimates from that area. While computationally simpler, in doing so, the Committee recognised that this will make achieving need satisfaction more difficult. The Committee made good progress at an intersessional workshop and, in reviewing results at the 2016 Scientific

² Published as *J. Cetacean Res. Manage (Suppl.)* 17 [2016].

Committee meeting, it agreed additional sensitivity analyses are required on effects of changes to the specifications of the trials before it is possible to recommend an *SLA*. The Committee advised the Commission that its intersessional workplan, including an intersessional workshop, should allow it to recommend a West Greenland fin whale *SLA* at the Committee's 2017 Annual Meeting.

COMMON MINKE WHALE HUNTS OFF GREENLAND

As reported to previous ASW sub-committee meetings, the Chair of the SWG noted that the development of an *SLA* for the common minke whale hunts off West and East Greenland is the most complex of those required for Greenland. It has been agreed that the basis of the development approach should be the RMP operating model for the entire North Atlantic. That *Implementation Review* should be completed in late 2016 and it will be followed immediately by an AWMP workshop to work on the Greenland issues.

The Scientific Committee advised the Commission that its intersessional workplan should allow it to recommend an *SLA* for common minke whales off Greenland by its 2018 Annual Meeting, in advance of the Commission's 2018 biennial meeting at which new aboriginal subsistence whaling limits will be considered.

The Chair of the SWG concluded by noting that the Scientific Committee has stated in the past that it would be unable to consider the provision of flexible multispecies advice until completion of the individual *SLAs* – that remains the case.

4.1.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee, thanked it and **endorsed** its recommendations. It looks forward to receiving the results of this work in advance of the 2018 Annual Meeting.

4.2 Implementation Reviews

4.2.1 Report of the Scientific Committee

Although *SLAs* are designed to generate long term advice, the Scientific Committee has established the need for regular (every 5-6 years) *Implementation Reviews* to review new information and to determine whether any additional scenarios need to be tested. Depending on the new information, the reviews can be accomplished in a single meeting or take up to 3 years if major new trials need to be developed. Table 1 summarises the draft timetable for such reviews. The next review is for the Bering-Chukchi-Beaufort Seas stock of bowhead whales which will start in 2017. The *Implementation Review* for gray whales will occur when the rangewide review is completed. It is anticipated that will begin in 2018.

4.2.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

5. ABORIGINAL WHALING SCHEME (AWS)

5.1 Report of the Scientific Committee. See Item 8.2 of IWC/66/Rep01 (2016)

The purpose of the Aboriginal Whaling Scheme is to manage several common practical issues related to the implementation of individual *SLAs* including interim allowance strategies (formally grace periods), survey intervals, carry over, data collection etc. The Commission has agreed that the AWS is intended to be a generic and overarching policy that, whilst recognising the differences amongst hunts, as far as possible, applies equally to all aboriginal hunting regimes managed by the IWC.

The Scientific Committee views the Scheme as constituting an important and necessary component of safe management. Its original recommendation on this was made in 2003 but was not adopted by the Commission, primarily as a result of its 'grace period' provision on how to provide advice if an abundance estimate was not available after 10 years. Subsequently, the Committee has developed several additional *Strike Limit Algorithms*, established its Data Availability Agreement (IWC, 2004), considered further additional issues such as survey intervals, and developed greater experience with all aspects of the AWMP.

Beginning in 2015, the Committee has begun to review the provisions of the AWS with a view to presenting the Commission with an updated recommendation before 2018. A key step was the investigation of the performance of an alternative to the 2003 '50% allowance' grace period approach. The alternative (the 'interim allowance' strategy), involved setting the quota for one additional block at the level indicated by the *SLA*.

In 2016, the Committee agreed that the performance of the 'interim allowance strategy' tested using the *Bowhead SLA* and thus applicable to the B-C-B bowhead whale hunt is acceptable and can be recommended. It recommended that the same approach is used to test the strategy for the other hunts with a view to developing, if possible, a single 'interim allowance strategy' by its 2018 meeting as part of an updated ASW proposal (see

below). The strategy is intended only to be applied in the unlikely event that exceptional unforeseen circumstances delayed obtaining an agreed abundance estimate beyond the end of the second quota block. It should not be interpreted as a routine approach for extending quotas for a third block without a concerted effort to obtain a successful survey prior to then.

Further, the Committee agreed that from a conservation perspective, either immediate updating of *SLA* calculations when a new abundance estimate is accepted or waiting until the grace period expires are both acceptable. For the former, the number of strikes taken thus far during the grace period should be subtracted from the updated quota, with the remainder being the strike limit for the rest of the grace period.

