

Annex H

Report of the Conservation Committee

Monday 13 June 2005, Ulsan, Korea

The meeting was opened by Bo Fernholm (Sweden), who welcomed participants. A list of participants is given in Appendix 1.

1. INTRODUCTORY ITEMS

1.1 Election of Chair

In the absence of Horst Kleinschmidt (South Africa), who had not yet arrived, Bo Fernholm (Sweden) was confirmed as Chair.

1.2 Appointment of rapporteurs

Pam Eiser (Australia) was appointed rapporteur.

1.3 Review of documents

The following documents were relevant to the discussions of the Committee:

IWC/57/CC1 Revised Draft Agenda;
 IWC/57/CC2 List of documents;
 IWC/57/CC3 A South Pacific Whale Sanctuary;
 IWC/57/CC4 Australia: Voluntary National Conservation Report;
 IWC/57/CC5 [No Paper];
 IWC/57/CC6 Chile: Voluntary National Cetacean Conservation Report, 2005;
 IWC/57/CC7 Outline proposal for the IWC Conservation Agenda;
 IWC/57/CC8 Argentina: Voluntary National Cetacean Conservation Report;
 IWC/57/Rep1 Report of the Scientific Committee;
 IWC/57/4 The South Atlantic Sanctuary: A Sanctuary for Whales;
 IWC/57/8 Brazil: Voluntary National Cetacean Conservation Report, 2005;
 IWC/56/Rep5 Report of the Conservation Committee.

2. ADOPTION OF THE AGENDA

With the two following changes and/or additions, the agenda, as circulated, was adopted (see Appendix 2):

- (i) to include under Item 3 a discussion on the nature and establishment of the Conservation Committee, picking up from the discussion held on this item at IWC/56; and
- (ii) to reverse the order of Items 5.1 (South Pacific Whale Sanctuary) and 5.2 (South Atlantic Whale Sanctuary).

3. FURTHER CONSIDERATION OF TERMS OF REFERENCE AND WORKING METHODS

In introducing this Item, the Chair recognised that Agenda Items 3 and 4 may merge to some extent. He noted there had been a long discussion of this matter at the last meeting and referred to the outcomes of that discussion as set out in

the annotated agenda. He invited any further reflections. There were none.

Iceland recalled some of the history surrounding the establishment of the Conservation Committee, going back to the Commission's annual meeting in Berlin in 2003 where a draft resolution was presented which, it said, was openly hostile to about half the members of the Commission and with whom there had been no consultation. Iceland suggested that conservation is something on which all members should be able to agree and on which a discussion would be useful. Iceland could not understand why the Conservation Committee had been set up in such a way that half of the IWC's members felt they could not participate in it. It is not possible to have sustainable whaling without taking account of conservation issues. Iceland recalled that it had in 2003 tried to initiate some discussions with a view to finding a text which would be acceptable to all. In the end, however, these efforts were ignored. In 2004, there had then been a frank discussion, and a small group had been established from the Conservation Committee within which an open discussion could take place. At the time, Iceland said it had welcomed what it saw as a new-found willingness to discuss the nature of the Conservation Committee and hoped that the preparatory work to establish the Committee could now be done. It also expressed the belief that this must be done before the Committee enters into any substantive discussion. Since the 2004 meeting however, nothing has happened and this willingness appears to have faded away. It had made some attempt to set up a bit of dialogue but this had not been taken up. There is now an attempt to set up a programme of substantive work for the group. Iceland asked what those who had set up the small group had in mind and whether it is now the intention to just push on, or whether there is still a willingness to set up the Conservation Committee in a way that makes it possible for all members of the Commission to participate. It queried whether there was now a willingness to bridge the gap and change the foundation of the Conservation Committee to make it acceptable to all Commission members.

Some other members disagreed with Iceland's interpretation of the process by which the Conservation Committee had been established and its legitimacy. Reference was made to the discussion in section 15.2 of the 2004 Annual Report of the Commission in which the Plenary had put the issue of further work on these matters as the responsibility of the IWC or its Chair, not the Conservation Committee. They also noted that the need to get on with business had been recognised, as was the need for these difficulties to be settled in due course. It was hoped that all countries could see the necessity for, and merits of, the Conservation Committee, irrespective of their views on whale hunting.

Norway advised that it had not yet made a final decision as to whether or not to participate in this Committee. Such a decision will depend on what happens this year.

Recognising the overlap here with Agenda Item 4, the Chair invited Belgium to present document IWC/57/CC7. Belgium recalled that Resolution 2003-1, establishing the Conservation Committee, had assigned to the Committee three tasks:

- the preparation and recommendation to the Commission of its future Conservation Agenda
- the implementation of those items in the Agenda which the Commission refers to it; and
- making recommendations to the Commission to maintain and update the Conservation Agenda on a continuing basis.

Paper IWC/57/CC7 contains three parts:

- a proposal for an initial Conservation Agenda;
- some proposals for working methods of the Committee; and
- an annex containing some suggestions for an initial programme of work for selected items in the Conservation Agenda.

