

# **Report of the Scientific Committee**

**Bled, Slovenia, 24 April-6 May 2018**

## **Annex X Preliminary Feedback Provided by the IWC Scientific Committee on the ‘IWC Review – Final Report’**

**This report is presented as it was at SC/67b.  
There may be further editorial changes (e.g. updated references, tables, figures)  
made before publication.**

**International Whaling Commission  
Bled, Slovenia, 2018**



## Annex X

### Preliminary Feedback Provided by the IWC Scientific Committee on the ‘IWC Review – Final Report’

*Ad hoc Working Group on the Governance Review. For membership see Appendix 1*

#### 1. Introduction

The final report from the Governance Review was released on the 16<sup>th</sup> April 2018 (see IWC Review report downloadable here: <https://archive.iwc.int/?r=6890>). The Independent Review Panel report represents the view of the three panellists and is the first step of the Governance Review process. The Chair of the Operational Effectiveness Working Group of the Finance and Administration Committee asked the Scientific Committee to review the Review report and provide feedback to the Commission on those recommendations related to the Committee.

The Scientific Committee (hereafter the ‘Committee’) formed an *ad hoc* Working Group (WG) to develop an initial response, which was then discussed in Plenary. The initial WG membership was the following: Scientific Committee Chair and Vice Chair, Heads of Delegations, sub-groups Convenors and former Scientific Committee Chair present at the meeting. The presumption was made that this subset represented the view of Committee’s members, given their different roles, had a strong knowledge on the current and past structure and procedures of the Committee. All members of the WG concurred with the recommendations and comments reported herein.

The WG established its *modus operandi*. The WG’s feedback on relevant portions of the report should either provide support for a given recommendation or offer practical alternative solutions to recommendations, where appropriate. In addition, the WG should also identify recommendations and comments based on misinterpretations or misunderstandings of the Review Panel, providing a more accurate reflection of current Committee’s practices and arrangements.

The WG organised its discussion and feedback on Review Panel’s recommendations and comments around five mutually exclusive subject areas (see section 2 below). Within each subject area, those recommendations of perceived importance to the Committee were identified. Where feasible, a timeline for developing a response was proposed.

Any text from the ‘IWC Review Final Report’ is quoted here in *italic*.

#### 2. Feedback on the ‘IWC REVIEW – FINAL REPORT’

The Working Group (WG) identified five mutually exclusive subject areas of interest related to its mission and function in the ‘IWC Review Final Report’. These are:

- (i) pre-eminence of the Scientific Committee;
- (ii) the overarching issue of IWC strategic planning;
- (iii) ways to facilitate communication within the IWC;
- (iv) Scientific Committee function in relation to the Commission and other subsidiary bodies, including the use of budget; and
- (v) IWC Secretariat function in relation to the Scientific Committee.

##### 2.1 Feedback from the Scientific Committee on recommendations and comments

In this section we summarise the WG view on all recommendations and comments, made by the Review panel, which seem directly or indirectly relevant to the current Scientific Committee arrangements. The WG, in addition to commenting on misunderstandings and errors in the Review report, and providing a more accurate reflection of current Committee’s practices and arrangements, has attempted to offer practical solutions to recommendations which were deemed neither applicable nor efficient.

###### 2.1.1 Pre-eminence of the Scientific Committee

One of the strongest recommendations (n.18) from the Review panel was to maintain the recognized pre-eminence in global cetacean research of the Committee. Herein, we have treated this as a separate subject in the review.

**‘Recommendation 18:** *The Scientific Committee should remain a key strength of the IWC and every effort should be maintained to ensure its focus on meeting the needs of the Commission, while maintaining its global preeminence on cetacean research’.*

###### *Panel basis for Recommendation 18*

*(45) There seems to be universal agreement among IWC stakeholders that the IWC Scientific Committee (SC) is the premier body worldwide regarding cetacean science, comprising some of the greatest experts on cetacean biology in the World. The unique and enormous expertise on cetaceans in the SC provides IWC with the stature and credibility to remain as the main global body for cetacean management and conservation. The Review Team notes the Scientific Committee is a key strength of the IWC and every effort should be maintained to ensure its focus on meeting the needs of the Commission, while maintaining its global preeminence on cetacean research.*

## WG CONSIDERATIONS

The Committee is certainly the main global scientific body for cetacean research, as it applies to management and conservation. This year the Committee was composed by over 200 scientists (this year, 119 National Delegates and 90 Invited Participants) coming from 40 different countries. The combination of experts from national delegations and Invited Participants, helps guaranteeing the presence of a variety of expertise from a wide geographical range.

The Committee widens its pool of expertise offered by National delegations (31 countries represented) and geographical representation by inviting participants (IPs) to contribute to its work (at its 2018 meeting, 50% were funded with Committee funding). This year, the participation of scientist from IWC member countries was increased by 30% through IPs participation.

The geographical distribution of represented countries at this year's Committee meeting is as follows: North America (6), South America (6), Europe (15), Africa (4), Asia including Middle east (7), and Oceania (2). This coverage to some extent parallels the distribution of IWC member countries by region.

The Committee is recognized as a global body that has a number of distinct roles: (from the IWC Rules of Procedure, 2016): The Scientific Committee shall *inter alia*: (1) review the current scientific and statistical information with respect to whales and whaling; (2) shall review current scientific research programmes of Governments, other international organisations or of private organisations; (3) shall review the scientific permits and scientific programmes for which Contracting Governments plan to issue scientific permits; and (4) shall consider such additional matters as may be referred to it by the Commission or by the Chair of the Commission, and shall submit reports and recommendations to the Commission.

## WG CONCLUSIONS AND RECOMMENDATIONS

The WG **concurs** with Recommendation 18 that *'every effort should be maintained to ensure its effectiveness and global pre-eminence on cetacean research'*.

### 2.1.2 The overarching issue of IWC strategic planning

The WG noted that at least five recommendations (2, 4, 6, 7, 14 and 20) and paragraph (53), relevant to the Scientific Committee, are concerned with the need for better strategic planning by the Commission.

Recommendations 2 and 6 seem very similar, therefore they are commented on together.

**'Recommendation 2:** *IWC should undertake greater scrutiny and assessment of reports from Committees and Working Groups at its biennial meetings and provide clearer directions for the inter-sessional work of all subsidiary bodies.*

#### *Panel basis for Recommendation 2*

*(17) Alongside a streamlined subsidiary body system, the Review Team considers the IWC should undertake greater scrutiny and assessment of reports from subsidiary bodies at their meetings and provide clearer directions for their inter-sessional work.*

**'Recommendation 6:** *The IWC should develop and adopt a Strategic Plan and a multi-year work programme setting strategic directions and clear priorities for the work of IWC and its subsidiary bodies in line with best practice of other treaty bodies. Ideally, 'what', 'why', by 'whom' and by 'when' should be clearly defined for each task agreed in the strategic plan'.*

#### *Panel basis for Recommendation 6*

*(21) There was a great convergence of views recognizing the need for the Commission to play a greater role in preparing work programs with strategic and prioritized directions, both for the Commission itself and for its subsidiary bodies. The IWC budget should then be determined according to pre-established priorities. Such an approach would enable better communication and coherence between the Commission and subsidiary bodies not least in the case of the Scientific Committee, which in the view of many stakeholders tends to set its own priorities and requires better guidance from the Commission.*

## WG CONSIDERATIONS

The Committee's priorities are set by the Commission. The Scientific Committee's Rules of Procedure and Handbook fully explain how the Committee's Terms of Reference should be interpreted in accordance with the Convention protocol and instructions received from the Commission (e.g., resolutions from the Commission directed to the Committee). The Scientific Committee Handbook also explains how the Committee handles its planning process.

Biennially a draft work plan is developed by the Committee and approved by the Commission. Each year the Committee's Agenda is available for comments and revisions by Contracting Governments 60 days in advance its annual meeting.

Recommended Agenda items, work plans and budgets are available to Contracting Governments at least three months before the Commission's biennial meeting.

In years when the Commission meets, the Scientific Committee provides the Commission with a two-year budget for the Commission to deliberate over and revise, as appropriate. Any budget items either reduced or eliminated from the Committee budget by the Commission would result in a reduction or elimination of Agenda items and sub-items. Items not on the agenda of the Committee are not addressed by the Committee at its annual meeting.

## WG CONCLUSIONS AND RECOMMENDATIONS

The WG **agrees** that developing a multi-year IWC Strategic Plan is very important for the Commission in providing for an effective, efficient and consistent planning approach and for the fair and efficient implementation of IWC policies.

The WG also **suggests** that a coordinated multi-year Work Plan that includes all subsidiary bodies of the Commission would improve efficiency and coordination. The Work Plan should follow logically from the IWC's Strategic Plan.

The WG also **suggests** that any Work Plan approved by the Commission should identify how Commission funding would be allocated across all of its subsidiary bodies, providing some criteria for their assignment. In this way, funding priorities would be clear.

