

(Attachment)

With reference to the Secretariat's Circular Communications IWC.All.274, IWC.All.274 revised and IWC.All.275, dated 05 January 2017, 16 January 2017 and 25 January 2017 respectively, the Government of Japan submits the Government's position on Resolution 2016-02 and the Standing Working Group to be established under the Resolution, as follows.

1. When the draft resolution on Improving the Review Process for Whaling under Special Permit, which later passed as Resolution 2016-2, was introduced and discussed at the IWC/66, Japan expressed its objection to the Resolution "as it is aimed at unduly limiting the implementation of Japan's scientific research programmes regardless of scientific value and in a manner inconsistent with the Convention." (As recorded in Chair's Report of the 66th Meeting of the International Whaling Commission, para. 93.) At that meeting, Japan emphasized that "it is Paragraph 30 of the Schedule that sets out the binding procedure for review of Special Permit proposals", and that Paragraph 30 "only prescribes review and comment by the Scientific Committee and no more, as Special Permit research is essentially a scientific matter." (Ibid., para. 94.)

2. Resolution 2016-2 was nonetheless adopted by vote at the IWC/66, despite the opposition of a significant number of Member States (17 votes against) and with a significant number of abstentions (10). Japan's view remains unchanged, and is that Resolution 2016-2, like Resolution 2014-5, is an attempt to add further conditions, not envisaged under the existing Convention and its Schedule, for the grant of special permits. By purporting to authorize the Commission to provide recommendations or advice, based on advice from the Standing Working Group, on special permits which the Scientific Committee has already reviewed, the Resolution intends to add substantive and procedural conditions for the grant of special permits. Implementation of Resolution 2016-2 would in effect modify the current review process, by granting the Commission a power it does not have under the existing Convention and its Schedule; and such a modification requires an amendment of the Schedule. The Resolution is accordingly *ultra vires*.

In addition, Japan believes that the establishment of the Standing Working Group as prescribed by Resolution 2016-2 would disrupt the institutional framework of the IWC, and that the Standing Working Group would be likely to attempt to influence scientific analysis by the Scientific Committee by non-scientific arguments.

Moreover, despite the wording in the Circular Communication IWC.All.275 that “Membership remains open”, the Terms of Reference for a Standing Group appended to Resolution 2016-2 gives the Contracting Governments proposing the special permit programme only the observer status. Such an arrangement prevents the proponent from engaging in any meaningful dialogue with the Standing Working Group and is also contrary to the principle of equality of Member States.

3. For these reasons, it is Japan’s view that Resolution 2016-2 should not be given effect. If the Standing Working Group is to commence its work pursuant to Resolution 2016-2 despite the opposition of Japan and other Member States, the position of the Government of Japan is as follows:

- Japan will not participate in the Standing Working Group as an observer;
- the contents of the discussions of the Standing Working Group must be shared with all the Contracting Governments at an appropriate frequency to ensure the transparency of its work; and
- Japan is always open to engage in good faith in dialogue with any Contracting Government, outside the Standing Working Group or outside the scope of Resolution 2016-2, in order to discuss issues relating to special permits.

4. Japan reiterates its full commitment to cooperating with the IWC in accordance with the Convention and its Schedule. Japan will thus continue to share information and to discuss the scientific aspects of Japan’s research, as it has always done, under the existing review process pursuant to Paragraph 30 of the Schedule and Annex P, in relation to all of its on-going special permit programmes and its future proposals.

(End)