Belgium noted that the annex was not intended as part of its formal proposal. It hoped that the initial Conservation Agenda proposed would receive broad support. By adopting it, including any amendments or additions members of the Committee might make, and forwarding it to the Commission, the Conservation Committee will have fulfilled item (1) of its mandate. Belgium recognised that there were concerns by some that the Conservation Agenda and provisional programme of work outlined in document IWC/57/CC7 appeared overly ambitious, but stressed that it was not intended to address every item on the Agenda in every year. Rather, as specified in item (2) of its mandate, the Committee in any particular year would be tasked with implementing just those specific items on the Agenda which the Commission refers to it, in accordance with the Commission's priorities.

Turning to the second part of document IWC/57/CC7 – working methods of the Committee – Belgium stated its firm intention for the Conservation Committee to pro-actively avoid duplication with the work of other bodies, including the IWC's own Scientific Committee, or other international bodies concerned with cetacean conservation, including notably CMS. The document sets out how it is envisaged that the Conservation Committee might interact with these other bodies. Special reference was made to a document produced by CMS entitled '*CMS, its Agreements and the IWC Conservation Committee: possible synergies*'.

Belgium then suggested that in forwarding the proposal for the Conservation Agenda to the Commission, it would be helpful to highlight those topics on which the Committee believed it could most fruitfully focus initially. In this context, Belgium proposed three global issues: ship strikes, bycatch and anthropogenic marine noise; and one endangered species issue: the western North Pacific gray whale. By focussing the work of the Conservation Committee on a few key issues, Belgium believed this would lead to more effective progress, and also provide an opportunity for the Committee to develop, clarify and adjust its working methods and interactions with other Commission sub-groups and other relevant international organisations. It stressed however, that issues not selected for the initial focus would nevertheless remain on the Conservation Agenda and members would be encouraged to report on progress with these.

Finally, Belgium raised the possibility that once the Committee had agreed on a few high priority issues on which it would focus initially, that a group of interested national delegates should meet intersessionally to develop more specific proposals for review and decision-making at next year's annual meeting. It proposed that the Chair and Vice-Chair of the Scientific Committee, and members of the Secretariat also be involved in this exercise and suggested that selected international organisations with competence for these issues should also be invited to participate. Belgium emphasised that in order to make real progress, it hoped for the broadest of collaboration and consensus-seeking both between organisations and individuals concerned.

Iceland regretted what it perceived as a lack of willingness and spirit to find a common understanding. It said that the Committee was now going into a substantive debate about its agenda and working methods without first working out the issues concerning the foundation of the Committee, and noted that it had not accepted Iceland's invitation to work on this. Iceland advised that it would not take part in any further substantive discussion and requested that the record reflect for each agenda item that Iceland did not take part in the substantive discussion for the reasons explained earlier.

The delegate from Norway stated that he was mostly there to listen to the discussion. Expressing some personal opinions though, he welcomed the attempt to establish some priorities for work and saw this as a positive step forward. He felt positive to the proposed relationship with the Scientific Committee as proposed in the document. With respect to the proposal that selection of endangered species and populations be based on the IUCN Red List, he believed the Scientific Committee should be the authority.

The Republic of Korea recalled that it had participated as a member of the small group convened by the Netherlands at last year's meeting and that this had been conducted in an open-minded way, incorporating all opinions. A number of points had been made on the establishment of the Conservation Committee and it had expected that discussion on outstanding points and the future of the Committee should continue. This does not seem to be the case. The Republic of Korea stated that in its view the principle for the Conservation Committee is not defined. It had appreciated the presence of Iceland in the small group and had hoped that a collaborative spirit would continue to develop. The Republic of Korea emphasised that at some stage the discussion of the outstanding points concerning the nature and establishment of the Conservation Committee needs to be continued and resolved and a mechanism to involve all members found. It suggested that this might be better done in another small group meeting.

In further discussion, a number of delegations endorsed the proposal from Belgium and thanked it for preparing this paper. Support was expressed by one country for the proposal from Norway to use the IWC's Scientific Committee for classification of stocks, rather than IUCN. Other delegations emphasised the proposal that the Conservation Committee focus on threats to whales other than direct hunting, and appreciated this as an attempt to draw a line that might be useful to all parties. Sustainable use is considered in other parts of the Commission's agenda.

The Chair proposed at this point to close Agenda Item 3 and to take up further discussion of the more specific proposals outlined in document IWC/57/CC7, under Agenda Item 4.

4. FURTHER CONSIDERATION OF ITEMS TO FALL UNDER THE AUSPICES OF THE CONSERVATION COMMITTEE AND DEVELOPMENT OF A CONSERVATION AGENDA

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

4.1 Items and issues to address as part of the 'Conservation Agenda'

Many countries endorsed and welcomed the contribution from Belgium to establish a targeted set of priority areas for work. There was some support for adding pollution to the list of three global issues identified by Belgium as priorities.

Denmark regretted that it had not been possible in Berlin to establish the Conservation Committee on the basis of broad consensus. It expressed some concern regarding reopening the sensitive question of small cetaceans in the annexes tabled by the proposers in Berlin and was keen to ensure that the Committee did not replicate work done by other organisations or other groups within the IWC.

