

CALIFORNIA COASTAL COMMISSION

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W. 20a

DATE: May 12, 2010

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
Sarah Christie, Legislative Director

SUBJECT: RESOLUTION OPPOSING THE IWC PROPOSAL TO LEGALIZE WHALING

Note: This information can be accessed through the Commission's World Wide Web
Homepage at www.coastal.ca.gov

I. BACKGROUND

The 88-member International Whaling Commission (IWC) is an international body created by voluntary agreement among member nations to function as the sole governing body with authority to implement the International Convention for the Regulation of Whaling (ICRW). The ICRW (**Attachment A**) was created to "provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry." At its core, the Convention is an instrument to regulate commercial whaling to prevent "overfishing" (sic). The United States became a signatory to the ICRW in 1946, and the IWC became operative in 1948. The IWC meets annually, typically for a week at a time. Its working groups and sub-committees meet as needed.

Over the 200 years prior to the establishment of the IWC, whales were exploited without regard to sustainability for oil, ivory and meat, as well as various by-products used in the production of perfume, soap, pet food and other luxury items. As industrial whaling techniques became more efficient, populations were exploited to the brink of extinction, at which point whalers would focus on another, less commercially lucrative but more abundant species until that population too was depleted. In this manner, the North Atlantic gray whale was wiped out entirely, and many other species, particularly blue whales, right whales, sperm whales, and the Western North Pacific gray whale, remain severely threatened. With the possible exception of some sub-species of minke whales, no species of whale has rebounded to its pre-whaling population numbers. Most species are endangered, and it is questionable whether some species will ever recover to sustainable levels.

Originally, the IWC controlled whaling by setting catch limits for certain species of whales, declaring other species off-limits, designating open and closed seasons and areas for whaling; outlining reporting requirements and authorizing methods and types of gear to be used. All of these standards, quotas, practices, and requirements are laid out in the "*Schedule to the Convention*" which the IWC periodically reviews and revises. Any revision or amendment to the "schedule" requires a $\frac{3}{4}$ vote supermajority.

In the 1970s, public outrage over the commercial slaughter of whales began to build into a significant global campaign which culminated in gaining a sufficient number of votes on the IWC to support the passage of a commercial whaling moratorium by the IWC in 1982. The relevant text reads:

“Notwithstanding the other provisions of paragraph 10, catch limits for the killing for commercial purposes of whales from all stocks for the 1986 coastal and the 1985/86 pelagic seasons and thereafter shall be zero. This provision will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits.”

While significant in restricting the international trade in whale products and reducing the number of whales killed annually, the moratorium still allows for the continued killing of whales for “scientific” purposes. The IWC also permits whale hunting for “aboriginal subsistence” which is narrowly defined under IWC regulations. Japan continues whaling under “scientific” permits, including some species listed as endangered, such as sei and fin whales. Russia, the United States, Greenland, Saint Vincent and the Grenadines receive aboriginal subsistence quotas for gray whales, fin whales, bowheads and humpbacks. The largest subsistence quota is split between the U.S. and Russia, for the native peoples of Alaska and Chukotka, who have permission to kill 140 gray whales and 67 bowheads per year. The IWC looks to the recommendations of the Scientific Committee in setting the aboriginal subsistence quotas, which have typically been set for a period of five years at a time. Both Iceland and Norway continue commercial whaling in defiance of the ban. (Norway lodged a timely “objection” to the ban permitted by the IWC, whereas Iceland left the Convention and returned with a “reservation” not recognized by many member countries, including the United States.) Japan also kills minke whales outside of the “scientific” program under an “objection” to the commercial ban on the killing of this species.

Whale conservationists have protested for years that much of the whale meat obtained under the subsistence quotas finds its way to Russian fur farms, rather than being directly consumed by indigenous populations. Similarly, it has been argued that Japan’s “scientific” whaling is simply another form of commercial whaling, because the meat obtained from whales killed for “scientific” purposes can be legally sold domestically. This has also contributed to an international black market for whale meat. The illegal whale meat obtained from a Santa Monica sushi bar in March 2010 has been identified via DNA testing as an endangered sei whale likely taken under Japan’s “scientific” program. (Japan is the only country known to kill sei whales.) Researchers have discovered other sushi restaurants in South Korea serving mixed plates of whale sashimi from Antarctic minke whale, sei whale, North Pacific minke, fin whale and Risso’s dolphin, even though Korea does not have a domestic whaling industry. Although some whales are killed as by-catch in Korea’s commercial fishing industry, clearly, a commercial trade in black market whale meat persists.

According to IWC figures, a total of 41,453 whales, have been killed since the moratorium was passed. It may seem counter-intuitive that critically endangered whales are still being killed in plain sight of the international community despite the global moratorium, but it bears remembering that the IWC is a voluntary international organization not backed up by a formal treaty and with no enforcement mechanisms. In other words, the IWC has substantial practical limitations on its authority. First, member countries are free to simply leave the organization and declare themselves not bound by it if they choose, as Canada and Iceland did after the moratorium was approved in 1986. (Iceland later rejoined, but with a “reservation” to the moratorium.) Second, any member state may opt out of any

specific IWC regulation by lodging a formal objection to it within 90 days of the regulation coming into force. (Norway and Russia lodged timely objections to the moratorium.) Third, the IWC has no ability to enforce any of its decisions through penalty or expulsion. Even IWC delegates have expressed frustration that the IWC structure is “dysfunctional.”

That being said, member nations do have the ability to bring diplomatic and/or economic leverage to bear in ways that influence IWC member nations to comply with the terms of the moratorium. In 1971, the U.S. adopted the Pelly Amendment to the Fisherman's Protective Act of 1967. This amendment provides that when the Secretary of Commerce determines that a foreign country is diminishing the effectiveness of an international fishery conservation program (including the IWC's program), the Secretary shall certify this fact to the President. The President then has the discretion to ban importation of fishing products from the offending country. The United States has threatened sanctions under the Pelly Amendment on a number of occasions. In November 1974, pressure from the United States contributed to Japan and the Soviet Union complying with the 1974-1975 IWC quotas. Similarly, in December 1978, Chile, South Korea and Peru agreed to accept IWC limits as a result of U.S. threats to certify them under the Amendment. The threatened certification of Spain also led that country to observe a Fin Whale quota to which it had objected.

These measures were further strengthened by the 1979 Packwood-Magnuson Amendment to the Fishery Conservation and Management Act of 1976. It provides that, when the Secretary of Commerce certifies that a country is diminishing the effectiveness of the work of the IWC, the Secretary of State must reduce that country's fishing allocation in U.S. waters by at least 50%. Certification under the Packwood-Magnuson Amendment also serves as certification under the Pelly Amendment. The threatened application in 1980 of the Packwood-Magnuson and Pelly Amendments led South Korea to agree to follow IWC guidelines restricting the use of cold (i.e., non-explosive) harpoons. Without strong United States support of the 1986 moratorium, it is possible that it would have been substantially limited, as nations such as Iceland, Japan, Norway and the Soviet Union might have opted out and continued commercial whaling without consequence.

By its own terms, the moratorium is to remain in effect until such time as the IWC undertakes a comprehensive assessment of whale stocks with the intent to modify the moratorium and establish new catch limits. Pro-whaling nations have been pushing to implement this clause for decades, and as part of their campaign, have systematically recruited numerous developing nations onto the IWC, paying their membership fees and travel costs, and granting them economic aid. As a result, the current make up of the IWC is approximately equally split between pro- and anti-whaling countries. Although a $\frac{3}{4}$ supermajority vote is required to lift the moratorium, recent news reports and accounts from NGOs who follow this process closely indicate that the United States and other traditionally anti-whaling member states may be ready to support a resumption of commercial whaling and opening up the Southern Ocean Whale Sanctuary in return for some concessions, such as a global data base of whale DNA, greater oversight and an overall reduction of the number of whales currently killed under the “scientific” program and the commercial activities of Iceland and Norway.

II. CURRENT STATUS OF IWC MORATORIUM

According to public information provided by the IWC, a total of 41,453 whales have been killed between 2009 and the 1985/86 season when the moratorium was enacted. Of these, 13,313 whales have been killed under “scientific” whaling permits, 7,892 whales have been killed under subsistence quotas, and 20,248 were killed by countries with “objections” to the moratorium. (**Attachment B**).

On April 22, the IWC Chair and Vice Chair released a proposal entitled “Proposed Consensus Decision to Improve the Conservation of Whales.” (**Attachment C**) The authors of the report state that the purpose of the document is to “facilitate discussion” of the issues, and they acknowledge that it is a compromise likely to be disliked by all parties, as well as the fact that the final document may be substantially different than the current draft.

The proposal currently on the table states on its face that the commercial moratorium remains in place. It intends to end the practice of “scientific” whaling and whaling under “objection,” although legally a schedule amendment cannot supersede the actual rights conferred by the ICRW on nations to scientifically whale and object to amendments of the schedule. The proposal also sets 10-year annual catch limits for sei, fin, gray, bowhead, minke, Bryde’s and humpback whales. It creates the Southern Atlantic Sanctuary, but also allows whaling there and in the existing Southern Ocean Sanctuary from November 1 – March 31. It calls for revising the governance structure of the IWC, recognizes the value of non-lethal uses of whaling, (such as whale watching), sets up requirements for IWC-trained observers on whaling vessels, which include reporting criteria, DNA samples, and a market sampling program, and calls for extensive studies of the threats to whales and their habitat, including but not limited to global climate change, noise pollution and ship strikes. The proposal would provide for the IWC to reduce catch limits for one year following a documented breach of the agreement. It memorializes the current subsistence quotas at the current rate for a period of 10 years, with the exception that it increases the number of gray whales that can be taken in any one year from 140 per year to 145, and authorizes Greenland to take 10 humpbacks in any year. The total cap of 1,290 gray whales over a 10-year period remains the same, if one assumes that the existing 5-year quota would have been reauthorized in 2012.

Most notable is the “bracketing” of the issue of international trade in whale meat. This means that the IWC will decide whether or not to address this issue without an official recommendation. If the current ban is lifted, it would create an international market for whale meat. Unless the bracketed trade language is not only adopted but also strengthened, the proposal will allow whaling nations to continue to develop new products and markets for whale meat, oil and tissues, continue to trade with each other (and with non-parties) under their “reservations” to the Appendix I listing of whales by the Convention on International Trade on Endangered Species (CITES), and submit down-listing proposals at CITES for the purpose of resuming international trade. The entire proposal will be debated and possibly voted on at the 62nd meeting of the IWC on June 21-25, 2010, in Agadir, Morocco.

The justification for the proposal is that IWC members have been at loggerheads since the passage of the moratorium over numerous issues related to how, or whether, to return commercial whaling. Significant philosophical, political and scientific differences between pro- and anti-whaling countries remain intractable. The proposal is meant to create a 10-year “period of stability” during which the IWC will undertake intense negotiations over how to conduct its affairs and carry out its charge after 2020. The proposal asserts that the proposed quotas are below the “sustainable harvest” of whales, and will not negatively affect populations for the 10-year period. However, the quotas were not calculated using the IWC accepted “precautionary” scientific approach, nor considered by the full IWC Scientific Committee. The proposal provides assurances to whaling nations that they can legally continue to kill whales while the IWC conducts research and develops various programs called for in the proposal.

Some member nations have already responded in the press. Japan has expressed satisfaction that coastal whaling will finally be recognized as legitimate by the IWC, which Japan has continually pressed for, but objects to the proposed catch limits as too low and has stated they will push for higher

quotas¹. (The proposed catch limits for Japanese coastal whalers is 120 minke whales per year.) New Zealand's Foreign Affairs Minister Murray McCully² has said he finds the proposal "offensive" in part because it allows the continued killing of endangered fin whales, and legalizes whaling activities in the Southern Ocean Sanctuary. South Korea is reportedly taking exception to the clause that limits future quotas only to those countries that currently authorize whaling, which excludes South Korea.³ Australia has also indicated that the proposal falls short of that country's goal of ending whaling in the Southern Ocean Sanctuary.⁴

At the time of this report, the United States has not offered a formal response to the proposal, although it has been a major proponent of the deal behind closed doors.

III. ENVIRONMENTAL CONCERNS

The proposal presented by the Chair and the Vice Chair of the IWC contains some improvements over the status quo. Acknowledging that non-lethal uses of whales, such as whale watching, are legitimate management choices for member nations, the creation of a new sanctuary in the South Atlantic, calling for additional studies to consider the impacts of global climate change, undersea noise, pollution and ship strikes, revisions to the IWC's governance structure and ending the practice of "scientific" whaling are all significant improvements to current practice. However, the details of some of these proposals should be carefully considered in the context of the entire proposal which legitimizes current whaling activities that are illegal at worst, and ill conceived at best. If adopted by a vote of at least $\frac{3}{4}$ of the IWC, any future amendments to the proposal would also require a $\frac{3}{4}$ vote super majority.

A. Legalizes Rogue Whaling, Ends Moratorium

Although the proposal made by the Chair and the Vice Chair purports to maintain the current moratorium on commercial whaling, as a practical matter it provides for and legitimizes the continued killing of whales by establishing annual catch limits for the next 10 years for countries currently whaling in defiance of the moratorium. The language of international diplomacy can be notoriously ambiguous and misleading, given the magnitude and diversity of complexities involved in multi-lateral agreements. In this case, the proposal simultaneously states that the moratorium on commercial whaling remains in place, while proposing specific quotas for killing whales. Because the whale meat will be sold commercially, this is a *de facto* end to, or suspension of, the commercial moratorium.

Whaling opponents argue that the current proposal essentially rewards illegal behavior by sanctioning existing whaling activities that are clearly commercial in nature. These activities have contributed directly to the international black market trade in whale meat. While it is the stated intent of the proposal to curtail these activities through improved reporting requirements and DNA testing, it could be persuasively argued that without sufficient resources to create and maintain a robust monitoring and enforcement program, this will simply provide more "cover" for black market whale meat to be blended and camouflaged with other, legal whale meat. Moreover, it is reasonable to expect increasing tension between member countries, as economic goals clash openly with conservation goals. Already

¹ Breitbart, April 23, 2010

² New Zealand Herald, April 23, 2010

³ BBC News, April 22, 2010

⁴ Kyodo News, April 22, 2010

there is continuing disagreement between both sides as to how to describe the current state of each species. For instance, the sei whale continues to be recognized as endangered, but Japan argues that the population has swelled from 9,000 in 1978 to about 28,000 in 2002, so its catch of 50 sei whales per year is safe and the “endangered” classification should be reconsidered. Similar disagreements persist for fin whales, bowheads and humpbacks. Should commercial catch limits once again be tied to population estimates, such disagreements are likely to escalate, and scientific models that can be skewed to artificially inflate population numbers will become more elaborate.

B. Allows for the Continued Killing of Endangered Whales

Although the proposal seeks to reduce the overall number of whales killed over the next decade, it still authorizes the killing of several endangered species of whales. The current proposal allows for the take of 500 sei whales, 65 Antarctic fin whales, 990 Northern fin whales and 140 humpback whales, over a 10 year period. All these species are endangered. The Antarctic fin whale subspecies in particular is estimated to number less than 3,000 individuals, and the Eastern Canadian/Arctic population of bowheads is probably in the hundreds. Sei whales were heavily hunted from 1959-1971, and current estimates are about one-fifth of the original population. Because humpbacks are slow swimmers and their feeding, mating, and calving grounds are close to shore they were an easy target for early whalers. The IWC awarded them protected status in 1966, but has allowed limited subsistence quotas. According to the American Cetacean Society, humpbacks are believed to number about 30,000-40,000 at present, or about 30-35% of the original population.

Also problematic is the fact that there is no way to determine if a whale is pregnant or lactating until it is dismembered. The detailed reporting requirements contained in the IWC proposal include information on taking measurements and noting the gender of any fetuses contained in a whale killed under the proposed quotas. Lactating females are also authorized to be killed. Whalers are required to report on the number of calves present at a kill, but are not prohibited from taking mature whales accompanied by calves. This means that in some instances, nursing calves will also die after their mothers are killed. Research for this report could not identify any endangered species recovery plan in the United States that includes take of pregnant and/or lactating females as a management tool.

Authorizing the killing of endangered whales, especially pregnant and lactating females, is particularly troubling. With endangered species, the loss of every individual has the potential to impact long-term survival. Allowing whaling nations to kill endangered species of whales undermines the conservation imperatives of species recovery.

C. Creates New Global Market Pressures

If currently illegal and/or questionable whaling practices are legalized by this proposal, it puts the question of international trade in play. Currently, meat from “scientific” whaling can only be sold domestically. If the issuance of “scientific” permits ends, what becomes of the meat obtained under the quotas? What is the justification for whale meat obtained legally through quotas set by the IWC under an approved amendment to the schedule to only be sold domestically, if there is an international demand for it, particularly if whales were killed in international waters? What would be the legal mechanism for continuing the international ban on the sale of whale meat?

In addition, meat is not the only whale product with value in international trade. Potential markets exist in whaling nations and beyond for other products derived from whale tissues and oils. The whaling

nations are already investing significant sums in research and development of alternative uses for whale products, including human and animal health products and pharmaceuticals. Over the next 10 years, they plan to have new products and new markets.

Any attempt to restrict the trade of whale meat and products may set the stage for a complaint to the World Trade Organization as an unfair barrier to free trade. For instance, countries such as South Korea, with a demonstrated market demand for whale sushi, would be denied a quota under the current proposal, but would also be denied the ability to purchase a product which is no longer illegal to obtain. Despite the statement in the proposal that the commercial moratorium remains in effect, there is no other reason for non-subsistence whaling to occur other than for commercial profit. The proposal raises complicated and troubling questions about how the resulting market forces will be dealt with, and how those forces will affect future IWC negotiations.

