

SUMMARY OF THE 66TH MEETING OF THE INTERNATIONAL WHALING COMMISSION: 24-28 OCTOBER 2016

The sixty-sixth meeting of the International Whaling Commission (IWC-66) was held from 24-28 October 2016 in Portorož, Slovenia. The Commission meeting was preceded by meetings of the Committees, Sub-Committees and Working Groups on Science, Conservation, Finance and Administration, Budget, Aboriginal Subsistence Whaling, Infractions, and Whale Killing Methods and Welfare Issues. Approximately 400 participants attended the meeting, representing member and non-member governments, academia, intergovernmental and non-governmental organizations, indigenous groups and the media.

IWC-66 addressed, among other issues: a proposal for a South Atlantic Whale Sanctuary; aboriginal subsistence whaling; socio-economic implications and small-type whaling; cetacean status and health; unintended anthropogenic impacts; whale killing methods and welfare issues; the Commission budget for 2017-2018; and the IWC in the future.

Several resolutions were also considered on: enhancing the effectiveness of the IWC; improving the review process for whaling under special permit; cetaceans and ecosystem functioning; the creation of a fund to strengthen the capacity of governments of limited means to participate in the work of the IWC; food security; and the critically endangered vaquita. All of these resolutions, with the exception of the one on food security, were adopted; the proposal on the South Atlantic Whale Sanctuary was rejected.

As in previous years, strongly opposing views were expressed throughout the meeting. The fundamental disagreement, which centers on the question whether whales can be used sustainably or merit total protection, resurfaced under almost every agenda item. As a result, many decisions were taken by vote rather than consensus. On the other hand, the meeting featured several positive developments, both substantively and in the meeting's operations. Major progress was made, for instance, in areas such as bycatch and entanglement, and improving the effectiveness of the IWC. Many participants stressed that the meeting was conducted in an optimistic and cordial manner, with the levels of trust and cooperation remarkably higher than in recent years.

A BRIEF HISTORY OF THE IWC

Several populations of great whales are highly endangered. Some are at a fraction of their original population levels. The primary cause of this situation is commercial whaling, which started in the early Middle Ages and officially ended in 1986,

when the moratorium on commercial whaling, adopted by the International Whaling Commission in 1982, entered into force. The intense whaling efforts in the 1960s, when nearly 70,000 whales were caught annually, amounting to an estimated 2.9 million whales in the 20th century, are thought to have been particularly critical for many species. Whaling is still happening today, either as aboriginal subsistence whaling, scientific whaling, under official objection to the 1982 moratorium, or by non-IWC members.

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The 1946 International Convention for the Regulation of Whaling (ICRW) currently regulates whaling. Its purpose is to “provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry.” In 1949, upon its entry into force, the Convention established the IWC. The main duty of the IWC is to keep under review and revise as necessary its legally binding Schedule to the Convention, which specifies measures to regulate whaling. These measures, *inter alia*: provide for the complete protection of certain species or stocks; designate specified areas as whale sanctuaries; set limits on the numbers and size of whales that may be taken; prescribe open and closed seasons and areas for whaling; and prohibit the capture of suckling calves and female whales accompanied by calves.

Today, the Commission also works to understand and address a wide range of non-whaling threats to cetaceans including entanglement, ship strikes, marine debris, climate change and other environmental concerns. This work includes: coordinating and, in several cases, funding conservation work on many species of cetaceans; building an international entanglement response capacity; working to prevent ship strikes; and establishing Conservation Management Plans for key species and populations. The Commission has also adopted a Strategic Plan for Whale Watching to facilitate the further development of this activity in a way that is responsible and consistent with international best practice.

Membership in the IWC is open to any country that formally adheres to the ICRW, and currently stands at 88. Each member state is represented by a Commissioner, who is assisted by experts and advisers. Since its inception, the IWC has had three main committees: Scientific, Technical, and Finance and Administration. The Technical Committee has fallen out of use, but a new Conservation Committee first met in 2004. Thirteen sub-committees have been established to address a variety of issues, including setting catch limits, aboriginal subsistence whaling, and bycatch and other anthropogenic removals. The IWC met annually until 2012, when the Commission agreed to move from annual to biennial meetings. The Scientific Committee continues to meet annually. This Committee comprises up to 200 of the world’s leading whale biologists, many of whom are nominated by parties.

The information and advice of the Scientific Committee form the basis on which the Commission develops the whaling regulations in the Schedule. Schedule amendments require a three-fourths majority vote, in contrast with resolutions, which require a simple majority. The outcomes adopted by the Commission are implemented through the national legislation of the parties.

The IWC decided at its meeting in 1982 to establish a moratorium on commercial whaling of all whale stocks. Japan, Peru, Norway and the USSR lodged objections to the moratorium, rendering it not binding on them. Japan later withdrew its objection. Iceland did not lodge an objection, but withdrew from the IWC in 1992. It rejoined in 2002, with a retroactive objection to the moratorium, and resumed its whaling programme in 2006. Today, only Norway, Iceland and Japan are considered whaling nations, with Norway and Iceland referring to their respective objections, and Japan undertaking scientific whaling, which is allowed under the Convention as “special permit” whaling. In addition, some aboriginal communities in Denmark (Greenland), the Russian Federation, St. Vincent and the Grenadines, and the US (Alaska) engage in subsistence whaling.

In addition to the moratorium, two whale sanctuaries have been created: in the Indian Ocean (1979) and in the Southern Ocean (1994).

Between 1994 and 2007, the Scientific Committee concentrated on a comprehensive assessment of whale stocks. This resulted in the development of the Revised Management Procedure (RMP), which would be used in setting catch limits for different whale populations in case the moratorium were to be lifted. The RMP was accepted and endorsed by the IWC in 1994, but has not yet been implemented, pending the negotiation of a Revised Management Scheme (RMS). This RMS would set out a framework for inspection and observation to ensure compliance with the RMP. These negotiations proved challenging and in 2007 the Commission recognized that it had reached an impasse and the moratorium has remained in place.

According to IWC data, of the 1,713 whales reported caught in 2015, almost half were caught by Norway and Iceland under their objection to the moratorium: Norway caught 660 minke whales and Iceland caught 155 fin whales and 29 minke whales. Japan reported taking 520 whales under special permit: 405 minke (335 in the Antarctic), 90 sei and 25 Bryde’s whales. This is a significant drop compared to peak year 2005, when 1,282 whales were caught under scientific whaling programmes by Japan and Iceland, with Japan catching the vast majority, mostly minke whales, but also sei, Bryde’s, fin and sperm whales. In 2015, aboriginal subsistence whalers caught 355 whales, primarily minke whales (139, Greenland), grey whales (125, Chukotka, Russia) and bowhead whales (49, Alaska, US).

IWC-57: At IWC-57 in June 2005, the IWC rejected proposals by Japan to broaden the option of voting by secret ballot, revise the RMS so as to lift the moratorium, remove the existing Southern Ocean Sanctuary, and allow the yearly taking of 150 minke whales by coastal communities. A proposal by Brazil and Argentina for a South Atlantic Sanctuary did not obtain the required three-fourths majority. However, a resolution was passed that strongly urged the Government of Japan to withdraw or revise its proposal on catches for scientific purposes in the Antarctic.

IWC-58: At IWC-58 in June 2006, delegates recognized that the issue of advancing the RMS had reached an impasse. A proposal by Brazil and Argentina for a South Atlantic Sanctuary was not put to a vote. Japan’s proposals to allow the yearly taking of 150 minke whales by coastal communities and to abolish the Southern Ocean Sanctuary were again defeated. The Commission adopted the St. Kitts and Nevis Declaration proposed by Japan and several other countries, which declared a commitment to “normalizing the functions of the IWC.”

CONFERENCE FOR THE NORMALIZATION OF THE IWC: A “Conference for the Normalization of the IWC” was held in Tokyo, Japan, in February 2007. The meeting aimed to “put forward specific measures to resume the function of the IWC as a resource management organization.” Although Japan had invited all IWC members, only 35 countries attended the meeting, which was not officially sanctioned by the IWC. The meeting resulted in a series of recommendations to the IWC at its 2007 meeting, including a request for secret ballots and Japan’s proposal on coastal takes of minke whales. However, differences remained at the sessions held in 2007 and 2008.

IWC-59 AND IWC-60: At IWC-59 in 2007, the proposal by Brazil and Argentina for a South Atlantic Sanctuary was again put to a vote, but failed to obtain the required three-fourths majority. At IWC-60 in 2008, delegates established a number of additional

sub-committees to address various issues. The meeting also established by consensus a Small Working Group to facilitate further discussions or negotiations on the future of the IWC.

IWC-62: The “Future of the IWC” process ended in 2010 and resulted in a number of recommendations to IWC-62, which was held in Agadir, Morocco, in 2010. At this meeting, delegates were unable to reach consensus on a number of important issues, including: continuation of the moratorium; special permit whaling; catch limits; sanctuaries; aboriginal subsistence whaling; and trade. Japan indicated that a main stumbling block was the demand that Japan end its Antarctic whaling programme within a set timeframe, when Japan had already agreed to reduce its quota from 935 whales in 2010 to 200 whales in 2020.

IWC-63: At IWC-63 in 2011, delegates agreed on measures to improve the effectiveness of operations within the IWC, and on a new experimental procedure relating to the participation of non-governmental organizations (NGOs) in its plenary sessions. It made no changes to the present limits regarding aboriginal subsistence whaling. The meeting reached an impasse on the creation of a South Atlantic Sanctuary.

IWC-64: At IWC-64 in 2012, among other things, delegates endorsed a significant list of recommendations about whale welfare, rejected Japan’s proposal to allow coastal takes of minke whales, and approved increased quotas for several aboriginal subsistence hunts, except Greenland’s. The proposal for a South Atlantic Sanctuary was once again rejected.

IWC-65: IWC-65, held in 2014, adopted increased four-year catch limits for Greenland aboriginal subsistence whaling. It also adopted resolutions on, *inter alia*: improving the process for aboriginal subsistence whaling in the future through a more consistent and long-term approach; enhancing collaboration on the conservation of migratory cetaceans with other relevant intergovernmental organizations; and civil society participation and transparency. Proposals to create a South Atlantic Sanctuary and to permit the coastal take of minke whales by small-type whaling vessels in Japan were not adopted.

IWC-65 also passed a resolution on special permits that included instructions to the Scientific Committee and a request on the conditions that must be met and the steps that must be taken before special permits are issued. This latter resolution had been proposed in reaction to the UN International Court of Justice (ICJ) ruling of 2014. This ruling was in response to a case Australia brought against Japan in 2010, alleging that Japan’s continued pursuit of a large-scale whaling programme under special permit in the Antarctic is a breach of obligations assumed by Japan under the ICRW, as well as its other international obligations for the preservation of marine mammals and the marine environment. In 2014, the ICJ ruled against Japan, arguing that Japan’s scientific objectives do not justify the large numbers taken. The ICJ ordered a temporary halt to the activities around Antarctica. Shortly thereafter, Japan announced that it would resume its scientific whaling programme in the Northwest Pacific, and in 2015, announced it would launch a new scientific programme in the Antarctic.

OTHER RELEVANT MEETINGS: Whale conservation is also addressed under other multilateral treaties, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Almost all great whale populations managed by the IWC are listed in CITES Appendix I (species threatened with extinction; trade only permitted in exceptional circumstances). In 2002 parties to CITES rejected proposals to downlist populations of minke and Bryde’s whales from Appendix I to Appendix II (species not necessarily threatened with extinction, but in which trade must be controlled). In 2004,

CITES parties rejected by secret ballot Japan’s draft resolution urging the completion and implementation of the RMS and its proposal to downlist three stocks of minke whale from Appendix I to Appendix II. In 2007, CITES parties decided that no cetacean species should be subject to periodic review (relating to potential downlisting) while the IWC moratorium is in place. In 2016 CITES parties discussed the potential deletion of that decision, but in the end decided to retain it.

The Convention on the Conservation of Migratory Species of Wild Animals (CMS), at its seventh Conference of the Parties (COP-7) in 2002, decided to list fin, sei and sperm whales in CMS Appendices I and II, and Antarctic minke, Bryde’s and pygmy right whales in Appendix II. Three years later, at CMS COP-8, parties adopted resolution 8.22 on cetacean conservation, which urges the integration of cetacean conservation into all relevant sectors and encourages cooperation between the CMS Secretariat and Scientific Council and the IWC and other international bodies.

In 2007, the Pew Environment Group launched its Whale Conservation Project, in response to efforts by parties to the IWC to address some of the highly controversial issues that had polarized discussions for many years. The Project aimed to advance solutions that could enhance whale conservation and help the IWC meet its reform objectives. In 2007, 2008 and 2009, three Pew-sponsored meetings were held, including in Tokyo, Japan, to feed into the debate. The meetings brought together whaling experts and civil society, as well as eminent individuals with broad experience in international policy and diplomacy, representing various sides of the debate. The meetings resulted in a set of recommendations presented to IWC-61 in 2009.

IWC-66 REPORT

On Monday, 24 October, IWC Chair Bruno Mainini (Switzerland) opened the meeting.

Irena Majcen, Minister of the Environment and Spatial Planning, Slovenia, highlighted the 70th anniversary of the IWC, noting that while there are divergent views regarding the conservation and management of whales, convergence exists on other agenda items, such as marine pollution. She underscored the importance of designating marine protected areas and sanctuaries within and beyond national jurisdiction, and the role of the IWC in the sustainable management of whales.

Darja Bavdaž Kuret, Slovenian State Secretary of Foreign Affairs, stressed that her country is striving to conserve endemic species of plants and animals, and to raise awareness on the importance of biodiversity. She highlighted the 2030 Agenda for Sustainable Development and its Sustainable Development Goals, and the Paris Agreement on climate change as a global push towards sustainable development that requires international cooperation.

Meira Hot, Deputy Mayor of the host municipality of Piran, drew attention to the work of Morigenos, the Slovenian Marine Mammal Society, on scientific research and public awareness regarding cetaceans and marine protection. She noted her country’s increasing awareness of the importance of protecting marine life and processes even though whales only occasionally visit the Slovenian coast.

Illustrating the extensive intersessional activity and collective expertise gained during the IWC process, Simon Brockington, IWC Executive Secretary, highlighted the numerous workshops organized around the world. He also expressed praise for the hard work of the Slovenian government in making its country IWC’s “second home” in past years.

OTHER MATTERS: On Monday, IWC Chair Mainini announced that opening statements by IWC Commissioners had been received in writing and would be included in the meeting report.