There was also some concern that the list of topics was still too large and the USA proposed going forward with only one or at most two items that would demonstrate to the Commission the value added provided by the Conservation Committee and on which it can work collaboratively with the Scientific Committee. It proposed a criteria for identifying priority topics: is the issue protecting an endangered species and/or addressing a significant problem in some way; is there a broad constituency within the Commission; is it possible to complete the project or at least make significant progress within 1-2 years; does the project involve little additional funding; is it consistent with the priorities of the Scientific Committee. The USA agreed with the proposal to include pollution as one of the issues and proposed that the specific situation concerning the Eastern gray whale and the appearance of 'stinky' whales in the aboriginal subsistence hunt be investigated. It advised that it had broached this proposal with the Russian Federation which had indicated that it would need some time to formulate its views. The USA also reported that it had spoken with the Chair of the Scientific Committee to provide an outline of the work required and an indication of whether work by the Conservation Committee would contribute to the Scientific Committee's work. An approximate cost of the work required had also been sought and it would be \$US 30,000-50,000.

There was considerable support for the proposal of the USA to limit the immediate work programme to two priorities while maintaining the full Conservation Agenda as proposed by Belgium. In agreeing to focus items for next year, it was recognised that the broader conservation agenda as set out in paper IWC/57/CC7 would still remain and it would be for each meeting of the Committee to identify priority topics to be developed and set up for subsequent years.

The Conservation Committee agreed to recommend pollution, especially the problem of 'stinky' gray whales,

and ship strikes as its first two priority items of work, and to refer other items on the Conservation Agenda as proposed in IWC/57/CC7 to the Plenary for further discussion and for the Conservation Committee to return to at a later time.

With this decision and referring to the first item of work, the USA identified three actions now required: to seek the views of the Russian delegation; assuming that the Russian Federation is supportive, to ask the Chair of the Scientific Committee for advice regarding a protocol to address the matter proposed by the USA; and to prepare for submission a formal draft proposal. On this latter point, the USA offered to work with other interested parties to prepare the draft.

The Russian Federation said that it had intended to raise this matter at the Scientific Committee and the Aboriginal Whaling Sub-Committee and expressed appreciation to the USA for raising this issue at the Conservation Committee. It said that this is a really serious issue for its aboriginal subsistence hunters, who report that up to 10 percent of the whales have a strong medicine smell. Last year, six 'stinky' whales were landed which the Russian Federation considered should be excluded from the annual catch limit. Samples had been taken from three 'stinky' whales and one regular one and these were analysed by toxicologists. The Russian Federation expressed thanks to scientists from Norway and Japan who had made their own conclusions about the whales. Results of these analyses had been forwarded to scientists in the USA and a report from them had not yet been received. Differing opinions had been given by toxicologists as to whether the meat from these whales could be used for eating. It is hoped that a final conclusion can be reached this year. The Russian Federation said that a meeting of toxicologists this year, to find out their opinion would be useful and helpful. There is information that the winter habitat areas of gray whales in Mexico are chemically polluted so the health of aboriginal people and the welfare of whales are issues of interest for the two committees: Aboriginal Subsistence Whaling and Conservation. Russia, the USA and Mexico should collaborate to prepare a specific proposal for this work.

The Chair of the Scientific Committee then responded to the questions posed by the USA. On the question of significance of the problem, he advised that the Scientific Committee did not recognise this as a priority conservation issue for the stock but did recognise it as a phenomenon that was obviously of importance to the hunters concerned. On the question of protocols to address the matter, the Chair of the Scientific Committee confirmed that it could be made. He stressed that the phenomenon is not understood and may be due to causes other than pollution, for example a disease or other natural phenomenon; a cetacean pathologist would therefore be required to be involved in this work. On the third point of the estimate of cost, the Chair of the Scientific Committee said that this could be developed, or perhaps several estimates depending on how extensive the work required is and over how many years it is to be pursued.

The Chair advised that two years is proposed for the work. He then sought advice as to how to move forward. A small group, chaired by USA, and comprising the Russian Federation and Mexico, was established to consult together, and with the current and incoming Chairs of the Scientific Committee, and bring forward to the Plenary meeting a

proposal for this work. Any other interested delegations should approach the USA.

With respect to the second priority area identified by the Conservation Committee – ship strikes – it was recognised that a specific work proposal was less well-defined. The Belgian delegate, subject to approval from his Government, offered to lead a group of interested parties to set up a working group and work intersessionally by email. The proposal for an intersessional group operating by email was agreed. A small working group led by Belgium and comprising Brazil, Australia, Argentina, New Zealand, Luxembourg, UK, South Africa, USA, Italy and France was then established to consult and prepare some thoughts as to a work plan/programme for this work for presentation to the Plenary meeting. (The subsequent report of this group is attached as Appendix 3.) If then agreed by the Commission, work would proceed intersessionally.

4.2 Collaboration with other organisations

The Chair recalled the document prepared by the Secretariat for the 2004 meeting which described the arrangements the IWC had with various organisations, and noted that there was no concrete proposal before the meeting as to further collaborations.