The Committee also began its review of the remaining components of the proposed AWS.

The Committee advised the Commission that its intersessional workplan should allow it to develop a revised ASW proposal, including if possible, a single 'interim allowance strategy' for all hunts by the 2018 Scientific Committee meeting, in advance of the Commission's 2018 biennial meeting at which new aboriginal subsistence whaling limits will be considered. Other aspects to be covered will include carryover provisions within and between blocks. Carryover reflects the fact that harsh environmental conditions can lead to failed or reduced harvest levels. In the years following a reduced harvest, communities seek to regain lost food supply through increased hunting effort. The Committee will follow the previous Commission advice that:

an inter-annual variation of fifty percent is satisfactory in terms of allowing for the likely variability in hunting conditions. It therefore agreed that these values are appropriate for use in trials. It was recognised that this does not commit the Commission to these values in any final aboriginal whaling management procedure.

The Committee advised the Commission that it will review and provide advice on carryover provisions before the 2018 Commission meeting, and ideally in 2017.

The Committee emphasised that AWS provisions are one of the last major remaining components of a comprehensive aboriginal subsistence whaling management framework first requested by the Commission in 1994 and developed with an enormous expenditure of scientific effort and resources over the last two decades. The Commission has agreed that the AWS is a key component of this framework. Accordingly, in consultation with the Commission and its ASW sub-committee, as well as hunters and other stakeholders, the Committee intends to develop recommendations (taking into account the potential principles and approaches given in IWC/66/Rep1 (2016) Annex E) for the scientific components and aspects of an AWS. Ideally, the scientific components of the work will be completed during the 2017 Scientific Committee meeting i.e. well in advance of the 2018 Commission meeting when new aboriginal whaling limits are due to be established.

5.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

6. ABORIGINAL SUBSISTENCE WHALING CATCH LIMITS

For all concerned stocks the Committee made a number of recommendations on intensifying and enlarging collaborative efforts among scientists (e.g. collecting genetic and biological samples, exchanging photo-id data) and relevant Authorities of concerned countries.

6.1 Bering-Chukchi-Beaufort Seas stock of bowhead whales (annual review)

6.1.1 Report of the Scientific Committee. See Item 9.2, IWC/66/Rep01 (2016)

The Committee endorsed the 2011 abundance estimate of 16,820 (95% confidence interval of 15,176-18,643) for the BCB stock of bowhead whales, with an estimated annual rate of population increase of 3.7% (2.9% - 4.6%).

To complement the ongoing aerial survey photo-identification programme, the Committee **recommended** that the US authorities arrange for photographs be taken of landed bowhead whales for inclusion in the photo-identification catalogue.

The Committee reiterated that the *Bowhead SLA* continues to be the most appropriate way for the Committee to provide management advice for this population. The Commission adopted catch limits for a six-year block in 2012, i.e., 2013-18. The total number of whales landed shall not exceed 336 and the number of annual strikes shall not exceed 67; however, there is a carryover provision that allows for any unused portion of a strike quota from past years be carried forward to future years provided that no more than 15 strikes be added for any one year. The Committee advised that based upon the *Bowhead SLA*, these limits will not harm the stock.

6.1.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations. The USA noted that it would address the recommendation regarding photographs, as possible.

6.2 North Pacific Eastern stock of gray whales (annual review)

6.2.1 Report of the Scientific Committee. See Item 9.1, IWC/66/Rep01 (2016)

SC/66b/BRG15, relating to the aboriginal need for Chukotka was not discussed by the Scientific Committee, being most relevant to Commission discussions. The Committee requested that this paper be considered by the Commission's aboriginal subsistence whaling sub-committee at its 2016 meeting.

Concerning the so-called 'stinky whales', the Committee advised that from a conservation perspective, it is the number of strikes (i.e. actual or potential removals) that is relevant not whether the whales are inedible. However, it recognised that from a user perspective (and the Russian Federation's), as stinky whales are inedible they do not contribute to meeting need. The Committee noted that there are a number of potential ways to take stinky whales into account using the *Gray Whale SLA* - e.g. the *SLA* could be used to evaluate a proposed increased number of strikes per block based upon either an average of the number of inedible gray whales over recent years or an assumed percentage. How such an allowance may ultimately be expressed in the Schedule is a matter for the Commission. The Committee is willing to assist on any scientific aspects of this issue.

The Committee reiterated that the *Gray Whale SLA* remains the appropriate tool to provide management advice for eastern North Pacific gray whales. It also reiterated that the proposed Makah whaling management plan remains the appropriate tool to provide management advice for hunts in Washington State, USA provided that a research programme monitors the relative probability of harvesting a PCFG whale in the Makah usual and accustomed fishing grounds (IWC, 2014c). The Committee advised that the present block quota will not harm the stock.

