

# **Report of the IWC Expert Workshop on Aboriginal Subsistence Whaling (ASW)**



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The Workshop was held at the Hotel Maniitsoq, Maniitsoq, Greenland, from 14-18 September 2015. The list of participants is given as Annex A.

## 1. INTRODUCTORY ITEMS

### 1.1 Welcoming remarks

Gitte Hundahl (IWC Commissioner for Denmark and Chair of the Workshop Steering Group) welcomed participants to Maniitsoq on behalf of Denmark and Greenland.

She recalled that two years ago, the Danish Government had given notice that Denmark would withdraw from the Convention and was close to leaving the IWC if a solution acceptable to both Greenland and the IWC to ASW issues could not be found. This decision followed developments leading up to 2012, when the IWC was not able to set catch/strike limits for Greenland. This effectively left an Indigenous people on its own, despite its having a longstanding subsistence need for whaling which had been recognised by the IWC. She remarked that discussions on ASW appeared to be influenced by a much larger disagreement on commercial whaling. This disagreement reflected negatively upon Indigenous peoples, hindered their development and stigmatised their way of life.

She emphasised that the Kingdom of Denmark remains a strong supporter of international cooperation on the conservation and management of whales. It wishes to see a strengthened IWC, and at the same time it has a profound understanding and support of the significant historic and present importance of ASW in Greenland.

She recalled that at IWC/65 in 2014 (IWC, 2014), the Commission resolved the issue of catch/strike limits for Greenland for four years. Equally importantly, through Resolution 2014-1 (IWC, 2014), the IWC committed itself to improving the ASW management process. By offering to host this IWC Expert Workshop, she noted that Denmark and Greenland are sending a strong signal of a joint commitment to this endeavour and emphasised four aspects: improving consideration of 'need statements' in order to ease the burden on hunters and ASW administrations and provide a more efficient instrument; improving the ASW review process by removing the politics surrounding larger disagreements from the IWC's ASW management process; rebuilding trust between hunters and the IWC so that ASW communities truly feel the organisation serves their needs; and ensuring better synergy between the IWC and other international commitments, including those on the rights of indigenous peoples, on the sustainable use of natural resources, on science-based decision making and on global food security.

In closing, she hoped that the Workshop report will present next year's IWC meeting with professional input that can contribute to these goals.

On behalf of the IWC, Simon Brockington (IWC Secretary) thanked Denmark and Greenland for their hosting of the Expert Workshop, and expressed thanks to the Governments of Denmark, Switzerland and the USA for providing funding.

He recalled that the purpose of the Workshop was to provide advice to the IWC to support the development of its work on subsistence whaling as described in the report of the

Aboriginal Subsistence Whaling Working Group (ASWWG) (IWC, 2014) and Resolution 2014-1. The ASWWG had identified a series of long-term issues and associated actions for improving the Commission's management of subsistence whaling. The Resolution emphasised the need to regulate ASW through a more consistent long-term approach. It specifically requested the Commission, through its ASW Sub-committee, to address issues surrounding needs statements and the relationship between needs and consumption patterns. This includes, amongst other things, use and extent of monetary transactions in an ASW context.

He noted that the discussions ahead would include not only examination of IWC material, but also the first formal IWC consideration of progress made on the rights of Indigenous peoples under a variety of bodies including the United Nations, the International Labour Organization and the Convention for Biological Diversity and how these Indigenous Peoples rights are recognised and implemented at the international level.

He believed that the IWC has made considerable progress since the last ASW Expert Workshop was held 36 years ago in Seattle, Washington (Donovan, 1982). At that time, the motivation for the Workshop was concerns over sustainability, especially surrounding the Alaska take of bowhead whales. Since that time, a considerable investment in science, both by national governments and the IWC's own Scientific Committee, has resolved concerns over sustainability. This Workshop will build on that work and make a significant contribution to improving the IWC's management of subsistence whaling and consideration of the rights of Indigenous Peoples.

### 1.2 Appointment of Chair

Professor Bo Fernholm, a past Chair of the Commission, was appointed Chair of the Workshop by the Steering Committee. He noted the importance of the Workshop to the work of the Commission and looked forward to a productive Workshop. He drew attention to its importance in progressing the work of the Commission at its 2016 meeting leading to the discussions of new catch/strike limits at the 2018 Commission meeting.

### 1.3 Appointment of rapporteurs and procedure for adopting report

Donovan was appointed co-ordinating rapporteur with assistance from Brockington and others as appropriate. The objective was as a minimum to agree the conclusions and recommendations by the end of the Workshop with the final report (to be agreed by email) being placed on the IWC website and circulated to Contracting Governments by mid-October.

### 1.4 Adoption of Agenda

The adopted agenda is given as Annex B.

### 1.5 Available documents

The list of primary documents available to the Workshop is given as Annex C. In addition, the Secretariat made available a large number of background papers including past 'need statements', sub-group reports and past IWC Resolutions relevant to subsistence whaling.

<sup>1</sup>Presented to the meeting as IWC/66/ASWRep01.

## 2. BACKGROUND AND OBJECTIVES OF THE EXPERT WORKSHOP

### 2.1 Summary of the IWC decision-making process with respect to ASW including the role of sub-groups, existing IWC definitions of terms and recent decisions

Donovan provided a short summary of the IWC process with respect to ASW. He noted that his presentation was primarily for the benefit of the participants who were not familiar with the IWC and thus it was necessarily simplified given the time available. Additional information can also be found in IWC/S15/ASW4.

ASW has been recognised by the IWC since the International Convention for the Regulation of Whaling (ICRW) was signed in 1946. It is whaling for purposes of local aboriginal consumption carried out by or on behalf of aboriginal, indigenous, or native peoples who share strong community, familial, social, and cultural ties related to a continuing traditional dependence on whaling and on the use of whales (see Donovan, 1982). ASW hunts now recognised by the IWC include those of Greenland, Chukotka, Alaska, Bequia and Washington State, although the last of these is not active at present pending internal US procedures (for more details of these hunts see Item 4). ASW catch limits first became an important focus of the IWC due to questions of sustainability raised about the Alaskan bowhead whale hunt in the late 1970s (and see Item 5).

He noted that the different nature of ASW was reflected in the objectives for ASW and commercial whaling agreed by the Commission and presented to the Scientific Committee for its work to develop long-term management advice under the RMP (Revised Management Procedure for commercial whaling) and the AWMP (Aboriginal subsistence Whaling Management Procedure) as summarised in Table 1.

Today, the main process leading to the adoption of quotas for ASW is summarised in Fig. 1, although relevant information may also be provided by other sub-groups (e.g. with respect to killing methods) as well as interventions in Commission Plenary.

Decisions in Commission Plenary are based upon two primary information types: (1) scientific advice provided by the Scientific Committee (based upon requests for catch/strike limits provided by ASW countries); and (2) 'need' (see Table 1) provided in what are termed 'need statements' (see discussion under Item 5.1) that explain *inter alia* the rationale behind the catch/strike limit requests put forward to the Commission. In principle, if agreement is reached on both sustainability and 'need', then reaching Commission consensus on catch/strike limits should be straightforward. However, as witnessed by the fact that in no quota block years since 2002 have all ASW quotas been agreed by consensus (and see Item 1.1), this process has not been straightforward.

Donovan noted that the question of the *sustainability* of proposed catch/strike limits has not been controversial for any hunts since 2009. This is due to the Scientific Committee's successful development of long-term *SLAs* (*Strike Limit Algorithms*) for most species and an interim approach to be used until the remaining *SLAs* are completed (now just two to be completed - for West Greenland fin and common minke whales) for providing consensus advice by the Scientific Committee to the Commission (IWC, 2016).

Thus the main difficulties in agreeing catch/strike limits have arisen during the consideration of 'need' at the Commission. The issues are complex (see the discussion under Item 5) and involve many stakeholders. These difficulties are the driving force behind the initiatives

Table 1

Summary of agreed objectives for commercial whaling and ASW.

Commercial	Aboriginal subsistence
<b>User</b>	<b>User</b>
The highest possible continuing yield should be obtained from the stock	Allow harvests (in long-term) at levels appropriate to cultural and nutritional needs
Stability (i.e. no major fluctuations from year to year) in catch limits	Stability implicit
<b>Conservation</b>	<b>Conservation</b>
Zero catches for stocks estimated at <54%* of carrying capacity	Risk of extinction not seriously increased
* i.e. 10% below the 60% level at which highest net recruitment is assumed	Maintain at highest net recruitment level; if below must move towards it

of Resolution 2014-1 and the present Workshop with the objective of improving the process and working to consensus. Ideas for improving the process that have been suggested at various times include: early dialogue amongst stakeholders; consideration of the issues by the Commission earlier than the year in which quotas are to be renewed; transparency and dialogue to ensure 'no surprises' either in catch/strike limit requests or objections/questions to 'need statements'; increased understanding of 'need' – in terms of the information presented (see Item 5) and the nature and role of the IWC review (see Item 6) and the need to place IWC discussions in a more global context (see Item 3).

### 2.2 Objectives of the Workshop based upon Resolution 2014-1 and IWC/65/ASWRep01, Appendix 2

The broad objectives of the Workshop are to assist the Commission in its efforts to improve the long-term management approach to ASW as identified under Resolution 2014-1. More specifically, the Workshop proposal adopted by the Commission (IWC, 2014) noted that an important focus of the Workshop must be consideration of 'need statements' in the broad sense, including *inter alia*: types of subsistence need (e.g. cultural, subsistence and nutritional); cultural and sociological variation across whaling communities with regard to conditions of the hunt and methods of distribution of products, including changes over time; methods used to present information on need to the Commission in an informative manner; consideration of approaches to objectively review 'need statements' presented to the Commission; and food security considerations.

With this in mind, the Steering Group of the Workshop developed the Workshop Agenda that was subsequently adopted under Item 1.4.

## 3. GENERAL CONSIDERATION OF CULTURAL AND SUBSISTENCE ISSUES OUTSIDE THE IWC RELEVANT TO ASW DISCUSSIONS

The purpose of this item was to introduce human rights, cultural, subsistence and nutritional issues in the broader world context than the discussions that have taken place previously within the IWC.