Australia suggested drawing from the paper just discussed in considering this item. It proposed seeking practical ways to collaborate on specific issues. It felt it was perhaps premature to consider more formal memorandum of understanding as exist with CMS and that the Committee should proceed by collaboration with other bodies as appropriate on specific issues and that over time a set of relations may emerge that need to be more formalised. The UK pointed out that there was bound to be issues on which collaboration with some other organisations would be useful and appropriate. It was probably easiest to deal with this on an individual basis.

The Chair proposed leaving existing arrangements as is, continuing the exchange of observers, and moving ahead on specific issues and associated appropriate collaborations, allowing the need for any more formal relationships to develop over time.

5. WHALE SANCTUARIES

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

5.1 Proposal to establish a South Atlantic Whale Sanctuary

5.1.1 Introduction by Brazil/Argentina/South Africa

In bringing the proposal for the establishment of a South Atlantic Whale Sanctuary (IWC/57/4) to the attention of the Conservation Committee, Brazil noted that scientific issues with respect to the proposed sanctuary have previously been discussed by the Scientific Committee and stated it was now appropriate for this Committee to review it within the context of a management tool. Brazil noted that the proposal is presented jointly with Argentina and South Africa and has a very clear stated goal: that of promoting and consolidating a non-lethal management regime for cetacean resources in the area the sanctuary encompasses. Brazil noted that the issue of whether the Sanctuary is based on scientific findings has been raised in the past. Whilst stating its belief that it does, Brazil also

stressed the Sanctuary as a management tool. It noted that scientific findings prove that large whale populations in the sanctuary area have been mostly depleted by commercial whaling and show that while some are slowly recovering many may not be. The lack of scientific findings on most cetacean species living there shows how much there is still to be done to assess them properly. Brazil also highlighted that further scientific findings from diverse branches of Science prove that the non-lethal management option can be of great benefit to the peoples in the region, thereby justifying the proposal in management terms. It emphasised that there is no specific guidance in Article V of the Convention to specify which scientific findings are necessary to determine whether a sanctuary is admissible under the Convention or not.

Brazil noted that the proposal reflects the IWC's recommendations on the review of sanctuary proposals, adopted at a previous meeting. The proposed Sanctuary is based on scientific findings; the boundaries proposed are appropriate, especially if taken in conjunction with the existing Southern Ocean Sanctuary; will stimulate research important to the fulfilment of IWC objectives; and is entirely consistent with the Precautionary Approach, more specifically with the Precautionary Principle or Principle 15 as outlined in the UNCED 1992 Declaration.

Brazil recalled that it had made particular remarks regarding its interpretation of the recommendation on the review of sanctuary proposals when it had been adopted. These dealt with the extent that IWC sanctuaries can address potential threats to cetaceans other than direct takes, and whether specific management actions could be prescribed for these threats and for so-called critical habitat. It noted therefore that its proposal addresses these questions not only in the light of the greatly outdated 1946 founding treaty of the IWC but also addresses potential threats in the context of the broader current legal regime, in particular UNCLOS and the Convention on Biological Diversity. IWC/57/4 therefore proposes that management issues should be addressed through close cooperation amongst range states, with the participation of the International Whaling Commission, within the limits of its legal mandate.

Brazil further added that the proponents have, in document IWC/57/4 tried to incorporate to the extent possible the discussion at and recommendations from the 2004 meeting of the Scientific Committee. It noted that an adequate management plan, which recognises the limits of IWC jurisdiction and promotes the integration of national efforts in a concerted way, can only be adopted once the Sanctuary is created. Concerning past comments about the relationship between sanctuaries and the RMP, Brazil emphasised that the stated goal of the proposed Sanctuary is to promote the non-lethal use of whales and the proposal should not therefore in this context be judged in relation to the RMP. Further, its establishment should not be constrained by the possible future existence of RMP-based management regimes in other areas, as management decisions concerning whale resources should not be solely based on lethal harvests.

In conclusion, Brazil recognised that the Commission is deeply divided, ideologically more than anything, about the issue of sanctuaries and their role in cetacean management. This discussion however can be a valuable exercise in crafting a way out of the current deadlock. In this respect Brazil reiterated its position: there can be no agreement on

the possible future resumption of commercial whaling unless there is a will to recognise and protect the rights of peoples and nations for the non-lethal management of whale resources.

Argentina said that in its view the proposal has a very clear stated goal, as outlined by Brazil. It noted its strong support for the non-lethal use of cetaceans and its long whale watching tradition. This activity has expanded to become one of the most important economic activities in coastal towns along Argentine Patagonia. It referred also to its long-standing whale research programmes which have contributed scientific information relevant to the goals of the proposed sanctuary. Results from these studies have been presented in the IWC Scientific Committee and at other international forums. Argentina said that the proposed sanctuary will provide long-term protection and recovery of cetacean populations, will support research on depleted stocks and their habitats, will promote regional conservation measures and educational activities, and contribute to the development of environmentally friendly tourism along the South American and African coasts.