6.2.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

6.2.3 Consideration of the issue of 'stinky' whales

The Russian Federation presented IWC/66/ASW03 which summarised the long history of its concerns over inedible 'stinky' whales with respect to meeting the needs of the Chukotkan communities. The document noted the view of the Russian Federation that such animals should not count against its quota. It also noted the healthy status of the eastern population of gray whales and the existence of the *Gray Whale SLA*. The Russian Federation stressed that this important issue must be resolved prior to the discussion of catch limits at the 2018 Annual Meeting and suggested that the Scientific Committee should be asked to provide advice on the definition of stinky whales and the effects of allowing for such catches.

In discussion, it was noted that (a) definitions must be pragmatic, (b) requests to the Scientific Committee must be as specific as possible and (c) early consideration must be given to how any modifications might be incorporated into the Schedule.

Given this, the Chair formed a small working group (Morishita, Donovan, Ilyashenko and DeMaster) to consider this issue further with a view to presenting a proposal for further work to the Commission.

6.3 Common minke whale stocks off Greenland (annual review)

6.3.1 Report of the Scientific Committee. See Items 9.3 and 9.4, IWC/66/Rep01 (2016)

WEST GREENLAND [ITEM 9.3 IN SC/66B]

The Committee welcomed work to date and encouraged the continued collection of samples of common minke whales landed in West Greenland and the collaborative approach to analyses. In particular, it noted the importance of comparative analyses with Canadian samples.

The Committee reiterated that the agreed interim approach (IWC, 2009c) remains the appropriate tool to provide management advice for common minke whales off West Greenland up to 2018. Using the agreed interim approach and the agreed abundance estimate of 16,100 (CV=0.43) for 2007, the Committee advised that an annual strike limit of 164 will not harm the stock.

EAST GREENLAND [ITEM 9.4 IN SC/66B]

The Committee welcomed work to date and encouraged the continued collection of samples of common minke whales landed in East Greenland and a collaborative approach to analyses.

The Committee noted that catches of minke whales off East Greenland are believed to come from the large Central stock of minke whales. The most recent strike limit of 12 represents a very small proportion of the Central stock (IWC, 2016i, p.189). The Committee repeated its advice that the annual strike limit of 12 will not harm the stock.

6.3.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

6.4 West Greenland fin whales

6.4.1 Report of the Scientific Committee. See Item 9.5, IWC/66/Rep01 (2016)

The Committee welcomed work to date and encouraged the continued collection of samples of fin whales landed in West Greenland and a collaborative approach to analyses.

The Committee reiterated that the agreed interim approach (IWC, 2009c) remains the appropriate tool to provide management advice for fin whales off West Greenland up to 2018. Using the agreed interim approach and the agreed abundance estimate of 4,500 (95% CI 1,900-10,100) for 2007, the Committee advised that an annual strike limit of 19 will not harm the stock.

6.4.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

6.5 West Greenland bowhead whales

6.5.1 Information from the Government of Canada. See Item 9.7, IWC/66/Rep01 (2016)

The Secretariat informed that the Government of Canada had submitted information that two whales were caught in 2014 and one 2015. One animal was struck-and-lost in 2015.

6.5.2 Report of the Scientific Committee. See Item 9.7, IWC/66/Rep01 (2016)

The Committee recommended continuation of the Greenland bowhead whale biopsy programme and encouraged continued collaboration with Canada on genetic and other work related to stock structure and abundance of bowhead whales. It agreed that a Canadian scientist involved in the estimation of abundance should be invited to the next Annual Meeting with a view to reviewing and endorsing new abundance estimates.

The Committee reiterated that the agreed *WG-Bowhead SLA* (IWC, 2016j) remains the appropriate tool to provide management advice for bowhead whales off West Greenland. Using this, Committee **advised** that an annual strike limit of 2 will not harm the stock. Information on Canadian catches and new abundance estimates will be considered at the next *Implementation Review* in around 2022.

6.5.3 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

6.6 Humpback whales off West Greenland.

6.6.1 Report of the Scientific Committee. See Item 9.6, IWC/66/Rep01(2016)

The Committee noted that bycaught whales had been included in the scenarios for the development of the *Humpback SLA*. If high levels continued, then this would need to be taken into account in any *Implementation Review* (the next is expected in 2020). The Committee recognised the IWC efforts with respect to disentanglement and prevention and welcomed the news that the Greenland authorities have committed to IWC disentanglement training that occurred last June.