The WG **agrees** on the concept of streamlining planning protocols for all subsidiary bodies and is ready to provide a more 'user-friendly' work plan and proposed budget immediately after its 2018 meeting. This could be done through a separate document prepared by the Chair of the Committee for the consideration of F&A. The work plan of the Committee, together with work plans from all subsidiary bodies, would allow the Commission to draft an overall Work Plan for the Commission. This would guarantee consistency in planning protocols throughout its subsidiary bodies. This comprehensive set of work plans for all subsidiary bodies of the Commission would provide detailed information on 'who', 'why', 'when' and 'how' each element of the Commission would work to achieve overall mission goals of the Commission.

Recommendations 7 and 20 touch on very similar issues, therefore, they are considered together.

**'Recommendation 7:** *All IWC Commission decisions should be properly reflected in the work programme, in a prioritized manner, with the human and/or financial resources needed to ensure their implementation clearly identified and allocated. They should be taken up by Subsidiary Bodies, including the Scientific Committee, with a clear follow-up mechanism put in place. At the very least, in the report of the SC and other subsidiary bodies to the Commission, a clear and specific response on progress achieved on every recommendation/request presented by the Commission should be given.*

### *Panel basis for Recommendation 7*

(24) *At present, when the Commission takes a decision or endorses a recommendation, there is no method to formally adjust the work programmes of the relevant subsidiary bodies, or to allocate the human or financial resources needed to ensure the proper implementation of that decision/ recommendation. Some respondents noted that Commission decisions are not always effectively followed-up by subsidiary bodies, including the Scientific Committee. An example given was the 2016 adopted resolution on the research gap analysis on ecosystem services for cetaceans, which, it appears, was not adequately factored into the workplan and agenda of the Scientific Committee. There is also a perception amongst some stakeholders that key decisions are made by Committees and Working Group Chairs rather than by the Commission, giving the impression sometimes that the 'tail has been wagging the dog' for IWC. The Review Team considers the IWC should develop a clearer system to ensure that all Commission decisions are prioritized and taken up by IWC subsidiary bodies, including the Scientific Committee, with a clear follow-up mechanism in place.*

(25) *Such a system could be introduced based around the 'Main Outcomes' document, which is adopted by the Commission at the close of each plenary session. This should ensure actions are followed from Commission decisions. It would also help to promote discussion on Commission level strategy. In general, it is very important that decisions by the Commission and subsidiary bodies are better implemented, monitored and followed-up. Systems used by other treaty bodies are outlined in Section 9 of this report, have a number of common features which are also relevant to the IWC, including: (i) ownership and agreement of outcomes and decisions by member States; (ii) assignment of priorities by member States, based on criteria such as those outlined in paragraph 155 of this report; (iii) assignment of lead responsibilities for action; and (iv) clear systems of monitoring, evaluation and follow up.*

**'Recommendation 20:** *A more effective process should be developed to ensure that resolutions and other decisions by the Commission are included in the IWC Workplan and that these items are afforded high priority by the SC and other subsidiary bodies. A clearer channel of communication and a process should be developed for following-up on IWC Resolutions by the Chair of the SC.*

### *Panel basis for Recommendation 20*

#### *Accountability*

(49) *According to many stakeholders, the SC tends to set its own agenda and priorities, including **too much discretion for the chair, vice-chair, IWC Head of Science and conveners, reflecting, in some instances, the personal interests of the scientists involved rather than those of the Commission** [emphasis added]. The Review Team finds it important that the Commission provide clear and unambiguous direction to the SC at its biennial meetings as already noted in Recommendation 2, with regard to all subsidiary bodies. The Commission should undertake greater scrutiny and assessment of the SC reports at their biennial meetings and should also provide clearer and more explicit directions for the inter-sessional work of the SC. The SC submits its draft two-year workplan and agenda to the Commission at least 100 days before the Commission meeting for Commission approval or otherwise and this should provide time for adequate preparation for scrutiny and assessment at Commission meetings.*

(50) Also, Commission directions should be followed-up more effectively by the SC and reported on at subsequent Commission Meetings.

## WG CONSIDERATIONS

The Committee, as a body and through its leadership, makes every effort to comply with all instructions received from the Commission. The Committee reports regularly to the Commission on its efforts to implement instructions from the Commission via: (1) annual reports, including budget requests; (2) a 2-year summary document; and (3) orally at the Commission's plenary meeting.

In 2017 the Committee discussed the issue of responsiveness to Commission directives. The Committee report from 2017 states:

16.6.3 Review of other topics related to Ecosystem Modelling. SC/67a/EM13 took note of IWC Resolution 2016-3 'Cetaceans and Their Contribution to Ecosystem Functioning'. In the resolution, the Commission asked to 'the Scientific Committee to screen the existing research studies on the contribution of cetaceans to ecosystem functioning to develop a gap analysis regarding research and to develop a plan for remaining research needs.' SC/67a/EM13 was intended to help this process and provided a bibliography of relevant scientific publications and suggestions for further research to help fill knowledge gaps. In response to a request for advice on how to build hypotheses into quantitative models, advice was presented on the use of tools such as EcoSim, as well as other papers and projects on animal movement and habitat use that speak to how and where animals can be part of ecosystem models using data, rather than simulations. The Committee encourages relevant submissions in the future, especially considering Resolution 2016-3.

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Attention: SC, CC

The Committee agrees that its Working Group on Ecosystem Modelling is the proper place to bring forward work focused on biological hypotheses relevant to IWC Resolution 2016-3, 'Cetaceans and Their Contribution to Ecosystem Functioning'. An intersessional correspondence group was established (Annex W) to further develop proposals for a way forward in SC/67b, and how to best integrate this stream of work into the Scientific Committee.

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The Intersessional Correspondence Group (ISG) on 'Work focused on biological hypothesis relevant to IWC Resolution 2016-3' discussed on how to develop proposals for a way forward in SC/67b, and how to best integrate this stream of work into the Scientific Committee. The ISG contacted a gap analysis expert to see if they would be willing to undertake a review in time for SC67b. An initial proposal was received, but was subsequently withdrawn because it was too large a task. In 2018, the Scientific Committee Agenda included a specific sub-item on this matter (16.4.4 Ecosystem functioning). The section of the Committee report on this issue follows:

### 16.4.4 Ecosystem functioning

Resolution 2016-3 tasked the Committee with investigating the contribution of cetaceans to ecosystem functions.

Last year, the Committee noted that its focus would be on scientific aspects of the issue and established an intersessional correspondence group to progress this work. Progress made by that group, including development of a final terms of reference, can be found in Annex L, item 6.2. The Committee notes that the Conservation Committee will focus on the conservation and social science aspects of this survey.

It was noted that there is broad interest in understanding the role of cetaceans in ecosystem functions, and that the Committee's expertise relates to the scientific aspects of the issue. Given the broad interest, it is suggested that the Committee work in collaboration with interested parties (e.g. CMS, CCAMLR, SCAR and SCOR) to share information and avoid the duplication of work.

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Attention: C-A, CC, SC

In responding to Commission Resolution 2016-3, the Committee **advises** the Commission that in its focus on the scientific aspects on the contribution of cetaceans to ecosystem functioning:

- (1) it is unlikely that the ultimate goal of properly determining the contribution of cetaceans to ecosystem functioning could be achieved in under a decade, given the complexity of the issue and the data gaps;
- (2) a more immediate and achievable goal is the carrying out of a gap analysis to identify knowledge gaps and to develop a plan to address them.

To further this work, the Committee **agrees**:

- (1) that it would be beneficial to hold a workshop to (a) define short- and medium-term objectives to be addressed and (b) to identify what further research is required in order to begin initial modelling of the contribution of cetaceans to ecosystem function; and
  - (2) that the Secretariat in conjunction with the Steering Group (ref) should contact CMS to determine their interest in participating in such a workshop.
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These agreements show the Committee's plan on integrating the 'Ecosystem functioning' issue in our workplan with the initial focus on conducting a gap analysis.

Along these same lines, the Committed noted that as part of its formal budget submission to the Commission, it included a budget line regarding implementation costs of directives from the Commission.

Further, as part of recommendation 20, and as found in paragraph (49), there are serious claims from 'many stakeholders' regarding potential conflicts of interest affecting the actions of the Committee Chair, Vice-Chair and Head of Science. The role and powers of these officers are described in RoPs I, Appendix 1 of the Financial Regulations, SC-RoPs A, B, C, D and E.

The role of the Chair and Vice-Chair is to facilitate the work of the Scientific Committee in providing the best scientific advice to the Commission. As is the case for the Chair of the Commission, the Scientific Committee Chair's role is 'to serve the Commission, and as such, shall serve in an individual capacity and not represent the views of their Contracting Government, when acting as Chair' (Commission Rule F.1). To accentuate this, when presenting the results of the Scientific Committee's work at the Commission meeting, the Chair of the Scientific Committee usually sits with the Secretariat's Head of Science and they work together to deliver the report and answer questions. The IWC

Secretariat's Head of Science (HoS) is the liaison officer dedicated to support the Scientific Committee activities. The HoS also oversees the production of all IWC scientific meeting reports and publications (see sections 5.2-5.4 of the SC HB). See section 3.2 of the SC Handbook for full details on these roles.