D. Inhumane Killing Techniques

Whales are highly advanced mammals that feel pain and experience fear and suffering as acutely as any other mammal, including humans. Although whaling nations claim that killing technologies have improved, it is irrefutable that there is no humane, painless way to kill a whale. The current IWC proposal requires strict reporting requirements for all whales hit and killed, as well as those hit and lost, including the total time in minutes and seconds from first strike to death, method of killing, location(s) of body strikes, and secondary killing methods utilized. . The proposal makes no effort to improve the welfare of hunted whales by prescribing the use of better techniques, methods or weaponry. In fact, the reporting requirements themselves make the case that whales cannot be killed humanely, i.e., instantly and painlessly, as they call for information on how many times a whale is “struck” before it dies, what “secondary methods were used to complete the kill, how many minutes it took from the time of first strike to death, and how many whales escape after being struck.

The unpredictability of hunting and killing a large, wild animal in a dynamic marine environment makes it impossible to control external conditions. Even in a domestic slaughter house where every aspect of the environment is monitored, numerous episodes of malfunction and human error resulting in pain and suffering are well documented.

Exploding harpoons are the current industry standard for killing whales. However, it can still require multiple strikes to induce death. After the harpoon explodes, the whale is electrocuted and dragged through the water until it drowns. Sometimes harpoons don’t explode, and a “secondary method” such as shooting with high-caliber rifles are among the practices listed as acceptable. Even a relatively short death struggle of just a few minutes is extremely painful, cruel and inhumane, and the likelihood of many of these episodes lasting far longer is high. In March, a yearling gray whale washed ashore in Humboldt County with a harpoon lodged in its side. How long this lethally injured whale suffered before death is unknown, but officials estimated it had traveled approximately 3,500 miles from the area where it was struck.

E. Designating a Whaling “Season” Violates Sanctuary Principles

The first IWC sanctuary was established in the Antarctic in 1938. The original reason for the sanctuary was that commercial whaling had not previously been feasible in this area, and delegates saw a benefit to the species in maintaining immunity from hunting as technologies extended the reach of commercial

whalers. This sanctuary prohibition was upheld until 1955, when the area was opened initially for three years as a means of reducing the pressure of catches on the rest of the Antarctic whaling grounds.

The Southern Ocean Whale Sanctuary over much of the same area was created in 1994 as a prohibition zone for commercial whaling. It is 50 million square kilometers, surrounding the continent of Antarctica, and wrapping around South America and into the South Pacific. This prohibition zone may be reviewed every 10 years, but there has been no consensus over what the evaluation criteria should be. Since its establishment, whales have been protected from whaling within its boundaries. Japan opposed the creation of the sanctuary under the argument that there was no scientific basis for its establishment, and continues to take fin and minke whales within the sanctuary boundaries. This has been a contentious issue at the IWC, as Japan claims the sanctuary was created illegally, and other countries question the legitimacy of Japan's "objection" as well as their "scientific" program.

The current proposal creates an additional new sanctuary, the South Atlantic Sanctuary, but would allow a whaling season there from April 1 through October 31. It would open the Southern Ocean Sanctuary to limited whaling each year from November 1 through March 31.

Allowing whaling in a whale sanctuary whose purpose is to prohibit whaling effectively defeats the purpose of the sanctuary. Analogous to "no take" zones common to fishery management, whale sanctuaries provide opportunities for whales to feed, breed and socialize without being vulnerable to hunters. In a whaling world, sanctuaries are critical to the continued survival of the species. While the current proposal achieves the worthy goal of creating a Southern Atlantic Sanctuary, it immediately undermines its value by also designating a whale "season" in both sanctuaries. This drastically reduces the effectiveness of both sanctuaries, and sets a dangerous precedent for other sanctuaries to become targets for commercial whaling in the future.

F. Science Incomplete, Inconclusive

By its own terms, the moratorium is to remain in effect "until such time as the IWC undertakes a comprehensive assessment of whale stocks with the intent to modify the moratorium and establish new catch limits." However, the proposed catch limits are not based on adequate or accurate scientific study, and have not been reviewed by the full IWC Scientific Committee, created within the IWC to provide safeguards against long-term harm to whale populations. Rigorous debate continues within the scientific community regarding the actual numbers of specific populations, and the models used to predict historic and current population projections. The question of what constitutes a recovered or sustainable population is similarly controversial, even between academics within the United States. The degree to which global climate change and its myriad deleterious consequences has altered those projections is a significant complication that has not yet been well studied or documented.

The proposal calls for the IWC to "focus on the recovery of depleted populations and stocks and take practical actions on key issues, including bycatch, climate change and other environmental threats to whales through tools such as conservation management plans. To facilitate this, the Commission would establish a Conservation Programme Committee to address new and emerging threats to cetaceans, including climate change, marine pollution, bycatch and entanglement by fishing activities, ship strikes and habitat degradation including noise pollution." But the precautionary approach would be to create conservation management plans and take actions to address these threats in advance of authorizing catch limits for a 10-year period, or to establish catch-limits at zero until the IWC

Scientific Committee has completed its revised management procedure implementation process for the affected species.

The rate at which global climate change is affecting the ocean environment should be much better understood before precarious whale populations are further depleted through hunting. Even the gray whale, which is officially considered to be recovered and has been removed from the endangered species list, is experiencing unexplained declines in annual calving numbers, and has sustained a catastrophic stranding event that reduced the population by as much as 30 percent – an event still not understood. Emaciated whales are washing up along the Pacific coast of North America, indicating changes in food supply that have not been fully investigated. Far more science is required to fully understand how or whether whales will be able to adapt to global climate change.

G. Questionable Resources for Implementation, Enforcement

The proposal's authors acknowledge that the additional conservation programs, training and monitoring activities will be more costly than the status quo. Although all member nations are expected to participate in the funding of these activities, it is unclear to what extent they will be able or willing to do so. The creation of a global DNA database, creation and implementation of a market monitoring program, drafting management plans and implementing their recommendations will create an ongoing need for additional funding. Given the fact that the IWC hasn't even been able to control the most basic function of preventing the illegal trade in whale meat, it may be unrealistic to assume that it will ultimately have the capacity to carry out a far more complex and far-reaching program.

Further, the proposal lacks detail on how, and by whom, the additional costs will be met, but indicates the IWC will make a detailed assessment of how to apportion these costs among the Contracting Governments through the "Contributions Scheme." This suggests that all Contracting Governments will share the burden while the whaling nations reap the economic benefit.

H. Ten-Year Limits for Subsistence Quotas are Too Long

Previously, catch limits for subsistence quotas have been set for a period of five years. Upon expiration, the quota is reassessed and a new number that may be higher or lower than the previous quota is assigned for another five years. The current quota of 140 Eastern Pacific gray whales per year, shared between the U.S. and Russia, will expire in 2012.

The proposal would increase this quota to 145 whales per year, and double the time frame to 10 years, for an expiration date of 2020. Any adjustment to the quota during this time would require a $\frac{3}{4}$ supermajority vote. The justification for the additional five whales per year is to offset the average number of "stinky" whales that are unusable because of an intense chemical stench that renders the meat inedible. The stench has also been detected in walrus, seals and cod, and people who have tried to eat the meat report numbness, tingling and skin rashes. It is so severe that the meat is inedible even for domestic dogs and captive fox and mink in Russian fur farms. Thus, the increase in the annual quota is not based on science, but on commercial need. Although several hypotheses have been advanced regarding possible causes, the phenomenon of "stinky" whales is not yet understood, further evidence of the lack of scientific understanding of the environmental factors affecting the marine environment.

Recent reports from researchers and observers in the U.S. and Mexico indicate that the Eastern Pacific gray whale population may be in distress. A still-unexplained catastrophic stranding event in 2000 reduced the population by as much as one third. The following year, only 87 calves were born.

Emaciated, adolescent gray whales are washing up along the Pacific coast of North America. Necropsy results are revealing stomach contents that include items such as sweat pants, golf balls, surgical gloves and plastic bags, along with large amounts of algae and seaweed, not typical food sources for grays. Biologists and fishermen in the Baja lagoons are reporting an alarming absence of cow/calf pairs, a high proportion of single males, and an increase in the number of “skinny whales.” Whale watching boat captains in San Diego are having trouble finding any whales at all. And calf counts are down by 80% over the last four years. In 2004, the official calf count was 1,528 calves. Over the next four years, annual reports have documented a precipitous decline to a low of 312 calves in 2009. The 2010 count is not yet complete, however, early estimates indicate even lower birth rates this year.

Given these troubling indicators, a 10 year quota seems imprudent. Given what we know about ocean acidification, pollution, entanglements and ship strikes, outstanding questions about global climate change, habitat loss, increased predation and changing food supplies, and the accelerated rate of change in the ocean environment, locking quotas in for 10 years at a time seems a reckless course of action.

I. Diplomatic Options Not Yet Fully Explored

As outlined above, the U.S. has the option to utilize its authority under domestic law to impose trade restrictions in an attempt to address the abuse of the “scientific” whaling program, and/or the commercial whaling that has continued in defiance of the ban. While international trade restrictions are an extremely sensitive diplomatic issue, they have been effectively utilized in the past. It is unclear why they are not currently on the table, as one approach to reduce the number of whales killed annually, particularly those taken in the Southern Ocean Sanctuary, which the U.S. was instrumental in creating.

J. Whales Deserve Protection on Moral Grounds

Lastly, there is the moral argument that cetaceans should not be hunted commercially because they are highly intelligent, biologically advanced, sentient creatures with complex communication skills and brain function rivaling our own. This has been dismissed by pro-whaling forces as evidence of cultural differences, or as overly emotional and/or anthropomorphic and therefore having no place in a management scheme based on science. However, the practice of bioethics acknowledges the need to reconcile science and morality. Bioethicists can disagree among themselves over the precise limits of their discipline, but not on the fundamental assumption that without a moral underpinning, science can be used to commit unspeakable atrocities in the name of research, social progress or economic gain. Discussions between IWC delegates generally avoid this question, preferring instead to focus on questions of science or legal interpretations. However, public opinion is not similarly constrained. As evidenced by the global campaign to end commercial whaling in the 1970s, the public is passionate about this issue. Their moral and emotional concerns are actually reflected in the science to a certain extent. Some studies have shown that small cetaceans are indeed self-aware, with the ability to problem-solve, exhibit creativity and even use tools. Self-awareness in particular is considered to be a sign of highly-developed, abstract thinking once thought to be unique to humans.

Regardless of whether one believes that the resumption of whaling is a moral issue, or that it is a decision which should be based solely on science, there is scientific evidence that cetaceans have communication skills and cognitive abilities we have barely begun to fully understand and/or appreciate, and that the science is inconclusive regarding the ability of the targeted species to withstand both the pressures of global climate change adaptation and human hunting for profit.

IV. RECOMMENDED ACTION

Staff recommends the Commission adopt the attached resolution opposing the proposal to lift the global moratorium on commercial whaling by allowing the continued killing of whales and the establishment of 10-year timeframes for indigenous quotas, and urging the Obama administration to direct the US Delegation to represent this position to the IWC. The staff also recommends that copies of the Resolution be forwarded to the President, the California Congressional Delegation, and the federal appropriate agencies.

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W20a

RESOLUTION ON THE PROTECTION OF WHALES

**AN OPPOSITION TO PROPOSED RESUMPTION OF COMMERCIAL WHALING AND
TEN-YEAR QUOTAS FOR GRAY WHALES AS PROPOSED BY THE INTERNATIONAL
WHALING COMMISSION**

Whereas: The California Coastal Commission was established by the People of California through initiative statute in 1972 and made permanent in 1976 by the California Legislature as the State's principal coastal management agency to, among other goals and objectives, "... protect marine fisheries, and other ocean resources ...(and) ensure conformity with the provisions of...(the California Coastal Act)...to protect ...state and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state..."; and

Whereas: The California Coastal Act also provides that "[s]pecial protection shall be given to ... (marine) species of special biological or economic significance ..." and that in order "...to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, to coordinate and integrate the activities of the many agencies whose activities impact the coastal zone, and to supplement their activities in matters not properly within the jurisdiction of any existing agency, it is necessary to provide for continued state coastal planning and management through a state coastal commission;" and

Whereas: The California Coastal Commission passed resolutions calling for enhanced conservation efforts for the California gray whale (*Eschrichtius robustus*) in January 2000 and January 2010; and

Whereas: Whales are evolutionarily complex, highly intelligent, and extremely important for the health and viability of ocean ecosystems; and

Whereas: California's coastal waters support several species of whales including blue whales, gray whales, pilot whales, fin whales, humpbacks, and orcas; and

Whereas: The California gray whale is our official state Marine Mammal and is enjoyed by millions of whale watchers along the coast of California every year; and

Whereas: The multi-million dollar whale watching industry supports coastal economies statewide; and

Whereas: Whales are facing serious environmental challenges including effects of global climate change, ocean acidification, pollution, diminishing food supplies, and underwater noise; and

Whereas: The California gray whale, by virtue of its migration route and highly specialized feeding habits, should be considered a sentinel species in terms of the effect of global climate change in the oceans, and;

Whereas: The National Marine Fisheries Service has not been able to study the effects of global climate change on whale species, including the gray whale, due to funding constraints; and

Whereas: A global moratorium on commercial whaling has been in effect since 1986 when the International Whaling Commission (IWC) banned the practice; and

Whereas: The United States vigorously supported the whaling moratorium, and has historically led bipartisan efforts to protect whales at the IWC and in other global forums, including the establishment of the entire Southern Ocean as an IWC whale sanctuary in 1994; and

Whereas: The U.S. Delegation to the IWC is considering supporting a proposed agreement that would suspend the moratorium on commercial whaling; and

Whereas: This proposed agreement would set ten-year quotas and commercial catch limits for whale species for both subsistence and commercial whaling, including a ten-year quota for 145 gray whales per year, despite alarming data that this species is in distress; and

Whereas: This proposed agreement would allow a subsistence quota (now called indigenous subsistence whaling) of 1,290 gray whales over the next ten years, a quota that could only be modified by a three-quarters vote of the full IWC; and

Whereas: The IWC is scheduled to consider this new whaling agreement and take action at their annual meeting on June 21-25, 2010, in Agadir, Morocco;

Be it therefore resolved that the California Coastal Commission:

Opposes the proposed agreement to renew commercial whaling and set ten-year subsistence quotas and commercial catch limits for numerous whale species;

Implores President Barack Obama to direct the United States Delegation to the IWC to vigorously oppose any proposal to allow commercial whaling and expand subsistence quotas from five to ten year timeframes;

Urges the Obama administration make clear that the U.S. position as a member of the IWC is to end all commercial whaling, including so-called “scientific” whaling which is one of the sources of illegal whale meat sold for human consumption in the U.S. and elsewhere;

Recommends that the Obama administration provide adequate funding to the National Marine Fisheries Service to conduct the necessary studies of the impacts of global climate change on the ocean environment as it affects whale populations;

Suggests that the Obama administration direct the US Delegation to the IWC to focus on protecting whales and whale habitat, encouraging non-lethal and non-harassing uses of whales for education and scientific study, and addressing global environmental problems that endanger whale populations and marine biodiversity.

Be it further Resolved: That the Executive Director shall transmit copies of this resolution to President Obama, the National Oceanic Atmospheric Administration, the Speaker of the House of Representatives, the Majority Leader of the Senate, and to California’s Congressional delegation.

Bonnie Neely, Chair

Mary Shallenberger, Vice-Chair

Date

Date

ATTACHMENTS

Attachment A – International Convention for the Regulation of Whaling

Attachment B – Catch Tables

Attachment C – IWC Proposal

International Convention for the Regulation of Whaling

Attachment A

Washington, 2nd December, 1946

The Governments whose duly authorised representatives have subscribed hereto,

Recognizing the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks;

Considering that the history of whaling has seen over-fishing of one area after another and of one species of whale after another to such a degree that it is essential to protect all species of whales from further over-fishing;

Recognizing that the whale stocks are susceptible of natural increases if whaling is properly regulated, and that increases in the size of whale stocks will permit increases in the number of whales which may be captured without endangering these natural resources;

Recognizing that it is in the common interest to achieve the optimum level of whale stocks as rapidly as possible without causing widespread economic and nutritional distress;

Recognizing that in the course of achieving these objectives, whaling operations should be confined to those species best able to sustain exploitation in order to give an interval for recovery to certain species of whales now depleted in numbers;

Desiring to establish a system of international regulation for the whale fisheries to ensure proper and effective conservation and development of whale stocks on the basis of the principles embodied in the provisions of the International Agreement for the Regulation of Whaling, signed in London on 8th June, 1937, and the protocols to that Agreement signed in London on 24th June, 1938, and 26th November, 1945; and

Having decided to conclude a convention to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry;

Have agreed as follows:-

Article I

1. This Convention includes the Schedule attached thereto which forms an integral part thereof. All references to "Convention" shall be understood as including the said Schedule either in its present terms or as amended in accordance with the provisions of Article V.
2. This Convention applies to factory ships, land stations, and whale catchers under the jurisdiction of the Contracting Governments and to all waters in which whaling is prosecuted by such factory ships, land stations, and whale catchers.

Article II

As used in this Convention:-

1. "Factory ship" means a ship in which or on which whales are treated either wholly or in part;
2. "Land station" means a factory on the land at which whales are treated either wholly or in part;

3. "Whale catcher" means a ship used for the purpose of hunting, taking, towing, holding on to, or scouting for whales;

4. "Contracting Government" means any Government which has deposited an instrument of ratification or has given notice of adherence to this Convention.

Article III

1. The Contracting Governments agree to establish an International Whaling Commission, hereinafter referred to as the Commission, to be composed of one member from each Contracting Government. Each member shall have one vote and may be accompanied by one or more experts and advisers.
2. The Commission shall elect from its own members a Chairman and Vice-Chairman and shall determine its own Rules of Procedure. Decisions of the Commission shall be taken by a simple majority of those members voting except that a three-fourths majority of those members voting shall be required for action in pursuance of Article V. The Rules of Procedure may provide for decisions otherwise than at meetings of the Commission.
3. The Commission may appoint its own Secretary and staff.
4. The Commission may set up, from among its own members and experts or advisers, such committees as it considers desirable to perform such functions as it may authorize.
5. The expenses of each member of the Commission and of his experts and advisers shall be determined and paid by his own Government.
6. Recognizing that specialized agencies related to the United Nations will be concerned with the conservation and development of whale fisheries and the products arising therefrom and desiring to avoid duplication of functions, the Contracting Governments will consult among themselves within two years after the coming into force of this Convention to decide whether the Commission shall be brought within the framework of a specialized agency related to the United Nations.
7. In the meantime the Government of the United Kingdom of Great Britain and Northern Ireland shall arrange, in consultation with the other Contracting Governments, to convene the first meeting of the Commission, and shall initiate the consultation referred to in paragraph 6 above.
8. Subsequent meetings of the Commission shall be convened as the Commission may determine.