The Committee reiterated that the agreed *Humpback SLA* (IWC, 2015b) remains the appropriate tool to provide management advice for humpback whales off West Greenland. Using this, Committee advised that an annual strike limit of 10 will not harm the stock.

6.6.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

6.7 North Atlantic humpback whales off St. Vincent and The Grenadines

6.7.1 Report of the Scientific Committee. See Item 9.8, IWC/66/Rep01 (2016)

The Committee was informed that one male humpback whale was caught on 4 April 2015 and that skin and/or blubber samples were collected from this whale that will be analysed in collaboration with the USA. No information has been received this year. The Committee strongly encouraged continued tissue sampling and collection of fluke photographs where possible from this region. Data should be shared with the appropriate databases and catalogues for the North Atlantic. It also encouraged St Vincent and The Grenadines to send a scientist to next year's meeting.

The Committee has agreed that the animals found off St Vincent and The Grenadines are part of the large West Indies breeding population (the last agreed abundance estimate was for 1992/93 - 11,570 animals, 95% CI 10,290-13,390). The Commission adopted a total block catch limit of 24 for the period 2013-18 for Bequians of St Vincent and The Grenadines. The Committee **repeated its advice** that this block catch limit will not harm the stock.

However, the Committee expressed **concern** that there is no officially agreed abundance estimate from the more recent MONAH programme that took place in 2004 and 2005. The recent NOAA status review (Bettridge *et al.*, 2015) discusses the programme and provides an estimate of 12,312 (95% CI 8,688-15,954) for 2004/05 but references this as 'NMFS, unpublished data'. Given its importance to the provision of management advice, the Committee **requested** that the USA (NOAA, NMFS) arranges for the provision of a paper to the next meeting that will allow it to properly review this abundance estimate obtained from MONAH and, if appropriate, adopt it as an estimate suitable for providing management advice.

6.7.2 Discussion and Recommendations

The ASW sub-committee **welcomed** the report of the Scientific Committee and **endorsed** its recommendations.

The USA noted the request of the Scientific Committee and agreed to provide a paper to the 2017 Scientific Committee meeting.

7. STATUS OF THE VOLUNTARY FUND

The Secretariat reported that the ASW voluntary fund was established in 2014. Since then, voluntary contributions have kindly been made by Denmark, Switzerland and two contributions from USA. These funds have supported the workshop in Greenland held in September 2015, which was reported under Item 3.2 and to support Dr Dorrough's costs for attending this meeting. The balance on the fund is now zero and additional voluntary contributions are welcomed to support this committee's work.

The USA highlighted the importance of the fund, especially in the context of enabling hunter participation. As also noted under Item 3.1, the ASW Sub-committee echoed this view and strongly **encouraged** Contracting Governments to make contributions to this fund.

8. ADOPTION OF THE REPORT

The report was adopted by correspondence on 22 October 2016.