The Conveners' group is established in accordance to SC-RoP D.3. It currently includes 11 National delegates (representing six CGs), and 12 Invited Participants (four of which are former delegates, increasing the representation to 10 out of 31 CGs attending the SC), the Head of Science, and as *ex officio* members the Head of Statistics and the IWC Secretary. This group is now wide, diverse and has expanded in recent years to guarantee inclusion to the maximum extent possible.

#### **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG **notes** that the Committee is always responsive to the instructions of the Commission. The WG **rejects** the claim that *'the SC tends to set its own agenda and priorities, including too much discretion for the chair, vice-chair, IWC Head of Science and conveners, reflecting, in some instances, the personal interests of the scientists involved rather than those of the Commission'*. Here, it would have been helpful had the Review Panel provided specific examples to support their assertion. Members of the WG, which represent considerable experience at the Committee and considerable experience responding to Commission directives, have simply not found personal interests or personal agendas of Committee leadership to dictate Committee priorities. It is certainly the case that the implementation of actions responsive to some received instructions may, however, require more time than others. Nonetheless, the Committee has always promptly responded to Commission requests to the best of its ability. In addition, it should be recognized that when instructions are unclear or require resources beyond the scope of the Committee, the implementation of an adequate response may prove difficult or impossible.

For example, when the draft Resolution 2016-3 was presented at the 2016 Commission meeting, the Committee's Chair provided the following statement (REF):

*'The proposed resolution on cetaceans and ecosystem services requests that the Conservation Committee and Scientific Committee incorporate 'ecosystem services provided by live cetaceans to its work, including the review of the aspects previously identified' [legal, ecological, management, environmental, social, economical and financial aspects related to ecosystem services provided by live cetaceans to people and natural systems]. The Scientific Committee [already] considers ecological and environmental aspects of the relationship between cetaceans and marine ecosystem and their key role in the ecosystem under this item [Ecosystem Modelling]. A wider discussion on legal, social and economic values of cetaceans is outside the current remit of the Scientific Committee and thus may be more appropriate for the Conservation Committee'.*

The Resolution was amended also taking into consideration this statement.

The WG **agrees** that, in order to improve the Committee's ability to respond to Commission recommendations to the Committee, it is advisable that authors of any new draft resolutions being considered by the Commission that contain instructions or have implications for the Agenda or workload of the Committee consider consulting with the Committee's Chair, Vice-Chair and Head of Science. This would provide an opportunity for a 'feasibility and implications' check. Such a practice would greatly improve efficiency and responsiveness of the Committee regarding Commission resolutions that direct the Committee to undertake a given task.

**'Recommendation 14:** *A clearer and more logical structure should be established for the IWC Committee and Working Group system, setting out: (i) the roles of, and the distinction between, committees, sub-committees and Working Groups; (ii) which current groups fit into which category; and (iii) opportunities for reducing duplication and ensuring better reporting arrangements between the different groups. The development of this structure should be led by the Commission and should be included in the strategic plan, referred to in Recommendation 6.*

*Panel basis for Recommendation 14 and Paragraph (53)*

*(40) Overall, the structure of the system appears confusing to the Review Team and seems to have evolved organically. For the non-mandatory groups, it is not clear under which RoP rules they have been established, and it is not specified whether they are permanent or ad hoc. Their titles as either 'committee', 'sub-committee' or 'working group' seem random, without distinction and reflection on their variable levels of performance and subordination. In this regard, the Scientific Committee is in a category of itself, having resources at its disposal that the other subsidiary bodies lack. Adding to the lack of clarity is the fact that 'sub-committees' and 'working groups' have not only been established directly under the Commission, but also as subsidiary bodies to Committees.*

*(41) There appears to be some overlaps between the different groups. This needs to be addressed more strategically, including through a review of these overlaps and associated recommendations to reduce duplication and increase effectiveness. Reporting lines also require clarification. In general, the Review Team considers the number of Committees, Sub-Committees and Working Groups excessive. This creates difficulties, particularly for Contracting Governments with limited resources. This situation should be rationalized and streamlined with a clearer structure and hierarchy in the context of the Commission, providing overall policy and strategic direction for the whole IWC. In particular, there is a need to evaluate those bodies that do not meet nor conduct work inter-sessionally, since some may have already finalized their mandates. The broad authority and autonomy of the SC to create subsidiary bodies should also be critically evaluated. In the shorter term, a possible way to minimize the problem of the excessive number of committees, groups and concurrent meetings would be to conduct more inter-sessional work, and to make better use of technological tools. [...]*

(53) *The SC agenda covers too many areas, with an associated excessive amount of information being provided annually to the SC by some sub-committees for evaluation and discussion. Therefore, the annual scope of work and materials need to be reviewed and refined to ensure SC meetings are more manageable. The Review Team also notes there are 14 sub-committees under the Scientific Committee, which is unwieldy and creates a very large volume of information that needs rationalization and streamlining. It should also be noted that not all sub-groups are allocated the same amount of time within the SC agenda. Having so many sub-committees also makes it harder for countries with small delegations to cover all of the issues and the sub-committees. The Review Team notes considerable work is underway to limit the papers and agenda items submitted to the SC in accord with its agenda (as agreed by the Commission).*

## **WG CONSIDERATIONS**

The Committee's RoPs C.1 and C.4 state how the Scientific Committee establish its sub-committees and working groups.

While there are subjects of common interest, the Committee's sub-groups deliberately avoid duplicating the work of any other groups or sub-groups within the Commission. Regular exchanges with the chairs of Conservation Committee's sub-groups, which are tasked to look at complementary topics (i.e., Whale Watching, Ship strikes), have been ongoing over the past three years. This was done to help streamline complementary agendas and avoid duplication.

The establishment of sub-committees at the Scientific Committee serves two purposes: (a) to be responsive to requests from the Commission for advice; and (b) to improve the efficiency and consistency of advice provided to the Commission.

Section 9 of the SC Handbook provides details on the current organization of the Committee. In general, the number of Committee sub-groups is directly related to standing and new agenda items requested or approved by the Commission. Splitting the Committee Agenda into workable size units is the main reason why the Committee is able to deliver such a large amount of information and advice at the end of its annual meetings. Discussions at one sub-committee meeting are not duplicated at other sub-committee meetings by design. This is due to a strict focus on sub-committee Terms of Reference and coordination of agenda items by the convenors group. In this way, the Committee is able to achieve consistency in the rigor of its peer-reviewed process throughout the entire Agenda of the Committee.

## **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG again notes the importance of the Commission preparing a Strategic Plan that would address Commission priorities over the next 5-10 years. A work plan could then be developed to implement the objectives of the Strategic Plan. The Committee would then work closely with the Commission in developing a work plan that better reflected the priorities of the Commission.

The Committee over the past five years has undertaken to reduce the number of sub-groups and give specific ToRs to shorten the longevity of some of its sub-groups. This effort perhaps was not recognized by the Review Panel, who only observed the Committee at one meeting. While the mix of sub-committees and working groups can be confusing for non-Committee members, from the perspective of Committee members the system seems to work reasonably well, at least with respect to discussion and provision of scientific advice.

The WG **agrees** that additional consolidation may be possible, but would require guidance from the Commission that a given topic being addressed by a sub-group of the Committee was no longer a priority for the Commission.

The WG also **agrees** that a shorter Agenda would allow for better discussion of the remaining topics and possibly for a better communication of the results to other subsidiary bodies and to the Commission. Efforts to achieve a reduction in the number of Agenda items will be initiated prior to the 2019 annual meeting of the Committee, but will require guidance from the Commission.

### *2.1.3 Recommendations on ways to facilitate communication within the IWC*

The WG identified a number of comments and recommendations that indicate there is a need to improve and facilitate communications within the IWC as a whole. In particular, we considered Recommendations 1, 3, 11, 16, 21 and related paragraphs and additional paragraphs (47) and (58).

Recommendation 1 and 16 seem very similar (at least in some part), therefore, comments and proposals from the Committee are given for both at the same time.