### 3.1 The Work of the Arctic Council, the United Nations Declaration on the Rights of Indigenous Peoples, the ILO and other relevant international fora

The ASW Working Group invited four international law experts (Dorough, Lefevre, Mennecke and Stamatopoulou) to the Workshop. Each invited expert gave a presentation on

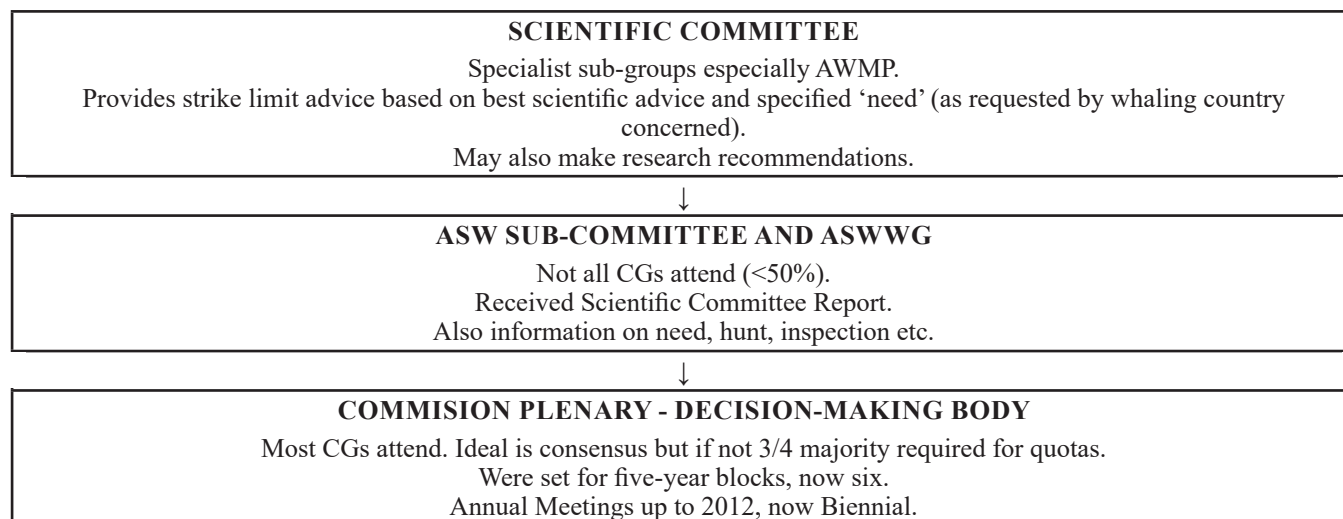


Fig. 1. Simplified schematic summary of the main IWC ASW process (CG= Contracting Government).  
For more information see text and IWC/S15/ASW4.

Indigenous rights and subsistence issues outside the IWC and noted their relevance for ASW discussions (IWC/S15/5-8). The invited experts agreed on a number of points, which are summarised below.

At the outset, the invited experts noted that over the past two decades (in other words, after the last ASW Expert Workshop took place in 1979), UN member states have, together with Indigenous peoples, made major achievements in regard to Indigenous peoples' rights. They have developed a growing body of norms protecting and entitling Indigenous peoples and have created a number of international organs to advance these matters. The experts underscored the need for the IWC and its member states, including relevant committees and working groups, to inform themselves of this important and ongoing development in international law. More specifically, the invited experts recommended that IWC member states need to reflect the specific status and human rights of Indigenous peoples in their application and interpretation of the ASW framework under the International Convention on the Regulation of Whaling.

Relevant instruments in this regard include a number of treaties, declarations, and other norms and standards ranging from the UN Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights to the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity published by the secretariat of the Convention on Biological Diversity. In particular, the experts emphasised the need to engage with the rights affirmed in the UN Declaration on the Rights of Indigenous Peoples (hereafter UN Declaration), adopted by the UN General Assembly in 2007), as well as the International Labour Organization (ILO) Convention No. 169<sup>2</sup>, which now is to be read together with the UN Declaration as complementary and mutually reinforcing. While the UN Declaration is not a legally binding treaty, many Indigenous peoples' rights today reflect customary international law. These are unwritten rules of international

law that build on state practice and States' views of international law and are as binding as treaties. In addition, the experts noted that both the UN Declaration and the ILO Convention No. 169 are an integral part of international human rights law. Their standards are relied upon to interpret Indigenous rights and related state obligations. Reference was also made to the Outcome Document of the 2014 World Conference on Indigenous Peoples, wherein member States unanimously reaffirmed their support for the UN Declaration from 2007. Similarly the invited experts highlighted the need for IWC member States to align their practices within the IWC with how governments committed to the advancement and implementation of Indigenous rights elsewhere in the international system. This includes fora such as the Arctic Council, the UN Permanent Forum on Indigenous Issues, the UN Expert Mechanism on the Rights of Indigenous Peoples and the UN Human Rights Council. The invited experts agreed that ASW and the IWC had to be seen in the context of general international law and its developments regarding the rights of Indigenous peoples.

The Workshop thanked the invited experts for their informative presentations. Their conclusions formed the basis of a number of recommendations (see Item 8) and informed discussions on a number of the later Agenda Items.

### **3.2 Evolution of traditional societies in the modern world, including the role of subsistence hunting in communities, nutritional considerations with respect to local vs outside food, food security and socio-economic factors including the role of cash**

Regarding the evolution of traditional societies in the modern world, including the role of subsistence hunting in communities, invited expert Trujillo gave a presentation that underlined the complexity of this issue based upon his experience of almost 30 years in the Amazon basin where there are similarities and differences among Indigenous communities for hunting and fishing (IWC/S15/ASW9).

He stressed that Indigenous peoples and their communities are not fixed in time (and should not be expected to be). Inevitably, all or most are affected in different ways by external factors such as changes in climate, politics, economics and even religion.

<sup>2</sup>The ILO Convention itself only creates rights and obligations for its currently 22 contracting parties. Among IWC member states, the following States have also ratified ILO Convention No. 169: Argentina; Brazil; Chile; Colombia; Costa Rica; Denmark; Dominica; Ecuador; Guatemala; Mexico; Netherlands; Nicaragua; Norway; Peru and Spain.



Increasing human population and new economic activities are influencing, and in some cases affecting negatively, hunting and fisheries in different regions with an impact on both the accessibility and in some cases the safety (from a human health perspective) of the food.

The Workshop thanked Trujillo for his informative presentation. It recognised that the issues raised, although from a different part of the world and for different species than ASW, were of great relevance to discussions of ASW. His presentation formed the basis of a recommendation under Item 8 and informed discussions on a number of the later Agenda Items.

#### 4. INTRODUCTION TO ASW HUNTS

The purpose of this item was to provide a short introduction to the different ASW hunts solely as background information, not in order for the Workshop to review or comment upon them. In particular, this item was to inform those participants that do not normally participate in IWC discussions. The accounts below were provided by the presenters. Only brief discussion took place after these presentations.

##### 4.1 Greenlandic hunts

Nette Levermann of the Greenland Ministry of Fisheries, Hunting and Agriculture provided information on the Greenland hunts, summarising previously available information. She noted that Greenland is a self-governing part of the Danish realm under the sovereignty of Denmark. The economy in Greenland is heavily dependent on the sustainable use of all marine resources, including whales. Food gathering has taken place for thousands of years and it is only since the 1980s that there has been a specific obligation to demonstrate 'needs' for large whales to the IWC.

Whale hunting is part of modern life today. However, Greenland is also a traditional hunting society, where food is gathered by those who are able to do it. Opportunities for employment in Greenland and especially in its settlements are limited and for many people the hunting and sharing of food resources offers the only opportunity for local food. Hunting is opportunistic, given the resources available, as different species migrate past settlements. These resources are shared throughout Greenland (there is no export of whale products). There is some local distribution, especially to areas with no or limited access to fresh whale meat and maktak (skin and blubber).

Consistent with IWC recognition of ASW, a total of 14 out of the 18 whale hunting villages are able to take a combination of minke, fin, and humpback whales (and in the Disko Bay area, also bowhead whales). The Greenland large whale hunt consists of two forms: the collective rifle hunt for common minke whales conducted from small boats by special permit; and the harpoon hunt conducted from fishing vessels, mounted with harpoon cannon (for common minke, fin, humpback and bowhead whales). Hunting methods have continually been evaluated and improved since the end of the 1980s.

The distribution of meat is a significant and important factor in Greenland. Meat from the collective hunt is distributed in the village, primarily amongst those participating in the hunt and their families. Only a small part (if any) is sold at local markets depending on the hunters need for money to maintain gear and cover expenses. The catches from the harpoon cannon hunt are primarily distributed locally, first and foremost to the members of the crew, to

family members and friends. Most hunters sell some of their catch in the open local markets, but sometimes the meat is sold directly to community institutions such as hospitals and nursing homes to ensure that the people in these institutions can get fresh meat and eat traditional food. Some meat may be sold to authorised local stores. Finally, some meat may be sold to the processing plant in Maniitsoq to ensure that some meat is distributed to villages with limited or no possibility to hunt large whales. The plant is only allowed to process, pack and transport whale meat, in accordance with veterinary regulations, to other places along the coast. The prices of products at the open air market are fixed prices agreed by local hunters and the municipality. The amount of the earned income is reported to the municipal tax authority. The sale and distribution of edible products provides necessary income for the individual hunter and the community.

The hunt is monitored by local authorities and fisheries and hunting inspectors. All (numbered) harpoon grenades, are distributed under a tightly regulated system and their use can be monitored. The Greenland Government Ministry of Fisheries and Hunting gathers information and follows the development of the hunt through a self-reporting system. Permits are required for the killing of large whales. Products cannot be sold before the municipal authorities have registered the hunt and stamped the licence. Hunters must deliver a catch report to the municipal authorities. The catch report incorporates the information described in Section IV of the Schedule.

The 2014 White Paper on Management and Utilisation of Large Whales in Greenland (Denmark (Greenland), 2012), among many other topics, described efforts to keep up with technology and to train hunters in order to ensure that large whales are killed as humanely as possible, while at the same time taking into consideration the safety of the crews. Most of this work is done in close collaboration with hunters, NAMMCO, weapon experts and veterinarians.

Levermann commented that in 1991, the IWC accepted that the annual need of meat from large whales in West Greenland was 670 tonnes. This was estimated from the average annual catch (232 common minke, 9 fin and 14 humpbacks whales) for the period 1965 to 1985 (IWC, 1991). This need has never been met by the catch/strike limits allocated by the IWC. The number of Greenlanders living in Greenland has increased by around 20% since the last calculation presented in 1991. In addition, in recent years, catches of other key species of marine mammals and sea birds have been reduced by increasing management regulations. The projected minimum need today presented by Greenland in 2014 is 799 tonnes (based upon Denmark (Greenland), 2012). The West Greenland catches in the previous catch/strike limit block brought approximately 594 tonnes of whale meat, 76 tonnes less than the documented need of 670 tonnes ((based on the conversion factors determined by the IWC expert group (Donovan *et al.*, 2010) and reviewed by the IWC Scientific Committee)).

She concluded that with the cash obtained through the distribution methods described above, hunters can buy and replenish hunting equipment, fuel and other costs to continue subsistence whaling and buy meat and other products from other towns. This has been the way in Greenland for many generations. It is how Greenlanders live and are able to share, given that Greenland is a large island with an enormous coastline, scattered villages and little infrastructure. Whale hunting and meat distribution does not follow the strategy of a commercial enterprise aiming for profit maximisation.

The cash income is necessary to enable the hunting and distribution system to function and use improved killing methods.