As the third co-sponsor of the proposal, South Africa stated its position as being for the non-consumptive use of cetaceans. It noted that two of the world's oceans already have sanctuaries, and that this will complement them. It emphasised that the proposed sanctuary would be a management tool, and was not in opposition to the RMS.

5.1.2 Report from the Scientific Committee

The relevant extract from the draft Report of the Scientific Committee (IWC/57/Rep1) was presented by the Chair of the Scientific Committee. In summary, the Chair of the Scientific Committee noted that proposals similar to IWC/57/4 had been reviewed in the past by the Scientific Committee. A summary of the most recent comprehensive review was published in IWC (2002)¹. The Scientific Committee was unable to reach a consensus view during its past meetings. At this year's meeting of the Scientific Committee, a review following the instructions received from the Commission at their 2001 annual meeting, as well as a review following the recommendation from the Committee developed during its 2004 annual meeting, was undertaken. Consensus was not reached for either review.

5.1.3 Committee discussion and recommendations

A number of countries expressed their strong support for the proposed South Atlantic Whale Sanctuary. In their comments they considered that sanctuaries can and do play an important role in whale conservation and management, and are not incompatible with other uses in other parts of the world. Perceived inconsistencies, both with the RMP and the ICRW, were also addressed in comments. On the first issue, it was pointed out that the RMP, which is a tool for setting catch limits, has a different objective to that of a sanctuary, which is for the non-lethal use of whales. The notion that sanctuaries are inconsistent with the Convention was also refuted in comments, with proponents of the Sanctuary saying it is quite clear that Article V allows for sanctuaries.

Brazil acknowledged all the other co-sponsors of the proposal from last year and reassured them that their sponsorship is being carried forward.

Norway said that its position is well-known and it will vote against the sanctuary at the appropriate time.

Returning to the extract from the draft report of the Scientific Committee, the Republic of Korea expressed its disappointment that the report does not reflect or show any compromise or consensus. It suggested if the five points raised by the external reviewers in their review of the IWC's approach to sanctuaries could be addressed by proponents, sanctuary proposals would have the full support of the Scientific Committee.

In response, the Chair of the Scientific Committee said that consensus on the proposal had been sought over four meetings of the Scientific Committee, but it had not been possible to achieve this. He expressed the belief that the report as presented is a reasonable, balanced report of what could be agreed and, what was agreed, could not be agreed.

5.2 Proposal to establish a South Pacific Whale Sanctuary

5.2.1 Introduction by Australia/New Zealand

In opening the presentation on the proposed South Pacific Whale Sanctuary (IWC/57/CC3), Australia said that the establishment of the Conservation Committee provides an opportunity for the Commission to receive advice on issues related to the conservation of whale populations and it was with this in mind that Australia and New Zealand have submitted the South Pacific Whale Sanctuary proposal to the Conservation Committee. Whilst the proposal for a South Pacific Whale Sanctuary has been before the Commission since 2001, it has not yet benefited from a review by the Conservation Committee. By such a review, it hoped that the Commission would be better informed about the important conservation issues associated with the Sanctuary and that it would further advance the adoption of the Sanctuary by the Commission in the future.

Australia then outlined some of the key features of the South Pacific Whale Sanctuary proposal. The primary goal of the Sanctuary is to promote the biodiversity, conservation and non-lethal utilisation of whale resources in the South Pacific Ocean. It stressed that the sanctuary is essential to: facilitate the recovery of great whale populations which remain seriously depleted by protecting them throughout their range; complement the protection for species that feed within the IWC's Southern Ocean Whale Sanctuary; and support the people of the South Pacific who wish to profit from whales in a sustainable, non-lethal way, and whose interests are not taken into account with the RMP. Australia also reviewed the status and trends of whale populations within the proposed sanctuary area. With respect to the boundaries proposed, Australian noted that the South Pacific Whale Sanctuary takes account of: the boundary of the Southern Ocean Sanctuary, in order to provide entire ecosystem coverage for great whales; the Equator being a natural divider of Northern and Southern Hemisphere whale populations; the known winter breeding and calving grounds of five humpback whale populations; and critical migratory routes between feeding and breeding grounds. It is also precautionary in that it recognises that some breeding grounds and migratory routes are yet to be identified. In concluding its presentation, Australia highlighted some of the key benefits of the Sanctuary, as set out in paper IWC/57/CC3.

As the other proponent of this proposal, New Zealand highlighted the state of knowledge of threats to great whale populations in the South Pacific region. These include: ship

¹ *J. Cetacean Res. Manage. (Suppl.)* 4: 65-67 (2002).

strikes; marine noise; entanglement and bycatch; and pollution. Whilst whalewatching is an important economic activity in several Pacific Island countries there also remains some unresolved issues associated with this. New Zealand advised that some time ago the Secretariat of the Pacific Regional Environment Programme (SPREP), as the coordinating agency for the region, had been asked to provide advice on priority issues in the region. Funding for this task has now been received and it is hoped that by next year some of the information gaps can be filled and that Australia and New Zealand will be able to put forward a proposal that will garner additional support.