***'Recommendation 1: Biennial Commission meetings should be maintained, but measures should be implemented to strengthen the IWC inter-sessional process, including through having: (i) a strong and effective Bureau; (ii) a well-structured and effective subsidiary body system; (iii) regular, effective and two way communication within the Commission[emphasis added]; and (iv) effective involvement of States in decision making during the inter-sessional period, particularly in the case of developing States, which should be supported to attend IWC meetings, including those of the scientific and conservation committees.'***

*Panel basis for Recommendation 1*

*Executive Summary (p. 6): 'the Review Team notes the Bureau can play an important role in the governance of IWC, including ensuring inter-sessional work by subsidiary bodies, such as the Scientific Committee, is occurring and is consistent with the proceedings of Commission meetings'.*



(16) *The Review Team believes that the advantages of biennial sessions exceed the disadvantages, provided that the biennial meetings are accompanied by a structured, effective IWC inter-sessional process, to establish and maintain momentum between Commission meetings. A number of measures have been taken by other Multilateral Environmental Agencies (MEAs) and Regional Fisheries Management Organisations (RFMOs) to strengthen the inter-sessional process, including: (i) having a strong and effective Bureau; (ii) a well-structured and effective subsidiary body system operating in line with clear mandates from the Governing Body; (iii) regular, effective and two way communication between the Secretariat, Bureau, and the Governing Body; and (iv) effective involvement of States in decision making during the inter-sessional period, particularly in the case of developing States. These measures are also relevant and applicable to the IWC and should be developed and applied as a priority.*

**‘Recommendation 16:** *Mechanisms for better communication, collaboration and coordination between the different IWC subsidiary bodies should be established, to enable them to better address instructions from the Commission and to avoid overlapping. Such mechanisms could include, inter alia: (i) joint meetings; (ii) common membership of different bodies; (iii) joint projects; and (iv) regular and effective communication of meeting minutes, key outcomes and products.*

*Panel basis for Recommendation 16*

(43) *The relationship between the subsidiary bodies is considered by the Review Team to be unclear, particularly to people who are not intimately involved in the Commission’s work, and should, therefore, be clarified, and also require more collaboration, coordination and communication on issues of mutual interest. In this context, the Joint CC-SC meeting was highlighted by many stakeholders as a positive move in this direction and a possible model that could be replicated to other subsidiary bodies, notwithstanding the limitations related to the availability of financial resources. Mechanisms for better communication and collaboration between the different IWC subsidiary bodies should be established. Given the IWC structure, and noting experience from other treaty bodies, these mechanisms could include: (i) joint meetings, such as those held by the CC and the SC; (ii) common membership of different subsidiary bodies; (iii) joint projects, involving two or more subsidiary bodies; and (iv) regular and effective communication of meeting minutes, key outcomes and products between the different subsidiary bodies.*

## **WG CONSIDERATIONS**

At present, the communication between the Scientific Committee and Commission is primarily achieved through the Chair and vice-chair of the Commission. Whenever issues arise, the Committee chair and vice-chair can contact the Commission chair and vice-chair seeking their advice. The Commission Chair has the same opportunity if a matter needs to be discussed with the Committee. The Scientific Committee Chairs do not typically attend Bureau meetings, but they could be invited (see recommendations below).

It is useful to clarify that there is little or no decision-making accomplished during intersessional periods. Chairs, supported by the Secretariat, are simply overseeing agreed activities, making sure that they all go according to the endorsed plan.

According to the IWC Rules of Procedure this role - coordination and oversight of intersessional activities and adherence with the Commission’s instructions - is the responsibility of the Commission Chair (see Comn RoP F.2f).

In relation to the SC arrangements, this is ensured by the Scientific Committee Chair and Convenors’ group, established under SC-RoP D.3. See ‘Committee’s consideration and facts checking’ section under Recommendation 20 (p.4 of this report) for details on the composition of this group.

## **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG **notes** that communication among scientists and lay persons involves communicating highly technical information in a manner that is both understandable and informative. This is a difficult task and it should be recognized as being so. Nonetheless, it is the goal of the Committee to continue to expand its efforts to better communicate scientific advice to the Commission.

The WG **agrees** that a better protocol for communication within subsidiary bodies would result in more efficient work and greater intersessional progress. Under the current organization and communication protocols, the Committee provides the Commission with considerable advice in response to Commission directives, and general advice on the status of cetacean stocks and impacts of anthropogenic activities, including direct and indirect killing of cetaceans. The nature of these communications from the Committee to the Commission is primarily through technical documents, and summaries of technical documents. Oral presentations from the Committee to the Commission are also an important aspect of the Commission communication protocol, and have been used many times in the past. If the Commission’s organization or communication protocol changes, the Committee would welcome involvement in discussions regarding different mechanisms of communication. The Committee would also welcome input from the Commission regarding other forms of communication with the Commission, including the expanded use of interactive media.

The WG **suggests** that all Chairs of Commission subsidiary bodies, including the Scientific Committee, be included in the Bureau mailing list, as *ex officio members*, and that they participate (even only if in a remote mode) in Bureau meetings whenever the Bureau agenda includes issues relevant to their subsidiary bodies. This would strengthen the intersessional communication between the Commission and all subsidiary bodies.

Alternatively, an IWC convenors' group could be formed under the Commission Chair, which includes all chairs of subsidiary bodies and all members of the Bureau. In this case, the Committee suggests that Chairs of subsidiary bodies be invited to participate in Bureau meetings.

Recommendation 3 and 21 seem very similar; therefore, they are commented together.

***‘Recommendation 3: IWC Scientific and other committees should provide information to Commission Members in a format and structure that allows effective consideration by the Commission of scientific and policy issues and their implications for Commission decision making.***

*Panel basis for Recommendation 3*

*(18) The agenda of Commission meetings is expanding and it is increasingly challenging to conduct business in the time available. Some stakeholders noted that the 2016 IWC Meeting was ‘an improvement’ compared to previous meetings, reflecting good chairing and the fact that the Chair tried to ‘get all draft decisions out on the first day’, with an initial general discussion and a major attempt to reach consensus in small groups on contentious issues, such as Aboriginal Subsistence Whaling. The rule of a 100-day interval between the Scientific Committee and the Commission Meeting is an improvement compared to former back-to-back meetings of the two forums. Nonetheless, reports from the Scientific Committee to Commission are often ‘dense and heavy’, according to many interviewed for this review, and it is important that information is provided to Commission Members in a format and structure which allows effective consideration of scientific and policy issues and their implications for Commission decision making. This is in line with the role of the Scientific Committee, which is to provide the best scientific advice to the Commission. There is an Executive Summary provided for the main SC report, however it is still important to have shorter, non-technical documents, which objectively set out the advice to the Commission stemming from scientific data in a format more digestible for Commissioners.*

***‘Recommendation 21: Recommendations from the SC to the Commission should be clearer. The RoP of the Commission, the SC and other subsidiary bodies should be thoroughly revised and harmonized.***

*Panel basis for Recommendation 21*

*Clarity of recommendations*

*(51) The inability of the SC to deliver clear recommendations on contested issues was considered to hamper its credibility. At least part of the problem stems from the confusing, and many times conflicting, rules of procedure (RoP) of the organization. SC-RoP E (3), for instance, allows the Scientific Committee to make recommendations on any topics under its consideration, while IWC RoP M (4) suggests that the Scientific Committee may consider only topics referred to it by the IWC or the Commission Chair and that any reports and recommendations must derive only from its prescribed course of work. A thorough revision and consequent harmonization of the rules of procedure of Commission and SC-RoP is, therefore, warranted.*

## **WG CONSIDERATIONS**

As noted above, the Committee has been working to improve the way it communicates information and recommendations to the Commission. Examples include the production of a biennial summary of Committee advice and recommendations (since 2014), as well as a reformatting of the Committee’s annual report. The effort on the part of the Committee to improve the usefulness of information provided to the Commission received a formal commendation of appreciation by the Commission in 2016. See section 5.3 of the SC Handbook for full details on the current approach regarding how the Committee informs the Commission.

The Committee has also engaged in a thorough reconsideration of the nature and structure of the main body of its annual report. This process will take at least another biennium before it is completed.

Finally, the WG would like to respond to an assertion regarding the ‘*inability of the SC to deliver clear recommendations on contested issues*’. It would have been very helpful to the Committee had the Review Team provided specific examples of what prompted this comment. In addition, it would be helpful to know what the Review Team meant by a ‘contested issue’. From a scientific perspective, the Committee first would like to point out that consensus regarding the interpretation of complex scientific data is not always possible. In fact, such debates are common and enrich the content of the Committee’s science. Second, uncertainty is a vitally important aspect of research. Over time, uncertainty can be addressed; but it rarely can be eliminated. Therefore, from the Committee’s perspective, it is reasonable to expect a lack of consensus on some or perhaps many of the scientific issues before the Committee. The Review Panel should understand this state of affairs and not necessarily consider a lack of consensus on the part of the Committee a weakness. Finally, a majority position in a working group or committee does not necessarily characterize the best science regarding a decision before the Commission. As scientific discussions are fraught with uncertainty, there is often the need for recommendations to be conditional on future work. This is unavoidable.

## **WG CONCLUSIONS AND RECOMMENDATIONS**

The Committee **is fully engaged** in a continuous effort to improve its ways to communicate with the Commission and all other subsidiary bodies. Any feedback on other potential modifications of current ways to communicate with the Commission, beside the ongoing two initiatives (‘new recommendation box’ and ‘2-year summary’), would be greatly appreciated. To this end, the WG **agrees** to explore other forms to further distill documents which summarise the main

outcomes and the proposed biannual work plan, and a wider use of PowerPoint presentations or other media protocols at the Commission Plenary and subsidiary meetings.

The WG **reiterates** that scientific recommendations or advice based on a consensus opinion of the Committee are not always possible; this situation should be recognised as unavoidable given the complexity of the issues under discussion and the diversity of the Committee's membership. Further it is recognized that from a lay person's position, it is difficult to understand why a group of scientists cannot agree on scientific advice regarding complex issues. This perception needs to be address in a communication strategy by the Committee.