The Workshop thanked Levermann for her informative report. In response to questions, it was noted that the cost of penthrate grenades was expensive (over Dkr 6,000 or about US\$1,000) and that the Government of Greenland annually provides around Dkr 500,000 (about US\$75,000) to subsidise costs and especially training in safety of use of grenades and support for maintenance of equipment. It was also noted that Greenland provides voluntary information on killing methods (including weapons) and times to death to the IWC. The need statement applies to large whales in West Greenland only.

A statement by the Hunters Association of Greenland was presented by Leif Fontaine and is provided as Annex D.

#### 4.2 Alaskan hunts

John Hopson, Jr., Alaska Eskimo Whaling Commission (AEWC) Vice-Chair and Commissioner from Wainwright, Alaska, gave a talk on the bowhead whale subsistence harvest. Noting the extreme northern locations of the AEW communities, Hopson pointed out that archaeological evidence indicates that the bowhead whale harvest has been ongoing for several millennia and that Barrow, Alaska has been inhabited for at least 6,000 years.

The people of the AEW communities view the ocean as their garden and marine mammals are the staple of the diet, with the whale being the single greatest resource. A single bowhead whale can yield between 12 and 20 tons of food, on average. Since 1997, the AEW villages have taken an average of 42 whales per year. This translates into an average of 504-840 tons of food per year, a quantity of food which would not otherwise be available locally to feed these communities. It also would require an expenditure on the order of US\$20.2M-\$33.6M to replace the annual whale harvest with beef at northern Alaskan prices. However, even if such quantities of beef could be provided, they would be nutritionally inferior and would not satisfy the economic, social and cultural needs of the people for the participation in and sharing of the harvest.

Hopson explained that, just as the whale is important to the nutritional health of the AEW communities, the activity of the harvest and the sharing of the whale are critical to their social and cultural health. Northern Alaskan communities are in the middle of very extensive environmental and social changes. Such changes can be extremely difficult, especially for young people. It is well-recognised that healthy Alaska Native communities are those that *inter alia* continue their cultural traditions, including subsistence practices and respect for their elders, and that provide meaningful local employment opportunities.

Preparations for the whale harvest occur year-round and the entire village contributes to the preparations so that the captain and crew can have the equipment, food and clothing to support them during the weeks of round-the-clock work involved in the scouting and harvesting. Whatever else is happening, when it is time for whaling, everyone comes together and cooperates to produce a successful harvest for the entire village.

Those who are employed contribute gasoline and other items that have to be purchased and young people learn through participation. The entire community receives a share of the harvest and participates in the ceremonies, celebrations and holiday festivities hosted by successful captains. Children are part of the activities and elders are

always fed and cared for first. This practice ensures that the younger people understand how important the elders and their wisdom are. The children learn to respect and care for their elders by always sharing with them first.

The modern economy has brought paid employment to some of the villages, and residents are adapting to new lifestyles as a result. Hopson is the Mayor of Wainwright and employed by the regional Native Corporation. But most importantly, he is a whaling captain. Like others lucky enough to have jobs, he uses the money he earns to help outfit his whaling crew so that he can feed his community. Hunting equipment has become very expensive. A single projectile costs \$1,000 apiece and gasoline can cost between \$7.00 and \$10.00 per gallon. With climate change and ice retreat, the AEW villages now rely increasingly on fall hunting, which requires more purchased equipment and gasoline than spring whaling.

Northern Alaska has always had a healthy subsistence economy based on sharing and barter among the villages - both coastal villages and inland villages. With different subsistence resources more abundant in different areas, sharing both ties communities together and provides a more nutritionally varied diet. Additionally, recent changes in the conditions of the sea ice as a hunting platform are making it more dangerous to harvest resources in the spring. This is causing food shortages in some villages, especially in the Bering Strait Region. The animals remain abundant but are less accessible. Therefore, fall harvesting communities are having to take on the responsibility of sending meat and muktuk (skin and blubber) to spring harvesting villages.

However, Hopson underscored that the villages experiencing reduced harvest opportunities retain their identity and their village quota allocations. Maintaining the ongoing opportunity to hunt, even in the present period of adversity, is crucial to community and individual identity. Moreover, in the culture of the AEW communities, people think in terms of interdependence, helping, sharing, and supporting each other. This perspective reflects the value system and the means of survival. Residents do not think in terms of taking more, only in terms of sharing so that all may benefit.

The loss of sea ice is also making the Arctic less predictable and more dangerous. Many think of sea ice retreat as opening the Arctic and creating a more welcoming climate, yet the reality is harsher. The Arctic is experiencing unprecedented storm surges, flooding, hurricane-strength winds, coastal erosion, the threat of subsidence due to melting permafrost, and declines in terrestrial mammal populations. New species are appearing, including humpback and common minke whales, as well as increasing numbers of killer whales. The bowhead whale population continues to grow at a high rate.

Hopson stated that the residents of the AEW villages intend to remain resilient and to continue to adapt, as they have for millennia. Their mix of subsistence resources may change, along with the tools and other methods for obtaining resources. However, the people will continue their subsistence way of life and sharing culture.

In conclusion, Hopson noted that AEW representatives have been coming to IWC meetings for almost 40 years, always with the same information: they are hunters and whaling captains; their communities depend on marine mammals for nutritional and cultural survival. Hopson expressed concern that the IWC continues to ask the same questions of the hunters, hoping for different answers. But the answers remain the same. The bowhead whale harvest is who they are and who they always have been, and as long as the Inupiat and Siberian Yupik people of northern Alaska survive, it is who they always will be.

The Workshop thanked Hopson for his informative presentation. There was a short discussion over the relative use of the skin boats usually shown in presentations and other boats, such as aluminium skiffs that are also used. It was noted that there is variation amongst villages but the primary difference is that skin boats are typical of the spring hunt whereas aluminium boats are typical of the fall hunts, reflecting the ice conditions. Changes in the ice as a result of climate change have changed the balance between the spring hunt (which used to be dominant) and the fall hunt which is now more prevalent. Reference was also made to the need to balance the traditional approaches with the more modern innovations that improve the efficiency of the hunt (with respect to minimising struck-and-lost animals) and the time-to-death. In Alaska, there has been a move over recent years in conjunction with the Norwegian specialist Egil Øen, to modify the traditional Yankee darting gun by upgrading the grenade from black powder to penthrite (for further discussion see, for example, the 2014 report of the ASWWG, (IWC, 2014). The high cost of these improvements to the hunters was noted. It was also recognised that cultures change over time and that improvements are welcome and do not alter the Indigenous status and nature of the hunt.

#### 4.3 Makah hunt

Greig Arnold of the Makah Tribal Council provided a presentation on the Makah hunt.

The Makah people have been whale hunters since the first light of day, according to Makah stories. Archaeologists say that the time period is more like 1,500 years, but the Makah tell the story of the Thunderbird, the creature that first brought whales to them at the dawn of time. The Makah Tribal flag represents this story, and shows the Thunderbird and his lightning snakes grasping a whale in his talons. Makah prowess as mariners and pelagic whalers is demonstrated in the written logs of the first non-Indians to come to Makah territory, who recount connecting with whaling canoes 100 miles from shore. These canoes were carved from a single cedar log and carried a crew of eight men and the gear necessary to kill the whale. Before beginning to hunt, men prepared themselves spiritually for months, and if done correctly, it was believed that the whale would offer its life to feed the Makah people. Whale hunting is at the heart of Makah life, now as then.

Oral history and archaeology reinforce each other, and show that the Makah hunted large numbers of gray and humpback whales in historic times, along with other species in their waters. The Makah were so committed to whaling that they negotiated the explicit right to whale in the Treaty of Neah Bay signed with the United States in 1855. By the early twentieth century, the Makah voluntarily gave up whaling because Euro-American whaling had seriously reduced the whale populations. When the gray whale came off the US endangered species list in the early 1990s, the Makah people began their efforts to resume the hunt. Granted a quota to hunt gray whales by the IWC in 1997, the Makah were able to land only one gray whale in 1999 before domestic legal issues stopped the hunt. The Makah are now engaged in a protracted legal struggle involving a variety of American federal processes. Sixteen years after the 1999 hunt, the Makah people still invest considerable resources to regaining their right to hunt. Current expenditures in legal fees are measured in millions of dollars.

The whale hunt is informed by science, and a rigorous management and permitting process. As was the case for the 1999 hunt, the Makah still choose to hunt from a cedar

canoe, in spite of the risks involved from aggressive gray whales. The eight-man crew follows ceremonial rigour, and the first strike is made with a cold steel harpoon. A fifty calibre rifle fires a kill shot from an assist boat once the harpoon is landed; the time-to-death for the 1999 whale was eight minutes. As in past times, the whale was pulled to the beach in front of the Neah Bay village, and the butchered meat and blubber were distributed to Makah families. The Makah Tribe kept a portion of the meat and blubber in order to hold a ceremonial potlatch, the traditional Tribal feast that marks significant events. The Makah people continue to look to the day when they can once again give their children this important connection with their ancestors.

The Workshop thanked Arnold for his informative presentation.

#### 4.4 Chukotkan hunts

Ettyne and Kavry presented information on the hunt from Chukotka, Russian Federation. In summary, in answer to the question 'What is the significance of whaling for Chukotkans?', their answer is 'life'. The presentation began by explaining the importance of integrating traditional knowledge and academic science. Both can assist in subsistence whaling management, from an understanding of populations and migration timings to individual behaviour. A hunter sees whales not simply as an object of scientific knowledge but as an equal, the continuation of his personality and his own inner world. They noted that after many years of working together, hunters and scientists in the region have developed a strong new relationship embracing academic and traditional knowledge.

Chukotka is a region with difficult geographic and climatic conditions. From the north it is affected by the Arctic Ocean and to the south and south-east the Pacific Ocean. The cyclones and anticyclones originating in these oceans have an important impact on the entire region. For successful hunting and hunter safety, before going hunting the hunter takes into account many factors including: the hunting season; the species available; the direction and force of wind and currents; ice conditions; and the hunting location.

They noted that two types of hunting occur in the village of Neshkan, depending on the season. In early spring or summer, hunters travel by boat and create a base camp on the Ostrov Idlidlya (Idlidlya Island), located 9km east of the village, where they search for whales to hunt from the cliffs. In the autumn, the hunters go to sea and anchor in front of Neskynpil'gyn Lagoon where they can shelter in case of a sudden change in the weather.

As noted above, the nature of the hunt depends on the location, the weather, the season, the sea state, and the behaviour of animals. Climate change is affecting hunting conditions and whale migration. Hunters have to operate further from the shore and in poorer conditions. Chukotka whalers hunt in the traditional way – striking the animal with a hand harpoon and using rifles as the secondary killing method. They do not have access to darting guns and ammunition is scarce. Hunting can be dangerous because of the weather conditions and the aggressiveness of the gray whale (known as 'devil fish' by the Yankee whalers). There have been cases of loss of hunter life in the field.

Ettyne and Kavry noted that hunting contributes significantly to food security in the region as well as to health. Indigenous food contains the essential amino acids necessary to maintain the immune system and the production of vitamin 'D'. Whale meat and blubber are distributed



without charge and only used for personal consumption. They also referred to the issue of inedible (or 'stinky') whales that has been discussed for several years within the Conservation Committee of the IWC.