Josh Frydenberg, Minister for the Environment and Energy, Australia, emphasized, *inter alia*: keeping the global moratorium in place; the draft resolution by Australia, New Zealand and the US to bring the IWC in line with other multilateral environmental agreement (MEA) bodies, and Australia's commitment of AU\$200,000 to progress that work; the need for IWC to have greater engagement and responsibility regarding special permit whaling; support for the proposed establishment of a South Atlantic Whale Sanctuary (SAWS); and Australia's provision of AU\$1.5 million for the IWC Southern Ocean Research Partnership.

Recalling that voting rights at IWC meetings are dependent on payments of IWC contributions, IWC Executive Secretary Brockington stated that the voting rights of 15 member states had been suspended.

Delegates then reviewed the list of IWC-66 documents and resolutions (IWC/66/02). The US drew attention to the resolution it had tabled on the critically endangered vaquita, stressing the need to align IWC work with that of other relevant organizations, including CITES.

Delegates adopted the meeting agenda (IWC/66/01Rev), with Antigua and Barbuda expressing concern that the agenda lacked a balanced representation of the issues under consideration by the IWC.

On Tuesday, IWC Executive Secretary Brockington reported that all credentials had been approved.

SCIENTIFIC COMMITTEE PRESENTATION

On Monday, Scientific Committee Chair Caterina Fortuna (Italy) presented the reports on the Committee's work over the last biennium (IWC/66/Rep01, 2015 and 2016). She presented the new format for recommendations and ongoing cooperation with numerous international conventions and organizations. Among the issues addressed in the report, she highlighted, *inter alia*:

- general assessment- and implementation-related matters, underscoring the relevance of the RMP approach;
- non-deliberate human-induced mortality of cetaceans, including bycatch of large whales and small cetaceans, entanglement and ship strikes;
- the Aboriginal Whaling Management Procedure approach, accompanied by management advice;
- whale stocks assessments, including for Antarctic minke whales, Southern Hemisphere humpback and blue whales, North Pacific blue, humpback, sei, right and gray whales, and Arabian Sea humpback whales;
- environmental concerns as potential and actual threats to cetaceans that include chemical pollution, oil spill impacts, cetacean diseases of concern, stranding and mortality events, climate change, marine debris and litter, chemical spills, and effects of anthropogenic sound;
- ecosystem modeling;
- work on small cetaceans;
- whale watching activities and impact assessment;
- work on special permits, including updating Annex P to the Convention (Process for the Review of Special Permit Proposals and Research Results from Existing and Completed Permits) and two expert panel reviews;
- sanctuaries, including a review of the SAWS proposal; and

- Conservation Management Plans (CMPs), including support for existing CMPs, potential candidates for new ones, CMPs for small cetaceans and threat-based CMPs.

In the ensuing discussion, Switzerland highlighted progress on transparency of decision making; Mexico welcomed the work plan; Guinea hoped the report would guide future decision making; Monaco emphasized increased synergy; Antigua and Barbuda asked about the intention and reason for collaborative efforts with the International Maritime Organization (IMO); and Denmark noted as an achievement of the Scientific Committee that sustainability of catch limits had not been controversial since 2009.

CONSERVATION COMMITTEE PRESENTATION

On Monday, Lorenzo Rojas-Bracho (Mexico), Chair of the Conservation Committee, introduced the Committee's report (IWC/66/Rep05), including the Strategic Plan 2016-2026. He highlighted collaboration initiatives with other committees, such as through the IWC Joint Conservation and Scientific Committee Working Group; and with other international organizations such as the IMO, the UN General Assembly, the UN Environment Programme (UNEP), the Food and Agricultural Organization of the UN (FAO), CMS and the Biodiversity Liaison Group. He explained that the Committee had made significant progress in addressing issues affecting cetaceans, including ship strikes, bycatch and sanctuaries.

The Netherlands, on behalf of the European Union states who are IWC members (hereafter: the Netherlands, on behalf of the EU), expressed hope that the Committee's Strategic Plan would contribute to the recovery of cetacean populations worldwide. The UK announced its contribution of £15,000 to the Voluntary Conservation Fund to help develop a handbook on whale watching. Monaco noted the Committee's increasing international recognition for its expertise on bycatch as well as marine anthropogenic sound and waste.

PROPOSAL TO AMEND THE SCHEDULE: SOUTH ATLANTIC WHALE SANCTUARY

On Monday, Brazil introduced the proposal to establish a SAWS (IWC66/09) and the associated management plan (IWC66/08Rev). Sarney Filho, Minister of Environment, Brazil, speaking on behalf of the proposal's co-sponsors Brazil, Gabon, South Africa, Argentina and Uruguay, called the SAWS initiative a mature proposal, which has been revised and refined over many years. He dismissed concerns regarding food security impacts, saying the sanctuary will benefit coastal states, and emphasized broad support, including more than one million signatures from civil society. Noting the IWC's 70th anniversary and 15 years' passage since the SAWS was first proposed, he said it was "high time" for the IWC to take this crucial step.

Uruguay presented a short video about a Uruguayan cetacean sanctuary created in 2013. The video highlighted the power of youth engagement and community empowerment. South Africa emphasized positive economic benefits, including poverty alleviation in communities where new whale watching opportunities could help replace lost mining jobs, and stressed the need to protect whales in adjacent high seas. Gabon dismissed as myth the idea that the whales are "eating all the fish," noting that the whales feed in higher latitudes, and pointing to overfishing, including illegal, unreported and unregulated fishing, as the reason for fish stock declines. He further emphasized the fruitful collaboration between South America and Africa on this proposal. Argentina highlighted the SAWS as: an effective tool to maintain

and increase whale populations, mitigate threats and encourage non-lethal research, especially among developing countries; and a general framework to develop local measures.

Scientific Committee Chair Fortuna noted the Committee's role in providing advice on sanctuaries and sanctuary proposals. Highlighting the Committee's conclusions and recommendations contained in its 2016 report (IWC/66/Rep01), she said the Committee agrees that a sanctuary such as the SAWS has, in principle, the potential to encourage collaboration and to facilitate development of coordinated scientific research and monitoring programmes relevant to meet IWC management and conservation goals.

Conservation Committee Chair Rojas-Bracho noted that the sanctuary is consistent with existing measures to protect whales and, with the precautionary approach, may help fulfil existing commitments related to biodiversity and climate change.

India, Mexico, Monaco, the US, Chile, Australia, and the Netherlands, on behalf of the EU, supported the proposal.

Mexico highlighted the recommendations by the Scientific and Conservation Committees. The US underscored benefits to local coastal communities, noting that previous concerns regarding the establishment of the sanctuary have been addressed and urging for the establishment of national sanctuaries for whales. The Netherlands, on behalf of the EU, commended the co-sponsors for developing a comprehensive proposal that has the potential to encourage collaboration and stimulate research. Spain highlighted the endorsement of the management plan by the Scientific Committee. Australia stressed that all SAWS range states that are IWC members support the proposal as well as potential benefits, noting that the proponents have gone through the proper process ensuring that the Scientific Committee is fully engaged. Monaco said that sanctuaries are proven effective tools to restore stocks and enhance cooperation in non-lethal research.

Japan, Antigua and Barbuda, Guinea, Iceland, Norway, the Russian Federation, and the Republic of Korea opposed the proposal.

Japan and the Republic of Korea reiterated their position regarding the principle of sustainable utilization of marine living resources, noting that sustainable use is perfectly consistent with environmental protection. Japan stressed that since the sanctuary is based on the idea of total protection of whales, his country is not able to support the proposal, suggesting instead regional activities and cooperation in the form of a memorandum of understanding. The Republic of Korea added that the establishment of an additional sanctuary is a unilateral measure. Noting that the proposal has been on the agenda for a long time and that it runs contrary to ICRW Article V (on amending provisions of the Convention), Iceland said that there is no need for additional protection measures, such as the establishment of a sanctuary. The Russian Federation distinguished between establishing global sanctuaries and local ones, such as in hotspots, noting his country does not support the former. Antigua and Barbuda remarked that neither proponents nor opponents of the sanctuary have presented any scientific evidence in support of their positions, and suggested asking the Scientific Committee for a comprehensive review of whether or not sanctuaries are a useful management tool. Guinea felt there was no need to establish the sanctuary, as the moratorium already provides for complete protection.

The World Cetacean Alliance emphasized whale watching job creation and income potential, citing southern right whale-related tourism in Patagonia. The International Union for Conservation of Nature and Natural Resources (IUCN) said a motion at the recent

2016 World Conservation Congress in support of the SAWS received support from 95% of governments and 98% of NGOs in attendance.

In conclusion, Brazil noted a diversity of opinions and suggested deferring a decision on the proposal until Tuesday to allow opportunity for informal discussions.

On Tuesday, in a vote requiring a three-fourths majority to pass, the proposal was rejected with 38 members voting in favor, 24 opposing and 2 abstaining.

Referencing recent Nobel Prize winner Bob Dylan, Brazil urged delegates to "stay forever young" when they vote again on the proposal at IWC-67 in Brazil. Denmark explained that her vote to approve the proposal was based on the agreement of the SAWS range states, but that it should not set a precedent on her position for the establishment of other sanctuaries in regions where coastal states are in disagreement. Costa Rica specified that migratory routes of whales would have been protected by the sanctuary, and recalled the 2016 IUCN Congress's support for the proposal. New Zealand drew attention to the proposal's inclusion of a management plan to enhance conservation and management activities, non-lethal research, education, and economic development of coastal communities. Kenya explained its vote against the proposal due to the unclear recommendations contained in the Scientific Committee report.

Final Outcome: IWC-66 rejected the proposal to establish a SAWS.

RESOLUTIONS

ENHANCING THE EFFECTIVENESS OF THE IWC: On Monday, Australia introduced the draft resolution on enhancing the effectiveness of the IWC (IWC/66/10), proposed by Australia, New Zealand and the US. He explained the resolution focuses on how the IWC operates rather than on its scope. In addition to the US pledge of US\$20,000, he announced AU\$200,000 to the IWC's performance review process. The Netherlands, on behalf of the EU, expressed support for the comprehensive independent review of the IWC's institutional and governance structure, including its financial procedures and rules. Mexico, Brazil and the US also supported the resolution, while Iceland and Japan expressed reservations. Reassuring Commissioners that the reviewers will not comment on past decisions or present policy, Monaco said the performance review is in line with best practices of other multilateral treaties.

An informal drafting group was established to work on the draft resolution.

On Thursday, the US reported back from the drafting group on a revised draft resolution (IWC/66/10Rev), submitted by Australia, Brazil, Mexico, New Zealand and the US. He drew attention to a new paragraph in the preamble, recognizing different views concerning the priority of the IWC's objectives and mandates. He further summarized main changes in the operative paragraphs and said that rather than creating a new working group, a steering group representing a range of views, selected during IWC-66, will nominate a panel of three independent reviewers in consultation with the IWC Chair and Vice-Chair. The review panel will submit a report in accordance with the annexed terms of reference for discussion at IWC-67, and the Working Group on Operation Effectiveness will submit a proposal to guide the IWC in responding to the recommendations of the review.

IWC-66 adopted the resolution by consensus.

On Friday, Chair Mainini invited parties to take part in the Steering Group. The IWC accepted the offers from the US, Costa Rica, Australia, Monaco, India and Switzerland.

Final Outcome: In its Resolution IWC/66/10Rev, the IWC:

- agrees to a comprehensive, independent review of the Commission's institutional and governance arrangements, based on terms of reference contained in the annex to the resolution;
- calls upon contracting governments to make voluntary contributions to support this review;
- agrees to establish at IWC-66 a Steering Group to select a panel to conduct the review in the intersessional period;
- agrees that the review will be conducted by a panel of three independent reviewers selected by the Steering Group, in consultation with the Chair and Vice-Chair of the Commission;
- agrees that the review panel will submit a report to the Executive Secretary for discussion at IWC-67;
- agrees that the Secretariat will circulate the report to contracting governments and accredited observers, and to the Working Group on Operational Effectiveness; and
- requests that this Working Group consider the report and submit a proposal to guide the Commission in responding to the recommendations of the review at least 60 days in advance of IWC-67.

IMPROVING THE REVIEW PROCESS FOR WHALING UNDER SPECIAL PERMIT:

On Monday, Australia presented the draft resolution on improving the review process for whaling under special permit (IWC/66/11), proposed by Australia and New Zealand. He said more work was needed in this area, recalling Japan's resumption of special permit whaling in the Southern Ocean despite the ICJ ruling in 2014 that this was illegal. He said the resolution suggests the creation of a small working group under the Commission that would further elaborate the review process and help interpret the Scientific Committee's "highly technical" advice on the issue.

New Zealand suggested establishing an informal drafting group to fine-tune the draft text. Scientific Committee Chair Fortuna elaborated on recent Scientific Committee work in this area, noting that it is a matter of high priority.

India, the US and the Netherlands, on behalf of the EU, supported the draft resolution. Acknowledging that there are fundamentally different views on whales and whaling, Japan emphasized its commitment to addressing all of the Scientific Committee's concerns "in a faithful manner." He urged making the draft resolution "perfectly consistent with the ICRW and the Schedule," and offered to be part of the informal drafting group addressing this issue.

Monaco stressed that ICRW Article VIII (Whaling under Special Permit) was written 70 years ago, long before major advances regarding non-lethal whale research, underscoring that the recent ICJ ruling stated that Article VIII does not allow proponents to make unilateral decisions based on their own evaluations of "scientific purposes."

The Australian Marine Conservation Society, speaking on behalf of many NGOs, noted that special permit whaling has only been used since the moratorium and is an anachronism that should be removed since it does not offer anything that cannot be obtained through non-lethal means. He underscored that the ICJ ruling notes that the IWC is an evolving body and that state parties have a duty to cooperate with the IWC.

Noting his opposition to the proposed resolution, the IWMC World Conservation Trust stressed that Article VIII is a specific, authorized provision and it cannot be viewed as a loophole.

On Thursday, Australia reported on the results of the drafting group's deliberations (IWC/66/11Rev), noting: a provision for parties to self-nominate onto the Standing Working Group;

improved balance of views to assist IWC in decision making about special permits; and greater clarity about the terms of reference.

Declining his support, Japan said the resolution would: further restrict contracting governments' rights under Article VIII; add additional mechanisms beyond paragraph 30 of the Schedule (which states that contracting governments shall provide the IWC Secretary with proposed scientific permits before they are issued and in sufficient time to allow the Scientific Committee to review and comment on them); and change the Convention's intention. He reaffirmed Japan's commitment to sharing information and scientific aspects of its research.