Article IV

1. The Commission may either in collaboration with or through independent agencies of the Contracting Governments or other public or private agencies, establishments, or organizations, or independently

- (a) encourage, recommend, or if necessary, organize studies and investigations relating to whales and whaling;
 - (b) collect and analyze statistical information concerning the current condition and trend of the whale stocks and the effects of whaling activities thereon;
 - (c) study, appraise, and disseminate information concerning methods of maintaining and increasing the populations of whale stocks.
2. The Commission shall arrange for the publication of reports of its activities, and it may publish independently or in collaboration with the International Bureau for Whaling Statistics at Sandefjord in Norway and other organizations and agencies such reports as it deems appropriate, as well as statistical, scientific, and other pertinent information relating to whales and whaling.

Article V

1. The Commission may amend from time to time the provisions of the Schedule by adopting regulations with respect to the conservation and utilization of whale resources, fixing (a) protected and unprotected species; (b) open and closed seasons; (c) open and closed waters, including the designation of sanctuary areas; (d) size limits for each species; (e) time, methods, and intensity of whaling (including the maximum catch of whales to be taken in any one season); (f) types and specifications of gear and apparatus and appliances which may be used; (g) methods of measurement; and (h) catch returns and other statistical and biological records.
2. These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization of the whale resources; (b) shall be based on scientific findings; (c) shall not involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory ship or land station or to any group of factory ships or land stations; and (d) shall take into consideration the interests of the consumers of whale products and the whaling industry.
3. Each of such amendments shall become effective with respect to the Contracting Governments ninety days following notification of the amendment by the Commission to each of the Contracting Governments, except that (a) if any Government presents to the Commission objection to any amendment prior to the expiration of this ninety-day period, the amendment shall not become effective with respect to any of the Governments for an additional ninety days; (b) thereupon, any other Contracting Government may present objection to the amendment at any time prior to the expiration of the additional ninety-day period, or before the expiration of thirty days from the date of receipt of the last objection received during such additional ninety-day period, whichever date shall be the later; and (c) thereafter, the amendment shall become effective with respect to all Contracting Governments which have not presented objection but shall not become effective with respect to any Government which has so objected until such date as the objection is withdrawn. The Commission shall notify each Contracting Government immediately upon receipt of each objection and withdrawal and each Contracting Government shall acknowledge receipt of all notifications of amendments, objections, and withdrawals.

4. No amendments shall become effective before 1st July, 1949.

Article VI

The Commission may from time to time make recommendations to any or all Contracting Governments on any matters which relate to whales or whaling and to the objectives and purposes of this Convention.

Article VII

The Contracting Government shall ensure prompt transmission to the International Bureau for Whaling Statistics at Sandefjord in Norway, or to such other body as the Commission may designate, of notifications and statistical and other information required by this Convention in such form and manner as may be prescribed by the Commission.

Article VIII

1. Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.
2. Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.
3. Each Contracting Government shall transmit to such body as may be designated by the Commission, in so far as practicable, and at intervals of not more than one year, scientific information available to that Government with respect to whales and whaling, including the results of research conducted pursuant to paragraph 1 of this Article and to Article IV.
4. Recognizing that continuous collection and analysis of biological data in connection with the operations of factory ships and land stations are indispensable to sound and constructive management of the whale fisheries, the Contracting Governments will take all practicable measures to obtain such data.

Article IX

1. Each Contracting Government shall take appropriate measures to ensure the application of the provisions of this Convention and the punishment of infractions against the said provisions in operations carried out by persons or by vessels under its jurisdiction.
2. No bonus or other remuneration calculated with relation to the results of their work shall be paid to the gunners and crews of whale catchers in respect of any whales the taking of which is forbidden by this Convention.
3. Prosecution for infractions against or contraventions of this Convention shall be instituted by the Government having jurisdiction over the offence.
4. Each Contracting Government shall transmit to the Commission full details of each infraction of the provisions of this Convention by persons or vessels under the jurisdiction of that Government as reported by

its inspectors. This information shall include a statement of measures taken for dealing with the infraction and of penalties imposed.

Article X

1. This Convention shall be ratified and the instruments of ratifications shall be deposited with the Government of the United States of America.
2. Any Government which has not signed this Convention may adhere thereto after it enters into force by a notification in writing to the Government of the United States of America.
3. The Government of the United States of America shall inform all other signatory Governments and all adhering Governments of all ratifications deposited and adherences received.
4. This Convention shall, when instruments of ratification have been deposited by at least six signatory Governments, which shall include the Governments of the Netherlands, Norway, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, enter into force with respect to those Governments and shall enter into force with respect to each Government which subsequently ratifies or adheres on the date of the deposit of its instrument of ratification or the receipt of its notification of adherence.

5. The provisions of the Schedule shall not apply prior to 1st July, 1948. Amendments to the Schedule adopted pursuant to Article V shall not apply prior to 1st July, 1949.

Article XI

Any Contracting Government may withdraw from this Convention on 30th June, of any year by giving notice on or before 1st January, of the same year to the depository Government, which upon receipt of such a notice shall at once communicate it to the other Contracting Governments. Any other Contracting Government may, in like manner, within one month of the receipt of a copy of such a notice from the depository Government give notice of withdrawal, so that the Convention shall cease to be in force on 30th June, of the same year with respect to the Government giving such notice of withdrawal.

The Convention shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter.

In witness whereof the undersigned, being duly authorized, have signed this Convention.

Done in Washington this second day of December, 1946, in the English language, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the other signatory and adhering Governments.

Protocol

to the International Convention for the Regulation of Whaling, Signed at Washington Under Date of December 2, 1946

The Contracting Governments to the International Convention for the Regulation of Whaling signed at Washington under date of 2nd December, 1946 which Convention is hereinafter referred to as the 1946 Whaling Convention, desiring to extend the application of that Convention to helicopters and other aircraft and to include provisions on methods of inspection among those Schedule provisions which may be amended by the Commission, agree as follows:

Article I

Subparagraph 3 of the Article II of the 1946 Whaling Convention shall be amended to read as follows:

“3. ‘whale catcher’ means a helicopter, or other aircraft, or a ship, used for the purpose of hunting, taking, killing, towing, holding on to, or scouting for whales.”

Article II

Paragraph 1 of Article V of the 1946 Whaling Convention shall be amended by deleting the word “and” preceding clause (h), substituting a semicolon for the period at the end of the paragraph, and adding the following language: “and (i) methods of inspection”.

Article III

1. This Protocol shall be open for signature and ratification or for adherence on behalf of any Contracting Government to the 1946 Whaling Convention.
2. This Protocol shall enter into force on the date upon which instruments of ratification have been deposited with, or written notifications of adherence have been received by, the Government of the United States of America on behalf of all the Contracting Governments to the 1946 Whaling Convention.
3. The Government of the United States of America shall inform all Governments signatory or adhering to the 1946 Whaling Convention of all ratifications deposited and adherences received.
4. This Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter, following which period it shall be open for adherence.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Protocol.

DONE in Washington this nineteenth day of November, 1956, in the English Language, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all Governments signatory or adhering to the 1946 Whaling Convention.

ATTACHMENT B

CATCHES UNDER OBJECTION SINCE 1985

Nation	Area	Sperm	Fin	Brydes	Minke	Total
1985/86						
USSR (pelagic)	SH	0	0	0	3,028	3,028
Japan (pelagic)	SH	0	0	0	1,941	1,941
Total		0	0	0	4,969	4,969
1986 (86/87)						
Norway (small type)	NA	0	0	0	379	379
Japan (coastal)	NP	200	0	2	311	513
Japan (Bonin Islands)	NP	0	0	315	0	315
USSR (pelagic)	SH	0	0	0	3,028	3,028
Japan (pelagic)	SH	0	0	0	1,941	1,941
Total		200	0	317	5659	6,176
1987 (87/88)						
Norway (small type)	NA	0	0	0	373	373
Japan (coastal)	NP	188	0	11	304	503
Japan (Bonin Islands)	NP	0	0	306	0	306
Total		188	0	317	677	1,182
1993 (93/94)						
Norway (small type)	NA	0	0	0	157	157
1994 (1994/95)						
Norway (small type)	NA	0	0	0	206	206
1995 (1995/96)						
Norway (small type)	NA	0	0	0	218	218
1996 (1996/97)						
Norway (small type)	NA	0	0	0	388	388
1997 (1997/98)						
Norway (small type)	NA	0	0	0	503	503
1998 (1998/99)						
Norway (small type)	NA	0	0	0	625	625
1999 (1999/2000)						
Norway (small type)	NA	0	0	0	591	591
2000 (2000/01)						
Norway (small type)	NA	0	0	0	487	487
2001 (2001/02)						
Norway (small type)	NA	0	0	0	552	552
2002 (2002/03)						
Norway (small type)	NA	0	0	0	634	634
2003 (2003/04)						
Norway (small type)	NA	0	0	0	647	647
2004 (2004/05)						
Norway (small type)	NA	0	0	0	544	544
2005 (2005/06)						
Norway (small type)	NA	0	0	0	639	639
2006 (2006/07)						
Norway (small type)	NA	0	0	0	545	545
Iceland	NA	0	7	0	1	8
Total		0	7	0	546	553
2007 (2007/08)						
Norway (small type)	NA	0	0	0	597	597
Iceland	NA	0	0	0	6	6
Total		0	0	0	603	603
2008 (2008/09)						
Norway (small type)	NA	0	0	0	536	536
Iceland	NA	0	0	0	38	38
Total		0	0	0	574	574
Overall Total:						
						20,248

ABORIGINAL SUBSISTENCE WHALING WHALING CHARTS SINCE 1985

Nation	Area	Fin	Humpback	Sei	Gray	Minke	Bowhead	Total
1985								
Denmark: W.Greenland	NA	9	8	0	0	222	0	239
Denmark: E.Greenland	NA	0	0	0	0	14	0	14
USSR	NP	0	0	0	169	0	0	169
USA	NP	0	0	0	1	0	17	18
Total		9	8	0	170	236	17	440
1986								
Denmark: W.Greenland	NA	9	0	0	0	145	0	154
Denmark: E.Greenland	NA	0	0	0	0	2	0	2
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
USSR	NP	0	0	0	169	0	0	169
USA	NP	0	0	0	2	0	28	30
Total		9	2	0	171	147	28	357
1987								
Denmark: W.Greenland	NA	9	0	0	0	86	0	95
Denmark: E.Greenland	NA	0	0	0	0	4	0	4
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
USSR	NP	0	0	0	158	0	0	158
USA	NP	0	0	0	0	0	31	31
Total		9	2	0	158	90	31	290
1988								
Denmark: W.Greenland	NA	9	1	0	0	109	0	119
Denmark: E.Greenland	NA	0	0	0	0	10	0	10
St. Vincent & The Grenadines	NA	0	1	0	0	0	0	1
USSR	NP	0	0	0	150	0	0	150
USA	NP	0	0	0	1	0	29	30
Total		9	2	0	151	119	29	310
1989								
Denmark: W.Greenland	NA	14	2	2	0	63	0	81
Denmark: E.Greenland	NA	0	0	0	0	10	0	10
USSR	NP	0	0	0	179	0	0	179
USA	NP	0	0	0	1	2	26	29
Total		14	2	2	180	75	26	299
1990								
Denmark: W.Greenland	NA	19	1	0	0	89	0	109
Denmark: E.Greenland	NA	0	0	0	0	6	0	6
USSR	NP	0	0	0	162	0	0	162
USA	NP	0	0	0	0	0	44	44
Total		19	1	0	162	95	44	321
1991								
Denmark: W.Greenland	NA	18	0	0	0	99	0	117
Denmark: E.Greenland	NA	0	1	0	0	7	0	8
USSR	NP	0	0	0	169	0	0	169
Canada	NP	0	0	0	0	0	1	1
USA	NP	0	0	0	0	0	46	46
Total		18	1	0	169	106	47	341
1992								
Denmark: W.Greenland	NA	22	1	0	0	103	0	126
Denmark: E.Greenland	NA	0	0	0	0	11	0	11
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
Russia	NP	0	0	0	0	0	0	0
USA	NP	0	0	0	0	0	50	50
Total		22	3	0	0	114	50	189

ABORIGINAL SUBSISTENCE WHALING CATCHES SINCE 1985 (continued)

1993								
Denmark: W.Greenland	NA	14	0	0	0	107	0	121
Denmark: E.Greenland	NA	0	0	0	0	9	0	9
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
USA	NP	0	0	0	0	0	52	52
Total		14	2	0	0	116	52	184
1994								
Canada	NA	0	0	0	0	0	1	1
Denmark: W.Greenland	NA	22	1	0	0	104	0	127
Denmark: E.Greenland	NA	0	0	0	0	5	0	5
Russia	NP	0	0	0	44	0	0	44
USA	NP	0	0	0	0	0	46	46
Total		22	1	0	44	109	47	223
1995								
Denmark: W.Greenland	NA	12	0	0	0	153	0	165
Denmark: E.Greenland	NA	0	0	0	0	9	0	9
Russia	NP	0	0	0	90	0	0	90
USA	NP	0	0	0	2	0	57	59
Total		12	0	0	92	162	57	323
1996								
Canada	NA	0	0	0	0	0	1	1
Denmark: W.Greenland	NA	19	0	0	0	164	0	183
Denmark: E.Greenland	NA	0	0	0	0	12	0	12
St. Vincent & The Grenadines	NA	0	1	0	0	0	0	1
Russia	NP	0	0	0	43	0	0	43
Canada	NP	0	0	0	0	0	1	1
USA	NP	0	0	0	0	0	44	44
Total		19	1	0	43	176	46	285
1997								
Denmark: W.Greenland	NA	13	0	0	0	148	0	161
Denmark: E.Greenland	NA	0	0	0	0	14	0	14
Russia	NP	0	0	0	79	0	0	79
USA	NP	0	0	0	0	0	66	66
Total		13	0	0	79	162	66	320
1998								
Canada	NA	0	0	0	0	0	1	1
Denmark: W.Greenland	NA	11	0	0	0	166	0	177
Denmark: E.Greenland	NA	0	0	0	0	10	0	10
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
Russia	NP	0	0	0	125	0	1	126
USA	NP	0	0	0	0	0	54	54
Total		11	2	0	125	176	56	370
1999								
Denmark: W.Greenland	NA	9	0	0	0	170	0	179
Denmark: E.Greenland	NA	0	0	0	0	15	0	15
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
Russia	NP	0	0	0	123	0	1	124
USA	NP	0	0	0	1	0	47	48
Total		9	2	0	124	185	48	368
2000								
Canada	NA	0	0	0	0	0	1	1
Denmark: W.Greenland	NA	7	0	0	0	145	0	152
Denmark: E.Greenland	NA	0	0	0	0	10	0	10
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
Russia	NP	0	0	0	115	0	1	116
USA	NP	0	0	0	0	0	47	47
Total		7	2	0	115	155	49	328

ABORIGINAL SUBSISTENCE WHALING CATCHES SINCE 1985 (continued)

2001								
Denmark: W.Greenland	NA	8	2	0	0	139	0	149
Denmark: E.Greenland	NA	0	0	0	0	17	0	17
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
Russia	NP	0	0	0	112	0	1	113
USA	NP	0	0	0	0	0	75	75
Total		8	4	0	112	156	76	356
2002								
Canada		0	0	0	0	0	1	1
Denmark: W.Greenland	NA	13	0	0	0	139	0	152
Denmark: E.Greenland	NA	0	0	0	0	10	0	10
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
Russia	NP	0	0	0	131	3	0	134
USA	NP	0	0	0	0	0	50	50
Total		13	2	0	131	152	51	349
2003								
Denmark: W.Greenland	NA	9	1	0	0	185	0	195
Denmark: E.Greenland	NA	0	0	0	0	14	0	14
St. Vincent & The Grenadines	NA	0	1	0	0	0	0	1
Russia	NP	0	0	0	128	0	3	131
USA	NP	0	0	0	0	0	48	48
Total		9	2	0	128	199	51	389
2004								
Denmark: W.Greenland	NA	13	1	0	0	179	0	193
Denmark: E.Greenland	NA	0	0	0	0	11	0	11
St. Vincent & The Grenadines	NA	0	0	0	0	0	0	0
Russia	NP	0	0	0	111	0	1	112
USA	NP	0	0	0	0	0	43	43
Total		13	1	0	111	190	44	359
2005								
Denmark: W.Greenland	NA	13	0	0	0	176	0	189
Denmark: E.Greenland	NA	0	0	0	0	4	0	4
St. Vincent & The Grenadines	NA	0	1	0	0	0	0	1
Russia	NP	0	0	0	124	0	2	126
USA	NP	0	0	0	0	0	68	68
Total		13	1	0	124	180	70	388
2006								
Denmark: W.Greenland	NA	10	1	1	0	181	0	193
Denmark: E.Greenland	NA	1	0	0	0	3	0	4
St. Vincent & The Grenadines	NA	0	1	0	0	0	0	1
Russia	NP	0	0	0	134	0	3	137
USA	NP	0	0	0	0	0	39	39
Total		11	2	1	134	184	42	374
2007								
Denmark: W.Greenland	NA	12	0	0	0	167	0	179
Denmark: E.Greenland	NA	0	0	0	0	2	0	2
St. Vincent & The Grenadines	NA	0	1	0	0	0	0	1
Russia	NP	0	0	0	131	0	0	131
USA: Alaska	NP	0	0	0	0	0	63	63
USA: Oregon (Makah)	NP	0	0	0	1	0	0	1
Total		12	1	0	132	169	63	377

2008								
Denmark: W.Greenland	NA	14	0	0	0	153	0	167
Denmark: E.Greenland	NA	0	0	0	0	1	0	1
St. Vincent & The Grenadines	NA	0	2	0	0	0	0	2
Russia	NP	0	0	0	130	0	2	132
USA	NP	0	0	0	0	0	50	50
Total		14	2	0	130	154	52	352
Overall Total:								7,892