5.2.2 Committee discussion and recommendations

In discussion, a number of countries affirmed their strong support for the proposed South Pacific Whale Sanctuary. Reference was made to the needs of the Southern Hemisphere which some felt were not given due consideration within the Commission. It was also felt unsatisfactory by some that the proposal had not been adopted by the Commission, given the support that exists for it.

6. NATIONAL REPORTS ON CETACEAN CONSERVATION

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

6.1 Introduction of national reports

The Chair noted that four countries had submitted voluntary national cetacean conservation reports: Brazil (document IWC/57/8); Australia (IWC/57/CC4); Chile (IWC/57/CC6); and Argentina (IWC/57/CC8) and invited these countries to introduce their reports in turn.

Brazil recalled that together with Argentina it had proposed at last year's IWC meeting that countries submit on a voluntary basis national cetacean conservation reports. It believed that it was a useful exercise, not just for the IWC but for the world at large as well, for countries to submit reports on cetacean management and management actions for cetaceans, detailing for example concerns, weaknesses, and areas where cooperative action could be of benefit. Brazil noted its intention to also submit this report to the IWC Plenary as a model of what could be done, and to make preparation of such a report a permanent undertaking by Brazil.

In presenting its report, Australia noted that it had used a similar structure to that of Brazil and observed that it had not been a labour-intensive exercise. It felt that an exercise at this level was a relatively resource effective way of promoting information exchange between countries. It commended the approach to other countries as a useful way of exchanging information on cetacean matters.

Introducing its report, Chile emphasised that whale populations in Chilean waters are important in the development of non-lethal activities and provide a great opportunity for development.

Argentina presented its report and recalled the joint proposal with Brazil in 2004 for the presentation of conservation reports, including information on habitat protection. The report therefore gives details of 21 protected areas in Argentina where whales and dolphins are protected or observed. Another important issue is that of legislation and relevant national legislation is listed in the report. It also documents international affiliations and cooperative programmes with which Argentina is engaged.

6.2 Committee discussion and recommendation

Mexico welcomed the reports of the four countries and expressed its appreciation. It stated its intention to join with these countries next year in presenting a national cetacean conservation report. New Zealand apologised that it had not been able to prepare a report for this year, but stated that it would next year. The UK similarly expressed its regret.

The Chair commented that he personally had found the presentation of these reports a useful, interesting exercise. He asked if it was sufficient to leave the existing recommendation for voluntary reports as it was, or whether the process should now be formalised more. Replying to the Chair's question, Australia suggested that each country should look at its own resource base and manage the process as it sees fit. The voluntary nature of the reports allows a country to settle at the level it finds manageable and most useful. It urged against making the process too prescriptive, leading to reporting fatigue. In concluding this item, the Chair noted the useful nature of these reports and proposed that the submission of voluntary reports remain on the same basis as before.

7. OTHER MATTERS

For the reasons explained earlier, Iceland did not participate in any substantive discussion under this agenda item.

Brazil requested that the Conservation Committee meeting in 2006 be allocated at least one whole day for deliberations. This proposal was supported by Belgium and Australia.

The Republic of Korea also re-stated its basic position with respect to sanctuaries: without the endorsement of the Scientific Committee, it is reluctant to support sanctuary proposals.

8. ADOPTION OF THE REPORT

The report was adopted 'by post' at 18:00 on Saturday 18 June 2005.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Conall O'Connell
Pam Eiser (rapporteur)
Gillian Slocum

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Koen Van Waerebeek

Brazil

Karina Groch
Regis de Lima
José Palazzo

Chile

Elsa Cabrera

Denmark

Henrik Fischer
Ole Heinrich
Amalie Jessen

Finland

Esko Jaakkola

France

Vincent Ridoux

Germany

Peter Bradhering
Marlies Reimann

Iceland

Stefan Asmundsson
Asta Eingsdottir
Kristjan Loftsson
Gisli Vikingsson

Italy

Caterina Fortuna

Republic of Korea

Yeong Gong
Zang Geun Kim
Hyun-Jin Park
Sung Kwon Soh

Luxemburg

Pierre Gallego

Mexico

Lorenzo Rojas-Bracho

New Zealand

Alan Cook
Mike Donoghue
Al Gillespie
Geoffrey Palmer

Netherlands

Benno Bruggink

Norway

Anniken R. Krutnes
Lars Walløe

Russian Federation

Rudolf Borodin
Valentin Ilyashenko
Olga Ipatova
Igor Mikhno

South Africa

Herman Oosthuizen

Spain

Santiago Lens

Sweden

Bo Fernholm (Chair)
Anna Roos

Switzerland

Bruno Mainini

UK

Richard Cowan
James Gray
Laurence Kell
Jennifer Lonsdale
Trevor Perfect
Mark Simmonds
Chanaka Wickremasinghe