Antigua and Barbuda expressed concern that the IWC is being reduced to non-binding directives; urged withdrawal of the resolution; and recommended the IWC create a working group or ask the Bureau to review resolutions in advance for consistency with the IWC's legal framework.

The Netherlands, on behalf of the EU, said the revision helped clarify objectives.

Lacking consensus, the draft resolution was put to a vote requiring a simple majority and was adopted with 34 members in favor, 17 opposed and 10 abstaining.

On Friday, Chair Mainini invited delegates to take part in the Standing Working Group. The IWC accepted the offers from Australia, the US, New Zealand and Costa Rica, encouraging others to also join this group.

Final Outcome: In its Resolution IWC/66/11Rev, the IWC, *inter alia*:

- agrees to establish a Standing Working Group to consider the reports and recommendations of the Scientific Committee with respect to all new, ongoing and completed special permit programmes, and report to the Commission;
- requests contracting governments to provide members of the Scientific Committee unrestricted and continuing access to all data collected under special permit programmes;
- instructs the Scientific Committee to inform the Commission as to whether Scientific Committee members had unrestricted and continuing access to data collected under special permit programmes, and analyses thereof;
- agrees that the Commission will form its own view regarding: whether the review process has adequately followed the instructions set out in Annex P of the Convention (procedure for issuing special permits) and any additional instructions provided by the Commission; whether the elements of a proposed special permit programme, or the results reported from an ongoing or completed special permit programme, have been adequately demonstrated to meet the criteria set out in the relevant terms of reference in Annex P, and any additional criteria elaborated by the Commission; and any other relevant aspect of the new, ongoing or completed special permit programme and review in question; and
- agrees that the Commission will: provide any recommendations or advice it considers appropriate to the responsible contracting government regarding any aspect of the new, ongoing or completed special permit programme, including affirming or modifying any proposed recommendations or advice proposed by the Scientific Committee; and make public a summary of the Commission's conclusions in this respect.

FOOD SECURITY: On Tuesday, Ghana introduced the draft resolution on food security (IWC/66/12), proposed by Ghana, Côte d'Ivoire and Guinea. He explained that the draft resolution aims to integrate food and nutritional security concerns in the IWC's decision-making process. Noting the existence of 870 million food-insecure people worldwide, he said marine genetic

resources, including cetaceans, can help alleviate hunger in developing countries. Referencing the outcome document of the UN Conference on Sustainable Development entitled “The Future We Want,” he urged cooperation with FAO, complementing its efforts to combat food insecurity.

Guinea added that any policy aiming at the absolute protection of whales without a scientific basis will have a devastating impact on small pelagic fish and consequently on food security. Côte d’Ivoire underscored the fragile state of many African countries, noting that any environmental or economic disruption has a stronger impact on them compared to developed countries.

New Zealand, Gabon and the Netherlands, on behalf of the EU, noted that FAO remains the appropriate forum for such discussions.

Togo, Japan, Cameroon, Iceland, Antigua and Barbuda, St. Vincent and the Grenadines, and St. Kitts and Nevis supported the proposal.

Referencing the preamble of the ICRW, Japan reaffirmed the importance of cetaceans as a food source, especially for island and coastal states. Regarding FAO’s mandate, he stressed that a past Japanese concern on potential conflicts between whales and fish in terms of fish security raised at the FAO Committee on Fisheries, was redirected to the IWC. Cautioning against unnecessary restrictions, Iceland recalled the Universal Declaration of Human Rights and the right to food. Antigua and Barbuda, with St. Vincent and the Grenadines, emphasized Sustainable Development Goal 2 (zero hunger), noting that food security is critical for world peace and for the livelihoods of marginalized people.

The US, India, South Africa, New Zealand, the EU, Costa Rica, Australia, Mexico and Gabon either opposed the proposal or requested substantive revision of the draft resolution.

The US underscored the importance of food security but noted, supported by Australia, that it is relevant to the IWC’s work only in the context of aboriginal whaling. He also suggested that a preambular paragraph “reaffirming” Article 25 of the Universal Declaration of Human Rights (right to adequate standard of living, including food), should rather “recall” it. Stressing that it is neither possible nor desirable to use cetaceans for hunger reduction, India noted that despite launching the world’s largest food security programme, India has been giving cetacean species the highest level of protection since 1972.

South Africa and New Zealand urged inclusion of the concept of non-consumptive uses. New Zealand, supported by Australia, urged for a clear reaffirmation of the moratorium in the resolution. The Netherlands, on behalf of the EU, noted that some paragraphs may undermine the moratorium and wrongly give the impression that conservation measures threaten food security, suggesting that the IWC address unregulated and unmanaged hunts. Costa Rica noted that whales are “more valuable alive than dead” for their local communities that face food security problems. Mexico underscored that commercial whaling is not the answer to food insecurity, pointing to overfishing as a threat to marine resources. Gabon emphasized that conservation of whales can contribute to food security.

Deliberations continued in a drafting group.

On Thursday, Ghana noted, with great disappointment, that the drafting group had not reached consensus. He stressed, *inter alia*, that: significant changes had been made to the original document, taking into account expressed concerns; the resolution has nothing to do with the moratorium; some members feel comfortable discussing food safety but not food security; and poverty, malnutrition and food security should not be politicized and should not be the responsibility of solely the FAO.

Final Outcome: The draft resolution (IWC/66/12) was not put to a vote. Ghana announced that work on the draft text will continue intersessionally, expressing hope that agreement can be reached before IWC-67, and requested the Secretariat to keep the item on the agenda for the next meeting.

FUND TO STRENGTHEN THE CAPACITY OF GOVERNMENTS OF LIMITED MEANS: On Tuesday morning, Hideki Moronuki (Japan), Chair of the Working Group on Providing Options to Governments with Limited Means to Participate in the Commission’s Work, introduced the draft resolution on this topic (IWC/66/13Rev), submitted by Cambodia, Ghana and Japan. He highlighted similar funding mechanisms under bodies such as CITES, the Convention on Biological Diversity, and the Inter-American Tropical Tuna Commission to ensure full participation of developing countries.

Ryan Wulff (US), Chair of the Finance and Administration Committee, said the Committee was supportive, but that some countries requested more time to work with proponents.

Ghana, Kiribati, St. Vincent and the Grenadines, Tuvalu, Guinea, Iceland, and St. Kitts and Nevis supported the resolution, with many highlighting the challenges faced by developing countries and the proposal’s consistency with other MEAs.

The Netherlands, on behalf of the EU, recognized the importance of increased participation, but said, with Argentina, the resolution would conflict with Article III (5) of the Convention, which states that the expenses of each member shall be paid by his or her own government. He suggested further discussion on the proposed Annex 2 to establish an appropriate framework, including clarification on which kind of participation could be supported.

The US supported the establishment of a voluntary fund, including for work under the IWC subsidiary bodies. He noted the problem of Article III (5) and suggested that funds could be used to assist governments to pay these costs.

Supporting the concept, Australia suggested more guidance on determining eligibility for funds in proposed Annex 2 and drew attention to proposed resolution IWC/66/10 on enhancing the effectiveness of the IWC, noting the proposed independent review could provide a useful way to continue deliberations.

Noting that many countries still wished to speak, Chair Mainini observed general support for the resolution, with Article III (5) being the main obstacle. A drafting group consisting of Japan, US, the Netherlands on behalf of the EU, Argentina, and Antigua and Barbuda was formed.

On Friday, Japan presented a new draft text (IWC/66/13Rev2), praising the cooperative spirit in the informal consultations, but noting persisting, fundamental differences of opinion. Togo underlined the importance of developing a mechanism under the IWC, like in other international bodies. St. Vincent and the Grenadines felt that any hesitation regarding the draft resolution “disregards of the needs of those who are less fortunate.” Colombia, on behalf of the Buenos Aires Group (Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Mexico, Panama, Peru, and Uruguay), acknowledged the need to establish a mechanism, but identified uncertainties in the draft. She suggested that work continue intersessionally, in order to allow adoption by consensus in the future.

Japan said he still hoped consensus would be reached at this meeting. Argentina said he could not accept the draft resolution in its current form and supported Colombia’s proposal. Japan chose to bring the draft resolution to a vote. The Netherlands, on behalf of the EU, called for ten minutes of consultation time, which

was denied. The resolution was subsequently adopted with 30 members voting in favor, zero against, 31 abstaining, and one not participating.

The Netherlands said he had abstained from voting because there had been no time for EU coordination, and that he would have preferred intersessional work to arrive at consensus at a later stage. New Zealand said she had voted in favor of the resolution, because her country firmly believes in full participation of all members in the technical, science and conservation positions and in the Bureau. Australia reaffirmed that he supported the resolution. Argentina said while he supports the initiative, he has doubts about the eligibility criteria and the consistency of the resolution with Article III (5).

Final Outcome: In its Resolution IWC/66/13Rev2, the IWC:

- decides to create a “Voluntary Assistance Fund” to facilitate contracting governments in “Capacity To Pay” Groups 1 and 2 that are not EU Member States or members of the Organization for Economic Cooperation and Development to participate fully in the work of the Commission (“Capacity to Pay” is based on gross national income and gross national income per capita; the lowest capacity to pay countries are allocated to Group 1, and the highest to Group 4; an exception exists for very small countries that are placed into Group 2);
- decides the sources of the Fund shall be voluntary contributions from contracting governments or from national or international bodies or entities;
- decides that contracting governments’ willing to contribute to the Fund shall not place individual country-specific restrictions on the choice of beneficiaries and shall not specifically finance participation by means other than contributions to the Fund;
- decides that payments from the Fund be made in accordance with the lesser of the amount provided for in the International Civil Service Commission’s Daily Subsistence Allowance and UN travel rules, or the amount provided for in the domestic rules of the eligible Groups 1 and 2 governments, and shall ensure that all beneficiaries are treated in the same way;
- decides that the initial capital of the Fund shall be the voluntary contributions provided for support of developing countries during the “Future of the IWC” process that remain unspent;
- encourages contracting governments and invites others in a position to do so, to make contributions;
- requests the Secretary with advice from the Bureau to administer the Fund, giving priority to eligible Group 1 governments;
- requests the Secretary to provide timely estimates of the funding required to facilitate the full participation of eligible Groups 1 and 2 governments, as well as the balance available and any shortfall;
- decides that the Fund shall be available to the eligible Groups 1 and 2 governments based on guidelines for the administration of funding in Annex 2 to this resolution;
- decides that these guidelines should be kept under review and further amendments be proposed to ensure effective prioritization and use of funds consistent with Article III (5) of the ICRW;
- decides that a review of the performance of the Fund shall take place at IWC-69; and
- adopts the amendments to its Financial Regulations and an additional appendix thereto, as Annexes 1 and 2 to the resolution.

Annex 1 establishes a Voluntary Assistance Fund under Section C of the IWC General Financial Arrangements. Annex 2 establishes: guidelines for administration of funding; definitions;

eligibility requirements; acceptable use of funds; expectations of sponsored delegates; prohibited expenditures; the application process; procedures for disbursement of funds; a prioritization process in the event of a funding shortfall to support participation of all eligible governments; and reporting requirements to each IWC meeting.

CETACEANS AND ECOSYSTEM FUNCTIONING: On Tuesday, Chile presented its draft resolution on cetaceans and their contributions to ecosystem functioning (IWC/66/15Rev), proposed by Chile and Brazil, noting that in a previous version it had referred to “ecosystem services” rather than “ecosystem functioning.” She explained how whales increase primary productivity and thus impact carbon cycles, the functioning of ecosystems, and humans. She said the draft resolution asks the Scientific and Conservation Committees to work on a review of cetaceans’ roles in ecosystems, and to collaborate on this matter with other international, regional and national bodies.

Scientific Committee Chair Fortuna recalled that a working group is already in place that examines this issue, and said that, should this resolution be adopted, she would like clear instructions on how to proceed.

The US and Norway supported the premise behind the draft resolution, but preferred forwarding the matter to the Scientific Committee for further consideration.

Recalling that the UN Millennium Ecosystem Assessment recognizes four categories of ecosystem services, one of which is cultural services, Japan urged that these should also be taken into account. Iceland opposed the resolution, noting the difficulties in quantifying ecosystem services and the many uncertainties pertaining to the biology of whales.

Australia, Monaco, the Netherlands, on behalf of the EU, and the Cetacean Conservation Center, on behalf of several NGOs, supported the draft resolution.

Chile said it would draft a revised text.

On Thursday, Chile reported that the draft resolution had been improved in several rounds of consultations, and resubmitted by Chile, Argentina, Brazil, Dominican Republic, Mexico and Uruguay (IWC/66/15Rev3). Japan said it could not accept the draft resolution, noting that it denies the sustainable use of whales. Consequently, the draft resolution was put to a vote. It passed by a simple majority, with 36 members voting in favor, 16 against, and 9 abstentions.

Final Outcome: In its Resolution IWC/66/15Rev3, the IWC:

- acknowledges increasing scientific data suggesting that whales enhance nutrient availability for primary production;
- recognizes the need to include consideration of the contributions made by live cetaceans and carcasses present in the ocean to marine ecosystem functioning in conservation, management strategies and decision making;
- encourages contracting governments to work constructively towards integrating considerations related to the role played by live cetaceans in regulating and supporting ecosystem functioning, in future decisions, agreements and resolutions;
- resolves to review the ecological, management, environmental, social and economic aspects related to the contributions of cetaceans to ecosystem functioning to people and natural systems, as a matter of importance;
- directs the Conservation Committee to undertake the review previously identified and directs the Conservation and Scientific Committees to further incorporate the contribution made by live cetaceans to ecosystem functioning into their work;

- asks the Scientific Committee to screen the existing research studies on the contribution of cetaceans to ecosystem functioning, to develop a gap analysis regarding research and to develop a plan for remaining research needs; and
- decides to increase collaboration and cooperation with governmental and non-governmental, regional, and international organizations to work on the contributions made by live cetaceans to ecosystem functioning issues, including the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), FAO and CITES, among others.

MINAMATA CONVENTION ON MERCURY: On Tuesday, Uruguay introduced the draft resolution on the Minamata Convention on Mercury (IWC/66/14Rev), proposed by Brazil, Colombia and Uruguay. Noting the draft resolution's aim to better align the IWC's scope with the Minamata Convention, he said it requests the Scientific Committee to submit at its next meeting a report on the effects of contaminants, especially mercury, on cetaceans. Colombia stressed the potential of the draft resolution to generate synergies among conventions to promote the protection of human health in relation to mercury.

Scientific Committee Chair Fortuna said that while the Scientific Committee is not in a position to recommend specific threshold levels, it can certainly contribute through the distribution of relevant information to international organizations that are more focused on health issues.