SPECIAL PERMIT CATCHES SINCE 1985

Nation	Area	Dates	Fin	Sperm	Sei	Brydes	Minke	Total
1986 (86/87)								
Iceland	NA	Jun-Sep86	76	0	40	0	0	116
Republic of Korea	NP	Apr-Jul86	0	0	0	0	69	69
Total			76	0	40	0	69	185
1987 (87/88)								
Iceland	NA	Jun-Sep87	80	0	20	0	0	100
Japan (pelagic)	SH	Jan-Mar88	0	0	0	0	273	273
Total			80	0	20	0	273	373
1988 (88/89)								
Iceland	NA	Jun-Aug88	68	0	10	0	0	78
Japan (pelagic)	SH	Jan-Mar89	0	0	0	0	241	241
Norway (small type)	NA	Aug-88	0	0	0	0	29	29
Total			68	0	10	0	270	348
1989 (89/90)								
Iceland	NA	Jun-Jul89	68	0	0	0	0	68
Japan (pelagic)	SH	Dec89-Feb90	0	0	0	0	330	330
Norway (small type)	NA	Jul-89	0	0	0	0	17	17
Total			68	0	0	0	347	415
1990 (90/91)								
Norway (small type)	NA	Aug-90	0	0	0	0	5	5
Japan (pelagic)	SH	Dec90-Mar91	0	0	0	0	327	327
Total			0	0	0	0	332	332
1991 (91/92)								
Japan (pelagic)	SH	Dec91-Mar92	0	0	0	0	288	288
1992 (92/93)								
Norway (small type)	NA	Jul-Aug92	0	0	0	0	95	95
Japan (pelagic)	SH	Dec92-Mar93	0	0	0	0	330	330
Total			0	0	0	0	425	425
1993 (93/94)								
Norway (small type)	NA	Apr-Sep93	0	0	0	0	69	69
Japan (pelagic)	SH	Dec93-Mar94	0	0	0	0	330	330
Total			0	0	0	0	399	399
1994 (1994/95)								
Norway (small type)	NA	May-Sep94	0	0	0	0	74	74
Japan	NP	Jul-Sep94	0	0	0	0	21	21
Japan (pelagic)	SH	Dec94-Mar95	0	0	0	0	330	330
Total			0	0	0	0	425	425
1995 (1995/96)								
Japan	NP	Jun-Aug95	0	0	0	0	100	100
Japan (pelagic)	SH	Nov95-Mar96	0	0	0	0	440	440
Total			0	0	0	0	540	540
1996 (1996/97)								
Japan	NP	Jul-Sep96	0	0	0	0	77	77
Japan (pelagic)	SH	Nov96-Mar97	0	0	0	0	440	440
Total			0	0	0	0	517	517
1997 (1997/98)								
Japan	NP	May-Jul97	0	0	0	0	100	100
Japan (pelagic)	SH	Dec97-Mar98	0	0	0	0	438	438
Total			0	0	0	0	538	538
1998 (1998/99)								
Japan	NP	May-Jun98	0	0	0	1	100	101
Japan (pelagic)	SH	Jan-Mar99	0	0	0	0	389	389
Total			0	0	0	1	489	490

SPECIAL PERMIT CATCHES SINCE 1985 (continued)

1999 (1999/2000)								
Japan	NP	Jun-Jul99	0	0	0	0	100	100
Japan (pelagic)	SH	Dec99-Mar00	0	0	0	0	439	439
Total			0	0	0	0	539	539
2000 (2000/01)								
Japan	NP	Aug-Sep00	0	5	0	43	40	88
Japan (pelagic)	SH	Dec00-Mar01	0	0	0	0	440	440
Total			0	5	0	43	480	528
2001 (2001/02)								
Japan	NP	May-Aug 01	0	8	1	50	100	159
Japan (pelagic)	SH	Nov01-Mar02	0	0	0	0	440	440
Total			0	8	1	50	540	599
2002 (2002/03)								
Japan (pelagic)	NP	Jul-Sep02	0	5	40	50	102	197
Japan (coastal)	NP	Sep-Oct02	0	0	0	0	50	50
Japan (pelagic)	SH	Dec02-Mar03	0	0	0	0	441	441
Total			0	5	40	50	593	688
2003 (2003/04)								
Iceland	NA	Aug-Sep03	0	0	0	0	37	37
Japan (pelagic)	NP	May-Aug03	0	10	50	50	101	211
Japan (coastal)	NP	April-May03	0	0	0	0	50	50
Japan (pelagic)	SH	Nov03-Mar04	0	0	0	0	443	443
Total			0	10	50	50	631	741
2004 (2004/05)								
Iceland	NA	June-July04	0	0	0	0	25	25
Japan (pelagic)	NP	June-Sept04	0	3	100	51	100	254
Japan (coastal)	NP	Sept-Oct04	0	0	0	0	60	60
Japan (pelagic)	SH	Dec04-Mar05	0	0	0	0	441	441
Total			0	3	100	51	626	780
2005 (2005/06)								
Iceland	NA	July-Aug05	0	0	0	0	39	39
Japan (pelagic)	NP	May-Aug05	0	5	100	50	101	256
Japan (coastal)	NP	Apr-Oct05	0	0	0	0	121	121
Japan (pelagic)	SH	Dec05-Mar06	10	0	0	0	856	866
Total			10	5	100	50	1117	1282
2006 (2006/07)								
Iceland	NA	Jun-Aug06	0	0	0	0	60	60
Japan (pelagic)	NP	May-Aug06	0	6	101	51	100	258
Japan (coastal)	NP	Apr-Oct06	0	0	0	0	97	97
Japan (pelagic)	SH	Dec06-Feb07	3	0	0	0	508	511
Total			3	6	101	51	765	926
2007 (2007/08)								
Iceland	NA	Apr-Sep07	0	0	0	0	39	39
Japan (pelagic)	NP	Apr-Oct07	0	3	100	50	100	253
Japan (coastal)	NP	May-Aug07	0	0	0	0	108	108
Japan (pelagic)	SH	Dec07-Mar08	0	0	0	0	551	551
Total			0	3	100	50	798	951
2008 (2008/09)								
Japan (pelagic)	NP	Jun-Aug08	0	2	100	50	59	211
Japan (coastal)	NP	Apr-Oct08	0	0	0	0	112	112
Japan (pelagic)	SH	Dec08-Mar09	1	0	0	0	680	681
Total			1	2	100	50	851	1004
Overall Total:							13,313	

Proposed Consensus Decision¹ to Improve the Conservation of Whales from the Chair and Vice Chair of the Commission

Introduction

Background

At last year's meeting, the Commission reviewed progress with discussions on the future of IWC. Recognising that the work was not complete, the Commission agreed by consensus to extend the time allocated to the Small Working Group (SWG) on the Future of the IWC until IWC/62 in 2010. The SWG, that was opened up to observers, was tasked with intensifying its efforts to conclude a package or packages by 2010 that should allow the Commission to reach a consensus solution to the major problems it faces, building upon the concept of a two-phase process and the progress reported by the SWG in its report to IWC/61. The Commission also agreed that the Chair, in consultation with the Advisory Committee, should establish a Support Group containing equitable geographic and socio-economic representation and range of views to assist him in providing direction to the process and in the preparation of material for submission to the SWG. The Support Group comprised Antigua and Barbuda, Australia, Brazil, Cameroon, Germany, Iceland, Japan, Mexico, New Zealand, St. Kitts and Nevis, Sweden and the USA. Norway was invited by the Chair to participate and attended the last two meetings of the Support Group as an observer.

On the basis of discussions of three meetings of the Support Group (in Santiago, Chile in September 2009; in Seattle, USA in December 2009 and in Honolulu, USA in January 2010), the Chair of the Commission submitted a report to the March 2010 meeting of the SWG in Florida that contained a set of ideas (a draft Consensus Decision to Improve the Conservation of Whales) as to how the IWC could function in the future². It was discussed thoroughly. The Support Group met again in Washington, USA in April to consider comments on the draft Consensus Decision made at the SWG meeting³ and subsequently in writing⁴.

The proposed Consensus Decision to Improve the Conservation of Whales

We have developed this proposed Consensus Decision to Improve the Conservation of Whales on the basis of discussions of the Support Group and SWG described above.

The Support Group worked extremely hard towards building consensus, while working on the firm understanding that *'nothing is agreed until everything is agreed'*. We are very appreciative of its dedication and hard work over the last 7-8 months; participation in the group has required a huge commitment. However, while significant progress has been made, given the very challenging issues being dealt with and the strongly-held and differing views among member governments on a number of issues, it was not possible, at least in the time available, to reach full consensus among the Support Group members. Therefore the Chair and Vice-Chair were requested by the Support Group to produce a compromise text to serve as a basis for further negotiations. This 'proposed Consensus Decision' is that compromise text.

¹ including proposed amendments to the Schedule to the Convention

² see IWC/M10/SWG 4: Chair's Report to the Small Working Group on the Future of the IWC

³ see IWC/62/6rev: Report of the fourth meeting of the Small Working Group on the Future of the IWC

⁴ see IWC/A10SG 1: Comments received on the Draft Consensus Decision to Improve the Conservation of Whales (IWC/A10/SG 1)

We emphasise that the proposed Consensus Decision contained in the following pages does **not** represent an agreed approach of the Support Group or the SWG. In fact, neither does it necessarily represent our own views regarding the content of a finally agreed document. Rather it is being put forward to facilitate the necessary further discussions leading up to IWC/62 in Agadir and as a practical way to meet formal deadlines (60 days notice is required for proposed Schedule amendments).

In addition to the Commission's plenary session, time has also been set aside at IWC/62 for these discussions on 16 and 17 June and during the private meeting of Commissioners on Sunday 20 June 2010. This allocation of time indicates how important we believe that this process is for the future of the IWC – we strongly believe that all governments should strive towards reaching consensus. A vitally important component of the philosophy behind the effort of recent years has been respect for all views and the need to step away from the divisive voting of the past. We are firmly of the view that this is the way forward for the good of conservation and management.

Like the earlier version (IWC/M10/SWG 4), the proposed Consensus Decision contained here includes a Vision Statement for the IWC and an approach to how the very different views among member governments regarding whales and whaling might be reconciled⁵. It would establish a 10-year interim period of stability within which intensive dialogue will occur on the major long-term issues at the IWC with the objective of resolving those issues during that period. The document includes a number of Appendices, including proposed Schedule amendments, which would give effect to the approach put forward. Some of the proposals, should they be accepted, would also require amendments to the Commission's Rules of Procedure and Financial Regulations. We have requested the Secretariat to develop proposed revisions and these are provided in a separate document, i.e. IWC/62/8.

During the discussions of the Support Group and the SWG, two issues have proven to be particularly difficult to find a consensus way forward: those related to Table 4, Appendix A (catch limits) and those related to international trade.

With respect to Table 4, some of the important issues included: whether to incorporate both a reduction and a downward trend in catches in the Southern Hemisphere; how to deal with stocks for which scientific advice from established management procedures was not available at the start of the interim period; whether to include catch limits for West Greenland humpback whales given that there was not a quorum at the recent intersessional meeting in Florida. For the purposes of allowing for continued discussion, we have put in some example numbers in Table 4. You will see that *at this stage* we have included a two-step decline in Antarctic minke whale catches over the period – this is neither a continuous decline nor a stable limit and (like any numbers in Table 4) is without prejudice to what might be agreed for the post-2020 period. We have included a catch limit for humpback whales off West Greenland *at this stage*. And we have increased the annual strike limit for the indigenous subsistence take of gray whales from the eastern stock in the North Pacific by five whales in recognition of the issue of the 'stinky' whale issue (five whales being the average number of 'stinky' whales reported per year over the last five years)⁶. The only inevitable result of the example numbers we have included in Table 4 is that as a package they will be disliked by all for

⁵ In order to assist Commissioners, we will include a separate document that identifies, in strike-out mode, the primary differences between the present proposal and that presented to the SWG.

⁶ The Scientific Committee will be asked to check this increase against the gray whale *SLA* at IWC/62.

one reason or another, including ourselves. They are merely there to stimulate the necessary intense discussions and negotiations prior to Agadir.

With respect to the question of international trade, this has long been a point of contention within the IWC, particularly with respect to competence; this was also the case within the Support Group. We have taken the decision *at this stage* to bracket the paragraph limiting the use of meat or products from whales to domestic use since no compromise proposal could be made on this issue – once again intense discussions and negotiations are needed on this matter before Agadir to determine what, if any, text is included.

Clearly a great deal more work is required. We wish to stress that this process has been long and difficult and it will continue to be so. There has been much discussion within and outside the Support Group concerning the balance of the Consensus Decision – the document itself talks of a ‘delicate’ balance and the need to preserve this. The text in the present document on these and other matters represent a starting point for further discussions and negotiations rather than a firm proposal. Almost inevitably, there is a tendency for Governments of all persuasions to take the position that ‘we’ have given up more than ‘them’. This is inevitable and natural. Evaluation also depends on whether one, for example, examines the Consensus Decision against one’s own strongly-held long-term principles or against the *status quo*. It is our view that the proposed Consensus Decision, provided that it can be adopted by consensus, represents a major step forward for whale conservation and management, and thus for the International Whaling Commission.

We therefore look forward to engaging further with Commissioners and Contracting Governments in the coming period and at the Annual Meeting in June. We strongly urge all concerned to work with us to find a consensus solution to our problems.

Consensus Decision to Improve the Conservation of Whales

VISION STATEMENT: The International Whaling Commission will work cooperatively to improve the conservation and management of whale populations and stocks on a scientific basis and through agreed policy measures. By improving our knowledge of whales, their environment, and the multiple threats that can affect their welfare, the Commission will strive to ensure that whale populations are healthy and resilient components of the marine environment.

The long history of overexploitation by industrial whaling in the past left whale populations in many areas in a severely depleted state. This led to the implementation of various management measures by the Commission over the years, including the commercial whaling moratorium. As a result, we have seen a recovery in some stocks although others remain severely depleted. Furthermore, previously unforeseen threats to whale populations have emerged. There has also been an increase in whaling outside the control of the International Whaling Commission (IWC).

Very different views exist among the members regarding whales and whaling. For example, some seek to eliminate all whaling other than indigenous subsistence whaling, and some support whaling provided it is sustainable. This difference has come to dominate the time and resources of the Commission at the expense of effective whale conservation and management. The prevalent atmosphere of confrontation and mistrust among member governments has led to little progress being made on key practical matters of conservation and management since the early 1990s despite advances at a scientific level. This has created concerns among some members over the possible collapse of the IWC.

The *status quo* is not an option for an effective multilateral organisation. To overcome the present impasse, the IWC has in recent years recognised the need to create a non-confrontational environment within which issues of fundamental difference amongst members can be discussed with a view to their resolution. Reconciliation of differences in views about whales and whaling will strengthen actions related to the common goal of maintaining healthy whale populations and maximizing the likelihood of the recovery of depleted populations.

This consensus decision and its appendices represent a delicate balance of concessions by all IWC members. It establishes a ten-year interim period of stability within which intensive dialogue will occur on the major long-term issues facing the IWC, with the objective of resolving those issues during that period. Under this consensus decision, no governments are changing their fundamental positions on matters of principle or prejudicing their future rights with respect to, among other things, research by special permit, the commercial whaling moratorium, and whaling under objection and reservation. The moratorium remains in place. All whaling will be under full IWC control. Overall catch limits will be both significantly below current limits and scientifically determined to be sustainable over the period. During this interim period many new, positive conservation and management benefits will be introduced. No one can be said to have won or lost, but all member governments have made accommodations for the period of the interim arrangement. This arrangement will expire after ten years. The intent is to resolve our key differences during this interim period, resulting in a

new way forward by that time. Member governments agree that the result of the arrangement will be a good starting point for further negotiations.

This effort represents a paradigm shift in the way the Commission operates, creating a cooperative environment and revised framework for addressing issues related to whales. The focus is on a shared vision for the Commission's future.

This way forward will improve the conservation of whales worldwide. The Commission will address conservation issues as a priority since whales face new threats to their existence in comparison to when the Commission was established in 1946. Environmental and human-induced threats are increasing and demand a new approach and therefore new efforts by the Commission. In this regard, every member government is committed to the conservation of whales.

Fundamental components of this consensus decision are to:

- retain the moratorium on commercial whaling;
- suspend immediately for the 10-year period unilaterally-determined whaling under special permit, objections, and reservations;
- bring all whaling authorised by member governments under the control of the IWC;
- limit whaling to those members who currently take whales;
- ensure that no new non-indigenous whaling takes place on whale species or populations not currently hunted;
- establish caps for the next ten years that are significantly less than current catches and within sustainable levels, determined using the best available scientific advice;
- introduce modern, effective IWC monitoring, control and surveillance measures for non-indigenous whaling operations ;
- create a South Atlantic Sanctuary;
- recognise the non-lethal value and uses of whales, such as whalewatching, as a management option for coastal states and address related scientific, conservation and management issues of such uses;
- provide a mechanism for enterprise and capacity building for developing countries;
- focus on the recovery of depleted whale stocks and take actions on key conservation issues, including bycatch, climate change and other environmental threats;
- set a decisive direction to the future work of the IWC including measures to reform the governance of the Commission; and
- establish a timetable and mechanism for addressing the fundamental differences of view amongst member governments in order to provide for the effective functioning of the Commission over the longer term.

Members agree not to authorise whaling outside IWC control and not to exceed the prescribed catch limits (Appendix A). The Commission will now refer to aboriginal subsistence whaling as indigenous subsistence whaling. Indigenous subsistence whaling operations that were previously approved by the Commission will continue under existing management measures.

The catch limits outlined in this arrangement reflect scientific and policy evaluations of proposals made by the whaling countries for the ten-year period. The scientific evaluation has ensured that the catch limits are consistent with the principle of sustainability and the precautionary approach. The policy evaluation has ensured that the catch limits, except for indigenous subsistence whaling, result in a significant reduction below existing catch levels. Whaling by special permit and by objection or reservation will be suspended for the ten-year

period and notwithstanding Appendix A, the moratorium (paragraph 10(e) of the Schedule) will remain in place during the arrangement. Nothing in this consensus decision prejudices the fundamental legal positions of member governments.