Appendix 1

LIST OF PARTICIPANTS

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Rapporteurs

Harriet Gillett
Sara Oldfield
Pablo Sinovas
Robert Munroe
Martin Jenkins

Appendix 2

AGENDA

1. INTRODUCTORY ITEMS
 - 1.1. Appointment of Chair
 - 1.2. Appointment of Rapporteur
 - 1.3. Review of Documents
 - 1.4. Observer participation
2. ADOPTION OF AGENDA
3. REPORT OF THE *AD HOC* ABORIGINAL SUBSISTENCE WHALING WORKING GROUP
 - 3.1. Report of the Ad Hoc Aboriginal Subsistence Whaling Working Group
 - 3.2. Report of the Expert Workshop on Aboriginal Subsistence Whaling
 - 3.3. Invited Speaker on Indigenous People's Rights
 - 3.4. Discussion and Recommendations (including work plan)
4. ABORIGINAL SUBSISTENCE WHALING MANAGEMENT PROCEDURE
 - 4.1. Progress with Strike Limit Algorithms for Greenland Subsistence Whaling.
 - 4.1.1. Report of the Scientific Committee. See Item 8.1 of IWC/66/Rep01 (2016)
 - 4.1.2. Discussion and Recommendations
 - 4.2. *Implementation Review* for gray whales
 - 4.2.1. Report of the Scientific Committee. See Item 9.1.3 IWC/66/Rep01(2016)
 - 4.2.2. Discussion and Recommendations
5. ABORIGINAL WHALING SCHEME (AWS)
 - 5.1. Report of the Scientific Committee. See Item 8.2 of IWC/66/Rep01 (2016)
 - 5.2. Discussion and Recommendations
6. ABORIGINAL WHALING SUBSISTENCE CATCH LIMITS
 - 6.1. Bering-Chukchi-Beaufort Seas stock of bowhead whales (annual review)
 - 6.1.1. Report of the Scientific Committee. See Item 9.2, IWC/66/Rep01 (2016)
 - 6.1.2. Discussion and Recommendations
 - 6.2. North Pacific Eastern stock of gray whales (annual review)
 - 6.2.1. Report of the Scientific Committee. See Item 9.1, IWC/66/Rep01 (2016)
 - 6.2.2. Discussion and Recommendations
 - 6.3. Common minke whale stocks off Greenland (annual review)
 - 6.3.1. Report of the Scientific Committee. See Items 9.3 and 9.4, IWC/66/Rep01 (2016)
 - 6.3.2. Discussion and Recommendations
 - 6.4. West Greenland stock of fin whales
 - 6.4.1. Report of the Scientific Committee. See Item 9.5, IWC/66/Rep01 (2016)
 - 6.4.2. Discussion and Recommendations
 - 6.5. West Greenland stock of bowhead whales
 - 6.5.1. Information from the Government of Canada. See Item 9.7, IWC/66/Rep01 (2016)
 - 6.5.2. Report of the Scientific Committee. See Item 9.7, IWC/66/Rep01 (2016)
 - 6.5.3. Discussion and Recommendations
 - 6.6. Humpback whales off West Greenland.
 - 6.6.1. Report of the Scientific Committee. See Item 9.6, IWC/66/Rep01(2016)
 - 6.6.2. Discussion and Recommendations
 - 6.7. North Atlantic humpback whales off St. Vincent and The Grenadines
 - 6.7.1. Report of the Scientific Committee. See Item 9.8, IWC/66/Rep01 (2016)
 - 6.7.2. Discussion and Recommendations
7. STATUS OF THE VOLUNTARY FUND
8. ADOPTION OF THE REPORT

Appendix 3
LIST OF DOCUMENTS

IWC/66/ASW		Agenda item
01	Draft Agenda	
02	List of Documents	
03	Needs of Indigenous People of Chukotka (Russian Federation) in Whaling Products and Possible Questions for the Nearest Future	7.2.1
04	Aboriginal Subsistence Whaling in the Russian Federation in 2014 and 2015	7.4
IWC/66/ASW Rep		
01	Report of the IWC Expert Workshop on Aboriginal Subsistence Whaling (ASW)	3.2
02	2016 Report of the <i>ad hoc</i> Aboriginal Subsistence Whaling Working Group	3.1
Relevant Commission Documents:		
IWC/66/Rep		
01 (2015)	Report of the Scientific Committee Meeting, 2015	4, 5, 6
01 (2016)	Report of the Scientific Committee Meeting, 2016	4, 5, 6
IWC/66/		
17	Short overview of the work of the Scientific Committee at its 2015 and 2016 Annual Meetings	4, 5, 6

Appendix 4

EXTRACT FROM IWC/66/ASWREP01: CONCLUSIONS AND RECOMMENDATIONS

8. CONCLUSIONS AND RECOMMENDATIONS

The Workshop highlighted a number of general conclusions that led to the recommendations below.

(a) It is important for the IWC to integrate the rights of Indigenous peoples into all stages of its discussions of ASW from the provision of information concerning individual hunts with respect to catch/strike limit requests to the consideration of such requests in the Commission, to the participation of Indigenous peoples in its deliberations.

(b) It is also important to recognise that as in all societies, Indigenous cultures can and will change in response to external circumstances including those related to climate, economics, technology and politics. This does not negate or diminish their status or rights. With respect to technology, this can bring benefits in terms of increased efficiency, shorter times-to-death and hunter safety.

(c) There are advantages to both ASW countries and Indigenous peoples concerned, as well as the Commission as a whole, to adopting broad guidance for the provision of information on hunts related to catch/strike limit requests for ASW in terms of improving the IWC's long-term management of ASW and achieving consensus. This guidance must be sufficiently flexible to account for the different circumstances for each hunt.

(d) The use of cash in ASW communities varies from region to region – this is to be expected and reflects the modern world both with respect to costs associated with hunting equipment and whale product distribution methods. It does not imply that ASW in any one community is more or less 'acceptable' than any other.

(e) In improving its approach to long-term management of ASW, it is important that the IWC develops a common understanding of its role and the role of ASW governments and Indigenous peoples concerned. For example, in the context of Indigenous rights and in the light of Resolution 2014-1, it seems it is the responsibility of ASW governments in conjunction with the Indigenous peoples concerned to determine need and to provide the IWC with its rationale (e.g. see Resolution 2014-1).