Switzerland, Monaco, the Netherlands, on behalf of the EU, and Mexico supported the draft resolution.

Switzerland said the draft resolution is timely before the entry into force of the Minamata Convention, which is expected to accrue the required 50 ratifications early in 2017. Noting that there can be no food security without food safety and that the Minamata Convention was drafted explicitly in the name of vulnerable groups, Monaco stressed that adopting the draft resolution will open another path of cooperation among different UN agencies. The EU underscored that the increase of organic contaminants and heavy metals, including mercury, has taken a toll on the conservation efforts on cetaceans and, in some cases, on human health. Mexico highlighted that studies indicate that the toxic effects of mercury are subtle and difficult to establish, urging for local data collection and a global risk assessment.

Japan and Iceland opposed the draft resolution. Japan stressed that the Minamata Convention's objective is to "protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds," which he felt was unrelated to the conservation and sustainable use of cetaceans. Noting that populations of Japan, Norway and Iceland have the longest life spans and that certain parts of the draft resolution create fear and unease regarding potential health impacts of whale consumption, he said that a link between health issues and consumption of whale meat and products has not been proven. Iceland stressed that human health falls outside the scope of the ICRW, while marine pollution is well addressed in other fora.

The Russian Federation stated he will not oppose the draft resolution if his proposed amendments are accepted, including removal of language encouraging countries to ratify the Minamata Convention, noting that it is their sovereign right to adhere to it or not.

The item remained open, pending informal consultations.

On Thursday, Uruguay presented the revised version of the draft resolution on the Minamata Convention on Mercury (IWC/66/14Rev3), resubmitted by Uruguay, Brazil, Colombia, Switzerland and Monaco. Japan reaffirmed his country's position that the objective of the Minamata Convention is mainly related to anthropogenic emissions and the release of mercury, and is

unrelated to the IWC's objectives. He further added that the operative paragraph inviting governments to promote non-lethal scientific research may be interpreted as an invitation to eliminate lethal methods.

Noting the lack of consensus, the draft resolution was put to a vote. It was adopted with 38 votes in favor, 23 against and no abstentions.

Final Outcome: In its Resolution IWC/66/14 Rev3, the IWC:

- decides to seek collaboration with the Conference of the Parties of the Minamata Convention;
- invites contracting governments to: promote non-lethal scientific research programmes to monitor the presence of mercury in cetacean populations; and cooperate together and with the World Health Organization to assess the impact of mercury on human health and on the marine environment; and
- requests the Scientific Committee to provide at IWC-67 a summary of the current state of knowledge on the presence of heavy metals, with an emphasis on mercury compounds, in cetaceans and prioritize research areas.

CRITICALLY ENDANGERED VAQUITA: On Tuesday, the US introduced its draft resolution on the critically endangered vaquita (IWC/66/20), pleading for urgent action to prevent the second cetacean extinction within a decade. He explained that the use of gillnets for the illegal international trade of totoaba swim bladders has added to the decline of the vaquita population, which now numbers fewer than 59 individuals. Chair Fortuna confirmed the resolution was in line with recommendations of the Scientific Committee.

Iceland questioned why the resolution was submitted so late to IWC-66. The Netherlands, on behalf of the EU, explained the vaquita situation was too urgent to respect the 60-day deadline before IWC-66. Argentina, supported by Austria, the Dominican Republic, Chile, Brazil, Switzerland, Costa Rica and Colombia, said the IWC would lose credibility if it allows the vaquita to become extinct as the baiji dolphin already has. St. Vincent and the Grenadines argued the IWC should not deal with small cetaceans.

IUCN stated that the vaquita can only survive if the totoaba bladder trade is curbed. The Environmental Investigation Agency urged Mexico to ban all use of gillnets in the area.

On Thursday, the US presented the revised version of the draft resolution (IWC/66/20Rev), resubmitted by the US and the EU Member States that are IWC members. He drew attention to new language recognizing the existence of different views between IWC members on the regulatory competence of the IWC with regard to small cetaceans, noting that this resolution does not seek to prejudice those positions.

Antigua and Barbuda, St. Vincent and the Grenadines, Japan, Ghana, Guinea, St. Lucia, and the Russian Federation noted that while they would not block consensus, they decline to participate in the process. Antigua and Barbuda stressed: that the IWC has no legal authority to manage small cetaceans but for the sake of the endangered vaquita he will not block consensus, supported by Japan and St. Vincent and the Grenadines; the need to ensure range states have the capacity to manage and enforce the resolution's requirements; and that it is disappointing to strive for consensus regarding certain resolutions and adopt a "take it or leave it" approach for others.

Following a query from Antigua and Barbuda, Japan explained that he would prepare a statement whereby those IWC members that do not participate in the process without blocking consensus can have their position recorded in the Chair's report of IWC-66. The Russian Federation noted he holds an independent position and will provide a separate note.

The resolution was adopted by consensus.

On Friday, Japan made a statement on behalf of the countries that did not join the consensus, noting that these countries are deeply concerned about the conservation status of the vaquita, but feel that small cetaceans do not fall within the IWC's mandate.

Final Outcome: In its Resolution IWC/66/20Rev, the IWC:

- expresses deep concern that the vaquita numbers less than 59 animals and is facing imminent extinction;
- affirms that only a permanent, complete, and effective gillnet ban in all fisheries operating in the Upper Gulf of California will prevent its extinction;
- commends the Mexican Government for the Strategy on the Comprehensive Care of the Upper Gulf of California that includes an interagency enforcement programme, a two-year gillnet ban (from May 2015), compensation for fishermen and those who work in fishery-related activities and the development of alternative fishing gear; and the announcement of a permanent ban on gillnets in the Upper Gulf of California gillnet exclusion zone from April 2017 and the programme to remove derelict fishing gear in the Upper Gulf of California;
- urges the Mexican Government to eliminate exemptions to the ban, which can facilitate illegal fishing for totoaba, and to prohibit the use of any gillnets within the range of the vaquita;
- endorses the recommendations of the Scientific Committee, including the urgent need to strengthen enforcement efforts against illegal fishing in Mexico and totoaba smuggling out of Mexico and into transit and destination countries;
- urges all contracting governments to follow the recommendations in CITES Decision CoP-17 Com.I.2 and strengthen enforcement actions to eliminate the illegal international trade in totoaba swim bladders; and to support Mexico's efforts to prevent the extinction of the vaquita by assisting in providing financial resources as well as technical and socio-economic expertise; and
- requests the IWC Secretary to forward a copy of this resolution to the CITES, FAO and IUCN Secretariats.

ABORIGINAL SUBSISTENCE WHALING

REPORT: Joji Morishita, IWC Vice-Chair, presented the report on activities of the Aboriginal Subsistence Whaling (ASW) Sub-Committee (IWC/66/Rep03). On the report by the *Ad-Hoc* ASW Working Group (ASWWG) that prepares advice on ASW quotas (IWC/66/ASW/Rep02), he highlighted, *inter alia*, the 2014 ASWWG meeting with hunters, which led to recommendations for an expert workshop and the appropriate development of "Needs Statements," which detail the cultural, subsistence and nutritional aspects of the hunt, products and distribution.

On the 2015 Expert Workshop on ASW held in Greenland, Morishita emphasized, among other things: the great diversity among different ASW communities; difficulties in quantifying ASW whaling needs; cultural changes in response to external and internal circumstances; and the need to align IWC practice with ongoing developments in international law. On Needs Statements, he highlighted several recommendations, including: replacing "Needs Statement" with "Description of Needs"; providing these statements only when new information is needed or when changes occur (such as catch limit requests); compilation of information on needs on the IWC website; and development of a timetable to allow more time between a decision by the IWC and the actual start of ASW activities.

Dalee Dorough, Expert Member of the UN Permanent Forum on Indigenous Issues, gave a presentation on ASW in the context of international human rights law. She reviewed key international agreements on human rights, stressing the primacy of indigenous

peoples' rights to their own means of subsistence in the context of ASW. She said the IWC needs to keep pace with other MEAs regarding protection and promotion of indigenous rights or it risks "gravitating to the neighborhood of discrimination."

Morishita said that the Expert Workshop on ASW had provided a series of recommendations, included in Appendix 4 of the ASW Sub-Committee report. Noting that some of the recommendations may have legal, financial and procedural implications, he suggested that they may be addressed intersessionally.

Commending the work done, the Netherlands, on behalf of the EU, felt it premature to adopt new terminology relevant to the catch limits. He welcomed the detailed approach of the timeline and urged for greater transparency, timely information and dialogue, so that catch limit proposals can be tabled during IWC-67. Argentina and Chile said they could not support the expert workshop report in its entirety due to legal and financial implications. Argentina added, supported by Mexico, that whales are a shared resource and under Article 46 of the UN Declaration on the Rights of Indigenous Peoples, the rights of all indigenous peoples should be considered.

Denmark (Greenland) noted that Greenland depends on the "blue" economy, expressing hope, supported by Norway, that the recommendations from the expert workshop make a difference in the debate of ASW issues, making them less politicized. She urged, supported by the Russian Federation, to keep the momentum through continued dialogue to reach solutions on unresolved issues, stressing that if no agreement regarding catch limits is reached in 2018, Greenland will have to protect its population and achieve food security. The Russian Federation requested that Dorough's presentation be posted on the IWC's website, with the Dominican Republic responding that videos of whale hunting should also be posted.

Switzerland, supported by St. Vincent and the Grenadines, advocated replacing the phrase "Needs Statement," arguing that it is a fundamental change rather than just semantics and that nobody should have to justify their need for food.

The US noted that some of the recommendations should be considered during IWC-66 since they will impact deliberations at IWC-67, including the detailed timeline and the part of the website devoted to ASW.

Stressing that the central question should be the sustainability of the hunt, the North Atlantic Marine Mammal Commission (NAMMCO) noted that denying quotas and insisting on description statements violate the rights of indigenous peoples as embedded in international law. IWMC World Conservation Trust and Livelihood International stressed that traditional activities may involve modern technology. Noting that indigenous communities have lived in harmony with their subsistence resources since time immemorial, the Alaska Eskimo Whaling Commission stressed the need for the IWC to consider the full set of recommendations from the ASW Sub-Committee. The Animal Welfare Institute said that while the rights to cultural integrity and to resources have become customary international law and should be respected, smaller quotas could be justified on sustainability grounds.

IWC Chair Mainini suggested that discussions continue in an informal group.

On Friday, the US reported that the group had made a number of suggestions to improve the future work of the ASW Working Group, including that the Committee acknowledges that the ASW Working Group organizes its work in accordance with its own terms of reference. The IWC endorsed these suggestions.

ASW MANAGEMENT PROCEDURE: Morishita presented on the ASW management procedure. He highlighted elements from the ASW Sub-Committee report (IWC/66/Rep03), such as progress on Strike Limit Algorithms for Greenland ASW. He highlighted that a performance evaluation on Strike Limit Algorithms will be completed before IWC-67.

ABORIGINAL WHALING SCHEME: Morishita presented on the development of an Aboriginal Whaling Scheme (IWC/66/Rep03), noting it should be generic and over-arching. Mexico praised the Alaska Eskimo Whaling Commission's management of its whale stocks as a successful example of IWC collaboration with Inuit communities.

Delegates also discussed the issue of “stinky whales”—a phenomenon that has been affecting ASW in the Russian Federation since the 1970s. Stinky whales are gray whales whose meat has a very distinctive smell, for reasons as yet unknown. They are unsuitable for consumption, and thus discarded when caught. The Netherlands, on behalf of the EU, and Mexico proposed that the Russian Federation collaborate with the Scientific Committee on an in-depth study of the phenomenon. LegaSeas called for the IWC to provide core funding for this initiative.

ASW CATCH LIMITS: Morishita presented the ASW Sub-Committee recommendations on ASW catch limits for various regions (IWC/66/Rep03), noting that they were based upon recommendations by the Scientific Committee.

On North Atlantic humpback whales off St. Vincent and the Grenadines, the Dominican Republic drew attention to additional pressures by marine debris, bycatch and ship strikes, and felt these ASW catches were done “in constant non-compliance” with IWC guidelines. Costa Rica noted, and Scientific Committee Chair Fortuna confirmed, recent irregularities in ASW catch reporting in this region.

IWC-66 delegates endorsed the report and recommendations on ASW catch limits.

ASW VOLUNTARY FUND: Morishita reported that Denmark, Switzerland and the US had made contributions to the ASW Voluntary Fund. He noted that the balance of the Fund is currently zero, and encouraged IWC members to make additional voluntary contributions.

Final Outcome: The IWC: adopted the Scientific Committee's report and recommendations on ASW (IWC/66/Rep01); recognized the value of improving process and increasing understanding of issues surrounding ASW; welcomed use of a pilot timeline and process for consideration of catch/strike limit requests; and agreed that other intersessional discussions to improve the long-term approach will be undertaken by the ASW Working Group.

SOCIO-ECONOMIC IMPLICATIONS AND SMALL-TYPE WHALING

On Wednesday, Japan introduced the discussion paper “Responses to Japan's questionnaire and a Way Forward” (IWC/66/16), saying that its previously proposed catch quota for small-type coastal harvest of minke whales was based on a review of the RMP completed by the Scientific Committee. He questioned opposition to the proposed limits that are based on the Schedule's paragraph 10(e) (classification of stocks), saying the provision includes “clear language” regarding a comprehensive assessment of stocks and thus contemplates resumption of whaling for a particular species or stock; and noted that Japan was not requesting a total lifting of the moratorium. Japan described a “fundamental difference” among delegates, which is “haunting” the IWC: some countries support a sustainable use of the resource

based on science and international law; others reject whaling under any circumstances. He reviewed a number of IWC projects that have failed to move forward and questioned the need for the IWC's existence if it can't bridge its differences through science and international law. Japan said its questionnaire encouraged a transparent discussion on the issue.

Iceland, the Russian Federation, Norway, Guinea, Denmark (Greenland), Antigua and Barbuda, St. Vincent and the Grenadines, St. Lucia and the Japan Small-Type Whaling Association supported Japan's comments. Iceland described the IWC as at a stalemate. The Russian Federation highlighted indigenous peoples' rights, but said the IWC was still needed. Guinea questioned the influence of pressure groups. Denmark (Greenland) stressed the need for the IWC to remain relevant and true to its mandate. Antigua and Barbuda underscored that consensus is absent in the IWC and most major decisions are concluded by divisive voting, and urged developed countries to stop denying developing countries their right to participate, thus essentially “hijacking” the IWC. Noting that most coastal communities are poor and rely on the marine environment, St. Vincent and the Grenadines cautioned against political and economic power influencing the lives of others. Stressing that all efforts to solve the dysfunctional situation in the past have failed, St. Lucia noted that opposition to Japanese small-type coastal whaling is not based on either science or law. The Japan Small-Type Whaling Association stressed the collaborative practices of coastal communities that have been using whales sustainably for generations, urging for quotas enabling them to survive.