The IWC will strengthen its capacity as an effective multilateral organisation with a strategic focus that reflects the interests of its membership. The Commission will re-prioritize its work on science and conservation and reorganise its Committees. It recognises that ensuring healthy whale populations requires responsible collective action. Members will work together to enable the Commission to effectively address the full range of contemporary and emerging threats facing whale populations and to improve their conservation and maximise the likelihood of the recovery of depleted populations and stocks. The Commission will base conservation and management measures on the best available scientific advice, incorporating precautionary and ecosystem approaches.

The Commission recognises that there will be increased expenses and increased work for the Secretariat as a result of this arrangement. The preferred method of financing these measures is through the financial contributions scheme. The Commission will make a detailed assessment of how to apportion these costs amongst Contracting Governments. Proposed budgets will be drafted prior to the 2010 annual meeting.

Chapter VII as a whole represents a delicate balance of elements that the member governments are able to accept as a compromise. Thus, members pledge to refrain from exercising their rights under Article V of the Convention to file objections to the Schedule amendments arising from this consensus decision or in any other way to exempt themselves from these provisions. As a result, member governments consider that a rejection of any particular provision, while accepting the benefits of other aspects of this Chapter, would be inconsistent with the object and purpose of the new amendments and the philosophy of the consensus decision.

FOR CONSERVATION:

The Commission will immediately focus on the recovery of depleted populations and stocks and take practical actions on key issues, including bycatch, climate change and other environmental threats to whales through tools such as conservation management plans. The determination of which conservation management plans to develop will be based upon immediate conservation needs and likelihood of success. In addition, a South Atlantic sanctuary will be established.

To facilitate this, the Commission will establish a Conservation Programme Committee. Member governments agree to participate fully on this Committee and in its associated bodies. The Conservation Programme Committee will, among other things, address new and emerging threats to cetaceans, including climate change, marine pollution, bycatch and entanglement by fishing activities, ship strikes and habitat degradation including noise pollution; as well as recommend an agreed framework to broaden the management tools available to the Commission to address non-consumptive uses of whales.

FOR MANAGEMENT:

For this ten-year period, the Commission agrees to a cap on whaling based on the prescribed catch limits (Table 4 of Appendix A) that will be precautionary and set below long-term maximum sustainable limits. For indigenous subsistence whaling, catch limits will continue to be established under existing arrangements. For all other whaling operations, the reduced catch limits will be less than or equal to advice provided during the period under the Scientific

Committee's Revised Management Procedure (RMP). In those cases for which an RMP *Implementation* has not yet been completed, or is not current at the start of the period, interim limits have been set on the advice of the IWC Scientific Committee, such that these limits do not risk causing long-term depletion of the populations or stocks concerned. The Scientific Committee shall give high priority to completing RMP *Implementations* and *Implementation Reviews* (see Appendix B). If the results of this work indicate that a catch limit should be lower than the limit in Table 4 of Appendix A, or if there is a significant event that negatively affects the status of a population or stock, the Commission will lower the catch limit prior to the next whaling season based on the advice of the Scientific Committee.

The Commission will establish a Management and Compliance Committee. Amendments to the Schedule to the Convention for monitoring, control and surveillance mechanisms will include provisions for national inspectors, international observers, a Vessel Monitoring System, a DNA registry and market sampling scheme, infractions and sanctions, and whale killing methods and associated welfare issues. These measures are intended to provide strong assurance that member governments abide by the rules of the Commission, including catch limits. In particular, the DNA registry and market sampling scheme provides substantial advantages over a catch documentation scheme due to its ability to link any whale meat sample in the market with a harvested whale and therefore detect and deter any illegal, unreported and unregulated whaling. Further, the Management and Compliance Committee will review the effectiveness of these measures and recommend improvements as needed. In the case of indigenous subsistence whaling that is done, often in remote parts of the world, monitoring and control must necessarily be different and appropriate to those particular circumstances. Complete and accurate data concerning whaling activities will be reported to the Commission in a timely manner.

The Commission recognises the non-lethal use of whales, such as whalewatching, as a management option for coastal States and will address all related scientific, conservation, and management aspects of such uses.

FOR SCIENCE:

The provision of sound scientific advice is essential to the functioning of the Commission. The work of the Scientific Committee is internationally recognised as providing the best available knowledge on the conservation and management of whales. This strong tradition will continue.

In developing priorities for the Scientific Committee, the Commission will take into account the conservation status of whale populations and the threats they face and focus on work that will lead to effective conservation and management measures. The Commission is committed to comprehensive and frequently reviewed research programmes that follow rigorous scientific principles and that are in accord with or establish best practice. The Commission will continue to publish the results of research and make publicly available the data collected under its auspices to encourage transparency and to promote additional research and analyses. The Scientific Committee will also continue to incorporate into its work ecosystem and precautionary considerations and will maintain and expand its range of tools to help identify, quantify and mitigate threats to whale stocks and populations. These tools may include conservation management plans and marine protected areas. Results from cooperative research programmes amongst member governments will help to fill important knowledge gaps required for whale conservation.

FOR GOVERNANCE:

The Commission will remain the governing body of the organisation and will meet every two years from 2011. Four Committees will support the Commission: a Scientific Committee; a Conservation Programme Committee; a Management and Compliance Committee; and a Finance, Administration and Communications Committee (see Appendix C). Each Committee Chair and Vice-Chair, along with Chair and Vice-Chair of the Commission, will serve four-year terms. The Committees will elect their own Chairs and Vice-Chairs.

A Bureau will be established to support the Chair of the Commission. In addition to the Chair, the Bureau will comprise the Vice-Chair of the Commission, the four Committee Chairs and two additional Commissioners. These two additional Commissioners will be nominated by the Chair for approval by the Commission, in order to ensure that the Bureau as a whole is representative of the regions and interests within the Commission,

The Commission will afford greater participation to intergovernmental and non-governmental organisations. Representatives from these organisations will be allowed to speak during the meeting following the guidelines and Rules given in Appendix D. In accord with guidelines to be developed by the Commission before 2011, the Secretariat shall make available contributions from intergovernmental and non-governmental organisations relevant to the agenda of the meetings of the Commission and its subsidiary bodies via the Commission's website. The Commission will continue to support the right to legitimate and peaceful forms of protest and demonstration and urge its members to have regard for the importance of protecting the environment, and in particular the fragile Antarctic environment.

With regard to safety at sea, the Commission and its members reiterate that they do not condone, and in fact condemn, any actions that are a risk to human life and property in relation to the activities of vessels at sea, and urge that persons and entities refrain from such acts. Member Governments, including flag States and port States for vessels engaged in such acts, will continue to cooperate and to take concrete and effective action, in accordance with relevant rules of international law and respective national laws and regulations and through competent international organisations, to deter, suppress and prevent actions that risk human life and property at sea.

The IWC remains the pre-eminent organisation with responsibility for the conservation and management of whales worldwide. It recognises that there are other agreements and organisations that are relevant to whale conservation. These include, amongst others, the Convention on International Trade in Endangered Species (CITES), the Convention on Biological Diversity, the Convention on Migratory Species (CMS) and the United Nations Convention on the Law of the Sea (UNCLOS). The IWC agrees to strengthen further co-operation with relevant agreements and organisations and the IWC member governments agree not to take actions that may undermine the efficacy and purpose of this decision in other agreements and organisations. For example, no amendment of the Schedule arising from this consensus decision supersedes or invalidates prior IWC Resolutions relating to CITES and international trade, including Resolution 2007/4 on CITES. The Commission shall notify the CITES Secretariat of this decision.

TIMELINE

Starting after the annual meeting in 2010, these new measures described above will be implemented for a ten-year period with a review in five years.

FUTURE WORK PLAN TO ADDRESS DIFFERENCES OF VIEWS ON KEY ISSUES:

While this paradigm shift represents significant progress in strengthening whale conservation and management, the members of the IWC recognise that more work is needed to resolve the fundamental differences of views amongst them if the Commission is to function effectively over the longer term. As stated earlier, this consensus decision to improve whale conservation and bring the management of all whaling, at significantly reduced levels, under the control of the IWC, is intended to provide the Commission with the opportunity to address those fundamental differences of view in order to complete the reform of the Commission and effectively address new and emerging environmental challenges.

The Commission will maintain momentum in addressing outstanding elements in the reform agenda. From 2011, the Commission will meet biennially while the Bureau and the four Committees will meet as frequently as required, possibly annually. The Commission will continue to address the different views that exist amongst the members on key issues regarding whales and whaling and proposals will be developed to address these for consideration during the initial five years of the arrangement.

To facilitate this, the Commission will establish a Working Group at IWC/62, representing a broad cross section of the membership, to continue to examine reform of the Commission, including governance issues, the role of science in decision making, sanctuaries, research conducted by special permit, whaling under objections and reservations, the commercial whaling moratorium, international trade, bycatch and small cetaceans.

The Working Group shall report on its progress to the Commission by 2013, including any recommendations it may have. The Commission shall at its next meeting and each meeting thereafter until these issues are resolved, discuss the recommendations of the Working Group.

The Commission will conduct a comprehensive five-year review in 2015, to assess the efficiency and effectiveness of the implementation and operation of the arrangement. At that point the Commission will identify work that needs to be undertaken to enable any necessary reforms to be in place prior to expiry of this Consensus Decision.

Timetable for Commission meetings

2010 (IWC/62)

The Schedule amendments in Appendix A will go into effect from 1 January 2011 through 31 December 2020, except that for the Southern Hemisphere the effective dates shall be 1 November 2010 through 31 March 2020.

2011 (IWC/63) & 2013 (IWC/64)

The Commission will continue its work on the critical issues related to its reform. Further work will also be undertaken regarding, among other things, animal welfare, bycatch, developments in oceans governance, an IWC Cooperation Programme (Appendix E), ethics and socio-economic implications. Further discussions will also take place concerning small cetaceans, international trade, and the sharing of benefits derived from the utilisation of whales.

2015 (IWC/65) - "The Five-Year Review"

The Bureau will review progress in addressing work on key issues and the implementation of this Consensus Decision, identify further work that needs to be undertaken to put in place

reforms prior to its expiration, and prepare a report for consideration by the full Commission at IWC 65 in 2015.

2017 (IWC/66) & 2019 (IWC/67)

The Commission will begin to consider new amendments to the Schedule to replace Chapter VII.

2020 (IWC/68)- Extraordinary meeting of the Commission

The Schedule amendments in Appendix A will expire.

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APPENDIX A – Amendments to the Schedule

CHAPTER VII. REFORMED CONSERVATION AND MANAGEMENT MEASURES

32. This Chapter shall be in effect from 1 January 2011 through 31 December 2020, except that for whaling in the Southern Hemisphere and for the establishment of the South Atlantic Sanctuary described in paragraph 49, the effective dates shall be 1 November 2010 through 31 March 2020. In the event of an inconsistency between this Chapter and Chapters I -VI, the provisions of this Chapter shall prevail. Further, the strengthened conservation and management measures in this Chapter supersede paragraphs 2-5, 9, 10(a) through 10(c), 11, 12, 21(c), 24-30 and Appendix A of the Schedule. The catch limits and carryover provisions of Table 4 also supersede catch limits for operations identified in paragraph 13; all other provisions in paragraph 13 shall continue to apply. The provisions of this Chapter shall be reviewed in 2015 and at such times as determined by the Commission. These provisions shall also be reviewed when new and important information is presented by the Scientific Committee.

33. In order to improve the conservation of whales, the number of whales taken for each of the years indicated above shall not exceed the catch limits shown in Table 4. All catch limits in this table shall be set at or below sustainable levels as determined by the most recent versions of the Scientific Committee's Revised Management Procedure, *Strike Limit Algorithms* for indigenous whaling or, where results from these are not available, best available science. If the results of the established management procedures indicate that a catch limit should be lower than the number in Table 4, or if there is a significant event that negatively affects the status of any population, Contracting Governments agree that, where the Scientific Committee advises that the catch limits for any stock or population should be reduced, the Commission shall reduce those limits for the remaining years of the operation of this Chapter. Notwithstanding any such reductions, if the results from further application of established management procedures indicate that a catch limit could be increased, the Commission will increase the catch limit accordingly but in no case shall a limit for a stock exceed the catch limit for that stock included in Table 4 as adopted at the 2010 Annual Meeting. Other than the catch limits in Table 4, catch limits for all species, areas and seasons shall remain zero.

34. Each Contracting Government agrees that it will not authorise, whether pursuant to Article VIII or otherwise, any whaling in excess of the limits set forth in Table 4 or outside the provisions of this Chapter.

35. Each Contracting Government agrees that it will not authorise whaling pursuant to Table 4 unless it authorised whaling operations in 2009.

36. Any overages of an annual catch limit specified in Table 4 shall be deducted, by the authorising Contracting Government, from that annual catch limit, as modified by applicable carryover provisions, for the following whaling season.

37. If:

- (a) a vessel or vessels under the jurisdiction of a Contracting Government strike or take whales in excess of the catch limit authorised by that Government pursuant to a licence issued in accordance with Annex {LIS} dated *day/month/year*; and
- (b) the Management and Compliance Committee advises the Commission that the relevant Contracting Government has failed to implement and apply sufficiently severe

sanctions or to take appropriate enforcement action, in accordance with its obligations under Annex {LIS} dated *day/month/year*;

the Commission will, having regard to the recommendations of the Management and Compliance Committee, lower the relevant catch limit specified in Table 4 for the following whaling season. Such a reduction will apply in addition to any overages deducted from the relevant catch limit under paragraph 36.

[38. Domestic Use. Use of any meat or products derived from any whale taken in accordance with Table 4, or taken under any other circumstances, shall be limited to domestic use in the country or territory that authorised such take, and/or under whose jurisdiction such take occurred.]

39. National Inspectors. Each Contracting Government under whose jurisdiction whaling operations are carried out shall have in place a national inspection scheme to ensure compliance with the provisions of the Convention and national regulatory measures.

40. International Observers. Whaling operations shall be subject to the International Observer Scheme detailed in Annex {IOS} dated *day/month/year*.

41. Vessel Monitoring. Vessels conducting whaling operations shall be equipped with a satellite vessel monitoring system for reporting on vessel movements and activities. The system shall be designed to ensure real-time and simultaneous transmission to the Flag State and the Secretariat as specified in Annex {VMS} dated *day/month/year*. It shall also be transmitted in real-time to those international observers specified in Annex {IOS} dated *day/month/year* and Annex {VMS} dated *day/month/year*. Given the specific context of activities under this Chapter, including with respect to scale of operations and safety of life at sea, in circumstances where a vessel captain considers that the transmission of vessel monitoring information may endanger the safety and life of crews, such captain may at his sole discretion, suspend these transmissions. Such suspensions, as well as daily positioning data, shall be recorded by the observer and included in the report referred to paragraph 3.2 of Annex {IOS} dated *day/month/year*. Where there is no observer present, this information must be recorded by the captain and submitted to the international observer present at the land station.

42. DNA Registry and Market Sampling. Contracting Governments under whose jurisdiction whales and whale products may be legally marketed shall maintain a diagnostic DNA register and tissue bank, and will carry out a market sampling scheme, based on the procedures given in Annex {DNA} dated *day/month/year*. Before any products from a whale enter the market, samples for the DNA registry shall be collected from that whale, and submitted for inclusion in the registry. Reporting shall include the annual transmission of DNA profiles to a centralized archive maintained by the Secretariat for audit purposes. External audit shall be conducted under the auspices of the IWC by the international expert group referred to in that Annex following the procedures documented therein.

43. Infractions and Sanctions. Contracting Governments shall have in place licensing, infractions and sanctions arrangements as set out in Annex {LIS} dated *day/month/year* and shall provide information to the Secretariat as given in that Annex.

44. Indigenous Subsistence Whaling. The term ‘indigenous subsistence whaling’ shall henceforth replace the term ‘aboriginal subsistence whaling’ and the two terms shall have the

same meaning. Whaling by indigenous subsistence whalers identified in paragraph 13(b) shall be conducted pursuant to paragraph 13 and other relevant Commission agreements with respect to that paragraph. The number of whales struck or landed by such whalers, as appropriate, for each of the years shall not exceed the numbers shown in Table 4. These numbers and carryover provisions supersede those given in paragraph 13; all other provisions in paragraph 13 shall continue to apply, including provisions for annual review. Except where explicitly provided otherwise, the other provisions of this Chapter shall not apply to indigenous subsistence whaling.

45. Whale Killing Methods. Whaling, including indigenous subsistence whaling, shall be undertaken such that the hunted whale does not experience unnecessary suffering and that people and property are not exposed to danger. In order to verify that the best methods are used and to provide for continuous improvement of methods, the international observer where present (or otherwise the national inspector or the captain of the vessel) shall record and report information on whale killing methods and associated welfare issues as described in Annex {WKM} dated *day/month/year*.

46. Scientific Information. Contracting Governments under whose jurisdiction whales are harvested, including those taken pursuant to paragraph 13, shall submit the scientific information described in Annex {SI} dated *day/month/year* in accord with the reporting requirements given in that Annex.

47. Operational Information. Contracting Governments under whose jurisdiction whales are harvested shall submit the operational information described in Annex {OI} dated *day/month/year* in accord with the reporting requirements given in that Annex.