USA

Roger Eckert
Maggie Hayes
Cheri McCarty
Micah McCarty
Rolland Schmitt

Chair of Scientific Committee

Doug DeMaster

Appendix 2

AGENDA

1. Introductory items
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 - 4.1 Items and issues to address as part of the 'Conservation Agenda'
 - 4.2 Collaboration with other organisations.
 5. Whale sanctuaries
 - 5.1 Proposal to establish a South Pacific Whale Sanctuary
 - 5.1.1 Introduction by Australia/New Zealand
 - 5.1.2 Committee discussion and recommendations
 - 5.2 Proposal to establish a South Atlantic Whale Sanctuary
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 - 5.2.2 Report from the Scientific Committee
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 6. National reports on cetacean conservation
 - 6.1 Introduction of national reports
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 7. Other matters
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ADMISSION OF OBSERVERS

Rule of Procedure C.2

Observers accredited in accordance with Rule [of Procedure] C.1.(a) and (b) are admitted to all meetings of the Commission and the Technical Committee, and to any meetings of subsidiary groups of the Commission and the Technical Committee, except the Commissioners-only meetings and the meetings of the Finance and Administration Committee.

Appendix 3

REPORT OF THE SHIP STRIKES WORKING GROUP (SSWG) CONSULTATIVE MEETING

Members: Belgium (convenor), Argentina, Australia, Brazil, France, Italy, Luxembourg, New Zealand, South Africa, UK, USA

Observers²: Denmark/Greenland, Korea

1. INTRODUCTORY ITEMS

A first, consultative, meeting of the new Ship Strikes Working Group (SSWG) took place at the Lotte Hotel, Ulsan, Korea, on 14 June 2005. A list of participants is given in Adjunct 1. It was convened subsequent to a call for interested Parties to define terms of reference for such a working group, in the context of discussion of document IWC/57/CC7 as presented by Belgium the previous day. The main purpose of the meeting was to define terms and propose to the Commission that ship strikes with whales be approved as one of two high priority issues³ to be implemented initially in the Conservation Committee (CC) (cf. task 2 of Resolution 2003-1). The SSWG recognises that the data review aspects of the work plan as indicated below are of interest also to the Scientific Committee's (SC) Bycatch and other human-induced mortality sub-committee.

2. APPOINTMENT OF CHAIR

Koen Van Waerebeek (Belgium) was appointed Chair. He also served as rapporteur.

3. TERMS OF REFERENCE

3.1 Comprehensive global review of information on ship strikes with whales

Scattered information on ship strikes exists in published papers, unpublished reports, conference abstracts and personal communications. Ship collisions have most recently been reviewed by Laist *et al.* (2001), however these authors concentrated on the North Atlantic and did not address waters off South/Central America, Africa (except South Africa), Middle East, Asia nor Oceania. Indications are that substantial new information has become available since 2001. Paper SC/57/BC1 (Felix and Van Waerebeek, 2005) showed that the problem may be

vastly underreported. Measures to reduce ship strikes in North Atlantic right whales were discussed by Russell (2001) and may serve as a template for other species and areas.

Belgium proposed to draft a technical document 'Global Review of information on Ship Collisions with Whales and other cetaceans, with an evaluation of current monitoring and mitigation initiatives', to be submitted at IWC/58, firstly, to the Scientific Committee Meeting at IWC/58 and subsequently to the Conservation Committee. An outline of issues to be addressed was earlier provided as a guideline by Belgium and cosponsors in document IWC/57/CC7 (relevant section reproduced in Adjunct 2).

The USA indicated that experts were available who could contribute to the exercise. The USA has worked with the International Maritime Organisation (IMO) on mitigation of ship strikes with endangered North Atlantic right whales in the NW Atlantic shipping corridors. It was stated that besides reviewing technical aspects, recommendations should be formulated and aspects of outreach and education on the issue of ship strikes should also be considered. NZ emphasized the importance of meaningful involvement with the IMO in this area, as ultimately any solutions seeking to control vessels on the high seas will have to substantively involve them. The UK encouraged that the reporting of ship strikes be presented in a positive manner, rather than implying punitive implications could result. Belgium agreed that raising awareness for the issue will be important also to improve response when requesting information.

Australia noted that in the intersessional period Australia and New Zealand hoped to work with the South Pacific Regional Environment Program (SPREP) to gather information on threats to whale populations in the South Pacific. They offered to provide relevant information to this group. South Africa reiterated that recommendations should form an integral part of the technical document to be presented to the Scientific Committee and suggested that a distinction be made between domestic shipping traversing coastal waters, which resorts under national regulations, and shipping traffic in international waters which however may be transient through EEZ and territorial waters. South Africa also reminded that a source of (relatively modest) funding would need to be identified (~€5,000). The Belgian Government, the IWC and international NGOs were suggested as potential co-sponsors.

² The delegate of Dominica planned to attend but was unable to participate due to last minute commitments.

³ The other so-called 'stinky whale' issue, a suspected case of pollution affecting gray whales, the cause of which will be investigated by the USA, the Russian Federation and Mexico.