Australia, New Zealand, the US, the Netherlands, on behalf of the EU, and the Buenos Aires Group reaffirmed their support for the global moratorium on commercial whaling. The Netherlands, on behalf of the EU, took note of Japan's discussion paper and affirmed his strong commitment to the ICRW regulatory framework. Australia stressed that the world today is unrecognizable compared to 1946 and that the IWC has evolved accordingly and, despite the challenges, is not dysfunctional.

Monaco underscored that when Japan renounces its massive killing of whales under the guise of science, he is open to discuss broadening the ASW definition to include quotas for Japan. Noting that this very discussion portrays the IWC's strength, New Zealand said that “cooperation is not one way,” recalling Japan's whaling in the Southern Ocean despite the ICJ decision.

The US said that in addition to science and law, other dimensions like national commonly held values and policies influence parties' positions, and added that the perceived dichotomy between respect of human lives and the idea of conserving animals, including whales, does not really exist, since conservation efforts are ultimately designed to preserve people. Brazil underscored that both the scientific and conservation committees must strive to work in harmony and in coherence with other organizations and decisions taken during the 21st Conference of the Parties (COP-21) to the UN Framework Convention on Climate Change (UNFCCC), and the 2012 UN Conference on Sustainable Development. The Dolphin and Whale Action Network, on behalf of a collective of Japanese NGOs, requested Japan not to issue new permits intended to approve research whaling in the Southern Ocean and the Northwest Pacific; and revoke the scientific whaling budget and allocate it for research on coastal ecosystems and marine resources.

Japan stressed that the continuation of this discussion is critical for the IWC; drew attention to a number of adopted IWC resolutions on small-type coastal whaling; underscored that he is

not asking for a different category of whaling; and noted that a proposal on the way forward will be tabled under the agenda item on “the IWC in the future.”

CETACEAN STATUS AND HEALTH

WHALE STOCKS: On Wednesday, Scientific Committee Chair Fortuna presented the Committee’s work on whale stocks (IWC/66/Rep01). She highlighted initiatives, research programmes and status trends in relation to the stocks of the Antarctic minke whale, Southern Hemisphere humpback, blue and right whales, Western Pacific gray whale, North Pacific and North Atlantic right and bowhead whales.

She noted that some stocks are recovering, such as the Southern Hemisphere humpback whales, which may be back to 70% of their unexploited numbers. She cautioned, however, that the status of other populations remains unclear, such as that of the North Atlantic right whales. She stressed the importance of surveys and long-term datasets in the conservation of these populations.

Discussing international vessel research, Fortuna requested guidance from the Russian Federation on how to obtain permits to enter their territorial waters. Noting that the North Pacific blue whale populations may have recovered to 60% of their carrying capacity, she requested that the assessment be extended to the entire North Pacific range for this population. She drew attention to entanglement, seismic drilling and fishery pressures on the endangered Arabian Sea humpback whale population. She also called for regulatory mortality monitoring following the high die-off of Southern Hemisphere sei whales in 2015 in Chile. Australia cautioned that the recovery of fin and sei whales in the Southern Hemisphere remains uncertain.

SMALL CETACEANS: On Wednesday, Fortuna presented elements from the Committee’s report pertaining to small cetaceans (IWC/66/Rep01), drawing attention to a clear recommendation to eliminate cetacean bycatch, and to the call for more stringent and urgent management measures rather than additional research for the vaquita, the Maui’s dolphin and the Baltic populations of the harbor porpoise. For the Maui’s dolphin populations, she cautioned that present bycatch measures fall short in preventing the species’ decline. She said the Committee’s report gives special priority to Amazon river dolphins due to impending threats from bycatch and habitat destruction.

Brazil highlighted his government’s five-year moratorium, in place since 2015, on using Amazon river dolphins as bait for piracatinga fishing. Noting the IWC does not preclude action on small cetaceans, Switzerland said that several of the currently most endangered species are small cetaceans. New Zealand expressed concern about the low populations of Maui’s and Hector’s dolphins.

The World Wide Fund for Nature (WWF), on behalf of several NGOs, commended the Scientific Committee for its work on conservation and management plans and efforts to mitigate bycatch. She identified Amazon river dolphins as candidates for a new CMP, and highlighted a bycatch mitigation initiative in the Amazon, initiated by the conservation community. Whale and Dolphin Conservation highlighted threats to several other declining populations of small cetaceans worldwide, notably Maui’s dolphins, stating that “if we are truly committed to the conservation of cetaceans, then at some point we have to concede that it may simply not be possible for certain activities to occur within the habitat of imperiled species.”

Fortuna then presented on activities undertaken with support from the IWC Small Cetaceans Voluntary Fund, reporting on contributions received and, supported by Conservation

Committee Chair Rojas-Bracho, encouraged IWC members to make contributions to the Fund. The Netherlands and the UK announced that they would make financial contributions.

CETACEAN HEALTH AND DISEASE AND STOCK DEFINITION AND DNA TESTING: On Wednesday, Fortuna said all relevant information pertaining to cetacean health and disease and to stock definition and DNA testing could be found in the Committee’s report (IWC/66/Rep01).

Final Outcome: The IWC adopted the elements on cetacean status and health contained in the Scientific Committee report (IWC/66/Rep01).

CETACEAN HABITAT

On Wednesday, Scientific Committee Chair Fortuna provided information on the collapse of a mine tailing dam in November 2015 in Minas Gerais, Brazil, which released more than 34 million cubic meters of water containing iron-mining waste and construction material into the Doce River system, an ecologically important region inhabited by the Guiana and Franciscana dolphins. She stressed the urgency of stabilizing the dam and the critical need to learn from such disasters, determine how to prevent them, and improve clean-up and recovery.

Brazil fully acknowledged the environmental impact of the accident, noting his country is doing everything to remedy and relieve its effect and has penalized the company responsible.

STATE OF THE CETACEAN ENVIRONMENT: Fontana recalled that the State of the Cetacean Environment Report provides an annual update on environmental matters that potentially affect cetaceans and on developments in cetacean populations, noting that the focus for 2016 was on the Arctic and the Antarctic, followed by the Indian Ocean region in 2017 and the Mediterranean and Black Seas the following year.

ECOSYSTEM MODELING: Fontana reviewed areas under study, including reviewing ecosystem modeling efforts undertaken outside the IWC and exploring how ecosystem models can contribute to developing scenarios for simulation testing of the RMP.

ARCTIC OCEAN: Greg Donovan, IWC Head of Science, reported on his participation in the Arctic Council Working Group meeting held in February 2016 in Stockholm, Sweden, noting areas of mutual interest, including: spatial mapping and area-based management; Arctic marine shipping; engagement with Arctic communities; ship strikes; anthropogenic sound; bycatch; climate change; oil and gas guidelines; and ecosystem-based approaches to management.

CLIMATE CHANGE: Fontana noted the focus on developing an effective workplan, including work on small cetaceans in rivers and large whales in polar habitats, and developing further links with other relevant organizations.

The US suggested that the Scientific Committee focus on the Arctic, noting the special circumstances and importance of the region. India reported on national conservation initiatives.

REVIEW OF THE SOUTHERN OCEAN SANCTUARY: Conservation Committee Chair Rojas-Bracho reported that the Committee concluded that the Southern Ocean Sanctuary is consistent with existing measures to protect whales from anthropogenic and other environmental factors as well as with the precautionary approach, and contributes positively to a number of existing international commitments on biodiversity and climate change. He also noted the potential budgetary implications of the related management plan.

Australia, with New Zealand, welcomed the review and the management plan for the sanctuary, noting the latter enables a more holistic assessment. Japan drew attention to the related

recommendations, expressing hope they will be addressed in the upcoming years.

Final Outcome: The IWC adopted the elements on cetacean habitat contained in the Scientific and Conservation Committees' reports (IWC/66/Rep01 and Rep05, respectively).

UNINTENDED ANTHROPOGENIC IMPACTS

POLLUTION 2020+ INITIATIVE: On Wednesday, addressing this initiative (IWC/66/Rep01), Scientific Committee Chair Fortuna recommended the development of high-quality baseline data relating to contaminants, such as oil spills, on cetacean health.

MARINE DEBRIS: Addressing marine debris (IWC/66/Rep05), Conservation Committee Chair Rojas-Bracho drew attention to a 2016 UN meeting on marine debris, plastics and microplastics. Expressing concern about the impacts on cetaceans of the millions of tons of fishing gear discarded annually, Austria called for the support of mitigating global initiatives, such as the Global Partnership on Marine Litter. World Animal Protection called for collaboration between IWC, UNEP and FAO on the database portal of the Global Ghost Gear Initiative.

CETACEAN BYCATCH: Rojas-Bracho said the Conservation Committee's strategic planning (IWC/66/Rep05) identified bycatch as the primary threat to cetaceans. He highlighted the Committee's Standing Working Group on bycatch mitigation measures, noting that it intends to form a bycatch expert panel. The UK offered to provide the interim coordinator for this IWC bycatch initiative. The US drew attention to its federal regulative effort to enforce marine mammal mortality reduction measures on fish importers. Argentina highlighted its national cetacean bycatch mitigation plan. Mexico recalled that bycatch is the major threat to the critically endangered cetaceans listed by the IUCN Red List. New Zealand drew parallels between the IWC's bycatch initiative and the Global Whale Disentanglement Response Network. WWF offered US\$7,800 to IWC's bycatch initiative and called for IWC core funding to continue supporting the initiative. The recommendation of the Conservation Committee to have an interim bycatch coordinator was endorsed.

ANTHROPOGENIC SOUND: Fortuna reported on the Standing Committee's activities on anthropogenic sound (IWC/66/Rep01), highlighting the pre-meeting workshop on acoustic masking and whale population dynamics. She noted the Committee's agreement on: compelling evidence that chronic anthropogenic noise is affecting the marine acoustic environment in many regions; emerging evidence that compromised acoustic habitat can affect some cetaceans adversely; and the fact that lack of scientific certainty should not hinder management actions to reduce ocean noise. She said the Scientific Committee also recommended submission of a paper to the IMO to update information related to the extent and impacts of underwater noise from shipping.

SHIP STRIKES: Rojas-Bracho reported on the Working Group on Ship Strikes' intersessional work (IWC/66/Rep05). He highlighted the Working Group's draft strategic plan which, *inter alia*: outlines strategies and presents recommended actions to mitigate impacts of ship strikes on cetaceans; and recommends continued engagement with the IMO on ship strikes.

Brazil expressed concern about increased growth in international trade by vessels and offered to host a workshop in 2017 to enhance regional cooperation between the IWC and the IMO.

Uruguay said southern right whales are at high risk of strikes due to their coastal habitats and high ship traffic, and emphasized interdisciplinary studies to collect strike data. With Belgium, he supported continued systematic recording of ship strike evidence. Belgium called whales "ecosystems engineers" that can increase resilience and help slow climate change.

Final Outcome: The IWC adopted the recommendations of the Scientific and Conservation Committees on unintended anthropogenic threats (IWC/66/Rep01 and 05), including on: further cooperation with other organizations, including the Global Partnership for Marine Litter and the Global Ghost Gear Initiative; the establishment of a Standing Working Group on Bycatch under the Conservation Committee and the development of a Bycatch Mitigation Initiative supported by an Expert Panel; and continued engagement with the IMO on anthropogenic sound and ship strikes.

THE IWC IN THE FUTURE

On Wednesday, Japan introduced this agenda item (IWC/66/16), stating that the problems encountered by the IWC go deeper than a mere disagreement on issues such as small-type coastal whaling. He noted many countries' willingness to continue to discuss the future of the IWC and said intersessional work would be useful and beneficial to the IWC and all its members. Japan proposed starting an intersessional discussion in an open and transparent manner, possibly through the IWC's website, to allow members to exchange views. He offered to draft, before the end of IWC-66, basic terms of reference for this process, and suggested drawing up an initial set of questions for consideration.

Australia, with the Netherlands, on behalf of the EU, asked how to handle the diversity of questions that members will wish to address, noting that it is complicated to facilitate an open online discussion. Japan said questions would be restricted to the more fundamental ones on the operation of the IWC, including on how to address the interests of all members in an equal manner.

South Africa said special permit whaling is one of the most divisive issues, along with the fact that the IWC finds it difficult to address issues pertaining to small cetaceans, since there is still discussion on whether or not small cetaceans fall within the mandate of the IWC.

Japan said the remarks by Australia and South Africa illustrate the problem at hand, stressing that opinions differ on what the main issues are, while there are underlying fundamental issues that need to be addressed first.

IWC Chair Mainini invited Japan to draft a text to be available later in the week.

On Thursday, Japan introduced draft terms of reference for an "intersessional working group on the way forward" (IWC/66/22), inviting feedback for discussion on Friday.

On Friday, Japan reported that despite extensive discussions, no consensus had been reached.

Final Outcome: The IWC agreed that an informal consultation process will be held, by correspondence, on the differences of opinion of members, and that the matter will be discussed again at IWC-67.

WHALE KILLING METHODS AND WELFARE ISSUES

On Wednesday, Michael Stachowitsch (Austria), Chair of the Working Group on Whale Killing Methods and Welfare Issues (WKM&WI) presented the WKM&WI report (IWC/66/Rep06).

DATA PROVIDED ON WHALES KILLED: Stachowitsch reported that data were received from seven contracting governments, including number of whales taken, species, primary

and secondary killing methods, times to death, and percentage of whales killed instantly. He also highlighted the euthanasia protocols workshop held in London in 2013.

IMPROVING THE HUMANENESS OF WHALING

OPERATIONS: Stachowitsch said reports had been received from three contracting governments, including data on instant death rates and the implementation of the penthrate projectile modified for use in the hand-held darting gun. He also presented the major outcomes from the NAMMCO Expert Group Meeting on assessing time to death from the large whale hunts, held in Copenhagen, Denmark, in November 2015. He highlighted the potential for collaboration between the IWC and NAMMCO, and the need to avoid duplication of efforts.