(f) It is important to engage in exchange of information and dialogue well before the year in which quotas are to be renewed. Transparency and trust must be built amongst all stakeholders.

It was also suggested that it is important for the ASW Sub-committee and its ASWWG to work with those organisations and/or countries who hold different views on ASW than those broadly covered in this Workshop, including the view that it is not appropriate and that alternative sources of food and income should be sought.

Particularly in light of discussions under Item 3, the Workshop **agrees** to the recommendations below, while noting the following **minority statement**: 'Iñiguez (Argentina) stated that the report and its recommendations raised legal implications that need to be considered very carefully by the Government of Argentina and the rest of the members of the Buenos Aires Group. He also considered that the report contained recommendations that are beyond the mandate of the IWC. For the reasons expressed, he is unable to join the consensus.'

(1) The Workshop **recommends** that its Chair bring the Workshop's discussion on the links between the rights of Indigenous peoples and ASW to the next IWC Plenary meeting through the ASW Sub-committee. The IWC as a whole should be informed of the recent developments in the rights of Indigenous peoples and their significance to the interpretation and application of the International Convention on the Regulation of Whaling. Additional outreach and information will be needed to achieve a higher level of understanding among relevant stakeholders; in order to assist in this process, the Workshop **recommends** that the Chair of the Commission and the Secretary, in consultation with the Bureau, give consideration to placing a special item on the significance of Indigenous peoples' rights for ASW on the agenda of the 2016 Commission Plenary meeting of the IWC (IWC-66).

(2) The Workshop **recommends** that member states of the IWC, with the full and effective participation of the Indigenous peoples concerned, consider preparing a statement or resolution for adoption, if possible at the 2016 meeting, recognising the developments in the rights of Indigenous peoples and their relevance to the IWC. Such a document should consider the right of Indigenous peoples to self-determination as well as other civil, social, cultural, political, health, nutritional, economic and spiritual rights of Indigenous peoples and their significance in the context of the IWC. The IWC could also emphasise the importance of co-management regimes between contracting parties and Indigenous peoples consistent with the rights affirmed in the UN Declaration on the Rights of Indigenous Peoples, the ILO Convention No. 169 and other international human rights instruments. The Workshop noted that the invited international law experts would be available to provide input on the rights of Indigenous peoples to assist in the preparation of a statement or draft Resolution.

(3) The Workshop **recommends** that the member states of the IWC should consider commissioning a survey of international Indigenous and general human rights instruments and intersecting international treaties, agreements,

and other arrangements to further elaborate their significance to the work of the IWC in relation to ASW and the incorporation of dimensions distinct to Indigenous peoples (cf. also Article 41 UN Declaration on the Rights of Indigenous Peoples). Such a survey could inform the discussions at the 2016 Commission meeting of the IWC and should, *inter alia*, also include information on the status and role of Indigenous peoples in other international organisations. The Workshop recognised that this may have financial implications for the IWC.

(4) The Workshop **recommends** that the IWC, through its ASW Sub-committee, should consider exploring options concerning how the IWC and its relevant sub-groups could stay better informed of current developments in the field of Indigenous peoples' rights. This might be initiated by inviting an Indigenous rights expert – such as the UN Special Rapporteur on the Rights of Indigenous Peoples – to the next meeting of the IWC or a relevant sub-body, and to future meetings. This may have cost implications.

(5) The Workshop **emphasises** the constant and complex changes all people, including Indigenous peoples, undergo, *inter alia* due to external pressures such as political and economic developments, climate change and other factors affecting the access to natural resources. It **affirms** that this does not affect the status and rights of Indigenous peoples under international law. In this context, the Workshop **draws the attention** of the IWC to the importance of the right of self-identification as part of who is and belongs to Indigenous peoples. These issues are also relevant to the formulation of future guidance on information to include when providing descriptions of ASW hunts and the rationale for ASW catch/strike limit requests, with the full and effective participation of the concerned Indigenous peoples (see Item 6).

(6) The Workshop **recommends** that the IWC considers mechanisms to improve the status of Indigenous delegates to IWC gatherings in order to establish a more timely, distinct and steady approach to ASW issues; such a move could find inspiration in approaches adopted in other organisations such as the 'Permanent Participant status' within the Arctic Council or the distinct status that is reserved for Indigenous peoples within the UN Permanent Forum on Indigenous Issues (PFII).³

(7) The Workshop **recommends** that at the 2016 Commission meeting, the IWC discusses the appointment of an appropriate IWC representative (e.g. one nominated by the ASW Sub-committee for approval by the Commission) to attend a session of the UN Permanent Forum on Indigenous Issues, not only to report on IWC practices regarding ASW, but also to attend the general discussions on Indigenous rights. Consideration should also be given to the ASW/IWC participant organising a side event at the 2017 meeting of the Permanent Forum in order to inform a broader audience about the IWC's work on ASW and its relevance to Indigenous rights. This may have cost implications.