**'Recommendation 11:** *IWC should continue with the arrangements for IISD/ENB reporting of Commission Meetings and consider expanding this reporting to other key meetings, such as those of the Scientific Committee, subject to availability of resources. To the extent possible, the service should also be expanded to include detailed daily reports.*

*Panel basis for Recommendation 11*

*(31) The arrangements for reporting on meetings are generally satisfactory, while some stakeholders complained that it takes too much time for meeting reports to be circulated. It should be noted that most stakeholders welcomed the IISD/ENB reporting at Commission meetings, as IISD has done for many years in other multilateral treaty bodies, such as the COPs and scientific and technical bodies of CBD and CITES, for instance. This reporting service is seen as a positive step towards greater transparency and outreach for IWC Meetings and alignment with good practices of other treaty bodies.*

## **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG **disagrees** with the Review Panel regarding the merits of IISD/ENB reporting at Committee meetings. Rather, given the nature and arrangements of the Scientific Committee annual meetings and the limited resources available for all IWC activities, the IISD/ENB reporting would not be the best use of funds, nor is it necessary.

### *2.1.4 Recommendations related to the Scientific Committee function in relation to the Commission and other subsidiary bodies, including the use of the core budget*

In this section we discuss all recommendations related to the Scientific Committee functioning in relation to the Commission and other subsidiary bodies, including the use of the core budget. SC structure, Agenda, work plan (including the inter-sessional period) and budget. These are Recommendation 23 and paragraph (104). See also all considerations around Recommendation section 2.2.1.

**'Recommendation 23:** *The budget allocation for the SC, as well as for all other subsidiary bodies of the Commission, should be revised in order to allow a more equitable distribution of the resources available and to ensure alignment with IWC priorities. This should be done in conjunction with the revision of the structure and number of subsidiary bodies (Recommendations 14 and 15). Over-expenditure relative to allocated budget should not be allowed to occur. IWC should also look for additional sources of funding for SC meetings, in addition to funds available through the IWC core budget.*

*Panel basis for Recommendation 23 (see also 24) and paragraphs (57), (58) and (104)*

*Finance issues*

*(55) The cost of the Scientific Committee is a substantial part of the overall budget of the Commission, and it is notable that the Scientific Committee meeting was over budget by 20% in 2017. The Review Team notes SC Research (commonly known as 'the SC Budget') is separate to the budget for SC Meetings. The budget allocation for the Scientific Committee needs to be carefully reviewed relative to other IWC activities and the Chair of this Committee and the Secretariat should ensure that over-expenditure relative to allocated budget is not permitted to occur. The Review Team notes the current IWC budget for the Scientific Committee is 120,000 GBP and that this is considered inadequate by Commission members and Scientific Committee participants. The Review Team draws attention to the fact that other MEAs and RFMOs look for a range of funding sources for statutory and non-statutory meetings, including support from the host country of these meeting. IWC should look to additional sources of funding for SC meetings, in addition to funds available through the IWC core budget. [...]*

*(57) In spite of recent years' momentum, the CC still faces many challenges, including:*

- Imbalance between the work of the SC and CC. First and foremost, the allocation of resources to the SC is from the core budget, while resources to the CC are allocated through voluntary contributions. This is a constraint for the work of the CC. Moreover, the SC holds major annual meetings separate from the biennial Commission meeting, while the Conservation Committee is currently held once every two years, just before the Commission meets. As mentioned above, the Conservation Committee Planning Group meets for a few hours directly after the Scientific Committee. This disparity in resources as well as meeting frequency and duration constrains the effectiveness of the CC.*
- Role clarity. Some respondents noted the lack of clarity of mandates of the CC and SC, resulting in overlap and confusion of roles. A better coordination and synergy between the CC and the SC, as well as with other subsidiary bodies, in particular with the Working Group on Whale Killing Methods and Welfare Issues, is, therefore, much needed.*
- Limited budget. The CC lacks an adequate budget to carry out its work, since its activities are funded exclusively through voluntary contributions, limiting its performance and effectiveness. According to some of the respondents, this reflects the much higher priority (and thus more time and financial*

resources) being placed on whaling related items, such as RMP and special permits, than on conservation related issues.

- *Recognition of the CC. The Review Team notes a number of member governments do not attend the CC ‘on principle’ and this poses challenges for the effectiveness and legitimacy of the CC.*

*(58) The Review Team believes a greater focus on the work of the Conservation Committee is warranted, although this should not detract in any way from the work of the Scientific Committee on which the work of the Conservation Committee is highly dependent. There is a strong case to increase the number of dedicated staff to support the CC, including a Head of Conservation to mirror the Head of Science, and to enhance the time and funds available, from the core budget, for it to undertake its work. There is considerable expertise on cetacean conservation within Contracting Governments, and the Scientific Committee, and there is potential for better use of this expertise within the work of the Conservation Committee. Consequently, there is also a need to upgrade the contact group between the Scientific and Conservation Committees from its current rather marginal role. [...]*

*(104) The Review Team considers that ‘Business as Usual’ is not acceptable given the considerable financial challenges the IWC currently faces. For example, as at September, 2017, there was an overspend of 26,000 GBP in the years’ budget and also a 20% overspend in the Scientific meeting budget. From the budget papers, it appears that the costs of major meetings, such as the Scientific Committee, are also not sustainable. Once Secretariat costs are taken away from the budget, then the Scientific Committee consumes 80% of the remaining funds. The Review Team notes the IWC Secretariat prepared a table in 2017 outlining costs for the last 5 Scientific Committee meetings: this is a positive trend towards greater transparency and should continue. However, the basic issue of sustainability of financing of these meetings remains.*

## **WG CONSIDERATIONS**

The Committee does not manage the budget associated with the cost of hosting the annual meeting of the Committee. Moreover, the assertion regarding a budget overrun contained in paragraph (104) seems to lack knowledge of actual practice within the Commission.

In addition, the recommendation to redistribute the core fund seems in contradiction with Recommendation 18 (*‘the Scientific Committee is a key strength of the IWC and every effort should be maintained to ensure its effectiveness and global pre-eminence on cetacean research’*) and paragraph (58) (*‘The Review Team believes a greater focus on the work of the Conservation Committee is warranted, although this should not detract in any way from the work of the Scientific Committee on which the work of the Conservation Committee is highly dependent’*). It is the view of the WG that the allocation of limited funding by the Commission would best be driven by prioritized objectives developed in a future IWC Strategic Plan. The allocation of a budget among subsidiary bodies should be based on priorities and not preconceived perceptions regarding equity, which may not reflect the agreed views of the Commission.

For example, in relation to the bullet points in paragraph (57), *‘Imbalance between the work of the SC and CC’* and *‘Limited budget’*, it should be clarified that this reflects the current priorities of the Scientific Committee and the Conservation Committee, which has been adopted by the Commission. It is the priorities of the Commission and the general workload of the Committee that explains the so-called *‘imbalance’* referred to by the Review Panel. It should also be recognized that when the Conservation Committee was proposed, the Commission agreed that it *‘would be on a par and equal with the Scientific and Finance and Administration Committees and should not have major implications for either cost or responsibilities of the Commission’* (IWC 2003). This agreement was based on the following assertion by the Commission: that the *‘establishment, by the Commission, of an appropriate trust fund (including the identification of potential contributors), to make available the necessary financial resources to the Commission and, particularly, to the Contracting Governments committed to implementing specific items of the Conservation Agenda related to conservation-oriented research’* (IWC 2003).

In regard to the *‘Role clarity’*, the Scientific Committee believes it has a very clear mandate from the Commission, which is codified in its Terms of Reference (see SC-RoPs M.4a; sections 1.2 and 2 of the SC Handbook).

Finally, some Heads of Delegation pointed out that this recommendation or the preambular paragraphs (57 and 58), the Review Panel members have not acknowledged the stated positions of IWC members regarding the establishment and role of the Conservation Committee.

## **WG CONCLUSIONS AND RECOMMENDATIONS**

While the Committee will comply with any decision that the Commission will take regarding the Core Fund, the WG does not believe that determining how the General Fund is assigned to different committees (i.e. the size of the Research Fund) is its responsibility. Rather, it believes that allocation of the General Fund should be based on clearly established priorities. Further, an equitable distribution of resources to Commission subsidiary bodies is unlikely to result in an optimal implementation of Commission objectives. Nevertheless, the WG **agrees**, as noted earlier, that the Commission should develop and approve a Strategic Plan, and the allocation of resources to subsidiary bodies should stem from what is needed to best achieve its objectives.

The WG **concurs** with the Review Panel statement in paragraph (58), that any measure to improve the ability of the Conservation Committee *‘should not detract in any way from the work of the Scientific Committee on which the work of the Conservation Committee is highly dependent’*.

Recommendation 4 and paragraphs 47 and 48 consider similar issues, therefore, are treated together.