The needs of the Indigenous peoples of Chukotka have been shown to be 350 gray and 10 bowhead whales annually, but since 1997 the catch/strike limits have been for an annual average of 122 (with no more than 135 in a single year) gray whales and 7 bowhead whales (including two struck and lost). While this is clearly insufficient, the request has not been raised due to the limited hunting capacity with respect to equipment (and its maintenance) in very difficult times. In addition, the Chukotka Indigenous population has increased from around 11,000 to 16,500. It is the intention of the local people to ask the Russian government to apply to the IWC for an increase in the number of gray whales.

ASW and marine mammal products in general have historically been a major part of employment of Indigenous (onshore) peoples of Chukotka and remain so today, providing for socio-economic and cultural development as well as marine products for sustenance. However, the economic status of the region is extremely difficult and threatens aspects of traditional hunting. Changes in settlement patterns have increased the cost of fishing, hunting and the distribution of products not only on the coast but also in other parts of inland Chukotka. Traditionally, the meat was stored in pits in the permafrost but storage in line with modern health and packaging regulations has become expensive and thus unavailable to Indigenous whalers; meat cannot be sold by law and thus only carvings can be used to obtain money. They also referred to the large risks to Indigenous peoples and their way of life posed by the development of shipping along the Northern Sea Route, as well as the development of the extraction of oil and gas deposits on the Shelf.

The Workshop thanked Ettyne and Kavry for their informative presentation. In discussion, the increasing Indigenous population and the need to find practical solutions to food security was noted.

#### 4.5 Bequian hunt

Herman Belmar provided information on the Bequian hunt. Bequia (Island of the Cloud), the largest of the St Vincent Grenadines, is located nine miles south of the main island of St Vincent, has a population of just over 5,000 persons, and a land mass of seven square miles. The natives depend solely on tourism and the bounties of the sea for survival.

In 1876, just after the failure of agriculture for the export market, there was a growing need for a viable income as well as additional protein in their diet, to improve their corn, pease and cassava diet, and so whaling using the methods of the Yankee whalers, was introduced.

Today the same traditional methods of hunting and killing and processing of a humpback whale as taught by the Yankees is practiced, using the same implements, with the only distinction being that the export market has fallen from 4th in the GDP to zero since the hunt became regulated by the IWC and export stopped.

Today the whalers of Bequia carry out their historical, cultural activity under the IWCs regime, under the ASW quota of four whales per year, and under a strict reporting mechanism. This limit has been reached just once since it was introduced, due largely to the weather conditions and the use of traditional open boats. The whale boats used are near replicas of the original beetle boats (the *Nancy Dawson* and *Iron Duke*) brought from New Bedford in the 1860s and

the hunting equipment (harpoons, lances, bombs, guns and other tools and implements) is identical to that used over 130 years ago.

Whalers continue to practice their cultural tradition of 'blessing of the boats' before the start of the annual hunt, which is followed by a festive party which sets the mood for the hunt, and prepares the men psychologically for the dangers of the hunt. The whales, when harpooned, are wrestled near the six-man boat, where they are lanced or bombed until they are dead. In modern times, they are assisted in this process by other whalers, who use their normal fishing boats (speed boats) to help with the hunt. Once dead, the whalers must risk life and limb to venture into the water, which can sometimes be infested with sharks, to sew up the mouth of the whale, so that water does not enter the stomach and cause it to sink and be lost.

Small armadas of fishing boats with outboard motors assist with the towing of the whale and the boat back to the flensing station, where it is processed using traditional methods, and where the meat and blubber are shared using the same method introduced by the Yankee (and Scots) whalers. The owner gets a double portion as his share, as it is generally his responsibility to provide all the equipment and to repair and maintain the boat. No financial assistance is provided, therefore some of the meat is sold to the villagers at a cost of East Caribbean \$5.00 or approximately US \$1.50 per lb., to help with the recovery of some costs.

The processing of a whale attracts hundreds of visitors and island people to Whale Cay, to join the festivities, take photographs, or to obtain a portion of the meat, which is highly prized in the community and treated as a special treasure.

An adult whale would take about two days to be completely processed, and to clean up afterwards. The ropes must be dried, harpoons straightened and sharpened, and preparation for the next hunt or the storage of the boats until the next season begins. The entire process from the launching of the boats to the hauling, cutting and sharing of the whale must be done manually, as there is no machinery or electricity on the Whale Cay.

Whale meat was traditionally eaten in one of two ways: deep fried (doved) in its own oil; or salted and dried in the sun (corned) and boiled with potatoes. It is now eaten in every conceivable manner, or stored in refrigerators for very special occasions. The bones are dried and processed into souvenirs, and other handicraft, and sometimes used as handrails and banisters in homes, as well as decorative pieces in restaurants and bars.

The preservation and protection of the species is of prime importance to the people of Bequia who recognise the importance of the animal to their food security, as well as the preservation of their historical, cultural and religious observations and rights.

The Workshop thanked Belmar for his informative presentation. In discussion it was noted that each member of the crew has a special function, e.g. harpooner, captain, rope handler, sail handlers, and all are required to haul the whale in. It was also noted that in humpback whaling off Greenland, the use of larger vessels and equipment means that it is not necessary to sew up the mouth of the whale to prevent it sinking.

### 5. CONSIDERATION OF THE CONCEPT OF 'NEED' FOR ASW

#### 5.1 Introduction explaining how 'need statements' are incorporated into the present IWC system including reference to difficulties encountered

Donovan provided a short introduction to 'need statements' within the IWC (and see IWC/S15/ASW4). The concept arose out of the difficulties surrounding the Alaska bowhead

hunt in the late 1970s when the IWC Scientific Committee had recommended a zero catch due to concerns at that time over the sustainability of the hunt. The Commission had initially removed the exemption allowing aboriginal subsistence whaling for bowhead whales but at a Special Meeting in 1977 (IWC, 1979) had introduced a small catch/strike limit along with a focus on both the scientific information and any trade-off with respect to documented subsistence, nutritional and cultural needs of the Indigenous people. Thus the driving force was a serious concern about sustainability and the need to determine the *minimum* number of whales necessary to meet Indigenous needs. Later, in the early-1980s, this was extended to other hunts. There were (and still are) no formal general guidelines for documenting need although the 1979 Resolution (IWC, 1980) with respect to the bowhead whale hunt had indicated a number of factors including the importance of whale products in the traditional diet, possible adverse effects to human health due to change to a non-native diet, availability/acceptability of other food sources, historical takes, cultural considerations and ecological considerations.

There was an attempt to develop guidelines in the mid-1980s (e.g. see IWC, 1984) but that was not finalised. Since then what had become termed 'need statements' have been presented in a variety of formats and have incorporated a variety of information types. This lack of guidance has, on the one hand, allowed necessary flexibility given the variety in the different hunts while, on the other hand, it has acted as a possible hindrance to the Commission reaching consensus.

In order to provide food for thought, Donovan then presented one possible approach that had been identified in Donovan (2011). He reiterated that there are two important components to this issue: (1) guidance for presentation of 'need statements'; and (2) guidance for the review of such statements in the Commission.

With respect to the first it was suggested that general guidance was more appropriate than prescription given the flexibility required to accommodate the different natures of the hunts. The objectives would not be to increase the burden on ASW nations but rather to assist them in putting together documents that would provide sufficient information to assist the ASW Sub-committee and the Commission to reach consensus and to avoid late requests for new information that cannot easily be met. As such the guidance might be in the form of a broad 'template' with headings and perhaps some associated 'usage notes' that might be developed as to the nature of the type of information provided under broad headings (e.g. by making reference to discussions at this Workshop or to examples from past need statements). He then went on to describe the broad headings discussed in IWC/S15/ASW19.

With respect to the guidance for review by the Commission, he noted that this was a more complex and sensitive issue, even to the extent that the IWC must decide upon the purpose of such 'review'. For example in the past various terms have been used ranging from 'noting', 'thanking' and 'recognising' through to 'adopting'. In terms of determining need, the 1979 Resolution (IWC, 1980) had stated that '...the needs of the aboriginals of the USA shall be determined by the Government of the USA' and the recent Resolution 2014-1 had stated 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'.

In terms of recent difficulties within the Commission when discussing 'need statements', he briefly noted three

issues that have proved difficult. The first related to methods to quantify cultural, nutritional and subsistence need (see Item 5.2.1 and 5.2.2 below). There are no formally approved generally applicable methods and there are a number of possible methods that could be undertaken that may give slightly different answers. Rather than trying to fix specific methods it may be more appropriate for any review to consider whether any proposed approaches are reasonable amongst options. The second related to the use of cash where different hunts have different practices and different associated costs (see discussion under Item 5.2.3). The third related to questions of 'conflict of use' which is discussed under Item 5.2.4 below.

Finally, he noted that consideration could be given to the frequency of the provision of 'need statements'. Recent practice has been that that documentation was produced each time there was a new quota year (once every five years, now every six). It was suggested that if the 'need statements' are placed on the IWC website it was probably sufficient for them to be updated only when there was new information, recognising the costs and effort involved. It was also suggested that discussions related to 'need' should begin two years prior to a quota renewal year to prevent surprises.

As a result of discussions under Item 3, the Workshop **agreed** that an Indigenous rights perspective should be introduced into its discussions on developing guidance for future ASW 'need statements' and their review; amongst others, such documents should refer not only to 'needs', but to 'rights'. This could include references to the international legal framework on Indigenous rights in order to explain their existing basis for ASW and to clarify that ASW rights do not only exist 'upon proof'. It was also **agreed** that the governments involved in ASW, when contributing to the development of draft guidance notes for future 'need statements', should consider, in consultation with the Indigenous peoples concerned, how to ensure that Indigenous peoples' rights are fully reflected.

## **5.2 Discussion of factors that might be considered in a 'need statement', how they might be incorporated and quantified and how they might change over time**

The issues of the need for guidance on terminology related to 'need statements' and the nature of any guidance that might be provided to ASW countries presenting information is discussed under Item 6. The objective of this item is to consider factors that may be relevant to the provision of information leading to catch/strike limit requests.

Before considering the individual items below, the Workshop considered a number of papers that were relevant to more than one of the items below.

### **USE OF HOUSEHOLD SURVEYS**

In her presentation (IWC/S15/ASW10) on data collection methods based upon experience in developing need statements for the Makah hunt, Ann Renker referred to Resolution 2014-1 and the need 'to work to improve the process for ASW in the future through a more consistent and long-term approach'. She noted that the Resolution contains language relating to the standardisation of the ASW need statements, as well as the collection and analysis of data relating to 'local consumption and use and the extent of monetary transactions' relating to whale products. In addition, ASW countries were invited by the Commission 'to continue to provide regular data and improve information on all aspects of their hunts and needs'. Given the potential conflict in goals calling for both standardisation and differentiation, the question for consideration becomes

‘How can we collect data that uncovers the needs unique to each ASW community, while simultaneously providing a practical basis for evaluating such needs?’