Australia welcomed the constructive work, recalling earlier polarized discussions and urged contracting governments to submit related data to the IWC and address them under its auspices. The Russian Federation emphasized the economic feasibility of the hunting process and hunters' safety. NAMMCO noted that efforts for research and development for more efficient hunting methods have been successful, adding that healthy mammal populations are a prerequisite for their sustainable use. The Alaska Eskimo Whaling Commission drew attention to the development, testing and improvement of the penthrate projectile.

WHALE WELFARE: Stachowitsch presented the main outcomes of the IWC workshop on non-hunting aspects of cetacean welfare, held in Kruger National Park, South Africa, in 2016. He highlighted, *inter alia*: the workshop's objectives; how non-hunting threats to cetacean welfare can be assessed; the adaptation of the "Five Domains Model," which had previously been used for livestock; and the importance of the Global Whale Entanglement Response Network. Stachowitsch also highlighted the IWC Welfare Action Plan, which includes a work stream on communications and outreach.

The UK underscored that welfare considerations are intertwined with other issues, including whale watching, entanglement, stranding and ship strikes; noted the involvement of civil society; and highlighted the importance of the IWC Welfare Action Plan implementation. The Netherlands, on behalf of the EU, and New Zealand, the US, Argentina and Humane Society International welcomed the progress and supported the recommendations.

ENTANGLEMENT OF LARGE WHALES: Stachowitsch reported on the third IWC workshop on entanglement issues, held in Provincetown, US, in 2015, noting that its recommendations include issues around the Global Entanglement Database and the Global Ghost Gear Initiative.

Stachowitsch also reported on the joint expert workshop on large whale entanglement and bycatch reduction, held in Portsmouth, US, in 2016. Highlighting the problem of bycatch for small cetaceans and the need for regional and international cooperative efforts, he stressed that regarding bycatch mitigation measures, hierarchy for action should: avoid encounters; reduce entanglements where encounters cannot be avoided; and minimize mortality associated with entanglement.

Stachowitsch further presented David Mattila's work as the technical adviser to the Secretariat to assist with reducing conflicts between cetaceans and marine resource users, noting 14 entanglement response trainings of over 500 trainees.

Monaco underscored that entanglement often goes unreported and affects thousands of cetaceans, calling for increased cooperation to restore trust between scientific bodies and fishermen.

STRANDINGS: Stachowitsch presented the main outcomes of the workshop on the handling of cetacean strandings held in Kruger National Park, South Africa, in 2016. He highlighted its primary objective to assist the IWC in its efforts to build global capacity for effective cetacean stranding response and to promote the IWC as a leading body for the provision of such advice, capacity building and dissemination of best practice for strandings response. The UK recalled the successful IWC workshop on strandings held in 2015 in San Francisco, US, noting the value of sharing best practice regarding stranding prevention, post-release monitoring, and managing media attention.

Stachowitsch then drew attention to the Scientific Committee's recommendation to establish an expert panel to guide and inform strandings response and training activities. India stressed the importance of the IWC developing a comprehensive plan of action encompassing all unintended threats to cetaceans. The Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS) welcomed the IWC work on strandings, and offered to participate in the proposed expert panel. The International Fund for Animal Welfare (IFAW), on behalf of several conservation NGOs, supported the establishment of an expert panel and suggested using existing coordination initiatives on large-whale disentanglement as an example.

Final Outcome: The IWC endorsed the recommendations from a number of IWC workshops on WKM&WI, held around the world in 2015 and 2016, and adopted the WKM&WI-related recommendations contained in the Scientific Committee report (IWC/66/Rep01), including establishment of a coordinator and expert panel on strandings to provide guidance to response and investigations.

SCIENTIFIC PERMITS

NEWREP-A: On Thursday, Scientific Committee Chair Fortuna presented elements of the Committee's report (IWC/66/Rep01) related to Japan's New Scientific Whale Research Programme in the Antarctic Ocean (NEWREP-A), which was submitted by Japan in 2014, noting that the overall conclusions take into consideration: IWC Resolution 2014-5 (on whaling under special permit); the report from the Expert Panel review workshop, which reviewed the proposal for special permit catches of Antarctic minke whales; the responses of the proponents; and a Scientific Committee review of the proponents' intersessional work.

Regarding items A and B of Resolution 2014-5 (on whether the design and implementation of the programme, including sample sizes, are reasonable in relation to achieving the stated research objectives; and whether the elements of the research that rely on lethally obtained data are likely to lead to improvements in the conservation and management of whales), Fortuna said the Scientific Committee and the Expert Panel agreed that: Japan provided further clarifications to some of the issues raised in the earlier reviews; the objective of NEWREP-A is clearer than that of Japan's second Whale Research Programme in the Antarctic (JARPA II); additional work needs to be done to evaluate improvement expected either in the statistical catch-at-age analysis or in RMP performance; and the ecosystem and multispecies modelling are generally a valid approach.

Regarding item C (on whether the objectives of the research could be achieved by non-lethal means or whether reasonably equivalent objectives could be achieved non-lethally), Fortuna said the Scientific Committee and the Expert Panel agreed that the recommended field experiments, laboratory work and analyses must be conducted first.

Regarding item D (on whether the scale of lethal sampling is reasonable in relation to the programme's stated research objectives and whether non-lethal alternatives are feasible), Fortuna said the Scientific Committee noted that simulations were presented to evaluate the statistical power to detect changes in age at sexual maturity but that not all parameters were covered.

Regarding other matters relevant to the ICJ decision, including the methodology to select sample sizes, a comparison of target sample sizes and actual take, the programme's timeframe, scientific output and the degree to which activities are coordinated with related research projects, Fortuna said the Scientific Committee recommended further collaboration towards the development of ecosystem models, prey studies and evaluation of non-lethal techniques.

Fortuna noted that progress was reviewed in the 2016 Scientific Committee meeting, focusing on: the evaluation of the level of improvement that might be expected either in the statistical catch-at-age analysis or in RMP performance; and the provision of a thorough power analysis of sample sizes required to detect change in age of sexual maturity. On the former, she stressed that the Scientific Committee agreed that a wide set of trials would need to be specified to establish the potential for improved performance of a modified Catch Limit Algorithm, noting that there is currently no set of trials specific to Antarctic minke whales.

Australia underscored that the minimum criteria set by Resolution 2014-5 and the ICJ decision are not met by NEWREP-A, adding, *inter alia*, that: the proposal did not demonstrate the need for lethal sampling, supported by New Zealand, Argentina and the Netherlands, on behalf of the EU; and the sample size calculation has been oversimplified. He stressed that despite the recommendations by the Scientific Committee and the Expert Panel, special permits were issued unilaterally by Japan and whaling took place in the Southern Ocean in the 2015-2016 season. New Zealand said that Japan recommenced activities disregarding: that the Scientific Committee had not finalized its review and the IWC had not considered the item, supported by the Netherlands, on behalf of the EU; and the ICJ ruling, which states that whaling under special permit is not a unilateral measure. She added that Japan disregarded the role of the IWC and has not demonstrated that NEWREP-A is for purposes of scientific research. The Netherlands, on behalf of the EU, recalled the Expert Panel's conclusion that a delay of two or three years for further analysis would not be detrimental to achieving the programme's objectives.

Japan emphasized that the issue is contentious and not "black and white," noting that both the Scientific Committee's recommendation and the ICJ ruling are open to interpretation. He noted that the Scientific Committee did review and comment extensively on the content of the research plan, following its tasks described in paragraph 30 of the Schedule. He described the scientific process of reviewing as ongoing, stressing that the NEWREP-A is in accordance and consistent with the ICJ judgement. Iceland noted that Japan had responded adequately to the ICJ ruling and the recommendations of the Expert Panel, and stressed there is no reason for major revision on the Annex P process (review of special permits).

A lengthy discussion ensued among New Zealand, Antigua and Barbuda, and Japan on New Zealand's request to include in the Chair's report a list of the majority of IWC members voicing concern about the issuing of permits before consideration by the Scientific Committee and the lethal component in scientific whaling. No agreement was reached.

On Friday, the IWC accepted New Zealand's request.

JARPN II: Fortuna summarized key points in the Scientific Committee's report on Japan's Whale Research Programme in the North Pacific (JARPN II) (IWC/66/Rep01), highlighting, *inter alia*: the duration of the permit programme from 2000 to 2016, but with data only being available through 2013, with preliminary data and analysis from 2014 and 2015; and agreement that review of a new North Pacific proposal will include a review of JARPN II with inclusion of more recent data (2014 to 2016) and an assessment of progress made against recommendations by the Expert Panel and Committee.

Regarding terms of reference relevant for final reviews in Annex P (on issuing of special permits), the Committee agreed with the broad conclusions reached by the Expert Panel, and regarding items referenced in Annex P, concurred with the following recommendations: greater emphasis should be put on improved analyses and modeling, and submission of further work to peer-reviewed scientific journals to increase the value of scientific output of the data collected; and cooperation with scientists in other regions for further analyses of existing data.

The US said scientific data that are needed to improve management and recovery can be collected using non-lethal means and expressed concern about the IWC's ability to timely consider the Scientific Committee's advice.

Japan noted, *inter alia*: new DNA analysis showing differences between stomach contents and pre-feces contents, saying collecting feces from the ocean will not provide information about stomach contents; and its intention to submit its new research programme in the North Pacific in the coming months, thus in time for discussion by next year.

India stressed non-lethal research methods, including use of hormones or fecal samples to determine sexual maturity. Australia noted, among other things: many objectives were not met; and information requested by the Panel related to sample size, sample design and lethal and non-lethal effect of capture on stocks was never provided.

Guinea said lethal research provides information about stock abundance, distribution and nutrition not available solely by visual observation, and stressed the value of research that strikes the balance between fish and whale stocks, given some countries' high dependence on small-scale pelagic fishing to meet protein needs.

New Zealand questioned whether JARPN II really was for scientific purposes and looked forward to further consideration by the IWC.

PROCEDURES USED BY THE SCIENTIFIC COMMITTEE FOR REVIEWING SPECIAL PERMITS:

Fortuna summarized key points contained in the Scientific Committee's report on reviewing special permits (IWC/66/Rep01), highlighting: revisions to terms of reference; a preference for resolution language, which was specifically framed to reflect the ICJ judgment, where existing terms of reference cover similar matters; and adoption of all revisions by consensus with a recommendation to revise Annex P.

Regarding practical improvements to implementation of Annex P, she said the Committee recommended the following amendments: for new proposals and for periodic and final reviews, permit proponents perform a self-assessment using the appropriate checklist in Appendix 2, and attach a complete checklist; inclusion of a checklist for new proposals; and new text regarding confidentiality agreements related to non-disclosure of discussions or reports until the Expert Panel report is available to the entire Scientific Committee.

Fortuna also highlighted suggestions related to, *inter alia*: increasing observer participation during open sessions of Expert Panel workshops; aligning the review process with the IWC's biennial cycle; and instituting a peer-review process before the Expert Panel meets. The Committee agreed to: establish an intersessional working group; draw the issue of alignment to the IWC's attention; and explore the option of providing a webcast of the next Expert Panel.

Australia supported: including a checklist of intended content; drawing attention to alignment of the Annex P process; scheduling expert panels and reviews to occur at annual Scientific Committee meetings; and use of webcasts.

Centro de Conservación Cetacea and Instituto de Conservación de Ballenas emphasized, *inter alia*: the rejection of NEWREP-A by 500 scientists from 30 countries; the large sample size used, and its impacts on whale populations; inconsistencies with studies on other large mammals; and the need to better include the views of the international scientific community.

Final Outcome: The IWC concluded that there was no agreement on the issue of special permit whaling. The IWC adopted the changes to Annex P (review of special permits) recommended in the Scientific Committee report (IWC/66/Rep01) in order to reflect Resolution 2014-5. These changes relate to the Annex P sections on the terms of reference for the review of new proposals and for ongoing and final reviews.

SAFETY AT SEA

On Thursday, Japan gave an overview of violence against Japanese research vessels in the Southern Ocean, recalling IWC Resolution 2011-2 on safety at sea, adopted by consensus, which condemns any actions that are a risk to human life and property in relation to the activities of vessels at sea. He showed examples of Japanese vessels being illegally boarded, rammed, obstructed with ropes and cables, bombarded with bottles, and subjected to attempts of arson. Noting that these attacking vessels, notably the Sea Shepherd and the Paul Watson, have endangered the lives of crew members at open sea and harmed both property and the environment, he identified these actions as unforgivable, unacceptable and in conflict with international law.

He said Japan had filed lawsuits against these vessels at the US District Court in Seattle, US, which permanently enjoined the vessels from physically attacking any Japanese vessels or approaching them closer than 500 yards. He regretted that associated vessels have declared since then that they intend to engage in even more disruptive actions. He concluded that it is of great urgency and importance that the IWC asks flag states to take effective measures to ensure that Resolution 2011-2 and international regulations are respected.

The Russian Federation, Norway, India, New Zealand, Australia, Switzerland, the US and the Netherlands, on behalf of the EU, recognized the right to freedom of expression, but condemned activities at sea that jeopardize human lives, property or the marine environment. Denmark said violence at sea is also a problem in the Faroe Islands, which engage in a legal, annual small-whale hunt.

The Netherlands, as the flag state of the Sea Shepherd and the Paul Watson, supported by Australia, felt the IMO was the appropriate body to address safety at sea. She emphasized all unlawful activities should be dealt with in accordance with national and international law, noted concern with the escalation of violence in recent years, and said the Netherlands hopes to continue bilateral discussions with Japan to better understand each other's positions.

New Zealand said it has a direct interest in the issue, since it is responsible for search and rescue in the relevant part of the Southern Ocean, noting that violent actions also jeopardize the safety of rescue workers. With Australia, she voiced disappointment that Japan decided to resume whaling in the Southern Ocean, despite the 2014 ICJ ruling that this was illegal.

Final Outcome: The IWC reaffirmed Resolution 2012-2, which condemns any activities that are a risk to human life and property in relation to the activities of vessels at sea.

OTHER CONSERVATION ISSUES

CONSERVATION MANAGEMENT PLANS: On Thursday, Conservation Committee Chair Rojas-Bracho highlighted activities relevant to Conservation Management Plans (CMPs) in the Committee's report (IWC/66/Rep05), such as new information on the presence of gray whales in the China Sea obtained using acoustic detection technology of the US Navy.

Brazil cited the CMP for the Southwest Atlantic southern right whale as an example of regional cooperation catalyzing conservation initiatives. The US congratulated the Republic of Korea and Mexico for joining the IUCN Memorandum of Understanding (MoU) on gray whales.

The Russian Federation expressed gratitude for the Conservation Committee's work on gray whales despite his traditional position that part of the Conservation Committee's activities falls outside the IWC mandate.