48. South Atlantic Sanctuary. In accordance with Article V(1)(c) of the Convention, whaling, whether by pelagic operations or from land stations, is prohibited in a region designated as the South Atlantic Sanctuary from 1 November 2010 through 31 March 2020. This Sanctuary comprises the waters of the South Atlantic Ocean enclosed by the following line: starting from the Equator, then generally south following the eastern coastline of South America to the coast of Tierra del Fuego and, starting from a point situated at Lat 55°07,3'S Long 066°25,0'W; thence to the point Lat 55°11,0'S Long 066°04,7'W; thence to the point Lat 55°22,9'S Long 065°43,6'W; thence due South to Parallel 56°22,8'S; thence to the point Lat 56°22,8'S Long 067°16,0'W; thence due South, along the Cape Horn Meridian, to 60°S, where it reaches the boundary of the Southern Ocean Sanctuary; thence due east following the boundaries of this Sanctuary to the point where it reaches the boundary of the Indian Ocean Sanctuary at 40°S; thence due north following the boundary of this Sanctuary until it reaches the coast of South Africa; thence it follows the coastline of Africa to the west and north until it reaches the Equator; thence due west to the coast of Brazil, closing the perimeter at the starting point. With the exception of Argentina, Brazil and South Africa, this provision does not apply to waters under the national jurisdiction of coastal States within the area described above, unless those States notify the Secretariat to the contrary and this information is transmitted to the Contracting Governments. *[Note that this information will be included in an editorial footnote].*

49. Co-operation Programme. The Commission shall establish a Co-operation Programme in recognition of the rights of developing coastal States, taking into account the interests of such States in the living marine resources of the marine environment covered by the Convention.

50. Conservation. The Commission shall establish a Conservation Programme Committee. Further, the Commission shall address conservation issues as a priority, and will immediately focus on the recovery of depleted stocks and take actions on key issues, including bycatch, climate change and other environmental threats to whales through tools such as conservation management plans. The determination of which conservation management plans to develop will be based upon immediate conservation needs and likelihood of success.

51. IUU Whaling. Contracting Governments shall, to the extent consistent with their obligations under international law, take all necessary measures, including such amendments to their national laws and regulations as are required, to deter illegal, unreported and unregulated (IUU) whaling. Should information on vessels conducting IUU whaling operations be provided to the Commission, it shall be included in the annual report of the Commission.

Table 4. Catch limits.

STOCKS	SEASONS										
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	
SOUTHERN HEMISPHERE											
Antarctic minke - 130°E to 145°W	400 ⁷	0	400 ⁷	0	400 ⁷	0	200 ⁷	0	200 ⁷	0	
Antarctic minke – 35°E to 170°E	0	400 ⁷	0	400 ⁷	0	200 ⁷	0	200 ⁷	0	200 ⁷	
Fin –130°E to 145°W	10	0	10	0	5	0	5	0	5	0	
Fin - 35°E to 170°E	0	10	0	5	0	5	0	5	0	5	
Humpback	0	0	0	0	0	0	0	0	0	0	
NORTHERN HEMISPHERE		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
North Pacific											
Bowhead – Bering-Chukchi-Beaufort Seas stock		67 ⁸	67 ⁸	67 ⁸	67 ⁸	67 ⁸	67 ⁸	67 ⁸	67 ⁸	67 ⁸	67 ⁸
Gray – eastern stock		145 ⁹	145 ⁹	145 ⁹	145 ⁹	145 ⁹	145 ⁹	145 ⁹	145 ⁹	145 ⁹	145 ⁹
Bryde's – western (west of 170°E)		12	12	12	12	12	12	12	12	12	12
Common minke – the coastal waters east of Japan north of 35°N and west of 150°E (excluding the Okhotsk Sea), excluding waters within 10 nautical miles of the Pacific coast of northern Japan. ¹⁰		120	120	120	120	120	120	120	120	120	120
Common minke - offshore		40	40	40	40	40	40	40	40	40	40
Sei – western (west of 170°E)		50	50	50	50	50	50	50	50	50	50
Sperm – western (west of 170°E)		0	0	0	0	0	0	0	0	0	0

⁷ This is the maximum number of animals that may be struck in any one year except that any unused strikes in one year may be carried forward to the next limit in the same area (i.e. 2 seasons later) up to a total of [number to be decided].

⁸ This is the maximum number of animals that may be struck in any one year except that any unused strikes (including 15 unused strikes from the 2007-2010 period) may be carried forward to subsequent years up to a maximum of 15 additional strikes in any one year. The total number of animals that may be landed over the 10 seasons from 2011-2020 is 580.

⁹ This is the maximum number of animals that may be struck in any one year. The total number of animals that may be landed over the 10 seasons from 2011-2020 is 1,290.

¹⁰ The whaling season shall be limited to a consecutive six month period within the period of 1 March 1 to 30 November of each year. Whaling will be in accordance with the framework set out in IWC/60/9 that describes Japan's Small Type Coastal Whaling proposal for the benefit of four communities in Japan.

NORTHERN HEMISPHERE (Continued)		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
North Atlantic											
Bowhead – Eastern Canada/West Greenland stock		2 ¹¹	2 ¹¹	2 ¹¹	2 ¹¹	2 ¹¹	2 ¹¹	2 ¹¹	2 ¹¹	2 ¹¹	2 ¹¹
Fin – West Greenland		19	19	19	19	19	19	19	19	19	19
Fin – West Iceland <i>Small Area</i> ¹²		80	80	80	80	80	80	80	80	80	80
Common minke – West Greenland		178 ¹³	178 ¹³	178 ¹³	178 ¹³	178 ¹³	178 ¹³	178 ¹³	178 ¹³	178 ¹³	178 ¹³
Common minke – Central Atlantic – <i>Small Areas</i>											
East Greenland coastal		12	12	12	12	12	12	12	12	12	12
CIC ¹⁴		80	80	80	80	80	80	80	80	80	80
Common minke – Eastern Atlantic <i>Small Areas</i> ¹⁵											
EB		93	93	93	93	93	93	93	93	93	93
EN		150	150	150	150	150	150	150	150	150	150
ES		108	108	108	108	108	108	108	108	108	108
EC		249	249	249	249	249	249	249	249	249	249
Humpback – taken off St Vincent and The Grenadines		4 ¹⁶	4 ¹⁶	4 ¹⁶	4 ¹⁶	4 ¹⁶	4 ¹⁶	4 ¹⁶	4 ¹⁶	4 ¹⁶	4 ¹⁶
Humpback – West Greenland feeding aggregation		10	10	10	10	10	10	10	10	10	10

¹¹ This is the maximum number of animals that may be struck in any one year except that any unused strikes from one year may be carried forward to subsequent years up to a maximum of 2 additional strikes in any one year.

¹² WI: The area to the West of the 18°W meridian and between the 50°N and 75°N parallels and East of a line from 50°N 30°W, 60°N 30°W, 60°N 31°W, 65°N 31°W, 66°50'N 27°W and 69°N 27°W.

¹³ This represents the maximum number of animals that may be struck in any one year except that any unused strikes may be carried forward to subsequent years up to a maximum of 15 additional strikes in any one year.

¹⁴ CIC: The area between 63°N and 67.5°N and between 12°W and 25°W.

¹⁵ EB: The area to the East of (and including) the 28°E meridian.

ES: The area to the West of the 28°E meridian and North of a line through 73°N 28°E, 73°N 3°E, 74°N 3°E and 74°N 21°W.

EW: The Area to the North of the 62°N parallel and to the West of the 28°E meridian and to the South and East of a line through 73°N 28°E, 73°N 3°E, 68°N 3°E, 65°N 5°W, 63°N 12°W and 60°N 18°W.

EN: The area to the South of the 62°N parallel and East of a line through 63°N 12°W, 60°N 18°W and 20°N 18°W.

¹⁶ This represents the average number of whales that may be landed in any one year. The total number that be landed over the 10 seasons from 2011-2020 shall not exceed 40.

**Annex {LIS} dated *day/month/year*
Licensing, Infractions and Sanctions**

LICENSING

1. Each Contracting Government under whose jurisdiction whales are struck or taken shall authorise vessels to conduct whaling operations under this Chapter pursuant to a licence issued by that Contracting Government which specifies the areas, whale stocks (species and numbers) and time periods for which whaling operations are authorised and all other specific conditions to which the whaling operations are subject to give effect to this Chapter and all other requirements of the Convention.
2. Each Contracting Government shall provide to the Secretariat prior to the commencement of a whaling season the following information, where applicable, about licences issued to its authorised whaling vessels:
 - (a) name and registration details of the vessel;
 - (b) time periods authorised for whaling (start and end dates);
 - (c) proposed areas of whaling; and
 - (d) species targeted.The Secretariat shall provide a copy of any licence to a Commissioner or Alternate Commissioner upon request.

INFRACTIONS AND SANCTIONS

3. Contracting Governments under whose jurisdiction whales are struck or taken shall apply sufficiently severe sanctions so as to effectively ensure compliance with the provisions of this Chapter and all other requirements of the Convention.
4. If a Contracting Government becomes aware of an infraction of its licensing conditions that are pursuant to the Schedule or any other requirement under the Convention, the Government shall notify the Secretariat of the details of this infraction without delay. The Secretariat shall make the details of the infraction available to the Commission for the consideration of the Management and Compliance Committee.
5. In the event of an infraction by a vessel under the jurisdiction of a Contracting Government, the Government shall take appropriate enforcement measures in accordance with its domestic law, which may include:
 - (a) suspension or withdrawal of the whaling vessel's licence;
 - (b) seizure of any whale, or any part derived from a whale, taken in contravention of the whaling vessel's licence;
 - (c) depriving offenders of any economic benefit accruing from their illegal activities;
 - (d) imposing an appropriate fine on the offenders, in light of the seriousness of the infraction; and
 - (e) ensuring that the relevant whaling vessel carries out no further whaling operations unless and until the sanctions imposed have been complied with.

The Contracting Government shall notify the Secretariat, without delay, of the appropriate enforcement measures taken in accordance with this paragraph. The Secretariat shall make the details of the enforcement measures taken available to the Commission for consideration by the Management and Compliance Committee.

Annex {IOS} dated *day/month/year*
The International Observer Scheme

1. PLACEMENT OF OBSERVERS

One observer appointed by the Commission shall be present on all vessels undertaking whaling operations and at each point of landing except that the following applies:

- (a) for vessels that only operate trips of less than 24 hours, carry out no flensing onboard (apart from slitting of the belly at sea) and for which the legal limit of persons onboard does not exceed the number of crew, VMS data shall be transmitted in real time to the observer at the identified point of landing, using IWC approved equipment as given in Annex {VMS} dated *day/month/year*;
- (b) for which vessels that are <24m, operate only within waters under the jurisdiction of the Flag State and that can only accommodate one additional person in addition to the crew, the Commission shall appoint an observer who may also be appointed as a National Inspector by a Contracting Government;
- (c) the Commission shall appoint two observers to each factory ship that is supplied by whale catchers.

The Commission shall ensure that provisions are made for a limited number of backup observers such that in the unlikely event an observer may become unavailable with short notice, every effort can be made to avoid delay to whaling operations. The Commission may, through its Bureau, allow a vessel to sail without an International Observer in special circumstances, when this is beyond the control of the whaling operations.

2. SELECTION OF OBSERVERS

2.1 Selection process

Observers shall be selected in accordance with the following procedure. Observers chosen for the combined role with a national inspector (1.1(b) above) must fulfil the qualifications for both positions.

- (1) The Secretariat will put out a call for candidates to apply (including via Contracting Governments, the Scientific Committee and the IWC website). It will develop a standard application form that will include information on the scientific and technical criteria that will be used in the selection process. It will also request information on *inter alia*: language(s) spoken; available dates; previous experience (including time at sea); any known problems with admission to certain countries; references. The Secretariat will draw up list of suitable candidates.
- (2) The list will be circulated to all Contracting Governments with summary of information on each candidate (individual applications may be given to any Commissioner or Alternate Commissioner on request).
- (3) Any Contracting Government may veto any candidate.
- (4) Following predetermined guidelines, and after consultation with relevant Contracting Governments over practical arrangements, the Secretariat will decide the placement of

observers and will inform the appropriate Contracting Governments, normally at least 30 days prior to the start of whaling operations.

In particular, (a) an individual shall not be appointed to observe in the territory or on a vessel flying the flag of the State of which he/she is a national or permanent resident, except if this results in a serious problem with (b) the fact that an observer must be able to communicate effectively with the senior personnel of that component of the whaling operation they have been selected to observe.

2.2 Review of performance

After a review process determined by the Commission, the Commission may direct the Secretariat to remove someone from the approved List of Observers if they are found to have failed to perform their duties adequately or for other reasons.

3. RESPONSIBILITIES OF OBSERVERS

3.1 Duties

Observers shall carry out the duties conferred on them by the Commission. Nothing in the duties confers on the observers the authority to enforce the provisions of the Convention. Observers cannot intervene in whaling operations or activities connected with these operations.

Observers are responsible to the Commission for the conduct of their duties and may neither seek nor receive instructions from any other person, organisation or authority regarding the duties stated below.

Observers shall carry out their duties subject to domestic legislation and other applicable rules and customs, including the authorised mandate of the captain of the whaling vessel and the manager of the point of landing, of the State under whose jurisdiction the observation activities are carried out.

Observers' duties shall, amongst other things, include:

- (1) monitoring that whaling operations are carried out in accordance with the provisions of the Convention;
- (2) monitoring that information required under the Schedule is collected, sampled, maintained or processed;
- (3) checking licenses, logbooks and other relevant documents;
- (4) checking equipment used to catch and flense whales;
- (5) checking whaling operation areas on vessels and points of landing/primary processing sites;
- (6) checking relevant equipment (e.g. VMS transmitters);
- (7) collection of information under Annex {DNA} dated *day/month/year* and Annex {WKM} dated *day/month/year*.
- (8) Given the specific context of activities under Chapter VII of the Schedule, including with respect to scale of operations and safety of life at sea, in circumstances where a vessel captain considers that the transmission of vessel monitoring information may endanger the safety and life of crews, such captain may at his sole discretion, suspend these transmissions (see {Annex VMS}). In these cases, the international observer should record the position of the vessel during this period and include this information in his/her report.

3.2 Reporting

Observers on whaling vessels and at land stations shall report a summary of whales struck and/or killed (species, position) to the Secretariat on a weekly basis. However, if an observer suspects that an infraction of the provisions of the Convention has taken place, he/she shall immediately inform the captain of the vessel, the national inspector and/or the manager of the point of landing, as well as the competent national authority and the Secretariat. The relevant Contracting Government shall seek comments from the vessel captain, its national inspector and/or the manager of the point of landing as appropriate as soon as practical. Such comments shall be passed to the Secretariat expeditiously and made available to the Commission for consideration by the Management and Compliance Committee.

In addition, observers shall develop a consolidated final report to the Secretariat in English following a *pro forma* designed by the Secretariat. The Secretariat shall submit the report to the Commissioner of the Contracting Government having jurisdiction over the whaling operations observed within a week of its receipt. Any comments by the Contracting Government on possible infractions received by the Secretariat in accordance with the previous paragraph shall be attached as an addendum to the final observer's report. The Secretariat shall make the observer's final report and its addendum available to the Commission for consideration by the Management and Compliance Committee.

Observers shall ensure confidentiality with respect to the conduct of their duties and their reports. They shall not discuss the contents of the reports or their work until after the final report has been discussed by the Management and Compliance Committee and the Commission.

4. TRAINING OF OBSERVERS

The Commission shall ensure that each observer shall be adequately informed of the provisions of the Convention and have the biological and other relevant knowledge necessary to carry out his/her duties. The Secretariat will develop a suitable training programme.

5. RESPONSIBILITIES OF THOSE RECEIVING OBSERVERS

5.1 Visas and immigration

The Contracting Government under whose jurisdiction the observer is to carry out his/her activities shall take all necessary measures to assist the observer in obtaining the required visas and immigration documents.

5.2 Co-operation

Contracting Governments, national inspectors and all those involved in activities subject to the international observation scheme shall take appropriate measures to ensure the safety, freedom and dignity of the observer at all times and shall cooperate fully with the observer so that he/she can fulfil his/her duties properly and efficiently.

Contracting Governments shall ensure that observers appointed by the Commission must receive sufficient notification of whaling operations to enable them to carry out their duties.

**Annex {VMS} dated *day/month/year*
Vessel Monitoring System**

1. Each Contracting Government under whose jurisdiction whaling operations are being conducted shall, no later than 1 November 2010, implement a Vessel Monitoring System (VMS) for its whaling vessels and:
 - (a) require its whaling vessels to be equipped with an autonomous system able to simultaneously and in real-time automatically transmit a message to the land-based Monitoring Centre (MC) of the Contracting Government, the Secretariat, and the international observer as specified in Annex {IOS} dated *day/month/year*, allowing a continuous tracking of the position of the vessel;
 - (b) ensure that the satellite tracking device fitted on board the vessels shall enable the vessels to continuously collect and transmit the following data upon the taking of a whale, and at any other times:
 - i. the vessel's identification;
 - ii. the most recent geographical position of the vessel (longitude, latitude) with a margin of error lower than 500 meters, with a confidence interval of 99%;
 - iii. the date and time of the fixing of the said position of the vessel.
2. Each Contracting Government shall
 - (a) establish and operate Monitoring Centre(s) (MCs), which shall monitor the whaling activities of vessels flying their flags;
 - (b) take the necessary measures to ensure that the data received from its whaling vessels to which VMS applies are recorded and maintained in computer readable form; and
 - (c) take the necessary measures to ensure that its MC receives the requested VMS data.
3. Each Contracting Government as a flag State shall ensure that the VMS on board its vessels are tamper proof, i.e. are of a type and configuration that prevent the input or output of false positions, and that are not capable of being over-ridden, whether manually, electronically or otherwise. To this end, the on-board satellite monitoring device must:
 - (a) be located within a sealed unit; and
 - (b) be protected by official seals (or mechanisms) of a type that indicate whether the unit has been accessed or tampered with.
4. In the event that a Contracting Government has information to suspect that an on-board vessel monitoring device does not meet the requirements of paragraph 3, or has been tampered with, it shall immediately notify the Secretariat. The Secretariat shall circulate this information to the Commission for consideration by the Management and Compliance Committee. See also paragraph 8 for additional Contracting Government reporting requirements.
5. Each Contracting Government shall ensure that its MC receives VMS reports and messages, and that the MC is equipped with computer hardware and software enabling automatic data processing and electronic data transmission. Each Contracting Government shall provide for backup and recovery procedures in case of system failures.