She provided information about and opportunities for discussion surrounding the use of a Household Survey Methodology. The overall strategy provides mechanisms for approaching the standardisation of needs statements at one level, while providing for an elegant collection of social, cultural, nutritional, and economic data in a manner that respects the diversity and autonomy of ASW peoples and their respective nations. Philosophically informed by the work of John Ogbu (Voluntary v. Involuntary Minorities), the methodology also prioritises authentic involvement of ASW community members in all aspects of survey operations, instrument construction, and data collection/management; this inclusion assists ASW peoples in their quest for the rights secured by the United Nations Declaration on the Rights of Indigenous Peoples (United Nations 2007). These rights include that of self-determination (Article 3), the right to practice and revitalise their cultural traditions and customs (Article 11), the right to participate in decision-making that would affect their rights (Article 18), and the right to determine priorities and strategies for exercising their right to development (Article 23), among others.

In addition, she noted that involving members of the ASW group as interviewers in the actual survey process, increases the cultural validity of the process while bringing important technical skills into the community, building capacity and increasing local familiarity and expertise with data collection and management. Drawbacks to the use of this methodology include the cost of the process, the time and effort involved, and the perception of some ASW community members that the process itself is intrusive and not one required for other citizens of ‘dominant’ societies.

The Workshop thanked Renker for this informative presentation. There was a short discussion on potential biases that may be caused by using local people in the interview phase and in explaining the purpose of the survey. Renker noted that of course there is always the potential for bias in such surveys whoever undertakes the interviews. Understanding this is reflected in the design of such surveys, the training of the interviewers and the analysis of the results. It is also important to be transparent about the purpose of such surveys. In fact with respect to the Makah surveys, she noted that there is no evidence of any significant bias.

#### QUANTIFYING SUBSISTENCE AND CULTURAL NEED FOR BOWHEAD WHALES BY ALASKA ESKIMOS

The Workshop then received a presentation from Braund reflecting his experience in quantifying need with respect to the Alaska bowhead whale hunt (IWC/S15/ASW11). His presentation provided the historic context for the quantification of subsistence and cultural need for bowhead whales by Alaska Eskimos, a review of the methods used to quantify this need between the 1980s and 2010, and information related the mixed-cash subsistence economy in rural Alaska. Until the 1970s, coastal Alaskan Eskimos had hunted bowhead whales free of IWC regulation of numbers, but low bowhead stock estimates and reports of an increase in the annual number of bowhead whales landed or struck and lost led the IWC, in 1977, to remove the exemption that had allowed aboriginal subsistence harvests of bowhead whales (IWC, 1978). This prompted the formation of the Alaska Eskimo Whaling Commission (AEWC) made up of representatives from nine Alaskan communities. The USA proposed a limited hunt to satisfy the subsistence and

cultural needs of Alaska Eskimos, and the IWC reconsidered its decision at a December 1977 (IWC, 1979) meeting and set a 1978 limit of 12 whales landed or 18 struck whichever occurred first.

The USA subsequently began to address questions regarding the Alaska bowhead hunt and the determination of subsistence and cultural need. In 1979, a panel of social science experts met in Seattle to address aboriginal/subsistence whaling and described the cultural importance of bowhead whaling to the Eskimos of northern Alaska. The US Department of the Interior (USDOI) provided an interim report in 1980, which assessed historical bowhead harvests by community, and USDOI sponsored a more thorough investigation through 370 household surveys in the nine AEWC communities in 1982 and 1983 (which documented the cultural and nutritional importance of bowhead whales and whether either store-bought foods or other subsistence resources could be substituted for bowhead whales). In 1983, the USA submitted a needs report to the IWC quantifying the need for bowhead whales by tying current need to the historic data on landed whales. Responding to IWC questions, the US conducted additional research producing a 1988 needs report (Braund *et al.*, 1988) that resulted in the IWC granting a quota of 41 bowhead whales. The IWC-accepted method developed in the 1980s documented historic *per capita* harvests and multiplied them by current community populations. Subsequent to the 1988 needs statement, Little Diomed (1991) and Point Lay (2008) gained bowhead quotas bringing the total number of Alaska Eskimo whaling communities to 11. In 2010, an updated needs statement (IWC, 2012) resulted in a total need of 57 landed whales for 11 communities.

Today, rural Alaskan communities operate under what is characterised as a ‘mixed-cash subsistence economy’ whereby jobs supply a cash income which is used to procure the tools and equipment needed to conduct subsistence activities. Thus, households with higher incomes often provide support to hunters who provide subsistence foods for the community. In what is often referred to as the ‘30-70 rule,’ a number of studies have shown that a small percentage of households in a community (e.g., 30%) often provide a majority of the community’s harvest (e.g., 70%). These households are often those with a higher income.

The Workshop thanked Braund for his informative paper. Discussion around this also referred to the presentation under Item 4 and focussed on the two related issues summarised below.

- (1) The Workshop **agreed** that any perception that hunts must be depicted as using old hunting and distribution methods for them to be considered ASW is misplaced. As discussed under Item 3.2, for example, change in Indigenous peoples culture and society is to be expected, including use of improved technology, and this does not negate their rights or the classification of their whaling as ASW.
- (2) The Workshop also **agreed** that animal welfare issues are important and hunters’ desire to improve efficiency (by reducing struck-and-lost rates) and time-to-death are to be encouraged – this usually comes about from improved technology (e.g. the adoption of harpoon cannon and penthrite grenades in Greenland or the use of a modified darting gun with penthrite in Alaska) which also carries with it increased costs of hunting (see the discussion under Item 5.2.3). Such information is voluntarily provided to the IWC.



## THE IMPORTANCE OF SUBSISTENCE TO INDIGENOUS PEOPLES OF THE ARCTIC

Invited expert Birger Poppel reported on the results of a study of different aspects of subsistence activities in contemporary Arctic economies and cultures (IWC/S15/ASW12). The theme is closely related to one of five international analysis themes suggested by the indigenous peoples' representatives participating in the Survey of Living Conditions in the Arctic, SLiCA<sup>3</sup>.

He reported that the analysis was based on more than 8,000 personal interviews (about 10 years ago) with Inuit adults in Greenland, Northern Canada, Chukotka, and Northern Alaska and Sami adults in Northern Norway, Northern Sweden and the Kola Peninsula. The international core questionnaire applied in SLiCA offered opportunities to examine the importance of subsistence activities, harvest of renewable resources and herding, etc. to Indigenous peoples in modern Arctic economies and cultures and to assess the respondents' satisfaction with the actual composition of the different activities as well as the preferred composition and the relationship to individual well-being and quality of life.

The economic aspect can be illustrated by the fact that on average more than four out of ten Inuit and Sami households perceive that about half or more of the foods consumed in the households were harvested from the wild by members of the household. This means less demand for imported food and thus financial savings for the households. It is worth noting, though, that subsistence activities also demand financing.

A long series of investigations have documented that the traditional diet of the Inuit both contributes to total energy consumption and is also a source of important nutritional elements including protein, vitamin A and D, iron, zinc, calcium, phosphorus, selenium and omega-3 fatty acids. Consumption of traditional foods is considerable in all regions. In all Inuit regions, at least six out of ten or more perceive their consumption of traditional food to be at least half of total household diet and almost 90% in both Northern Norway and Northern Sweden perceive their consumption of traditional food to be about or more than half.

Seven to nine in ten Inuit, Sami and other indigenous people of the Kola Peninsula think 'the way they view nature' and traditional activities and customs like eating and preserving traditional food, use of the indigenous language, fishing and hunting are important to their identity.

For the Inuit regions, analysis shows that the availability of subsistence resources and higher levels of subsistence activity both explain significant variations in overall well-being and thus quality of life.

He noted that by focusing on a series of aspects of subsistence activities (economic aspects, nutrition, socio-cultural and identity related aspects as well the integration of market and subsistence economies in mixed economies), it becomes clear that the meaning of these activities extends beyond what can be measured in dollars and cents. Thus, participation in subsistence activities such as hunting and fishing (and activities closely related to these) seems to affect the individual's sense of identity, social relations, social cohesion and cultural continuity. If the goal for political activities is to enhance quality of life for its citizens and if the efforts to ensure diversity shall not alone apply to plants and animals but also to people(s) and the societies in the Arctic, visions and strategies for the Arctic shall be based on the rights of the Indigenous Peoples and other Arctic residents and include these groups in the developing of visions and strategies as well as in the actual implementation.

The Workshop thanked Poppel for his informative presentation, noting that changes may be expected in the ten years since the survey took place. In discussion, it was noted that it is important to recognise that whilst discussions often focus on 'hunters' then it should be recognised that the whole household and communities (male and female, young and old) play a part and have an interest and make a contribution to the hunt and distribution network.

### 5.2.1 Subsistence and nutritional needs

The Workshop noted that the issue of subsistence and nutritional needs covered a variety of factors ranging from food security to health. It **agreed** that the relative emphasis on these factors in the provision of information related to 'need' and quota requests may vary from hunt to hunt and was the responsibility of ASW countries in co-operation with local communities. There is an important body of literature related to the health benefits of local foods in the diet of Indigenous peoples as well as potential problems related, for example, to pollution. The Workshop **affirmed** that while this information may be deemed relevant by ASW countries when providing information, nutritional advice was the responsibility of national governments and communities and not the IWC when considering need requests.

The quantification of numbers of animals or the amount of edible products required for ASW communities was related to human population size and nutritional requirements. However, it was recognised that there is no single way to calculate subsistence need from this perspective and the approach should be left to ASW countries and communities and their chosen method or methods reported to the Commission. The previously used methods can be found in past need statements (e.g. Borodin *et al.*, 2012; Braund, 2012; Government of Greenland, 2014; Government of Saint Vincent and the Grenadines, 2012; Ilyashenko, 2012; Renker, 2012). The approach used by the USA was discussed by Braund (see above).

### 5.2.2 Cultural/societal needs related to the role ASW hunts, local foods and distribution systems play in ASW communities

The Workshop **agreed** that for all of the hunts discussed here and previously at the IWC, cultural and societal needs had been demonstrated. The extent and nature of the different components of such needs varies amongst the different hunts. Quantifying such needs is complex and it is important to recognise that changes over time are natural and inevitable (see Item 3.2) and do not alter their status as ASW hunts.

### 5.2.3 The relationship between needs and consumption patterns, including socio-economic and direct or indirect commercial aspects of need

Morishita presented a discussion paper on local consumption and commercialism (IWC/S15/ASW13) prepared jointly by Japan and the USA with assistance from the Head of Science at the IWC Secretariat. The paper summarised historical developments in the IWC of the concept and definitions of such terms as subsistence use of whale products, aboriginal subsistence whaling, local consumption and subsistence catches. He noted that the most recent definition of ASW highlighted acceptance of some transaction beyond the aboriginal whaling communities and involvement of 'generalised currency' (i.e. money) under certain conditions. The paper also noted that the IWC has not formally defined 'commercial whaling' or 'commercialism' and the IWC has historically acknowledged that use of money in some aspects of ASW does not render it 'commercial' in the context of the commercial whaling moratorium.