Japan announced that his country will be providing an IWC international coordinator for the MoU on gray whales.

Rojas-Bracho highlighted a proposed CMP for the Franciscana dolphin, prepared by Argentina, Brazil and Uruguay. He mentioned that this CMP focuses on: monitoring abundance and trends; mitigating bycatch; developing and implementing protected areas; and encouraging adoption of national legislation to reduce interaction of marine mammals with fisheries. He recommended that the IWC endorse the CMP for the Franciscana dolphin, and have a dialogue between Oman and other IWC members to discuss the potential of a CMP for Arabian Sea humpback whales.

Deb Callister, Standing CMP Working Group Chair (Australia), introduced the group's report, as contained in the Conservation Committee's report (IWC/66/Rep05), drawing attention to current CMPs, key workshops, research, and implementation activities. She also mentioned a midterm review of the CMP Work Plan 2014-2020 to be undertaken intersessionally. Argentina, supported by Australia, welcomed the adoption of the first CMP for a small cetacean and donations to the Voluntary Fund for CMPs. Brazil noted the proposed CMP will enable a greater understanding of the ecology of, and bycatch threats to, Franciscana dolphins.

WHALE WATCHING: Rojas-Bracho drew attention to a workshop on building sustainable whale and dolphin watching tourism in the Indian Ocean region, held in Colombo, Sri Lanka, summarized in the Conservation Committee's report (IWC/66/Rep05). He said the Conservation Committee called for enhanced synergy between the Indian Ocean Rim Association and the IWC, which was welcomed by Australia. Acknowledging the important revenues generated by whale watching, India, supported by Belgium, Mexico and Monaco, cautioned that whale watching must also respect the ecology of whales. New Zealand noted that whale watching generates nearly US\$80 million annually in her country.

SOUTHERN OCEAN RESEARCH PARTNERSHIP: Fortuna highlighted ongoing projects by the Southern Ocean Research Partnership on the ecology of baleen, blue, fin and humpback whales in the Southern Ocean. Announcing it has

recently joined the Partnership, Belgium, supported by Mexico, noted the importance of non-lethal research in assessing the recovery of cetaceans in the Southern Ocean after the international moratorium. The Secretariat reported that the Partnership's Voluntary Fund currently stands at £820,000, noting contributions from Australia (AU\$1.5 million), WWF-Australia (AU\$25,000) and IFAW (US\$10,000).

Final Outcome: The IWC adopted the related elements in the Conservation Committee report (IWC/66/Rep05), including: the Conservation Committee Strategic Plan; the Standing Working Group on CMPs' proposal for a mid-term review of the CMP Work Plan 2014-2020, to be undertaken during the 2016-2018 intersessional period; and the Joint Conservation Committee and Scientific Committee Working Group's proposal to establish an intersessional working group to guide the development of a web-accessible database of conservation-related recommendations.

OTHER MANAGEMENT ISSUES

REVISED MANAGEMENT PROCEDURE: On Thursday, Scientific Committee Chair Fortuna highlighted assessment issues related to reviewing the maximum sustainable yield and catch limit algorithm. She noted the Committee reviews guidelines for the RMP, such as model-based abundance estimation. Explaining that the RMP would be used in commercial whaling, the US and the Netherlands, on behalf of the EU, India, Argentina, Mexico and Monaco, pleaded with Norway and Iceland to cease whaling and international trade of whale products. Iceland asserted that its quotas for minke whales respect the precautionary principle and are lower than those calculated by the IWC's formula for quotas for aboriginal hunts. Norway insisted its harvesting is transparent, sustainable and legal. NAMMCO assured that modern-day whale hunting is conducted with the highest concern for animal welfare.

INFRACTIONS: Hild Ynnesdal (Norway), Chair of the Infractions Sub-Committee, presented a summary of the Sub-Committee's report (IWC/66/Rep04). She noted that Denmark, the US, the Russian Federation and the Republic of Korea have submitted information required under Section VI of the Schedule (information required). Noting that Norway, Iceland, and St. Vincent and the Grenadines also submitted information to the Secretariat, Ynnesdal said the report contains, *inter alia*, information from the 2014 and 2015 seasons on: aboriginal subsistence catches and infractions; commercial catches and any infractions; unresolved or previously unreported infractions from earlier seasons and follow-up actions; surveillance of whaling operations; and catches taken in Greenland in 2013 and 2014 without an ASW quota.

Argentina, opposed by the Russian Federation, reiterated the Buenos Aires Group's position that catches taken by Greenland in 2013 and 2014 without an approved quota should be considered infractions, and added, with the Dominican Republic, that these catches should not set a precedent.

Denmark underscored that following IWC-64 and the non-allocation of ASW quotas to Greenland, an exceptional situation was created since subsistence needs of Greenland had to be addressed. She noted that the issue was resolved during IWC-65, stressing the need to avoid a similar situation in the future and reiterating Denmark's commitment to the ICRW and its Schedule.

The US underscored that it is the responsibility of each country to interpret the Schedule and report as infractions what they deem appropriate, urging, with the Russian Federation, to move forward and avoid situations like Greenland's hunts.

Urging for the establishment of a mechanism to define infractions and address them within IWC rules, OceanCare, on behalf of many NGOs, posed a series of questions, including

whether: catches without a quota constitute an infraction; the contracting government or the IWC decides what constitutes an infraction; and failing to report an infraction constitutes an infraction in itself.

CATCHES BY NON-MEMBER NATIONS: Ynnesdal reported that Canada submitted information regarding catches of bowhead whales for 2014 and 2015.

India noted that efforts for whales' conservation may be jeopardized by non-members, calling for the development of mechanisms to control such actions.

Final Outcome: The IWC adopted the report of the Infractions Sub-Committee (IWC/66/Rep04), including the unresolved issue of catches taken in Greenland 2013 and 2014, which some members felt should be reported as infractions. The IWC agreed that the Executive Secretary will continue to seek information on catches by non-member governments.

COOPERATION WITH OTHER ORGANIZATIONS

On Thursday, the Secretariat introduced the document on cooperation with other organizations (IWC/66/04).

The Netherlands, on behalf of the EU, with Monaco, India, the US, Mexico, and the Dominican Republic, supported maintaining and deepening cooperative relationships with other intergovernmental organizations. Topics mentioned for potential enhanced cooperation included: engagement with relevant scientific bodies; fisheries; bycatch; ship strikes, whale watching and marine debris; and indigenous issues.

ASCOBANS noted many areas of overlap, including: climate change, marine debris, anthropogenic sound, strandings, and bycatch, and highlighted developing joint guidance.

Pro Wildlife, speaking on behalf of several NGOs, noted Norway's increased export of whale meat and its use of EU harbors as transit points, and the absence of any efforts by the IWC since 2001 to halt whale meat trade, in contrast to CITES. She called on Iceland, Norway and Japan to withdraw their reservations and objections to both agreements.

Whale and Dolphin Conservation objected to the sale of whale meat sourced from Japanese scientific research.

Final Outcome: The IWC welcomed progress on cooperation with other organizations and the work of the Secretariat, Scientific Committee and other Committees in this respect. It endorsed the next steps proposed in document IWC/66/04 (update on IWC cooperation with other organizations).

FINANCE AND ADMINISTRATION

On Friday morning, Ryan Wulff (US), Chair of the Finance and Administration Committee, reported on the work of the Committee and its Working Groups (IWC/66/Rep02).

ADMINISTRATIVE MATTERS: On IWC communications (IWC/66/F&A05), he said progress included website updates and publication of an intersessional report series. On document archiving and online access (IWC/66/F&A15), he said: electronic documents exist dating to the Commission's first plenary meeting in 1949; all documents since 2006 are archived; and additional programming is needed, but would require inclusion in a future budget or a voluntary contribution. On meeting arrangements (IWC/66/F&A04), he highlighted responses to a feedback survey following IWC-65, calling, among other things, for increased support for involvement of observers, including during intersessional work. On dispersal of funds from the IWC Southern Ocean Research Partnership fund (IWC/66/F&A13Rev), the Committee endorsed, *inter alia*, development of recommendations for future intersessional allocations. On guidelines for allocation and use of voluntary funds intersessionally (IWC/66/F&A06),

the Committee endorsed developing guidelines, and noted the discussion about risk management given currency fluctuations related to the British pound.

INTERSESSIONAL WORKING GROUPS: Working Group on Operational Effectiveness and Cost-Saving Measures: Wulff said key issues in the Working Group's report (IWC/66/F&A07) included proposed changes to the rules of procedure to, *inter alia*: facilitate intersessional decision making; clarify that each observer organization may speak only once during an agenda item; and allow the Chair to establish *ad hoc* groups of Commissioners to facilitate consensus or extend a session to facilitate decision making.

One item remained bracketed: new text proposed as item J.4 to Schedule paragraph 13, which would encourage comment submission at least 30 days before the Commission meeting, when the proposed amendment is submitted 90 days or more in advance of the meeting. The US endorsed removing the brackets, saying it will improve the process for considering new catch limits for aboriginal hunts by trying to ensure there are no surprises, information is provided openly, and other issues are shared broadly among the Commission. He said the amended text includes an NGO suggestion to ensure that responses provided by the proponent are circulated. Argentina raised previous discussions on infractions and expressed concerns about how to handle catches in 2013 and 2014 without an approved quota for Denmark (Greenland). The Buenos Aires Group said reporting those kills as infractions would not set precedent for future incidents. After discussion, the brackets were removed.

Correspondence Group on Strengthening IWC Financing: Wulff said the Committee endorsed the Correspondence Group's work plan (IWC/66/F&A08, Annex 1), and recommended that Belgium continue as Chair.

Working Group on Governments with Limited Means: Wulff outlined the Working Group's recommendations (IWC/66/F&A09Rev), including establishing a Voluntary Assistance Fund with associated guidelines for "Capacity to Pay" Groups 1 and 2.

Working Group on Website Guidance: Wulff highlighted several recommendations in the Working Group's report (IWC/66/F&A10), including: using an incremental approach to website improvements; subsuming the group into the Working Group on Operational Effectiveness and Cost-Saving Measures; and endorsing the document on guidance (IWC/66/Rep02, Appendix 7A).

Scientific Committee's Rules of Procedure: On a request from the Scientific Committee to endorse proposed changes to its Rules of Procedure (IWC/66/F&A11 – Annex R), Wulff said the Committee recommended: adding new text as paragraph 4(e), "papers submitted under the Rule of Procedure 4(a) must be based on science and facts and shall not contain disrespectful statements to any participating person, organization or government"; and updating procedures regarding invited participants.

Financial Contributions Formula: Wulff reported no comments regarding the financial contributions formula. The Dominican Republic requested a future review of the formula noting the large range of countries in "Capacity to Pay" Group 2, and that whaling countries make smaller contributions than many of those making non-lethal, sustainable use of the resources regulated by the IWC.

FINANCIAL STATEMENTS: Provisional financial statement for 2016: Regarding the projected 2016 outcome (IWC/66/06), Wulff highlighted the decision to purchase the IWC headquarters for £1,000,000, and the proposed expenditure of £10,000 for plans to renovate the IWC warehouse (IWC/66/F&A14).

Scientific Committee's 2017-2018 Work Plan and Research Budget: On the Budgetary Sub-Committee's proposed £315,800 research budget (IWC/66/Rep01(2016), Table 27), Wulff said one item remained bracketed, relating to a workshop to review Japan's special permit proposal in the Western North Pacific.

Japan requested removal of the brackets, noting that: Schedule paragraph 30 establishes that the Scientific Committee shall review and comment on permit proposals; adoption of the Resolution on special permits does not change the binding nature of the ICRW or the Schedule; and in 2017, the Scientific Committee will review Japan's new research plan as well as its ongoing one. New Zealand, speaking also on behalf of Australia, supported adoption of the budget without brackets.

Commission budget for 2017 and 2018: On the proposed budget (IWC/66/07), Wulff said the Committee recommended a "business as usual" approach, which includes a 0.3% inflationary increase and a 0.3% increase in observer fees, amounting to a £1.785 million budget for 2017 and a £1.841 million budget for 2018. He said the Committee declined to recommend raising contracting government contributions to support new or ongoing intersessional work. Wulff noted that two items had been referred to the Committee: the Bycatch Mitigation Initiative and whale killing methods issues, and that such activities would require voluntary funding.

BUDGETARY SUB-COMMITTEE OPERATIONS AND MEMBERSHIP: Wulff noted that one open seat and the post of Vice-Chair remain vacant and encouraged members to step forward.

SCIENTIFIC COMMITTEE WORKING METHODS: Scientific Committee Chair Fortuna had no further additions.

Delegates approved the summary outcomes related to Finance and Administration with minor edits.

Final Outcomes: The IWC adopted the Finance and Administration Committee report (IWC/66/Rep02), including:

- the report on communications;
- proposals on use of Southern Ocean Research Partnership funds and on distribution of voluntary funds in the intersessional period;
- the report of the Working Group on Operational Effectiveness and Cost Saving Measures, including proposed changes to the rules of procedure and rules of debate;
- the work plan of the Intersessional Correspondence Group on Strengthening IWC Financing;
- the guidance on the use of the IWC website, including subsuming the Working Group on Website Guidance into the Working Group on Operational Effectiveness and Cost Saving Measures;
- changes to the Scientific Committee's Rules of Procedure;
- the 2014 and 2015 financial statements and the provisional 2016 statement;
- the Scientific Committee's £315,800 research budget; and
- the IWC budgets for 2017 (£1.785 million) and 2018 (£1.841 million).

ORGANIZATIONAL MATTERS

ADOPTION OF COMMITTEE REPORTS: On Friday afternoon, IWC Chair Mainini invited comments on all Committee, Sub-Committee and Working Group reports.

Noting her appreciation for the role of observers, Denmark stressed that interventions of member states should precede those of intergovernmental and non-governmental organizations in all the reports, adding that this does not prevent their adoption.

The reports of the Scientific, Conservation, and Finance and Administration Committees, the Infractions, Budgetary, and ASW Sub-Committees, and the WKM&WI Working Group were adopted without further comments, with IWC Chair Mainini noting that their smooth adoption portrays the hard work done.

ELECTION OF OFFICERS: Delegates elected Joji Morishita (Japan) as IWC Chair and Andrej Bibič (Slovenia) as Vice-Chair.

BUREAU MEMBERSHIP: Australia, Argentina, and St. Lucia were elected to the Bureau, bringing total membership to seven, including: the Chair, Vice-Chair, Chair of the Finance and Administration Committee (the US), Brazil, as the IWC-67 host, and the three elected members.