6. Prior to the commencement of a whaling season, each Contracting Government shall submit to the Secretariat a list of all its authorised whaling vessels, including vessel registration details and intended time at sea for whaling operations. Any change to the list should be promptly notified to the Secretariat. The Secretariat shall provide a copy of the list to a Commissioner or Alternate Commissioner upon request.
7. Each Contracting Government shall require that the masters of the vessels flying its flag ensure that the satellite tracking devices are permanently operational and that the information identified in paragraph 1.b) is collected at least every 6 hours for transmission on, at least, a daily basis. The master of a whaling vessel is not authorised to commence a trip with a defective satellite tracking device. When a device stops functioning or has a technical failure during a trip and cannot be repaired at sea, the repair or the replacement has to take place as soon as the vessel enters a port.
8. Each Contracting Government shall ensure that a whaling vessel with a defective satellite tracking device shall communicate, at least daily, reports containing the information in paragraph 1.b) to the MC by another method of rapid communication. In such cases, these messages shall be then transmitted electronically to the Secretariat as soon as practicable. The Secretariat shall enter the information into the existing VMS database.
9. Each Contracting Government shall ensure that the messages transmitted to the Secretariat shall be in accordance with the data exchange format set out in Table 1.
10. When the Secretariat has not received for 12 hours data transmissions referred to in paragraph 1, or has reasons to doubt the correctness of the data transmissions under paragraph 1, it shall as soon as possible notify the Contracting Government via its Commissioner or Alternate Commissioner. If this situation occurs more than two times within a period of one season in respect of a particular vessel, the Contracting Government of the vessel shall investigate the matter as soon as practicable, including requiring an authorised official to inspect the device in question, in order to establish whether the equipment has been tampered with. The outcome of this investigation shall be forwarded to the Secretariat within 30 days of its completion. The Secretariat shall circulate this information to the Commission for consideration by the Management and Compliance Committee.
11. Given the specific context of activities under Chapter VII of the Schedule, including with respect to scale of operations and safety of life at sea, in circumstances where a vessel captain considers that the transmission of vessel monitoring information may endanger the safety and life of crews, such captain may at his sole discretion, suspend these transmissions [Need to incorporate into Annex { IOS}]. Notification of this suspension shall be immediately transmitted to the Contracting Government, the International Observer and the Secretariat and included in the annual report of the Secretariat to the Commission.
12. Contracting Governments shall take the necessary measures to assure that all messages are treated in a confidential manner. The Secretariat and the International Observers shall ensure the confidential treatment of the messages received. The Secretariat will maintain a searchable database for audit purposes. Data three years old or more shall be available to the Scientific Committee, pursuant to the Data Availability Agreement.

13. The Secretariat shall report annually to the Commission on the implementation of and compliance with this Annex.

Table 1

Format for the Communication of VMS Messages.

A. Content of the position message			
Data element	Field code	Mandatory/ optional	Remarks
Start record	SR	M	Message detail; indicates start of record
Address	AD	M	IWC Secretariat, Contracting Government, and Land Station Observer as appropriate
Type of message	TM*	M	Message detail; "POS" as Position message to be communicated by VMS or other means by vessels with a defective satellite tracking device
Radio call sign	RC	M	Vessel registration detail; international radio call sign of the vessel
Trip No.	TN	O	Activity detail; whaling trip serial number in current year
Vessel name	NA	O	Vessel registration detail; name of the vessel
Contracting Government internal reference number	IR	O	Vessel registration detail; Unique Contracting Government vessel number as ISO-3 Flag State code followed by number.
External registration No.	XR	O	Vessel registration detail; the side number of the vessel or IMO number in the absence of a side number
Latitude	LA	M	Activity detail; position at time of transmission
Longitude	LO	M	Activity detail; position at time of transmission
Date	DA	M	Message detail; date of transmission
Time	TI	M	Message detail; time of transmission
End of Record	ER	M	System detail; indicates end of the record

* Type of message shall be 'ENT' for the first VMS message as detected by the MC of the Contracting Government, or as directly submitted by the vessel.

Type of message shall be 'EXI' for the first VMS message as detected by the MC of the Contracting Government or as directly submitted by the vessel, and the values for latitude and longitude are, in this type of message, optional. Type of message shall be 'MAN' for reports communicated by vessels with a defective satellite tracking device.

B. Structure of the position message:

Each data transmission is structured as follows:

- Double slash (//) and the characters "SR" indicate the start of a message.
- A double slash (//) and field code indicate the start of a data element.
- A single slash (/) separates the field code and the data.
- Pairs of data are separated by space.
- The characters "ER" and a double slash (//) indicate the end of a record.

Annex {DNA} dated *day/month/year*
(To be reviewed by the Scientific Committee)

Specifications and requirements for diagnostic¹⁷ DNA Registers and Market Sampling Schemes

1. SPECIFICATIONS FOR THE ESTABLISHMENT/MAINTENANCE OF A DIAGNOSTIC DNA REGISTER/TISSUE ARCHIVE

1.1 Laboratories

1.1.1 Minimum laboratory requirements

- (1) Laboratories performing DNA analysis shall be recognised by the Contracting Government under whose jurisdiction whales are harvested.
- (2) Quality control and quality assurance features shall ensure that:
 - (a) analysts have acceptable education, training and experience for the task;
 - (b) reagents and equipment are properly maintained and monitored;
 - (c) procedures used are generally accepted in the field and have been approved by the IWC Scientific Committee (see Items 1.2 - 1.5);
 - (d) appropriate controls are used.
- (3) Thorough laboratory records (protocols, notes, worksheets, etc.) shall be maintained and archived for possible inspection (see Item 1.7).
- (4) Changes in equipment and approved methods shall be recorded and reported annually to the IWC to allow ongoing standardisation among registers (see Item 1.7).
- (5) A suitable inventory management system shall be in place so that the whereabouts and use of each sample/aliquot over time during storage and analysis can be traced.
- (6) Portions of the tissue samples and DNA extracts should be retained and stored in an appropriate manner (see Item 1.2.3).
- (7) The probability of errors occurring should be estimated and minimised, using standard procedures. DNA data quality/acceptability should be decided in accordance with generally accepted rules and reported annually where possible (e.g. PHRED scores for sequences, SDs of fragment length measurements for microsatellite alleles, means and SDs of peak heights for microsatellites, some evaluation of stutter for each microsatellite locus). This information should be reported annually to the IWC (see Items 1.5 and 1.7).
- (8) A reference set of samples should be designated for allelic standards and an equimolar allelic ladder should be constructed by cloning and sequencing a range of alleles for each microsatellite locus.

¹⁷ A diagnostic DNA register is one that contains DNA profiles of any animals from which products *might* legally appear on the market (e.g. from legal direct catches, bycatches, ship strikes etc.). On this basis, any products found on the market that were from whales not included in the register will be from illegal whales.

(9) The laboratory shall participate in calibration exercises with other laboratories if requested to do so by the IWC (see Item 1.1.2).

(10) The laboratory should be available for external evaluation and participate regularly in proficiency tests such as double-blind comparisons (e.g. see Item 1.7).

1.1.2 Calibration of laboratories if more than one is used

Where more than one laboratory is used to generate a single register or a group of registers, or for the comparison of samples (e.g. under Item 1.8 or Item 2), appropriate calibration of microsatellite genotype scoring (e.g., absolute size or binning) must be undertaken and the results reported to the IWC. The details of the calibration exercise shall be determined by the international expert group (see Item 1.7). The calibration exercise will primarily comprise a double blind experiment with known individuals. Cloned alleles should be used to construct an allelic ladder for calibration purposes. The results of calibration exercises must be reported to the IWC. In designing calibration exercises and reviewing the results, it must be remembered that the primary function of diagnostic DNA registers is to determine whether illegal activity is taking place and that the default position is no match = illegal activity. In this regard it is important to estimate the likelihood of:

- erroneously failing to match products to an animal in the register when it is actually there – i.e. falsely implying an infraction;
- erroneously matching products to an individual in the register when it is not actually there – i.e. missing an infraction when one has occurred.

1.2 Sample collection

Samples for DNA registry should be collected by trained personnel before products from them can enter the market.

1.2.1 Size of samples

At least two samples of skin/muscle of at least 5x5x5mm must be collected from each animal for each register/archive. In addition, where possible, at least four muscle samples of 20x20x20mm should be taken and frozen as quickly as possible for each register/archive. Samples must also be obtained from any foetuses present.

1.2.2 Preservation

Samples should initially be preserved in 95% ethanol (in at least five times the volume of the sample, due to potential problems of dilution and evaporation) and if practical refrigerated or frozen immediately. If not able to be frozen immediately, the samples should be shipped as soon as possible (preferably within 7 days) to the analysing laboratory. This temporary storage and shipping should be in temperatures <25°C to minimise the possibility of degradation of the sample.

Long-term storage of skin/muscle samples should be in 95% ethanol at or below -20°C. The additional muscle samples should be frozen in liquid nitrogen; transport should be with dry ice. Long-term storage of frozen tissue samples should be at or below -80°C.

1.2.3 Labelling

Reliable labelling of the sample is essential. The container should be labelled on both the inside and the outside with a unique identifying code that can be related directly to the biological and other information collected for the individual (see Item 1.2.4). The label on the inside must be indelible and insoluble in alcohol to ensure that the number remains legible after storage in ethanol. The label on the outside must also be robust and remain legible if exposed to ethanol or water.

1.2.4 Information to be collected

In addition to the information noted in Annex {SI} dated *day/month/year* to be collected for each whale (including date, locality, species, sex, and body length), the unique identifier (see Item 1.2.3) and the name (plus address if non-nominated person, e.g. in the case of bycatch) of sampling person must be recorded.

1.3 Tissue analysis

1.3.1 Extraction of DNA

Extraction of DNA should be carried out using standard methods which have been reviewed and approved by the IWC Scientific Committee. Extracted DNA aliquots should be stored in freezers at or below -80°C .

1.4 Markers and methods of analysis

Analysis of samples should be undertaken without knowledge of the biological and other information available for the whale from which the sample was taken.

Samples should be analysed for (at least):

- (1) mitochondrial DNA - primarily for identification to species and population but also contributes to profiling;
- (2) microsatellites (or Short Tandem Repeats, STRs) – for DNA profiling;
- (3) Y chromosomes - sex identification which also contributes to profiling.

1.4.1 Mitochondrial DNA

Analytical methods must be approved by the international expert group (see Item 1.7). Species identification should be accomplished with an approximately 500bp fragment of the 5'-end of the control region and sequencing should occur in both directions.

1.4.2 Microsatellites

Analytical methods must be approved and reviewed annually by the international expert group (see Item 1.7). Fluorescent techniques that allow electronic records to be kept should be used.

This group will ensure that the number and degree of variability of loci used in DNA registers will be sufficient to allow for an acceptable level of average probability of correctly identifying an individual.

1.4.3 Sex identification

Analytical methods must be approved by the international expert group (see Item 1.7). Sex is an additional genotype that may prove useful to identify market samples and may also serve as a

check on field data. Error rates (obtained by comparison with reliable field identification of sex) should be estimated and reported to the international expert group (see Item 1.7).

1.5 Format of individual records

Each whale is given a unique identifier that can be cross-referenced back to the biological and associated data for that animal. Records must contain:

- (a) A microsatellites and sex profile, in which each whale profile is given one row, with one column for each allele (two columns for each microsatellite marker and the sex locus).
- (b) A mtDNA sequence file, in which each profile has one row, and one column for each site where the sequence deviates from the reference sequence.

In addition, the following must be archived:

General information for each sample

- genotyping system
- software system

'Raw' data

- electropherograms
- quality scores
- raw allele sizes
- peak heights
- gel image (depending on platform used)
- number of times the genotype replicated

Summary data on each locus

- error rate and how determined
- allele frequencies in a given population
- deviations from Hardy-Weinberg equilibrium
- evidence of null-alleles, short-allele dominance (or short-allele bias due to preferential amplification) or other artefacts

1.6 Matching

The international expert group (see Item 1.7) will agree on software packages to be used for matching purposes.

1.7 External audit of DNA registers

An international expert group established pursuant to paragraph 38 shall:

- review and approve the initial technical specifications for the register(s) and any changes to those protocols;
- where necessary, decide on appropriate laboratories;
- where necessary, design calibration exercises for laboratories and review the results of those exercises;
- review annually specific information and statistics formally reported by the register(s) under Items 1.4 - 1.6;
- design and undertake periodic technical audits including the provision for trials using 'blind' control samples;

- design and arrange for periodic site visits to examine whether the agreed protocols (under Items 1.2-1.5) are being followed.

The international expert group shall submit an annual report to the IWC and its Contracting Governments for consideration two months before each Annual Meeting of the IWC.

1.8 Submission procedure for samples for comparison with registers

Submission of tissue samples to the IWC for comparison with registers:

- (1) may be made by Contracting Governments; and
- (2) shall be accompanied by officially-attested documentation of chain of custody from time of collection to submission that contains the following information:
 - name and address of ‘collector’;
 - location obtained;
 - type of vendor;
 - date and time of collection;
 - label, if present (or verbal description of nature and origin of product offered by vendor);
 - where possible, photographs; and
 - comments by the Contracting Government where the market sample was collected.

Analysis of the samples shall be carried out following the procedures documented in Items 1.3 – 1.4 by an IWC-approved laboratory, in accordance with any necessary calibration procedures. Officially-attested documentation of chain of custody must be established for the period between submission to a Contracting Government (or appropriate intergovernmental body) and provision of analytical results.

The comparison of the resultant profile shall be made using agreed software (see Item 1.6) against the appropriate register(s).

When the matching has been completed, the IWC Secretariat shall make public the results within one week.

2. SPECIFICATIONS FOR THE ESTABLISHMENT/MAINTENANCE OF MARKET SAMPLING SCHEMES

The purpose of market sampling is twofold: to act as a deterrent to illegal activity and to detect whether such activity is occurring. Market sampling in its initial stage is not intended to determine the precise number of animals that may be involved. Rather, if illegal products are discovered, a targeted method of detecting the origin of the products and the extent of the illegal operation specific to the case should be developed.

2.1 Design principles

(1) Market sampling schemes shall be case-specific. Their design shall be based on the best available information on the temporal and geographical nature of the particular market(s) and product pathways. Power to detect/deter will increase with the geographical and temporal scope of the surveys.

(2) The design of market sampling schemes will be iterative and schemes should be reviewed periodically. Experimental testing of their potential to detect illegal products should be undertaken and reported. This should include estimation of the possibility of falsely suggesting illegal activity and missing illegal activity when it occurs.

(3) Appropriate (e.g. not highly processed products from which it is difficult to obtain reliable microsatellite profiles) products should be chosen.

(4) A balance between deterrence (sampling carried out openly and with publicity) and detection (undercover sampling) shall be maintained and reported.

(5) The full range of cetacean products shall be sampled in case mislabelling occurs.

(6) An officially-attested documentation of chain of custody from time of collection to results of matching must be collected and archived, including the information given in Item 2.3.

(7) Analysis and matching must be carried out in an IWC-approved laboratory (with appropriate calibration if necessary) following the procedures given in Item 1 above.

2.2 Development of appropriate market sampling schemes including audit

The international expert group (see Item 1.7) under the auspices of the IWC shall:

(1) co-operate in the design of and approve any market sampling scheme before it is implemented and review the associated results;

(2) co-operate in the design of and approve experimental work and review results referring to Item 2.1 (2) above.

(3) design and arrange for periodic site visits to ensure that the approved scheme is being implemented.

2.3 Data to be collected

- Product or sample of product of sufficient size to obtain DNA sample (see Item 1.2.2);
- Location obtained;
- Date and time;
- Label (or verbal description of nature and origin of product offered by vendor);
- Source (e.g. wholesale market, shop, dockside etc.);
- photograph of product before sub-sampling; and
- name and contact information of person collecting.

This information should be archived in an appropriate electronic manner.

2.4 Reporting

The authorities responsible for undertaking the market sampling schemes in accordance with Paragraph 22(b) of the Schedule shall submit an annual report of their market sampling activities to the international expert group via the IWC Secretariat at the end of February of each year. That report shall include: details of the methods used; a summary of the number and nature of the

products sampled, and the geographical and temporal spread of sampling; the results of the matching exercise.

The international expert group shall submit an annual report to the IWC and its Contracting Governments for consideration two month before each regular Meeting of the IWC.

Annex {WKM} dated *day/month/year*
Whale Killing Methods

PURPOSE FOR THE COLLECTION OF WHALE KILLING STATISTICS

Collection, sharing and analysis of selected standardised whale killing and hunting data can allow an assessment of the efficiency of the killing techniques and improvements in techniques to improve welfare aspects of the hunts. It also provides confidence that welfare considerations are being appropriately addressed.

DATA COLLECTION

For each whale hunted in whaling operations, the international observer where present (or otherwise the national inspector or captain of the vessel) shall record, as a minimum, information on whale killing methods and associated welfare issues detailed below.

For whales taken under Paragraph 13 of the Schedule

Where possible, the following information shall be collected and reported:

- (1) Killing methods used;
- (2) Criteria used to determine unconsciousness/time of death;
- (3) Number of whales killed by each method;
- (4) Number and proportion of total whales killed instantaneously by each method;
- (5) Time to death for each animal not killed instantly;
- (6) Number of whales targeted and missed by each method;
- (7) Number of whales struck and lost by each method; and
- (8) Calibre of rifle where used and how many bullets used.

For whaling operations conducted under paragraphs 36 through 38 of the Schedule

The following information shall be collected the international observer where present (or otherwise the national inspector or the captain of the vessel) in a format similar to that in Table 1, for each whale targeted (struck or missed). The final format will be determined by the Secretariat. Data collected in these forms will include information on:

- (1) For all whales landed, struck and lost, or missed:
 - (a) Date, time and location (at first sighting) of hunting activities
 - (b) Length and sex if landed, estimated length if struck-and-lost or missed (in some cases it may be possible to determine sex of struck-and-lost whales)
 - (c) Estimated group size in which target whale is sighted
 - (d) Number of calves in group
 - (e) Sea state on Beaufort scale
 - (f) Chase time*
 - (g) Primary killing method used
 - (i) number of times used
 - (ii) estimated distance of each shot
 - (h) Secondary killing method used (rifle calibre and ammunition type);
 - (i) number of times used
 - (ii) estimated distance of each shot

- (2) For each whale killed:
 - (a) Time to death**
 - (b) Approximate location(s) of strike(s) on whale's body
 - (c) Information on performance of gear
- (3) For each struck and lost whale:
 - (a) Time from first strike to loss
 - (b) Approximate location(s) of strike(s) on whale's body
 - (c) Information on performance of gear
- (4) For each whale targeted and missed:
 - (a) Time from first sighting to first shot
 - (b) Number of additional attempts if any

Definitions

* Chase Time: Duration in minutes and seconds from the time the whale is first sighted to the time it is first struck, or for missed whales, until the time it is missed.