<sup>3</sup><http://www.arcticlivingconditions.org>.



Based on the points raised in the presentations by native hunter representatives at the 2014 *Ad Hoc* ASWWG meeting, the paper presents some possible issues for discussion. They include the approach of the dichotomy of local consumption versus commercialism, consistency of the IWC definitions with similar aboriginal subsistence hunting practices, the use of money and its extent in ASW that could imply 'commercialism', and potential distinctions between the use of money related to the sales of different parts/products of whales. In his presentation, Morishita noted the change in wording in the definition of subsistence use from 'each whale' in 1979 provided by the expert working group (Donovan, 1982) to 'such whales' in the definition adopted by the Commission in 2004 within the definition of subsistence use<sup>4</sup>.

Tillman briefly summarised IWC/S15/ASW14. This paper arose as an extension of IWC/S15/ASW13, wherein it was mentioned that the lack of definitions for certain terms within IWC's accepted definition for subsistence use had given rise to the issue of 'Ensuring Local Consumption versus Commercialism'. In particular, the lack of a definition for the term 'predominant portion' gave rise to fears by some that commercialisation could grow to levels that they considered were unacceptable. During the 2014 meeting of the ASWWG with Native Hunters (IWC, 2014), it was further noted that when such commercial use was of a 'small scale' it was not generally considered problematic. However, 'small scale' was also an undefined term. In this situation, some members of IWC began to call for countries with ASW hunts where there was such commercial use to begin reporting data on the quantities of products being sold. However, most countries in this situation lacked the resources, infrastructure or domestic legislation enabling such data collection.

Drawing upon hunters comments at the 2014 ASWWG meeting (IWC, 2014) that aboriginal subsistence is an expensive undertaking, with the need to pay for purchasing and maintaining hunting gear, supporting and housing whaling crews, fuelling skidoos and vessels, etc., IWC/S15/ASW14 suggested that another approach for considering commercialism would be to examine the uses to which the income from sale of products was applied, e.g. towards defraying the undertaking of whaling. Given that the ASW Sub-committee's terms of reference included examining 'the use of whales taken for such [subsistence] purposes', it would in Tillman's view (referring to the paper he submitted to the Workshop in his own name as an expert) seem appropriate for the Sub-committee to ask for and examine information on whether income from the sale of edible products, where allowed, helped support subsistence use. Including such information in needs statements would, according to Tillman, seem to be a useful addition, helping the Commission make judgments about the aboriginal subsistence nature of the hunts undertaken by the affected native communities. No suggestions were offered, however, on how governments might obtain and present this information.

There was considerable discussion of this item within the Workshop. It was noted that there was no formal definition of commercialism but that the objectives of ASW were quite different from maximising profit, irrespective of the amount of cash that may be involved in the hunting and distribution systems in the different hunts. Such differences reflected the different natures of the communities involved, different

traditions and even different laws (e.g. in the USA edible products cannot be sold). There was **broad agreement** that it was not appropriate to try to quantify in a formal way the amount of whale products that could enter the distribution systems in particular ways or to undertake an 'accounting' exercise to try to quantify the amount of cash involved in sales to the capital costs of whaling equipment, vessels, fuel and maintenance or to the distribution mechanisms. In addition to the resources and infrastructure that would be required for such an exercise, this is also counter to the fact that cash is a legitimate component of many Indigenous peoples' societies. Reference was made to the discussions of the rights of Indigenous peoples under Item 3 and the recommendations under Item 8 in this regard.

The relatively high costs of ASW are clear (as has been documented in several past needs statements) and this is particularly the case as more efficient and humane technologies are adopted. The Workshop noted that in some countries, financial assistance from the relevant Governments was provided to hunters to assist with these costs. The Workshop **agreed** that improvements in such techniques should be encouraged, again reiterating that this does not negate or diminish the status of these hunts as ASW. The Workshop also **agreed** that provision of information on the broad costs associated with the different aspects of the hunting and distribution systems is useful information to provide.

#### 5.2.4 Other 'uses' (e.g. whalewatching, hunting from the same populations in other areas) that may be in conflict with hunting

Donovan provided a brief introduction to this issue. The question of conflict of use is one of the most recently considered within the Commission (although its potential has been noted in the past - for example, if there was a case where commercial and subsistence whaling was to occur on the same stock it has been agreed that subsistence use takes priority, as reflected in the work of the Scientific Committee when developing *SLAs*). Most recently, it has been raised in the case of Greenlandic humpback whales and whalewatching (although there are other examples of whalewatching on populations subject to subsistence hunting, most notably eastern gray whales where the Chukotkan hunt and whalewatching along the migratory routes and breeding areas have continued for several decades). Where any potential conflict is within the waters of one country then the matter should be resolved by the government concerned. The issue is more complex if the ASW and whalewatching operations occur in the waters of different countries. Determining *conclusively* if and to what extent hunting alone affects whalewatching is a difficult scientific task, would require a major long-term study and it is not clear whose responsibility it would be to undertake this work. Other human-caused mortality such as ship strikes and bycatch would also need to be taken into account, should a study be undertaken.

After some discussion, where several participants expressed the view that this was mainly a political issue, and the scientific experts agreed that to determine the effects of hunting on whalewatching could possibly be a difficult scientific task, the Workshop **agreed** that the best way forward would be bilateral consultation among the Contracting Governments concerned. Denmark indicated that it acknowledged the political sensitivity that had developed around some issues and expressed a willingness to continue the dialogue between range states that had already taken place in the margins of previous IWC meetings.

<sup>4</sup>As part of the 2004 definition it was stated that 'A generalised currency is involved in this barter and trade, but the predominant portion of the products from such whales are ordinarily directly consumed or utilised in their harvested form within the local community'.

### 5.2.5 Other matters

A statement developed by the hunters is provided under Annex E and was considered when developing the recommendations below.

## 6. HOW TO IMPROVE THE FUTURE CONSIDERATION OF 'NEED' IN THE IWC

### 6.1 Consideration of the advantages and disadvantages in the provision of more 'standardised' needs statements

There was considerable discussion of this issue within the Workshop.

The Workshop **stressed** the need:

- (1) for flexibility;
- (2) for avoidance of any indication of prescription and compulsion;
- (3) to minimise the effort involved and avoid duplication; and
- (4) to take into account the discussions on Indigenous rights under Item 3.1.

It was also **agreed** that development of any document or documents should continue to be undertaken by ASW Governments with the full participation of the Indigenous communities.

The Workshop **agreed** that overall it was helpful both to the ASW countries and the Commission to develop simple general guidance that could take the form of a template or outline comprising headings with guidance notes based upon the discussions at this Workshop and past practice by ASW countries. In addition, the Workshop agreed that rather than being termed 'need statements', the information provided should be considered by a new term, 'Description of the [insert name] hunt relevant to ASW catch/strike limit requests'. Such a summary (with links to documentation), posted on the IWC website, will also prove valuable for new Commissioners, especially when there may be a high 'turnover' between one catch/strike limit year meeting and the next.

### 6.2 Consideration of options for guidance on the provision of information including flexibility and the need for updates

The Workshop **agreed** that sufficient information had already been provided by all hunts with respect to them being considered ASW hunts. It suggested that a concise summary of the available information describing those broad aspects of the hunts identified below should be provided and included on the IWC website, with links to more detailed reports and papers as appropriate. This information should be updated when new information became available (e.g. if there is a request for a change in the previous catch/strike limits). It was recognised that the information may not require updating very often and that review in the Commission would therefore not need to be in-depth unless important changes were made, particularly with respect to catch/strike limit requests. The Workshop **agreed** that it would be a valuable exercise for the ASWWG to consider developing a draft guidance outline in advance of the 2016 Annual Meeting.

### 6.3 Consideration of how to improve the review of ASW catch/strike limit requests by the Commission

The Workshop recognised that there are several levels to improving the review by the Commission (via the ASW Sub-committee and the ASWWG). As had been noted under Item 2, in an ideal situation the Commission would receive:

(1) information from the Scientific Committee with respect to the sustainability of the requested catch/strike limits; and (2) a request for catch/strike limits with associated documentation (see Item 6.2) from the ASW countries that had been discussed by the ASW Sub-committee. If there were no sustainability questions or major issues with methods under Item 6.2, then the proposed catch/strike limits would be approved by consensus. This should be the objective of any improved process.

The Workshop **agreed** that the recommendations related to the rights of Indigenous peoples should also assist the Commission with respect to reaching consensus. They should help the Commission to agree its role in the review process, and in particular help in limiting the number of relevant issues in the discussions with respect to catch/strike limit requests. For example: (1) it is not appropriate for the IWC to discuss whether ASW communities should change to other food types, but rather recognise the rights of Indigenous peoples concerned; and (2) similarly, in the context of catch/strike limits, it is not appropriate for the IWC to discuss possible health effects on humans, unless raised by the Indigenous peoples, or whether consumption of certain products should be limited or even prohibited - this is the responsibility of the ASW governments and the Indigenous peoples concerned.

The Workshop also noted the need for a greater degree of transparency, fairness and trust in the context of 'no surprises' both with respect to new catch/strike limit requests or comments on information supporting such requests so that dialogue can occur well in advance of meetings. It was noted that the issue of 'no surprises' should in principle apply to submissions by and dialogue with IGOs or NGOs as well as Contracting Governments although achieving this may be more difficult. In order to assist in this, the Workshop **agreed** that a more structured timetable may be of value, including submission and review of catch/strike limit request documentation.

A timetable would describe the stages which occur: (1) before a meeting where a catch/strike limit renewal is expected (i.e. advance issues); (2) those which take place during the meeting; and (3) would also clarify actions taken after limits are agreed.

In respect of advance issues, the Workshop **agreed** that the stages undertaken by the Scientific Committee in terms of its providing advice on the sustainability of catches were already well described, particularly in terms of publishing its advice through the Scientific Committee report at least 100 days before a Commission Plenary meeting. The Workshop **recommended** that the Commission, through its ASW Sub-committee, could also start its final work by correspondence at a similar time in advance of the Commission Plenary meeting. In particular, this would include drawing attention to the existence of:

- (1) the 'Descriptions of the hunts relevant to ASW catch/strike limit requests' and any updates on the Commission's website;
- (2) the proposed catch/strike limits as submitted to the Scientific Committee; and
- (3) the Committee's advice, and an invitation to provide comments in respect of these documents from Contracting Governments and Observer organisations by a specified deadline.

This would prevent surprises at the Commission Plenary meeting and should allow Contracting Governments sufficient time to respond to written concerns in advance.

The Workshop also recognised the importance of initial discussions on ASW issues beginning two years in advance of the year in which the Schedule could be amended to reflect changes in ASW catch/strike limits or other conditions.

With respect to the process during the Commission Plenary meeting, the Workshop considered the development of guidance to better inform Contracting Governments and Observer organisations of the nature of the decisions required. This would indicate issues which were sovereign in respect of determination of ASW needs and may also contain a brief description of the process used by the Scientific Committee to advise on sustainability.