**‘Recommendation 4:** *Once the Commission has completed a revision of the structure and number of subsidiary bodies, streamlining them (Recommendations 14 and 15), a joint working group of scientists and managers should be created to improve dialogue between the Commission and the Scientific Committee and to ensure SC proceedings and recommendations are clear, concise and as policy relevant as possible.’*

*Panel basis for Recommendation 4*

*(19) The Review Team considers a contact group between the Commission and the Scientific Committee should be established, tasked to make SC proceedings and recommendations are clear, concise and policy relevant so as to establish the most suitable format for decision-making by the Commission. Hard deadlines should be set for the submission of papers in advance of meetings.*

*‘Paragraphs 47 and 48 on the Relationship between the Scientific Committee and Other Committees:*

*(47) The relationship between the Scientific Committee and other committees and working groups is seen as reasonably satisfactory by IWC stakeholders. The main criticism relates to a lack of communication and cooperation between different groups, particularly during inter-sessional periods. One of the negative consequences of this is the overlapping and duplication of work. The Scientific Committee and other committees and working groups, therefore, should have better coordination and clearer mandates.*

*(48) In the absence of formal Terms of Reference and guidance from the Commission, some subsidiary bodies tend to self-determine their mandates, resulting in duplication of work and waste of valuable resources. The establishment of a Joint Working Group of the CC and the SC is welcomed as a step in the right direction, but is considered to be less effective than it could be, mainly because of the short time available to it and the inappropriate timing. The meeting of the Conservation Committee is currently held once every two years, just before the Commission meets. However, the Conservation Committee Planning Group meets for a few hours directly after the Scientific Committee. This is a small planning meeting, to ensure intersessional progress with work and to plan for the biennial Conservation Committee meeting. The holding of concurrent sessions of the Scientific Committee and Conservation Committee during the normal course of Scientific Committee meetings could be a more effective way to ensure better coordination and joint work. The Review Team notes however, that concurrent sessions pose challenges for delegations with only one or two members. The Review Team notes the Joint Conservation Committee - Scientific Committee Working Group is progressively developing a database of IWC recommendations which will be presented to the Joint CC/SC Working Group in May 2018. The Review Team commends this positive initiative.*

## **WG CONSIDERATIONS**

Figure 1 of the Scientific Committee Handbook clarifies how the Committee interacts with all other subsidiary bodies and the Commission.

The Joint Conservation Committee and Scientific Committee Working Group has clear Terms of Reference (REF):

The Joint CC/SC working group (CC/SC WG) is tasked with facilitating the communication, implementation, and follow-up of conservation recommendations. The CC/SC WG shall:

- review, collate and prioritise conservation recommendations made by the Scientific and Conservation Committees where further efforts/actions are needed, in the first instance focussing on those from 2010 onwards;
- report, as appropriate, to the Commission on progress in delivering conservation recommendations;
- develop clear procedures/strategies for effectively transmitting and facilitating the implementation of conservation recommendations to and from the SC/CC WG to the appropriate Committees and sub-committees/working groups, including for further technical work;
- provide advice to the Conservation Committee on those priority conservation recommendations it could assist in implementing;
- provide feedback to the Scientific Committee on further advice and/or actions to assist in the implementation of conservation recommendations;
- respond to specific requests for support in facilitating the implementation of conservation recommendations from the Scientific and/or Conservation Committees.

The CC/SC WG will be comprised of nominees from the Scientific Committee, Conservation Committee and Contracting Governments. Additional expertise may be included as appropriate at the discretion of the Scientific Committee and Conservation Committee Chairs.

## **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG **suggests** that communication between the Commission and its subsidiary bodies can be improved by using a Commission convenors’ group, with all chairs and vice-chairs and the Bureau members.

The WG **notes** that the current ToR do not include joint planning of CC and SC activities and that the coordination is done via direct contact between Chairs and convenors of these Committees. The Joint CC/SC WG focuses on finding ways to improve the communication of SC recommendations relevant to the CC and their implementation.

In case the Commission chooses to implement this recommendation, the WG **respectfully requests** more clarity on how a joint working group of ‘scientists’ and ‘managers’ committee would function and its Terms of Reference. In addition, this group could potentially add an unnecessary layer, which seems contrary a streamlining process. This is especially true considering the existence of the CC/SC joint Working Group.

**‘Recommendation 17:** *IWC should consider making papers available in advance of Committee and Working Group Meetings, except for issues considered sensitive and/or confidential by the IWC Chair. The IWC Chair, in consultation with the Vice Chair and the Bureau, should determine whether documents are confidential and the level of availability.*

*Panel basis for Recommendation 17*

*(44) The Scientific Committee (SC) and other Committees and Working Groups have confidentiality rules until background reports are tabled in plenary sessions. Such rules normally do not exist in other treaties. There was a clear rationale for such confidentiality in IWC when there was an industry advantage in keeping information confidential. However, this is no longer an issue and this should be reviewed. The Review Team suggests the IWC should make papers available in advance of Committee and Working Group Meetings, except for issues considered sensitive and/or confidential.*

## **WG CONSIDERATIONS**

Section 5 of the Scientific Committee Handbook give full details on deadlines and confidentiality within the Committee. The Review Panel appears unaware that many of the protocols established by the Scientific Committee and Commission were part of the ‘Future of the IWC’ process. Protocols were established to ‘avoid surprises’. The effort has proven quite helpful in avoiding arguments within the Commission or Scientific Committee due to last minute submissions.

## **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG **agrees** that making papers available in advance of Committee and Working Group meetings is generally consistent with the mission goals of the IWC. The WG **notes** that implementation of RoP regarding data sharing and data submission is improving year by year.

### *2.1.5 Recommendations on the function of the Secretariat in relation to the Scientific Committee*

Recommendations 19, 22, 28, 30 and 31 concern the function of the Secretariat in relation to the Scientific Committee. If the current setup and role of the Scientific Committee is to be maintained, any change in the relationship between the Committee and the Secretariat should be carefully planned and introduced gradually. Comments to these recommendations should be read with this prospective.

**‘Recommendation 31:** *Additional staff should be appointed to allow the Secretariat to meet its increasing demands. The Executive Secretary should determine an organigram and staff priorities once the Commission has agreed its Strategic Plan and multi-year work programme (Recommendation 6). Priority positions should include a deputy Head of Science, a Head of Conservation and additional IT expertise.*

*Panel basis for Recommendation 31*

*(75) The Review Team notes there is a need for additional personnel in the Secretariat, particularly in the finance, human resource and IT areas, including:*

- *a Deputy Head of Science. The current IWC Head of Science has outstanding skills and expertise, which contribute significantly to the high quality and global reputation of IWC’s work. However, the Head of Science is approaching retirement and a Deputy Head of Science is thus crucial due to the current concentration of knowledge/expertise in one person and the need to ensure an effective transition, with minimal disruption to the work of IWC;*
- *a Head of Conservation, to support the Conservation Committee and associated activities;*
- *an IT personnel to improve electronic archiving and to ensure effective database organization;*
- *a legal expert;*
- *a professional position for the IWC Journal; and*
- *a professional position to liaise with other organizations, to strengthen IWC cooperation and communication with other international and regional institutions*

## **WG CONSIDERATIONS**

The SC Handbook describes the role of the IWC Secretariat’s Head of Science (HoS) as ‘the liaison officer with the Scientific Committee’ and details his tasks in relation to the SC as follows:

The primary tasks of the HoS (usually carried out in consultation with the Chair and the Vice-Chair) are:

1. support to the Chair on Annual Meeting-related activities and intersessional activities;
2. to coordinate (including acting as Plenary rapporteur) all IWC scientific meeting reports and publications, with the assistance of other Secretariat staff;
3. to represent the Committee at scientific meetings of other IGOs when designated;
4. to co-chair the Standing Steering Group on Special Permits (this is a shared responsibility with Chair and Vice-Chair);
5. to participate in the following intersessional groups as an *ex officio* member:
  - i. Data Availability Group;
  - ii. Aboriginal Subsistence Whaling Working Group of the Commission;
  - iii. Strandings Initiative Steering Group;
  - iv. IWC-SORP Standing Steering Committee;
  - v. Conservation Committee Standing Working Group on the Bycatch Mitigation Initiative;
  - vi. Conservation Committee Standing Working Group on Conservation Management Plans;
  - vii. Conservation Committee Whale Watching Working Group on Whale watching;
  - viii. Joint CC/SC Working Group;
  - ix. Review Group of the Voluntary Research Fund for Small Cetaceans;

- x. Steering Group for the Voluntary Conservation Fund;
- xi. Other groups that the Scientific Committee or Commission may deem necessary.

In reality, past SC Chairs have probably only invested about 20-25% of their time in Committee-related matters, because they normally hold a full-time position outside the IWC. However, the HoS is a full-time position at the IWC and, therefore has been able to provide overall support and assistance to the SC Chairs over the last 40 years. This support results from his knowledge and expertise, both scientifically and procedurally.

#### **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG **agrees** that the HoS has outstanding skills and expertise. All of the Convernors that serve on the Committee were unanimous regarding the exceptional role the HoS plays in the accomplishments of the Committee in contributing to the mission of the Commission.

The WG **is also concerned** with the lack of a succession plan for several key members of the Committee. The HoS is one of these. Discussions on potential solutions for a smooth succession plan started within the Committee in 2017 (**SC report 2017**). Aware of the current financial situation within the Commission, the WG **suggests** an approach whereby a temporary role be established for a 'Deputy HoS' that would evolve into HoS over a set period of time (e.g. in a five-year window). Similarly, concern regarding succession planning in a number of other key positions on the Committee remains.

Recommendations 22 and 30 seem rather similar and will be commented together.