(8) The Workshop **recommends** that the IWC Secretariat should explore the potential benefits of joining the UN Inter-Agency Support Group on Indigenous Issues⁴ by contacting the Chairperson and Secretariat of the UN Permanent Forum on Indigenous Issues. The relevant invited experts are available to assist the IWC Secretariat in preparing this step.

With respect to issues surrounding what have been traditionally termed 'need statements', the Workshop **agrees** on the recommendations below.

(9) The Workshop **recommends** to the ASW Sub-committee and the Commission that the term 'need statement' be replaced by the term 'Description on the [insert name] hunt relevant to catch/strike limit requests'. It also **recommends** that a draft outline be developed by the ASWWG for consideration by the Commission, noting that this takes into account: the need for flexibility; the need to avoid any indication of prescription or compulsion; the need to minimise the effort involved and avoid duplication; and takes into account the discussions on Indigenous rights under Item 3.1.

(10) With respect to Commission review of ASW catch/strike limit requests, the Workshop **recommends** that the ASW Sub-committee reviews the example draft timetable (Table 2, Item 6.3), considers modifications if necessary and submits it for the Commission's consideration.

³ For example, the PFII is an advisory body to the UN's Economic and Social Council with a mandate to discuss Indigenous issues related to economic and social development, culture, the environment, education, health and human rights. PFII members serve in equity with member state representatives to further the PFII mandate within the UN. The PFII consists of 16 members, eight nominated by Indigenous peoples and eight elected by member states. The Arctic Council established the category of "Permanent Participant" to guarantee the direct participation of Arctic Indigenous peoples in all of its work. The Arctic Council website notes that "the Permanent Participants have full consultation rights in connection with the Council's negotiations and decisions. The Permanent Participants represent a unique feature of the Arctic Council, and they make valuable contributions to its activities in all areas."

⁴ c.f. for further information <http://undesadspd.org/IndigenousPeoples/InterAgencySupportGroup.aspx>.

(11) The Workshop **strongly encourages** IWC member states and interested organisations to contribute to the fund established at IWC/65 to provide financial assistance towards achieving compliance with IWC measures identified in Schedule amendments.

Table 2

Summary timetable of some possible options for improving the process described above in the generic sense (i.e. for long-term use beyond 2018). Where there are no changes to catch/strike limit proposals or 'Descriptions of the hunts relevant to ASW catch/strike limit requests' then the amount of work needed under each step may be minimal or the Commission may agree that they are unnecessary. Note that Year 0 is the calendar year a 6-year block comes into effect (i.e. we are in Year 3 in 2015). The Scientific Committee (SC) meets in May or June each year, providing updated annual advice. In Year 6, the SC provides advice on the catch/strike limit requests it receives from ASW countries. The Commission meets in September or October in Years 2, 4 and 6 and normally adopts Schedule amendments in Year 6 although in principle changes may occur at any meeting (e.g. if there is a change in SC advice or if an ASW country requests an amended limit). Reference to ASW Sub-committee includes its ASWWG.