The Workshop went on to discuss whether the framing of the question used by the IWC to adopt Schedule amendments could be adjusted so as to better reflect the separate roles of Contracting Governments in documenting need and the role of the Commission in adopting catch/strike limits. One suggestion was for the question used by the IWC to be adapted from 'Can we adopt this schedule amendment?' to 'Is the catch/strike limit as stated by the Schedule amendment proposal sustainable and in accordance with the requirements of paragraph 13a?'

The Workshop **recognised** that clarity was also required on the options available to Contracting Governments should a Schedule amendment proposal not be adopted in respect of a particular hunt. Accordingly the guidance could indicate the possibility, if so desired, for a Contracting Government to bring forward a modified proposal.

With respect to process issues after the Biennial meeting at which catch/strike limits are set, the Workshop recognised that the new timing of Commission Plenary meetings in the fourth quarter of the calendar year, combined with an 'objections' procedure that may in theory last for up to 7 months<sup>5</sup> means that Schedule amendments may not formally be adopted until after the start of the hunting season in the following year. The minimum period for a provision to come into force, even without objections, is 90 days after formal notification of the Schedule amendments to Contracting Governments. In practice, with respect to recent ASW limits, objections have only been received by non-ASW countries in the context of updating their own domestic legislation, not in relation to the ASW limits themselves.

The timings may cause problems for national authorities who are required to enact procedures to include such IWC catch/strike limits into their legislation and to distribute catches/strike limits to individual hunters or communities.

Therefore the Workshop **suggested** the two alternative solutions summarised below.

- (1) Any ASW Contracting Government that is intending to implement the ASW limits agreed by the Commission although these have not yet been formally adopted because of an ongoing objections procedure, should provide a letter of intent to the Secretariat for distribution to Contracting Governments. This letter would confirm that the Government would not be objecting to the amendments agreed at the Commission meeting and would state that the hunts were about to start in conformity with the agreed limits.

<sup>5</sup>According to Article V.3 of the Convention, if there are no objections, Schedule amendments become binding 90 days after notification of the amendments to Contracting Governments by the Commission. During that period, a Contracting Government may object, in which case there is a further 90-day period before the amendments take force. If an additional objection (or objections) is made during that period then there is provision for an extra 30-day period after the last objection is received (if that is later than day 60 of the period). Note that the original amendments are binding on those Contracting Governments that do not object.

- (2) For the IWC to adopt catch/strike limits for seasons 12 months in advance - this would require an initial catch/strike limit block of seven rather than six years after which six-year blocks would return. This would bring the added advantage of allowing time for an intersessional meeting should the Commission fail to agree catch limits at its regular meeting.

The above suggestions, coupled with the Commission's current processes are summarised in Table 2.

## 7. OTHER BUSINESS

There was no other business.

## 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.



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
<b>Year 4</b>		
(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).
<b>Year 5</b>		
(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)).
<b>Year 6</b>		
(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.
(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.

Cont.



Time	Who	Action
<b>Year 7</b>		
(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). \*\*IWC. 1980. Chairman's Report of the Thirty-First Annual Meeting. *Rep. int. Whal. Commn* 30:25-41.

Particularly in light of discussions under Item 3, the Workshop **agrees** to the recommendations below, while noting the following **minority statement**: 'Iníguez (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)<sup>6</sup>.

<sup>6</sup>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.'

- (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 Issues<sup>7</sup> 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.
- (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.

## 9. ADOPTION OF REPORT

Most sections of the report were adopted by the participants on the final day of the Workshop, noting in particular the important role the invited experts had played in providing advice and expertise to its conclusions and recommendations. The remaining items were adopted by email. The Workshop thanked the Chair for his fair and wise handling of the meeting, the Steering Group and its Chair for the excellent preparatory work and Greenland for providing such an excellent venue and support. Most importantly of all it wished to thank Julie Creek of the Secretariat for her seemingly endless patience in dealing with the incredibly complex travel and subsistence arrangements and Mark Tandy of the Secretariat for liaising with the hotel prior to the Workshop.

It is **important** to note that whilst the Chair allowed full participation by observers (see list in Annex A) in the discussions, the report of the Workshop is not their responsibility and **it should not be implied** that their

presence at the Workshop reflects either their agreement or disagreement with the content of the report including its Conclusions and Recommendations.

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## Annex A

### List of Participants

#### CHAIR

Professor Emeritus Bo Fernholm  
Swedish Museum of Natural History  
P.O. Box 50007 SE-104 05,  
Stockholm, SWEDEN  
Email: [bo.fernholm@nrm.se](mailto:bo.fernholm@nrm.se)

#### ARGENTINA

Miguel Iñiguez  
IWC Alternate Commissioner for  
Argentina  
Monteverde 3695, (B1636AEM),  
Olivos - Prov. Buenos Aires,  
ARGENTINA  
Email: [miguel.iniguez@cethus.org](mailto:miguel.iniguez@cethus.org)

#### DENMARK/GREENLAND

Gitte Hundahl  
(Steering Committee Chair)  
Minister Counsellor/Arctic and  
Northern America  
Ministry of Foreign Affairs  
Asiatisk Plads 2/DK-1448  
København K, DENMARK  
Email: [githun@um.dk](mailto:githun@um.dk)

Amalie Jessen  
Head of Department, Ministry of  
Fisheries, Hunting and Agriculture  
P.O. Box 269, 3900 Nuuk, Kalaallit  
Nunaat, GREENLAND  
Email: [AMALIE@nanoq.gl](mailto:AMALIE@nanoq.gl)

Nette Levermann  
Ministry of Fisheries, Hunting and  
Agriculture  
P.O. Box 269, 3900 Nuuk  
GREENLAND  
Email: [NELE@nanoq.gl](mailto:NELE@nanoq.gl)

#### ITALY

Caterina Fortuna (SC Chair)  
Istituto Superiore per la Protezione e  
la Ricerca Ambientale (ISPRA),  
via Vitaliano Brancati 60, I-00144  
Roma, ITALY  
Email: [fortuna.cm@gmail.com](mailto:fortuna.cm@gmail.com)

#### JAPAN

Joji Morishita  
Director-General, National Research  
Institute of Far Seas Fisheries  
(NRIFS)  
c/o International Affairs Division,  
Fisheries Agency of Japan  
1-2-1 Kasumigaseki, Chiyoda-ku,  
Tokyo 100-8907, JAPAN  
Email: [jmorishita@fra.affrc.go.jp](mailto:jmorishita@fra.affrc.go.jp)

#### NETHERLANDS

Sabine Ketele  
Policy Advisor, Ministry of  
Economic Affairs  
Department for Nature and  
Biodiversity, Section Species  
Bezuidenhoutseweg 73 2500 EK Den  
Haag, THE NETHERLANDS  
Email: [s.h.ketele@minez.nl](mailto:s.h.ketele@minez.nl)

#### ST LUCIA

Jeannine Compton-Antoine (ASW  
Chair)  
c/o Department of Fisheries, Ministry  
of Agriculture, Food Production,  
Fisheries and Rural Development  
Government Buildings  
Castries, SAINT LUCIA  
Email: [jeannine.compton@gmail.com](mailto:jeannine.compton@gmail.com)

#### SWITZERLAND

Bruno Mainini (IWC Chair)  
Federal Veterinary Office,  
Schwarzenburgstrasse 155  
CH-3003 Bern, SWITZERLAND  
Email: [Bruno.Mainini@blv.admin.ch](mailto:Bruno.Mainini@blv.admin.ch)

#### USA

Melissa Andersen Garcia  
NOAA National Marine Fisheries  
Service  
Office of International Affairs, 1315  
East West Highway, Silver Spring,  
MD 20910, USA  
Email: [melissa.garcia@noaa.gov](mailto:melissa.garcia@noaa.gov)

Michael Tillman (ASW Working  
Group Chair)  
US Marine Mammal Commission  
249 Sea View CT Encinitas  
CA 92024-7718, USA  
Email: [mftillman@mac.com](mailto:mftillman@mac.com)

#### SCIENTIFIC EXPERT

Lars Walløe (Norway)  
University of Oslo, Faculty of  
Medicine  
Postboks 1103, Blindern 0317, Oslo  
NORWAY  
Email: [lars.walloe@medisin.uio.no](mailto:lars.walloe@medisin.uio.no)

#### IWC

Simon Brockington  
Executive Secretary, International  
Whaling Commission  
135 Station Road, Impington,  
Cambridge  
CB24 9NP, UK  
Email: [simon.brockington@iwc.int](mailto:simon.brockington@iwc.int)



Greg Donovan  
Head of Science, International  
Whaling Commission  
135 Station Road, Impington,  
Cambridge, CB24 9NP, UK  
*Email: greg.donovan@iwc.int*

#### **REPRESENTATIVES OF ASW COMMUNITIES/HUNTERS**

Leif Fontaine (Greenland)  
Organisation of Fishermen and  
Hunters in Greenland  
Aqqusinersuaq 31, Box 386, Nuuk  
3900, GREENLAND  
*Email: lefo1955@gmail.com*

John Hopson (Alaska)  
Alaska Eskimo Whaling Commission  
PO Box 570, Barrow, AK 99723,  
USA  
*Email: johopson@asrc.com*

Greig Arnold (Makah)  
Makah Tribal Council  
PO Box 115, Neah Bay,  
WA 98357, USA  
*Email: greig.arnold@makah.com*

Nikolay Ettyne (Chukotka)  
Executive Secretary  
Association of Traditional Marine  
Mammal Hunters of Chukotka  
(ATMMHC)  
689000, Anadyr, Energetikv street  
26, apt.27  
RUSSIAN FEDERATION  
*Email: nasaa2005@gmail.com*

Sergey Kavry (Chukotka)  
Chukchi Association of Indigenous  
People  
689230, Vancarem, Rentyrgina, bib 2.  
RUSSIAN FEDERATION  
*Email: skavry@rambler.ru*

Herman Belmar (St Vincent and The  
Grenadines)  
Port Elizabeth, Box 266, Bequia  
Saint Vincent and The Grenadines  
*Email: belmar.herman@gmail.com*

#### **INVITED EXPERTS:**

Ann Renker  
Education Consultant, Serving  
Diverse Linguistic and Cultural  
Communities, PO Box 43, Neah Bay,  
WA 98357, USA  
*Email: arenker52@hotmail.com*

Stephen Braund  
Stephen R. Braund and Associates  
P.O. Box 101480, Anchorage, Alaska  
99510, USA  
*Email: srba@alaska.net*

Dalee Dorrough  
Department of Political Science,  
University of Alaska Anchorage  
Expert Member, United Nations  
Permanent Forum on Indigenous  
Issues, UNPFII, 3237 W. 32nd  
Avenue, Anchorage, Alaska,  
99517, USA; Associate Professor,  
Department of Political Science  
University of Alaska, Anchorage  
USA  
*E-mail: DSDorough@uaa.alaska.edu*