**'Recommendation 22:** *Options for continuing the current secondment arrangements for the Chair of the Scientific Committee, to the IWC Secretariat, should be explored with member governments and partners, with the aim of continuing this arrangement after the current secondment concludes.*

*Panel basis for Recommendation 22*

*Structural and process issues*

*[...]*

*(54) Many stakeholders noted the positive benefits of having the Chair of the Scientific Committee seconded to work with the Secretariat, both in terms of enabling the Chair to work effectively with the Secretariat and the Head of Science and also by enhancing the capacity of both the Secretariat and the Scientific Committee. The Review Team considers this arrangement should be continued if possible and suggests options should be explored to ensure it while recognizing financial limitations. IWC members should also be invited to consider secondment arrangements to support the Commission's work in more general as recommended in recommendation 35 below.*

**'Recommendation 30:** *Options should be explored for increasing secretariat resources, including through secondments, internships, and through fundraising linked to implementation of priority programmes, as defined by the Commission.'*

*Panel basis for Recommendation 30*

*(74) There are growing pressures and demands on the Secretariat to effectively implement its full mandate (e.g. conservation and management) and there was a clear feeling from the Secretariat, and a number of stakeholders, that staff levels need to be increased to meet these increasing demands. Many IWC staff interviewed noted they are 'overloaded' and 'under stress' due to inadequate staff resources. IWC Secretariat resources are, in fact, far lower than in other comparable multilateral treaty secretariats. There have been some initiatives to increase staff resources, including through the current secondment of the Chair of the Scientific Committee, and joint arrangements with other organisations, such as the involvement of Dr. David Mattila with the Secretariat to deal with entanglement response measures. These arrangements appear to be working well, and the secondment of the SC Chair is a major contributor to the success and effectiveness of the Scientific Committee. However, it is not an open-ended arrangement, and there is no guarantee it will continue after the term of the current Chair expires. The Review Team considers options should be explored for expanding secondment opportunities at the Secretariat from Member Governments, including for the continuation of the current secondment arrangements for future chairs of the Scientific Committee to the IWC Secretariat. IWC members should be invited to consider secondment arrangements to support the Commission's work. The Review Team notes it is essential that any increase in resources must be allocated in line with priority programmes defined by the Commission.*

#### **WG CONSIDERATIONS**

Within the IWC secondment has been used only twice. The first example has been the Disentanglement Coordinator (David Mattila) who was seconded by the US Government to the Secretariat for two years. At the request of the US government and with the support of the Commission, this position evolved into a staff position in the Secretariat. The second instance, as reported by the Review Panel, has been the Committee Chair (Caterina Fortuna), seconded by the Italian Government for the entire duration of her service in this role (three years).

#### **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG **agrees** that the current arrangement of secondment of the Committee Chair to the Secretariat has been an ideal situation. However, any expectation that this could be a common practice, for the Chair of the Committee, is ill-advised because it would imply an additional financial obligation for the IWC member governments that nominate candidates for the position. Therefore, this would very much limit the range in Committee members who could agree to serve as Chair.

On the other hand, the WG **agrees** that secondment of member nations' personnel with relevant expertise to the Secretariat should be strongly encouraged for roles within the Secretariat.

**'Recommendation 28:** *The workload of the Secretariat should be better distributed among members of the staff. IWC staff should not act as conveners of any IWC group, to ensure impartiality and to not compromise the secretariat function of assisting other subsidiary bodies. In future hiring of personnel, the Secretariat should consider language skills as an attribute in recruiting and hiring additional staff, to improve the Secretariat capacity to engage more efficiently with a wider range of parties.*

*Panel basis for Recommendation 28*

(70) *The Review Team notes a discrepancy of views between long-standing members of the Secretariat and newer members who are 'used to' more modern procedures and working practices (e.g. staff appraisal system, improved financial procedures), resulting in a degree of resistance to change. These differences are not helpful for the overall effectiveness of the Secretariat and need to be openly recognized and addressed in a positive, effective and diplomatic manner.*

(71) *A relative imbalance in the distribution of work in the Secretariat, with some members of the staff being underutilized and others, like the Head of Science, being overloaded, was also suggested. In this context, the outstanding scientific capacity of the Head of Science in IWC was recognized, but with the caveat that this position should not participate as a convener of any group, not only to ensure impartiality, but also to allow this position to be available for all discussions and subsidiary bodies during key IWC meetings. Finally, the hiring of professionals that do not have English as their native language was recommended in the future to broaden the Secretariat capacity to engage more efficiently with a wider range of parties. The Review Team notes UK law precludes the IWC Secretariat from undertaking 'positive discrimination' in its hiring practices and also notes that current staff do have language skills (French, Spanish, and Italian). However the Review Team suggests the Secretariat should consider language skills as an attribute in recruiting and hiring additional staff in the future.*

## **WG CONSIDERATIONS**

Section 4.1.1 of the Scientific Committee Handbook details the role of Committee convenors. Requirements to be appointed as Convenor/Co-convenor include appropriate scientific background and chairing experience, knowledge of Committee procedures and appropriate communication skills. Being perceived as a balanced and fair Scientific Committee member is also necessary. Delegates serving in the role of a convenor must be able to do so, not in their role as a delegate of a member nation of the Commission, but rather in a role so as to be supportive of all viewpoints expressed during Committee meetings.

The role of Convenors is largely administrative and is to ensure that: (a) the Committee functions properly (in line with the Committee's Rules of Procedure and the Commission's instructions); (b) all matters on the Committee's Agenda are discussed and that the necessary expertise is available during meetings to do so; and (c) that clear scientific advice is delivered to the Commission.

The current Head of Science convenes the Aboriginal Whaling Management Procedure Standing Working Group (AWMP SWG). The work of the Standing Working Group is a very high priority for the Commission and is a highly technical sub-group of the Committee. Given the accolades from the Commission to the work of the AWMP, it seems clear that the HoS has done an excellent job convening this sub-group over the 25 years. It should also be noted that the Aboriginal Whaling Management Procedure Standing Working Group is now considered to have completed the task for which it was established, so will not continue in its current form.

## **WG CONCLUSIONS AND RECOMMENDATIONS**

The WG is not able to comment on the issue of workload within the Secretariat; however, the role of Head of Science in relation to the SC is highly specialised and cannot be necessarily spread amongst present members of the Secretariat.

The WG **agrees** that the Head of Science has been a very efficient convener and should not be precluded from acting in that capacity. The WG **reiterates** that it is implicit that all convenors are meant to be impartial in the deliberations of their sub-group. Therefore, the Committee supports staff from the Secretariat serving as Convenors, given appropriate experience and given there is sufficient capacity in the Secretariat to provide for this assignment. The basis of the notion that impartiality of staff of the Secretariat would somehow be compromised by acting as convenors is unclear, and is a position the WG **disagrees** with.

**'Recommendation 19:** *The Secretariat should continue with improvements to scientific data archiving and access, to assist effective Commission decision making, and adequate resources should be made available to that aim. With this purpose, the Secretariat should prepare a comprehensive data management strategy/plan for data archiving and access, to deliver a modern and cost-effective solution, with priorities and budget clearly indicated.*

*Panel basis for Recommendation 19*

(46) *The procedures for scientific data archiving and access were highly praised by stakeholders and considered to be well-thought out, time-tested, transparent and credible, despite being a bit burdensome, slow and with uncertain outcomes. Notwithstanding a significant improvement in recent years, the system could perform much better if the resources requested by the Secretariat had been provided.*



## WG CONSIDERATIONS

In 2017, the Scientific Committee Chair formed an ad hoc Working Group on IWC Global Data Repositories and National Reports (GDR) (IWC 2018, JCRM 19(supplement):399-404; see also the SC Handbook). The initial Terms of Reference for this group were to conduct an assessment of the utility and support requirements of all IWC databases relevant to the work of the Committee. Particularly the group: (1) collated summary information on all IWC databases relevant to the Scientific Committee (including data availability considerations); (2) summarised data use by the Committee for each database; (3) provided recommendations to improve integration, content and workflows; (4) review technical progress on existing databases; (5) considered needs and specifications for potential new databases, including developing simple technical guidelines on new proposals; and (6) produced a budget and work plan for the implementation and development of existing and new databases.

The group completed its main tasks in May 2017, except for producing a budget and thoroughly assessing the human resource and needs to accomplish the stated objectives. For this reason, the Working Group was transformed into a Standing Intersessional Steering Group, which will work in conjunction with the Secretariat to further clarify these points.

## WG CONCLUSIONS AND RECOMMENDATIONS

Based on the recent experience gained by the GDR working group, the Committee agrees that it is apparent that improvements ‘*to scientific data archiving and access*’ or activities requiring structural fixes/arrangements can only be achieved if there is a strong coordination and dialogue between the Scientific Committee members and key/relevant members of the Secretariat.

### 3. Methods used by the Review Panel and its ToR

#### 3.1 Methods used by the Panel to assess the IWC performance

Methods used by the Review Panel for the survey and the in-person interviews can be found in the Introduction (pp.12-13 of the IWC Review report) and Annex B.