3.2. Intersessional e-mail discussion group

Proposed initial work plan

- (1) Identify and liaise with organisations that already have (eg. ASCOBANS, ACCOBAMS), or are preparing to set up, programmes of data collection and/or mitigation of ship collisions.
- (2) For each region or subregion identify persons active or interested in this field.
- (3) Establish contacts with national and international bodies that may potentially contribute with valuable information and open avenues for collaborative efforts on future mitigation measures. These include e.g. member nations, International Maritime Organization (IMO), UNCLOS, selected large shipping companies and port authorities (e.g. Hong Kong Port Authority already collaborating with local dolphin research and conservation) and others.
- (4) Identify further sources of information.
- (5) Report back to next Conservation Committee meeting.

Output would consist mainly of a progress report to the Conservation Committee at IWC/58. Membership should be kept flexible and open to changes as needs develop. It was agreed that the chair of the SC Bycatch subcommittee (Per Berggren, Sweden) and the SC Chair (Arne Bjørge) be invited to join the Email discussion group.

3. OTHER

Denmark suggested that national legislation relating to the reporting of ship strikes also be reviewed. IWC national progress reports which already request reporting of ship strikes could be expanded so as to include more technical details. However, information on legislation would best be solicited from member nations to be made available through the voluntary National Conservation Reports.

France and Luxemburg suggested that certain maritime insurance companies might favourably view upon, and

encourage, shipping companies to report collisions (and near-misses) with whales. The UK noted that some yachting organizations could contribute with reported cases of collisions and damage caused to yachts.

Denmark and Italy stated that ASCOBANS and ACCOBAMS³ have for years compiled information on ship strikes in European waters, and should be contacted. The USA recommended that national points of contact be identified among IWC members. Panama and Japan, considering their huge shipping industry, were suggested as potential important contributors of data. It was agreed that special attention be paid to critical areas where high shipping traffic and vulnerable cetaceans coincide.

It is important to separate out those areas that are primarily scientific and those that are not. For example, promoting the reporting of ship strike information is essentially a technical issue that the CC is in a good position to address. Receiving and interpreting the data, and where necessary recommend action is a SC matter. Implementing SC advice is again essentially a technical/policy matter that the CC can address.

4. ADOPTION OF REPORT

The report was adopted on 17 June 2005.

REFERENCES

- Felix, F. and Van Waerebeek, K. 2005. Whale mortality from ship collisions underreported, case studies from Ecuador and West Africa. Paper SC/57/BC1 presented to the IWC Scientific Committee, June 2005, Ulsan, Korea. 6pp. [Paper available from the office of this Journal].
- Laist, D.W., Knowlton, A.R., Mead, J.G., Collet, A.S. and Podesta, M. 2001. Collisions between ships and whales. *Marine Mammal Science* 17(1): 35-75.
- Russell, B. 2001. Recommended measures to reduce ship strikes of North Atlantic right whales. NMFS Contract Report No. 40EMF9000223. 57pp. [Available from National Marine Fisheries Service, Silver Spring, Maryland, USA].

Adjunct 1

List of participants

Argentina

Miguel Iñiguez

Australia

Gillian Slocum

Belgium

Koen Van Waerebeek (Chair)

Denmark/Greenland

Maj F. Munk

Michael Kingsley

France

Vincent Ridoux

Italy

Caterina Fortuna

Republic of Korea

Zang Geun Kim

Luxemburg

Pierre Gallego

New Zealand

Al Gillespie

South Africa

Herman Oosthuizen

UK

Jenny Lonsdale

USA

Roger Eckert

Diana Weigmann

Rollie Schmitt

⁴ Confirmed (pers. comm. to KVW) by Mr. Marco Barbieri, Technical Officer with CMS, Bonn.

Adjunct 2

Text extract

The following text was excerpted from IWC/57/CC7.

1.1 Ship strikes

Collisions with ships can and do kill whales, especially the larger species and those inhabiting waters with high shipping volumes. For at least one species (North Atlantic right whale), ship strikes have been identified along with entanglements as the top two factors that threaten the species with extinction. Apart from certain species and areas (e.g. right whales off USA and Canada) the issue is mainly still at the stage where more information on the extent of the problem and the options for counter-measures needs to be gathered.

Outline Program of Work

- (1) Conduct a study of shipping traffic volumes around the world in relation to cetacean occurrence to identify:
 - areas of potentially high interaction;
 - areas of uncertain status due to lack of information on cetacean occurrence;
 - areas of uncertain status due to lack of information on shipping volumes; and
 - areas where interaction can be assumed to be relatively low.
 - (2) Promote, review and collate research into assessing and improving the efficacy of counter-measures, including:
 - systems for warning vessels of whale presence in the area;
 - arrangements for sighting whales and taking avoiding action;
 - mechanisms for alerting whales to oncoming vessels;
 - relocation of shipping lanes; and
 - speed limits.
 - (3) Develop and implement in conjunction with the appropriate maritime organisations of a global scheme for reporting observed or suspected ship strikes. This should be web-based and supervised in close to real time so that the database supervisor can solicit further information from those reporting ship strikes soon after the event.
 - (4) Based on the information gathered, identify areas, routes, seasons and species for which priority for preventive action is highest. Develop mitigation plans for these priority cases in collaboration with coastal states and relevant organisations.
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