Jessica Lefevre  
429 N St. Asaph Street, Alexandria,  
VA 22314, USA  
*Email: Jessica@LefevreLaw.org*

Martin Mennecke  
Law Department  
University of Southern Denmark  
Campusvej 55, 5230 Odense M  
DENMARK  
*Email: marme@sam.sdu.dk*

Birger Poppel  
Project Chief, Emeritus - Survey  
of Living Conditions in the Arctic/  
SLiCA, University of Greenland,  
Postboks 1061, 3900 Nuuk  
GREENLAND  
*Email: bipo@uni.gl*

Elsa Stamatopoulou  
Columbia University  
Director, Indigenous Peoples' Rights  
Program,  
Institute for the Study of Human  
Rights,  
Adjunct Professor, Center for the  
Study of Ethnicity and Race, &  
Department of Anthropology  
420 Hamilton Hall, 1130 Amsterdam  
Ave., New York, NY 10027, USA  
*Email: es3054@columbia.edu*

Fernando Trujillo  
Director Científico - Fundación  
Omacha, Calle 84 21-64, Barrio el  
Polo, Bogotá D.C., COLOMBIA  
*Email: Fernando@omacha.org*

#### **OBSERVERS**

**Animal Welfare Institute**  
DJ Schubert  
Animal Welfare Institute  
900 Pennsylvania Avenue SE  
Washington DC 20003, USA  
*Email: dj@awionline.org*

Sue Fisher  
Consultant, Animal Welfare Institute  
900 Pennsylvania Avenue  
Washington DC 20003, USA  
*Email: sue.fisher@balaena.org*

**Inuit Circumpolar Council**  
Hjalmar Dahl  
ICC Greenland's President, Inuit  
Circumpolar Council (ICC)  
Box 204, 3900 Nuuk  
GREENLAND  
*Email: hjalmar@inuit.org*

**NAMMCO - North Atlantic  
Marine Mammal Commission**  
Charlotte Winsnes  
Deputy Secretary, NAMMCO -  
North Atlantic Marine Mammal  
Commission  
POB 6453, N-9294, Tromsø,  
NORWAY  
*Email: charlotte@nammco.no*

**KNAPK**  
Henrik Sandgren  
Chairman, Organisation of Fishermen  
and Hunters in Greenland  
Aqqusinersuaq 31, Box 386  
Nuuk 3900  
GREENLAND  
*Email: henrik@knapk.gl*

Petrus Biilmann, Director  
Organisation of Fishermen and  
Hunters in Greenland  
Aqqusinersuaq 31, Box 386  
Nuuk 3900  
GREENLAND  
*Email: Petrus@knapk.gl*

Nathan Josefsen, (local whaler from  
Maniitsoq)  
Box 316, Pavia Petersen 586 A  
3912 Maniitsoq  
GREENLAND  
*Email: Knapk@knapk.gl*



## Annex B

### Agenda

1. Introductory items
  - 1.1 Welcoming remarks
  - 1.2 Appointment of Chair
  - 1.3 Appointment of Rapporteurs and procedure for adopting report
  - 1.4 Adoption of Agenda
  - 1.5 Available documents
2. Background and objectives of the Expert Workshop
  - 2.1 Summary of the IWC decision process with respect to ASW including the role of sub-groups, existing IWC definitions of terms and recent decisions
  - 2.2 Objectives of the Workshop based upon Resolution 2014-1 and IWC/65/ASWRep01, Appendix 2
3. General consideration of cultural and subsistence issues outside the IWC relevant to ASW discussions
  - 3.1 The Work of the Arctic Council, the United Nations Declaration on the Rights of Indigenous Peoples, the ILO and other relevant international fora
  - 3.2 Evolution of traditional societies in the modern world including the role of subsistence hunting in communities, nutritional considerations with respect to local vs 'outside' food, food security and socio-economic factors including the role of cash
4. Introduction to ASW hunts
  - 4.1 Greenlandic hunts
  - 4.2 Alaskan hunts
  - 4.3 Makah hunt
  - 4.4 Chukotkan hunts
  - 4.5 Bequian hunt
5. Consideration of the concept of 'need' for ASW
  - 5.1 Introduction explaining how 'need statements' are incorporated in to the present IWC system including reference to difficulties encountered
  - 5.2 Discussion of factors that might be considered in a 'need statement', how they might be incorporated and quantified and how they might change over time
    - 5.2.1 Subsistence and nutritional needs
    - 5.2.2 Cultural/societal needs related to the role hunts, local foods and distribution systems play in ASW communities
    - 5.2.3 The relationship between needs and consumption patterns, including socio-economic and direct or indirect commercial aspects of need
    - 5.2.4 Other 'uses'
    - 5.2.6 Other matters
6. How to improve the future consideration of 'need' in the IWC
  - 6.1 Consideration of the advantages and disadvantages in the provision of more 'standardised' needs statements
  - 6.2 Consideration of options for guidance on the provision of information including flexibility and the need for updates
  - 6.3 Consideration of how to improve the review of ASW catch/strike limit requests by the Commission
7. Other business
8. Conclusions and recommendations
9. Adoption of Report

## Annex C

### List of Documents

#### IWC/S15/ASW

- 1 Secretariat. Provisional Agenda.
- 2 Secretariat. List of Participants.
- 3 Secretariat. List of Documents.
- 4 Donovan, G. Some thoughts on facilitating the process to agree catch limits for aboriginal subsistence whaling (ASW): an update of IWC/63/13.
- 5 Dorrough, D.S. Presentation on: the Arctic Council and its recent initiatives; and the international human rights standards specifically responsive to the distinct cultural context of Indigenous peoples.
- 6 Lefevre, J. Subsistence whaling through the lens of international human rights.
- 7 Mennecke, M. The relevance of international law 'outside' the ICRW for the IWC.
- 8 Stamatopoulou, E. Presentation on: A. Subsistence rights as part of Indigenous Peoples cultural human rights; B. Subsistence rights as part of the new development paradigm; and C. Some policy conclusions and recommendations.
- 9 Trujillo, F. Hunting in the Amazon Basin: inputs for management and sustainability in a changing world.
- 10 Renker, A. Household Survey Methodology: An Option for Collecting, Analysing, Disseminating, and Reporting Aboriginal Subsistence Whaling Data about Cultural, Subsistence and Nutritional Need.
- 11 Braund, S. Quantification of subsistence and cultural need for bowhead whales by Alaska Eskimos: overview.
- 12 Poppel, B. The importance of subsistence to indigenous peoples of the Arctic Different Aspects of Subsistence Activities in Contemporary Arctic Economies and Cultures Findings Based on the Survey of Living Conditions in the Arctic, SLiCA.
- 13 Governments of Japan and USA. A discussion paper on matters related to 'Local Consumption' and 'Commercialism' within Aboriginal Subsistence Whaling (ASW).
- 14 Tillman, M.F. Different Approach to Commercialism in ASW Hunts.

## Annex D

### Statement by KNAPK<sup>8</sup>

The fishers and hunters association in Greenland highly appreciates this opportunity to express our views regarding our centuries old developing whaling traditions.

As part of our culture, sharing of the meat and skin for the appreciation of as many people as possible is of course associated with some costs.

None of the approximately 40 harpoon vessels in Greenland are fulltime whalers, it is unrealistic to earn a living through whaling alone, thus vessel owners must earn a living through other activities such as fishing. Fishing requires quotas, skilled crew and effective gears. As whales are unpredictable, they may show up right in the middle of the best cod season that makes whaling economically risky as you can lose quotas, crew or fishing gears if you abandon them in the fishing season.

Costs associated with killing alone, according to IWC standards, are minimum 50,000 DKK (approx. 7,500 USD). Besides that there are costs related to flensing, transport, conservation and distribution to 56,000 people living in more than 60 settlements all over the coast, all according to some minimum veterinary requirements.

As many modern societies, we have very diverse and continuously developing eating habits. Still though, traditionally prepared dry meat, raw kidneys, skin and blubber, simply cooked chins (*qiporaq*), form the base food of our traditions related to whaling. But also whale meat is also prepared in new ways, like the global cuisine.

In every modern society, cultural traditions are associated with costs for the time energy and resources you put to it. Likewise cultural traditions are allowed to inspire, open eyes and develop the modern world.

## Annex E

### Statement of the Aboriginal Subsistence Hunters

The hunters of Alaska, Chukotka, Greenland, Bequia, and Makah appreciate the efforts of the IWC ASW Subcommittee and Working Group to bring together the Expert Workshop on Aboriginal Subsistence Whaling. Much useful information and discussion are being brought forward through this effort. Consistent with the positive spirit of the Workshop, we provide the following recommendations and information, and ask that they be sent forward to the IWC.

#### RECOMMENDATIONS

- (1) When establishing ASW quota levels the IWC should only consider:
  - (a) the SC report on the status of the whale stock; and
  - (b) the level of harvest requested by the community.
- (2) The established documentation on social and cultural importance, as well as use and welfare, should be made available to all IWC Members and other interested parties through the IWC website and should be updated as necessary to reflect any new information.
- (3) We strongly encourage the IWC Member States to incorporate the modern human rights perspective in all future deliberations pertaining to ASW.
- (4) We strongly encourage IWC Member States and interested organisations to contribute to the fund established at IWC/65 for support of ASW compliance with IWC requests.

#### Background information

We are hunters, mariners, and providers to our communities who have relied upon whale and other marine resources throughout our histories. We come from different locations, histories, and nationalities. Our hunting practices are unique to each of our harvests, just as our approaches to addressing

the requests of the IWC regarding the various concerns of its members are unique. However, these differences do not extend to that which is most important to us and which we share in common.

As hunters, we constantly adapt our practices, tools, and means of distribution to the challenges of location, season, weather conditions, and species available to us. The decisions we make are based on our knowledge, experience, and traditions as hunters and our understanding of the safest, most effective, and most efficient means available, as well as the financial and other resources to which we have access. We strongly encourage the Members of the IWC to acknowledge our experience, our efforts, and the responsibilities we carry within our communities.

We appreciate the many political forces brought to bear upon IWC Member States in their modern deliberations on the subject of whale hunting. As hunters, we respect our living resources and actively work to manage risks to those resources and their habitats. Therefore, we share the sensibilities and concerns of peoples for the conservation and welfare of hunted animals.

Our communities are committed to accepted conservation and welfare regimes, including cooperation with relevant IWC initiatives.

However, we must convey that the ongoing requirement for justification of our lifeways and social, cultural, spiritual, and nutritional existence places our communities and peoples in a defensive, even demeaning, posture. As the human rights presentations given this week demonstrate<sup>9</sup> this continuing requirement for justification also promotes a view that the human rights universally agreed to be available to all peoples may legitimately be circumscribed (without rational justification) in reference to the ways in which our communities live within the world.

<sup>8</sup>Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat – The Association of Fishers and Hunters in Greenland.

<sup>9</sup>See paper on International Human Rights Agreements under Agenda Item 3 of this report.