Time	Who	Action
(1) Years 0-6	ASW Contracting Governments and Secretariat	Make 'Descriptions of the hunts relevant to ASW catch/strike limit requests' available through the IWC website throughout the period, amended when/if circumstances and information changes
Year 4		
(2) 2 weeks prior to SC meeting	ASW Contracting Governments	If known, submission of proposed catch numbers to the SC. This is especially important if there is an increase being considered or proposed.
(3) 2 weeks after close of SC meeting	SC and Secretariat	Publication of SC report including advice on sustainability of existing and, if required, proposed ASW catch/strike limits. If new proposals under step (2) are outside the values tested during SLA development, the Committee may propose a work programme to investigate the implications
(4) 3 weeks after close of SC meeting	Chair of ASW Sub-committee and Secretariat	Circular Communication to IWC Contracting Governments as well as IGO and NGO Observer organisations to draw attention to: (a) upcoming (2 years ahead) catch/strike limit renewals and indication of any actual or potential changes to catch/strike limit requests if known; (b) publication of SC advice on sustainability or its workplan; and (c) 'Descriptions of the hunts relevant to ASW catch/strike limit requests' on the website - and timing of any updates if intended by ASW Contracting Governments (see also step (1)). The Circular will conclude with a request for written comments related to proposed catch/strike limits by a set date e.g. 60 days before the Biennial Commission Plenary Meeting and a request for interested governments to attend the ASW Sub-committee meeting.
(5) [x] days prior to Commission Plenary meeting	Contracting Governments, IGOs, NGOs	Submission of written comments in accordance with step (4). These may be made documents for the ASW Sub-committee meeting.
(6) 4-5 days prior to Commission Plenary meeting	ASW Sub-committee meeting	Opportunity for discussion of written comments in accordance with the above Circular Communication including initial responses (which may take the form of documents to the ASW Sub-committee meeting, verbal responses or a combination of both) by ASW Governments and taking into account consideration of Indigenous peoples' rights. The ASW Sub-committee may develop a workplan, if necessary, to assist in reaching consensus in Year 6 (in addition to the general steps outlined below for Year 6).
(7) Commission Plenary meeting	Contracting Governments	Debate and discussion of Year 6 catch/strike limit renewal including acceptance or modification of any workplan developed under step (6).
Year 5		
(7) Year 5, May-June	SC	SC continues its work and provides advice in its report circulated two weeks after the end of its meeting.
(8) Year 5, ongoing	To be decided	Activities under workplan if necessary (see steps (6) and (7)).
Year 6		
(9) 2 weeks prior to SC meeting	ASW Contracting Governments	Submission of final (in the sense of enabling the Committee to provide appropriate advice) proposed catch/strike numbers to the SC.
(10) 2 weeks after SC meeting	SC	Publication of SC report including advice on sustainability of proposed ASW catch/strike limits.
(11) 3 weeks after close of SC meeting	Chair of ASW Sub-committee and Secretariat	Circular Communication to IWC Contracting Governments as well as IGO and NGO Observer organisations to draw attention to: (a) upcoming quota renewal and indication of any actual or potential changes to catch/strike limit requests if known; (b) publication of SC advice on sustainability or its workplan; and (c) availability of 'Descriptions of the hunts relevant to ASW catch/strike limit requests' on the IWC website - and timing of any updates if intended by ASW Contracting Governments (see also step (1)). The Circular Communication will conclude with a request for written comments related to proposed catch/strike limits by a set date e.g. 60 days before the Biennial Meeting and a request for interested governments to attend the ASW Sub-committee meeting.
(12) [x] days before Commission Plenary meeting	Contracting Governments, IGOs, NGOs	Submission of written comments in accordance with step (11). These may be made documents for the ASW Sub-committee meeting.

Time	Who	Action
(13) 90 days before Commission Plenary meeting	ASW Contracting Governments	Proposed schedule amendments (adapted if necessary in light of SC advice) provided to IWC, made a Commission document and placed on meeting website.
(14) one month before Commission Plenary meeting	ASW Contracting Governments	Written responses by ASW Contracting Governments to comments received in response to step (11) provided to IWC, made ASW Sub-committee documents and placed on meeting website.
(15) 4-5 days prior to Commission Plenary meeting	ASW Sub-committee meeting	Discussion of papers submitted in steps (12) - (14) and taking into account consideration of Indigenous peoples' rights. The ASW Sub-committee should try to develop consensus advice, or if not possible develop a formal or informal workplan to try to achieve this prior to Plenary discussions.
(16) Commission Plenary meeting	Contracting Governments	Debate and decision (ideally by consensus) on proposed Schedule amendments*. Note that it is possible for any Contracting Government to submit a revised proposal or proposals should the first proposal fail or amendments fail (e.g. see IWC, 1980, p.30). It should not be the case that the meeting is closed with no catch/strike limits set.
(17) Within two days of end of Commission meeting	IWC Secretary	Notification of Schedule amendments to all Contracting Governments and establishment of timescale for objections procedure.
Year 7		
(18) Within proscribed period (May be year 6)	Contracting Governments	Lodge objection to Schedule amendment if required.
(19) After Commission Plenary meeting but prior to Schedule amendments formally coming into force	Contracting Government(s) with ASW hunts, Secretary	If necessary, send letter to confirm that the Government will not be objecting to the amendments agreed at the Commission meeting and stating that the hunts were about to start in conformity with the agreed limits*. Secretary circulates the letter and places it on the IWC website.

* Note, if desired by ASW countries and Commission, consideration may be given as one-off exercise in 2018, to extend existing ASW catch/strike limits by one year and thereby establish one seven year catch/strike limit block in order to give a 12 months period before catch/strike limits become operational in the future (see options in text).