**Time to death: Duration in minutes and seconds from the time the whale was first struck to the time it is estimated to be dead.

Criteria used to assess if a whale is dead

The criteria to determine if a whale is dead will be when it is immobile and unresponsive.

REPORTING AND HANDLING OF DATA

Within 30 days of the end of each whaling season, the data collectors (see Data collection) will submit to the IWC Secretariat the required information/data (including the completed forms given in Table 1 of this Annex). The data will be submitted in an electronic format to be developed by the Secretariat. These data will be stored in an electronic database. The Secretariat will provide periodic summaries/analyses of the data to the Commission in a manner to be determined by the Commission upon the advice of the Management and Compliance Committee. The database can be made available to Commissioners upon request, for the development of reports and papers for submission to the Management and Compliance Committee. Data will be made publicly available after that time.

Table 1
Data to be included in WKM form

For each day

(A) **Sighting of target whale(s):** record –

- (1) Time to nearest second*
- (2) Position from GPS*
- (3) Species*
- (4) Estimated school size*
- (5) Number of calves, if any, present

(B) **Upon shooting at a whale**

- (1) Basic information
 - a. Time to nearest second
 - b. Position from GPS
 - c. Estimated distance to whale
 - d. Sea state (on Beaufort scale)
- (2) Primary killing method used
- (3) Verdict – Hit (explode), Hit (failed to detonate), Miss
- (4) If hit, position on body (diagram supplied)
- (5) If no more shots using primary method, time at unconsciousness/death (to nearest second)
- (6) If second shot using primary method:
 - a. time of that shot (to nearest second)
 - b. estimated distance to whale
 - c. verdict (as above),
 - d. position on body (as above)
 - e. time at unconsciousness/death if animal dies (to nearest second)
- (7) If secondary killing method used:
 - a. method used (rifle calibre)
 - b. time of first shot to nearest second
 - c. estimated distance to whale
 - d. time of any additional shot(s) (to nearest second)
 - e. time at unconsciousness/death if animal dies (to nearest second)

(C) **At the conclusion of the hunt/at land station**

- (1) Length and sex of animal if landed
 - (2) Estimated length if struck-and-lost
 - (3) Information on performance of equipment
 - (4) If animal is lost, reason for this and time to nearest second
-

* denotes information already being requested as part of Schedule Appendix A.

Annex {SI} dated *day/month/year*
Scientific Information

1. The following information shall be provided by Contracting Governments for all whaling operations and, where possible, for mortalities due to bycatches and ship strikes:

- (a) date of capture, striking or discovery;
- (b) species;
- (c) sex;
- (d) position of capture or striking or discovery to the nearest minute of latitude and longitude¹⁸;
- (e) number of whales struck but lost.

A set of verified records shall be submitted to the Secretariat within 30 days of the end of each season, in an electronic format to be provided by the Secretariat. These records shall be publicly available.

2. In addition, the following samples and/or information shall be collected/reported in formats to be provided by the Secretariat.

- (a) The length of all whales caught shall be obtained, measured in a straight line parallel to the whale from the tip of the upper jaw to the notch of the flukes to the nearest 0.5 feet or nearest 0.1 m. These data shall be reported to the Secretariat within 30 days of the end of each season and included in the IWC database. These data shall be publicly available.
- (b) Where possible, at least one earplug (or bulla) shall be collected from each whale caught. The resultant age estimations and the identity of the reader(s) shall be reported to the Secretariat in a timely fashion, normally within one year of collection and included in the IWC database for use under the Scientific Committee's Data Availability Agreement.
- (c) Where possible, both ovaries shall be collected from each female caught. Corpora counts shall be reported to the Secretariat normally within one year of collection and included in the IWC database for use under the Scientific Committee's Data Availability Agreement.
- (d) If sufficiently trained personnel are present, the presence, length and sex of fetuses shall be recorded, assigned to the appropriate female. If it is not possible for such personnel to be present, these data should still be recorded where possible, and the lack of trained personnel noted. These data shall be forwarded to the Secretariat within 30 days of the end of the season and included in the IWC database. These data shall be publicly available.
- (e) Lactation shall be recorded, assigned to the appropriate female and reported to the Secretariat within 30 days after the close of the season and included in the IWC database¹⁹. This information shall be publicly available.
- (f) At least 5 cm³ of skin shall be collected from each whale caught and, where possible, a sample of tissue from the fetus should be collected. Long term archiving of all samples with appropriate identifying information is the responsibility of the harvesting nation. A list of archived samples shall be forwarded to the Secretariat within 30 days of the end of each season. This information shall be publicly available.

¹⁸ For whales taken under paragraph 13, position shall be given at least to the nearest settlement and, where possible, to the nearest minute of latitude and longitude.

¹⁹ For whales taken under paragraph 13, this information shall be provided where possible and an indication given of the experience of the data collector.

Annex {OI} dated *day/month/year*
Operational Information

1. All Contracting Governments under whose jurisdiction whales are harvested shall report to the Commission the following information:
 - (a) the name and gross tonnage of each factory ship;
 - (b) a list of the land stations which were in operation during the period concerned.
2. All Contracting Governments shall report to the Commission for each whale catcher attached to a factory ship or land station:
 - (a) the dates on which each is commissioned and ceases whaling for the season;
 - (b) the number of days on which each is at sea on the whaling grounds each season;
 - (c) the gross tonnage, horsepower, length and other characteristics of each.
3. The information required under paragraphs 1(a) and (b) shall also be recorded together with the operational information specific in a log book format similar to that shown in Table 1. A set of verified records shall be submitted to the Secretariat within 30 days of the end of each season, in an electronic format to be provided by the Secretariat. These records shall be publicly available.

Table 1. Logbook format

DAILY RECORD SHEET

Vessel Name		Date		Sheet no.	
-------------	--	------	--	-----------	--

TARGET SPECIES ONLY

	Sighting 1	Sighting 2	Sighting 3	Sighting 4	Sighting 5
Beginning (resumption) of searching					
Time					
Position latitude					
longitude					
Beaufort					

Noon	
Time	
Position: latitude	
longitude	
Beaufort	

On sighting a whale/whales or stopping searching for other reasons					
Time					
Position: latitude					
longitude					
Beaufort					
Species					
School size					
Serial no. of whale(s) caught					
TOTAL SEARCHING DISTANCE					

SPECIES	NO. SCHOOLS	NO. ANIMALS	SPECIES	NO. SCHOOLS	NO. ANIMALS
---------	-------------	-------------	---------	-------------	-------------

BLUE
FIN
SEI
MINKE
BRYDE'S
RIGHT
HUMPBACK
SPERM
OTHER
(PLEASE SPECIFY)

This is an example form. It is intended to show the minimum information required.
The more detailed information is for the target species only.
The information on other species is normally taken from the ship's log.
The final format will be determined by the Secretariat

APPENDIX B –Workplan for the Scientific Committee’s Assessment Work on Non-Indigenous Whaling for the Period up to 2020

IR= *Implementation Review* (often possible to complete in one year). PIA = *pre-Implementation Assessment* (may take more than one year). RMP = completed *Implementation* (takes two years once the PIA is completed). IDA= in-depth assessment, usually takes two years or more and feeds into a *pre-Implementation assessment*. As explained in the text, the plan below is ambitious and it may not be possible to achieve all of the work by the years indicated. Square brackets are used to express possible but perhaps less likely dates.

Western North Pacific Bryde's whales										
			IR					IR		
NA common minke whales - eastern and central medium areas										
				IR						IR
NA fin whales - central medium area										
				IR					IR	
Western North Pacific common minke whales										
[PIA]	PIA	[RMP]	RMP					IR		
Western North Pacific sei whales										
	IDA		PIA		RMP					IR
Antarctic minke										
					PIA/IR	[RMP]	RMP			
2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020

APPENDIX C– Bureau and Committee Roles

All issues will come to the Commission for ultimate decision. Each Committee will report directly to the Commission, copying their reports to all other Committees and the Bureau.

For Governance:

A Bureau will:

- Support the Chair of the Commission;
- Propose to the Commission four-year strategic plans based on contributions from the Committees and monitor implementation of the plans once approved by the Commission;
- Assist and advise the Secretariat on administrative and financial matters between meetings of the Commission;
- Help co-ordinate the business of the Commission;
- Review the progress of the work of the Committees;
- Assist the implementation of the IWC Cooperation Programme; and
- Undertake other tasks entrusted to it by the Commission.

A Finance, Administration and Communications Committee²⁰ will:

- Advise the Commission on expenditure, budgets, scale of contributions, Financial Regulations, personnel matters, the role of the Secretariat and such other matters as the Commission may refer to it from time to time;
- Develop a work Programme to implement the Commission's strategic plan for Finance, Administration and Communications;
- Assist and advise the Secretariat on administrative matters upon request by the Secretariat or agreement in the Commission;
- Develop a communications plan for the Commission;
- Review the provision of services, including for simultaneous interpretation and translation of documents, and for the website;
- Recommend and facilitate establishment of subsidiary bodies as necessary, including one for contributions that will review the Financial Contributions Scheme and make a recommendation to IWC63 on how the contributions scheme might be revised;
- Take forward such additional matters as may be referred to it by the Commission or by the Chair of the Commission; and
- Implement, as appropriate, decisions taken by the Commission.

For Conservation:

A Conservation Programme Committee²¹ will:

- Submit reports and recommendations to the Commission on its conservation agenda;
- Identify conservation problems and priorities;
- Cooperate with the Scientific Committee, including in prioritising and developing effective Conservation Management Plans;

²⁰ The Finance, Administration and Communications Committee replaces the Finance and Administration Committee. The Budgetary Sub-Committee will be retained.

²¹ The Conservation Programme Committee will replace the Conservation Committee.

- Develop a work Programme to implement the Commission's conservation agenda described in the strategic plan, including through addressing identified conservation problems and priorities;
- Identify and request relevant data;
- Recommend and facilitate establishment of subsidiary bodies as necessary, including, for example, by developing terms of reference for a Bycatch Mitigation Working Group;
- Take forward such additional matters as may be referred to it by the Chair of the Commission; and
- Implement, as appropriate, decisions taken by the Commission

For Management:

A Management and Compliance Committee²² will:

- Submit reports and recommendations to the Commission on management and compliance. This will include guidelines on whalewatching;
- Develop a work Programme to implement the Commission's strategic plan for management and compliance;
- Review and report on the progress of the implementation of agreed management procedures outlined in Appendix A;
- Review and report on the compliance of all whaling operations with the provisions of the Schedule and penalties for infractions thereof;
- Report on infractions and the seriousness of those infractions to the Commission and advise the Commission what actions, if any, should be taken;
- Review information and documentation available with a view to advising the Commission on whale killing methods and associated welfare issues;
- Prepare reports and recommendations on technical and practical options for implementation of conservation measures associated with whaling, taking into account advice of the Scientific Committee;
- Recommend and facilitate establishment of subsidiary bodies as necessary, including, for example, the Whale Killing Methods Working Group;
- Take forward such additional matters as may be referred to it by the Commission or the Chair of the Commission; and
- Implement, as appropriate, decisions taken by the Commission

For Science:

The Scientific Committee and its subgroups²³ will:

- Develop a work Programme to implement the Commission's strategic plan for the Scientific Committee;
- Consider additional matters that may be referred to it by the Commission or Chair of the Commission;

²² The Management and Compliance Committee will absorb the responsibilities of the Infractions Sub-Committee. An Indigenous Subsistence Whaling Sub-Committee will replace the Aboriginal Subsistence Whaling Sub-Committee and will report to the Management and Compliance Committee.

²³ At present sub-groups report to the Scientific Committee on the following, sometimes overlapping topics of the RMP, AWMP, in depth assessments, small stocks of large whales, stock structure, bycatch, actual and potential environmental threats to cetaceans, ecosystem modeling, whalewatching and small cetaceans.

- Review scientific information relevant to the conservation of whales and management of whaling;
- Review relevant scientific research programmes on cetaceans;
- Provide advice to regional research partnerships on cetacean issues;
- Provide management advice on whaling using established methods and management procedures with high priority being allocated to the timetable for work provided in Appendix B;
- Provide conservation advice on cetacean populations, including coordination and cooperation with the Conservation Programme Committee on the development of conservation management plans;
- Develop recommendations for research (including the holding of workshops) that will improve its ability to provide advice to the Commission including prioritised requests for funding;
- Provide advice on priorities for funding from relevant special funds within the Commission; and
- Submit reports of its work and recommendations to the Commission.

APPENDIX D - Amendments to the Rules of Debate and NGO Code of Conduct

AMENDMENT TO THE RULES OF DEBATE

A2. A Commissioner or Observer may speak only if called upon by the Chair, who may call a speaker to order if his/her remarks are not relevant to the subject under discussion. The Chair will invite NGOs to speak as time allows and taking into consideration regional representation and a wide range of views.

AMENDMENT FOR THE NGO CODE OF CONDUCT

Guidelines for Non-Governmental Observers

The Commission welcomes the attendance of NGOs at its meetings. It is the duty of each NGO to behave with due and proper respect for the meeting proceedings and to all Contracting Governments and other governments attending IWC meetings and to abide by this code of conduct. Disruptive behaviour and/or failure to conform to this code of conduct may result in suspension or withdrawal of accreditation.

A copy of this code of conduct will be issued to each NGO observer at the beginning of each meeting.

Speaking procedures

The Commission welcomes the contributions of its NGOs in matters of concern to them. NGOs who are interested in addressing the Commission shall notify the Chair prior to the discussion of the agenda item that they wish to speak under. The Chair will invite NGOs to speak after Contracting Governments as time allows and taking into consideration regional representation and a wide range of views. Comments should be brief and relevant to the subject under discussion.

Mobile telephones

Mobile telephones shall be switched off or put in 'silent' mode before entry of the observer into the meeting room.

Use of recording equipment

The use of audio and/or visual recording equipment is permitted during plenary sessions of the Commission provided that such recording is carried out unobtrusively and without disturbance to the meeting. Flash photography is only permitted during the Opening Plenary.

The use of recording equipment is not permitted in meetings of the Commission's sub-groups unless the Commission decides otherwise.

Documents

Quotations from, or use of draft IWC documents is prohibited. Rule of Procedure Q.1 regarding confidentiality of reports of meetings of IWC committees, sub-committees and working groups must be respected.

Only official meeting documents submitted by Contracting Governments or prepared by the Secretariat (including the collated Opening Statements from Observers) may be distributed through pigeon-holes. The Secretariat is solely responsible for such distribution. Observers may, however, make 'for information' documents available to participants using tables designated for this purpose. Such documents must indicate which organisation is responsible for them. Documents that do not meet this requirement will be removed by the Secretariat.

While 'for-information' documents will not be reviewed by the Secretariat before being placed on the designated tables, those Observers distributing such documents remain responsible for their content. These documents shall not contain statements that defame any participating organisation or person, or cause serious offence to any government.

Behaviour and demonstrations

Behaviour of representatives of Observers shall not be disruptive to the proceedings of the meeting. The Chair of the proceedings may ask anyone disrupting the meeting to leave the room.

Demonstrations at the meeting venue shall take place at sites designated for such purposes by the host government. In any event, demonstrations shall neither take place within the meeting rooms or their immediate vicinity within the venue of the meeting controlled by the IWC, nor impede access to the meeting venue, nor shall they threaten the physical safety of delegations attending the meeting.

Complaints

Differences in views and philosophy are natural and should be respected. Any participant shall refrain from measures, including verbal, written, or physical attacks designed to deter the exercise of the rights of others to hold and express different views.

Any participant who has a grievance in this regard should submit a written complaint to the Secretary, who will try to resolve the problem with the parties concerned. If this fails, the Secretary will report the matter to the Advisory Committee who shall liaise with the parties concerned to seek a resolution. If this fails, the Advisory Committee will refer to the Commission for decision-making.

APPENDIX E – IWC Cooperation Programme

The Commission will establish a Co-operation Programme.

The Programme will provide resources to developing country members in capacity-to-pay groups 1 and 2. All members, including those seeking access to the Programme are encouraged to contribute skills and/or funding according to their capacity to contribute.

Contributions to the Programme should be in the form of funding, skills or experience. Contracting Governments will provide information to the Secretariat on funding and other technical services to be made available by them and the Secretariat will maintain a register of experts available for deployment. Contributions from non-Contracting Governments, intergovernmental organisations, international financial institutions, national institutions, non-governmental organisations and businesses are also welcome. Members may contribute to a general fund or they may identify funding or expertise for individual projects. The Secretariat will act as a clearinghouse to promote facilitation and cooperation under this Programme.

The Programme will emphasize and promote cooperation as follows:

- Expertise in institution strengthening, the establishment of policy and legislative frameworks and legal drafting;
- Facilitation of partnerships and the development of national enterprises at the bilateral and multilateral levels;
- Information sharing and awareness raising, including research and advice on technology developments;
- Assistance with negotiations;
- Training and workshops;
- Facilitate participation in IWC research activities; and
- Development and implementation of projects related to whale conservation and management.

Applications may be submitted to the Secretariat by any Contracting Government in capacity to pay groups 1 and 2. The application should specify how the project/expenditure relates to the purpose of the Programme and include a description of the desired outputs of the project/expenditure and itemization of expected costs.

Requests for assistance will be considered without delay in the order in which they are submitted. Review of applications and decisions will be conducted by the Bureau or the Bureau's designates and shall be guided by the purpose of the fund, the needs of the requesting government and availability of appropriate assistance, with priority given to small States and least developed countries.

Financial resources provided by the fund shall be applied by the applicant solely for the purpose specified in the application.

Progress reports should be provided to the Commission. The Bureau will review the operation of the Programme annually and recommend to the Commission any revisions it deems necessary.