##### 3.1.1 Considerations on the methods used by the Panel

The WG noted that much of the information used by the Review Panel in this review was based on interviews with a relatively small group of people. However, the Review Panel report seems to indicate that their conclusions are based on a broad consensus of IWC constituents and stakeholders. The WG believes that a more representative characterization of how the Commission and its subsidiary bodies perform would have been achieved with a much larger survey sample.

There are basic weaknesses in the survey methods applied by the Review Panel to evaluate the efficiency of the IWC. Major points highlighted by WG members include the following.

- Unclear definition of what an ‘IWC stakeholder’ is.
- Unbalanced stratification within the interviewees’ pool and in the ‘in-person interviews’ (CGs vs ‘NGOs and other IGOs’, gender, different view on whaling, age, years of IWC participation).
- Extremely low rate of responses to the survey (38 respondents out of 600 ‘stakeholders’).
- Potential duplication or accounting of interviewees’ opinions (i.e. with same people responding to both the survey and in-person interviews).
- Inability to discriminate what was the opinion of the Review Panel and what was the opinion of the respondents.

While the WG did not have adequate time to fully evaluate the merits of the methodology employed by the Review Panel, it is recognized that the limits of the methods used might have had a significant effect on the ability of the Review Panel to adequately characterize the full range of positions or opinions held by ‘stakeholders’ or of the full membership, with a likely consequence on the outputs (recommendations) and conclusions.

##### 3.1.2 Other considerations on factual mistakes or unsolicited comments

The Review Panel reported that the ‘*IWC issues permits for scientific research*’, which is a rather serious error of fact. Permits for scientific research are issued by member nations of the IWC, as outlined in the Convention (Article VIII).

The Review Panel had very specific Terms of Reference, and the WG believes that some comments provided in the report in relation to the Scientific Committee were unnecessary, if not inopportune, because they were outside the remit of this Review Panel. For example:

- ‘*Politicization of the SC*’: (52) *Some respondents noted an inherent political bias in some of the activities performed by the Scientific Committee. For example, pro-whaling governments considered it is spending less and less time and resources on management matters, and more and more time on the conservation agenda. On the other hand, pro-conservation governments considered that too much time and resources are being spent on whaling-related issues. Although the Review Team does recognize the problem, its mandate does not allow it to make any recommendation on the subject.*

### 4. Concluding Remarks by the Working Group

The IWC Scientific Committee members appreciates the opportunity to comment on the recommendations and advice received by the Commission from the Review Panel.

The WG understands the importance of periodic independent reviews to improve the performance of the IWC regarding

its mission. The WG further understands that the report of the Review Panel represents the judgement of its members and the perceptions of those that responded during the review process.

The WG reviewed the recommendations of the Review Panel, which were most relevant to the Scientific Committee, by assigning each of these recommendations to one of five categories: (1) maintain pre-eminence of the Committee regarding cetacean research and management advice; (2) advice regarding strategic planning; (3) advice regarding communication within the IWC; (4) advice regarding the function of the Scientific Committee in relation to the Commission; and (5) advice regarding the function of the Secretariat in relation to the Scientific Committee.

The WG intent in preparing this preliminary document was:

- (1) where agreement on recommendations existed, to provide additional support, justification or clarification of the actual context;
- (2) where agreement on recommendations did not exist, to provide a rationale for the disagreement and provide alternative approaches or solutions to address the specific issue raised by the Review Panel; and
- (3) to provide additional information or context for sections of the report where the Committee believes the Review Panel either misinterpreted information provided to them or where the Review Panel was likely unaware of important additional information.

Table 1 provides a summary of recommendations from the ‘IWC Review – Final Report’ that are commented on in this document.

Table 1  
Summary of recommendations from IWC Review – Final Report that are commented on in the document, Feedback on Governance Review  
(<https://archive.iwc.int/?r=6890>)

#	Priority assigned by the Panel	Short Title	Comments
1	A	Strengthen inter-sessional process related to Commission directives	Agree
2	A	The Commission to provide greater scrutiny/clear directives	Agree
3	A	SC to provide reformatted information to facilitate communication with Commission	Agree, but concern that Panel appears unaware of SC efforts over last 5 years to improve communication with Commission
4	B	Form joint group of scientists and managers to advise Commission	SC unclear as to how such a group would operate and what the TOR would be. Seems a duplication of the CC/SC joint WG
6	A	The Commission to develop and adopt a Strategic Plan	Agree
7	A	SC to report on progress re Commission directives, workplan required	Agree with recommendations, but concern regarding text
11	C	Arrange for IISD/ENB	Disagree
14	A	IWC to reorganize to achieve more logical structure; SC agenda too long	Agree first part of recommendation; concern regarding second part
16	B	Improve communication among Commission and its subsidiary bodies	Agree
17	B	Make papers available prior to Committee and Working Group meetings	Agree (SC usual practice adopted well prior to review)
18	B	Maintain pre-eminence of IWC SC	Agree, but note some other recommendations inconsistent with this recommendation
20	A	Develop process to track SC progress on recommendations from Commission	Agree with recommendation, but concern regarding text
21	B	SC to provide recommendations to Commission more clearly; SC to revise RoP as appropriate	Disagree with premise; agree with objective of improved communications between SC and Commission
22	B	Support for secondment to SC Chair	Disagree in general; experience of past Chair was excellent
23	B	More equitable allocation of funding among Commission subsidiary bodies	Disagree, concern over factual errors in text (eg. management of SC meeting budget, context and reported figures). Budget should be based on Commission priorities
28	B	Distribute workload better within Secretariat	Without more information on current distribution of workload, SC has no opinion Disagree on Secretariat staff not convening groups as default rule.
30	B	Increase resources of Secretariat	Agree, especially on secondment for Secretariat roles
31	B	Add staff to Secretariat	Agrees in principle on deputy HoS, but the process needs appropriate planning

## Appendix 1

### LIST OF PARTICIPANTS

#### ARGENTINA

1. Miguel Iñiguez (*SC Head of Delegation*)

#### AUSTRALIA

2. William de la Mare (*SC Head of Delegation*)
3. Mike Double
4. Elanor Bell (*SH Co-convenor, remote participation*)

#### AUSTRIA

5. Michael Stachowitsch (*SC Head of Delegation*)

#### BELGIUM

6. Fabian Ritter (*SC Head of Delegation*)

#### BRAZIL

7. Rodrigo Mendes Carlos de Almeida (*SC Head of Delegation*)
8. Artur Andriolo
9. Alex Zerbini (*ASI Convenor*)

#### COLOMBIA

10. Ana Maria Gonzalez Delgadillo (*SC Head of Delegation*)

#### COTE D'IVOIRE

11. N'da Konan (*SC Head of Delegation*)

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12. Katja Jelic (*SC Head of Delegation*)

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13. Lars Witting (*SC Head of Delegation*)

#### FRANCE

14. Vincent Ridoux (*SC Head of Delegation*)

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16. Samba Diallo (*SC Head of Delegation*)

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17. Gisli Vikingsson (*SC Head of Delegation*)
18. Thorvaldur Gunnlaugsson

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19. Manmohan Singh Negi

#### ITALY

20. Giancarlo Lauriano (*SC Head of Delegation*)
21. Caterina Fortuna (*SC Chair*)
22. Simone Panigada

#### JAPAN

23. Luis Pastene (*SC Head of Delegation*)
24. Hideki Moronuki

#### KENYA

25. Othniel Mwabili (*SC Head of Delegation*)

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26. Jung Youn Park (*SC Head of Delegation*)

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30. Meike Scheidat (*SM Convenor*)

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31. David Lundquist (*SC Head of Delegation*)

#### NORWAY

32. Tore Haug (*SC Head of Delegation*)
33. Arne Bjørge (*former SC Chair*)

#### PANAMA

34. Lissette Trejos (*SC Head of Delegation*)

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35. Marina Sequeira (*SC Head of Delegation*)
36. Luis Freitas

#### RUSSIAN FEDERATION

37. Kirill Zharikov (*SC Head of Delegation*)

#### SLOVENIA

38. Andrej Bibic (*SC Head of Delegation*)

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40. Graham Pierce

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41. Horace Walters (*SC Head of Delegation*)
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43. Patricia Holm (*SC Head of Delegation*)

#### UNITED KINGDOM

44. Stuart Reeves (*SC Head of Delegation*)
45. Ailsa Hall (*E Convenor*)
46. Russell Leaper (*HIM Convenor*)

#### UNITED STATES OF AMERICA

47. Debra Palka (*SC Head of Delegation, former SC Chair*)
48. Robert Brownell (*former SC Chair, NH Convenor*)
49. Doug DeMaster (*former SC Chair*)
50. Geof Givens (*ASI Co-convenor*)
51. Aimee Lang (*SD&DNA Convenor*)
52. Robert Suydam (*SC Vice Chair, WW Convenor*)

#### Convenors (Invited Participants)

53. Ralph Tiedemann (*SD&DNA Co-convenor, Germany*)

#### Former Scientific Committee Chairs

54. John Bannister (*remote participation*) (*RMP Convenor, Invited Participant*)
55. Toshihide Kitakado (*EM Convenor, Invited Participant*)