Delegates elected Bruno Mainini (Switzerland) as the ASW Sub-Committee Chair, and Herman Oosthuizen (South Africa) as the WKM&WI Working Group Chair.

FUTURE MEETINGS: On Monday, Kenya announced his country's offer to host the Scientific Committee meeting in 2018. On Friday, delegates approved the next Scientific Committee meetings to be held in May 2017 in Bled, Slovenia, and in Kenya in 2018. Brazil presented a short video highlighting the IWC-67 venue in the state of Bahia, Brazil, in 2018.

OTHER MATTERS: Chair Mainini announced an unofficial intervention by Belgium and Luxembourg: a contest for the best whale-themed tie. To ensure gender balance, only female delegates and observers were eligible to vote on 12 photos showing only the ties projected on the screen. IWC Executive Secretary Brockington tallied the vote and announced Hideki Moronuki (Japan) was the winner.

CLOSING PLENARY

On Friday afternoon, Chair Mainini introduced the summary of main outcomes, decisions and required actions from IWC-66 (IWC/66/Main Outcomes v.2).

Australia, supported by the US, called for broader discussion on establishing an Intersessional Working Group on the Way Forward so as not to exclusively focus on whaling. Australia reminded participants that the CMP Fund was voluntary. On safety at sea, New Zealand proposed language to reflect that IWC members reaffirmed the strength of the existing legal instruments to address legal issues at sea.

Several countries expressed support and appreciation for Slovenia as the IWC-66 host. Chair Mainini closed IWC-66 at 4:00 pm.

A BRIEF ANALYSIS OF IWC-66

*May you build a ladder to the stars
And climb on every rung*

May you stay forever young – Bob Dylan, “Forever Young”

A quotation from Bob Dylan, this year's winner of the Nobel Prize in Literature, seemed a surprising coda to the defeat of a proposal to establish a South Atlantic Whale Sanctuary. Proposed and rejected at every IWC meeting for the last 15 years, the outcome at the 66th session of the International Whaling Commission (IWC-66) was no different. Yet, one of the co-sponsors of this proposal, whose country will host the next IWC meeting, expressed optimism that the Commissioners could “stay forever young” when reconsidering the sanctuary proposal at IWC-67. This hopeful tone was in sharp contrast to the statement also heard at IWC-66, “Privileged people living in their ivory towers will never be able to understand the poor,” exemplifying the often polarized nature of the negotiations. Still, as most participants noted, the Commission, on its 70th anniversary, is “finally growing up”—albeit at a slower pace

than many would wish—and many remarked that the working environment during IWC-66 has been less entrenched and far more constructive than in the past.

This brief analysis will consider the main achievements of IWC-66, as well as the impasses and competing pressures likely to shape the future path of the Commission.

HISTORY REPEATED?

*Praise be to Nero's Neptune, the Titanic sails at dawn
Everybody's shouting, “Which side are you on?!”* – Bob Dylan, “Desolation Row”

The atmosphere of increased mutual trust and willingness to cooperate, including friendlier language than in previous meetings, was a necessary precondition to avoid past stalemates. The Commission tackled an extensive agenda, which presented ways to move forward, including an elaborated proposal for the establishment of the aforementioned South Atlantic Whale Sanctuary and the opportunity to prevent the second cetacean extinction within a decade. Nevertheless, the “whale in the room” was still present, namely the deep dichotomy between those who advocate for the sustainable utilization of whales and those who insist on total protection.

Traditionally, many pro-whaling nations have proposed to lift the moratorium and abolish the current sanctuaries, arguing that these restrictions represent a breach with the Convention's objective “to provide for the optimum utilization of whale resources.” In addition, support for the continuation of whaling appears to stem from concern for national sovereignty, with whaling being associated with cultural and traditional values. In contrast, anti-whaling nations express concern that despite the moratorium, catches have continued in significant numbers, particularly through special permit (scientific) whaling. Anti-whaling nations also cite animal welfare concerns, rejecting the taking of intelligent and social large mammal species, and arguing it is impossible to kill whales humanely.

ACHIEVEMENTS FOR ALL...

*Lot of water under the bridge, lot of other stuff too
Don't get up gentlemen, I'm only passing through* – Bob Dylan, “Things Have Changed”

The 66th meeting of the Commission, which attracted more participants than any other in the past, marked a lot of “firsts.” It was the first time that cooperation with other organizations was tackled as a separate agenda item. It was the first time that small cetaceans were directly addressed, with documents being adopted on their conservation. For the first time, the IWC initiated a process to review its own effectiveness. It was also the first time that human rights were discussed in the context of Aboriginal Subsistence Whaling. And, for the first time, NGOs were allowed to attend, and even speak, at informal drafting meetings.

All agenda items on unintended anthropogenic threats as well as welfare issues proved to be not particularly controversial, allowing for substantive, important progress and an overall sense of achievement. The astounding amount of work done by the IWC's Scientific and Conservation Committees regarding, among others, bycatch, ship strikes, pollution, anthropogenic sound, entanglement, and strandings, leaves ample space for optimism. Addressing some of these issues not only allows for genuine successes concerning whale conservation, but can also go a long way to building mutual trust. After all, estimates from various sources reveal that worldwide, hundreds of thousands of cetaceans die each year as bycatch or from entanglement. Minimizing these threats is in the best interest of both the “anti-whaling” bloc that focuses on total protection of cetaceans and

the “pro-whaling” one, whose interest in sustainably using the resource requires healthy populations. Therefore, the endorsement by the IWC of the Bycatch Initiative was unequivocally hailed as a success by both pro and anti-whaling Commissioners.

Bycatch is especially relevant to small cetaceans, yet they remain controversial in the IWC context, as some members opine that they fall outside the IWC’s mandate. A few pro-whaling Commissioners continue to insist on an exclusive focus on large whales instead of all cetaceans, while others say that what should simply be a biological question has become a political one. The controversy stems from Convention text which mentions “whales,” rather than “cetaceans.”

Despite the different views, consensus was not blocked on the resolution on the critically endangered vaquita, a small porpoise that lives solely in the Gulf of California, Mexico, and which is on the verge of extinction (fewer than 59 vaquitas remain), mainly because of entanglement in illegal fishing gear. As the species may not be saved despite these measures, the adopted resolution can be seen as a symbolic gesture, portraying the Commission’s commitment to trying to prevent the second small cetacean extinction in the last decade, after the loss of the baiji, a freshwater dolphin from the Yangtze River in China. The Conservation Management Plan for the Franciscana dolphin, endorsed at this meeting, can be seen in the same light.

The resolution on enhancing the effectiveness of the IWC, which was adopted by consensus, was another “first.” It creates a process for a comprehensive, independent review of the Commission’s institutional and governance arrangements, establishing a balanced Steering Group, which will select a panel to conduct the review during the intersessional period. The delicate balance was achieved only after an amendment to the preambular paragraphs, recognizing that there are different views concerning the priority of the IWC’s objectives and mandates due to different positions on whales and whaling. Nevertheless, participants agreed it constitutes an important step in the right direction.

Work under the Aboriginal Subsistence Whaling Sub-Committee was also groundbreaking compared to the IWC’s previous practice. Building on the 2015 Expert Workshop on Aboriginal Subsistence Whaling, held in Greenland, international human rights law found its way into the Commission’s agenda, and consideration of indigenous peoples’ rights will now influence future decisions of the IWC, thus keeping pace with other multilateral environmental agreements.

Finally, cooperation with other organizations, including the International Maritime Organization, was also tackled, with the vast majority of IWC Commissioners agreeing that the Commission cannot operate in a vacuum in an increasingly complex and interrelated international environmental governance arena.

...AND ACHIEVEMENTS FOR SOME

*You were flyin’ too high, for my little old sky
I’m movin’ on* – Hank Snow, “*I’m Movin’ On*” (Bob Dylan cover)

Despite the formation of small drafting groups, which allowed for informal, more flexible discussions, promoting mutual understanding and attempting convergence of opinions, decisions on a number of issues were still taken by a vote, which some participants thought continued a divisive practice that should be replaced by consensus.

The heated topic of whaling under special permit, the subject of a 2014 decision by the International Court of Justice, was expected to be controversial. It was discussed under various

agenda items, including the proposed resolution on a related review process, which aims to establish a working group to consider the recommendations of the Scientific Committee regarding all special permit programmes to allow adequate time for meaningful considerations. Not surprisingly, some Commissioners disagreed with the review process, noting it further restricts contracting governments’ rights under Article VIII of the Convention, which states that countries are permitted to kill whales for scientific research purposes, giving responsibility for setting and regulating these catches to individual governments.

Even the proposed resolution on the creation of a fund to strengthen the capacity of governments of limited means to participate in the work of the IWC led to heated discussions. While many developing countries passionately underscored their right to equal participation, and others stressed their commitment to the concept, the issue turned out to be contentious. Several countries voiced objections, citing Article III (5) of the Convention, which states that governments have to pay their own costs for participation in the IWC. Another concern was who would be eligible for financial support, and who would be deciding. Although eventually the resolution was adopted with no opposition, and some affirmative votes emphasized that financial support should focus on the technical and scientific work of the Committee rather than on participation at IWC meetings, the fact that half of those voting opted to abstain suggests that the road towards establishing full trust remains long and winding.

The discussion and adoption of the resolution on cetaceans and ecosystem functioning was regarded by many participants as an exciting agenda item, since it revealed the important and surprising role that whales play in sequestering carbon dioxide, mixing nutrients and providing food to plankton through their fecal plumes, thus increasing primary productivity. Others, however, believed the resolution implies that cetaceans should be granted full protection as a result of these functions and opposed it, stressing that the notion of sustainably using whales should not be disregarded.

IMPASSES

There must be some way out of here...

There’s too much confusion, I can’t get no relief – Bob Dylan, “*All Along the Watchtower*”

Despite the progress made in different areas and the spirit of cooperation compared with previous IWC meetings, the discussions—and decisions—on a number of topics left some participants dissatisfied.

The proposed establishment of a South Atlantic Whale Sanctuary was accompanied by a management plan, which, according to its proponents, could enhance conservation and management activities and coordination, and stimulate non-lethal research, South-South cooperation, education and economic development. However, a number of delegates did not deem the establishment of the sanctuary necessary, underscoring their opposition to the notion of total protection of whales by establishing global sanctuaries. The proposal, which required a three-fourths majority to be adopted, did not receive the necessary number of votes and, thus, will be resubmitted at IWC-67.

The resubmitted resolution on food security also created tensions. Its proponents stressed that marine genetic resources, including cetaceans, can help alleviate hunger in developing countries, while an absolute protection of whales “could have a devastating impact on small pelagic fish.” Others stressed that: it is neither possible nor desirable to use cetaceans for hunger reduction; whales are more valuable alive than dead to local communities; food security is only relevant to the IWC’s work in

the context of aboriginal whaling; overfishing rather than whales threatens the balance of marine ecosystems; and the FAO is the appropriate forum for discussions on food security.

Notwithstanding the importance of any individual item, the fundamental ideological differences regarding whales and whaling are still at the heart of most of the areas of disagreement, according to many participants. Despite progress, the polarization of discussions, resurfacing of repetitive arguments reiterating well-known positions, and the use of language that can still be considered quite harsh, left the more cynical among the participants believing that nothing has changed and nothing ever will.

AND THE WAY AHEAD...

Come gather 'round people, wherever you roam

And admit that the waters around you have grown...— Bob Dylan, "The Times They Are A-Changin'"

In spite of these setbacks, a careful look at the IWC-66 proceedings shows that there has been progress and much has changed in the past few years. In addition to the aforementioned accomplishments, the IWC has also taken significant steps to ensure increased involvement in and transparency of the process.

For the first time in IWC history, NGOs were allowed to participate both intersessionally and during the meeting, taking active part in all the scheduled activities. Furthermore, several participants expressed their appreciation of the presence of an independent reporting service, believing that this further moves the Commission away from a secretive, secluded environment and is in the best interest of all parties.

While many Commissioners seem to think that it would be more productive to focus on non-controversial opportunities, such as unintended anthropogenic threats, which can go a long way regarding whale preservation, others still hold the opinion that fundamental differences need to be addressed.

To that end, under the agenda item titled "The IWC in the future," Japan proposed starting an open-ended, online consultation forum that would try to engage participants in a frank discussion of the major dichotomies. While all agreed that this was an interesting concept, some expressed skepticism, given the polarized nature of the initial positions, even on the question of which issues should be addressed in such a consultation. In the end, the proposal was not adopted. Instead, an informal consultation process will occur intersessionally and the issue will be discussed again at IWC-67.

In light of this development, many think that the appointment of veteran and experienced Commissioner Joji Morishita, who tabled the aforementioned proposal, as IWC Chair for the next biennium can provide the momentum necessary for a push to the admittedly herculean task of finding some degree of convergence regarding deeply divergent cultural and ethical beliefs. It remains to be seen if the IWC's move toward greater transparency, effectiveness and willingness to tackle emerging direct and indirect threats to cetaceans will provide the necessary environment for both the "pro-" and "anti-whaling" countries to solve their fundamental differences or, at least, work together on issues they can agree on to assure cetaceans' long-term viability.

UPCOMING MEETINGS

International Coral Reef Initiative General Meeting: This meeting will address the degradation of coral reefs and related ecosystems around the world, including discussion of: the status of coral reefs; the impacts of climate change on coral reefs; coral bleaching; and initiatives in the Indian Ocean region. **dates:** 2-4

November 2016 **location:** Paris, France **contact:** Francis Staub, Coordinator **email:** fstaub@icriforum.org **www:** <http://www.icriforum.org>

CMS Standing Committee: The 45th meeting of the Standing Committee of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) will be preceded by a meeting of the CMS Budget and Finance Sub-Committee on the afternoon of 8 November. **dates:** 9-10 November 2016 **location:** Bonn, Germany **contact:** CMS Secretariat **phone:** +49-228-815-2401 **fax:** +49-228-815-2449 **email:** cms.secretariat@cms.int **www:** <http://www.cms.int/en/news/2015028-dates-45th-meeting-cms-standing-committee>

Scoping of the IPCC Special Report on "Climate Change and Oceans and the Cryosphere": During this meeting, Intergovernmental Panel on Climate Change members will discuss the outline of the special report. **dates:** 6-9 December 2016 **location:** Monte Carlo, Monaco **contact:** IPCC Secretariat **phone:** +41-22-730-8208/54/84 **fax:** +41-22-730-8025/13 **email:** IPCC-Sec@wmo.int **www:** www.ipcc.ch

CBD COP 13, COP/MOP 8 to the Cartagena Protocol on Biosafety and COP/MOP 2 to the Nagoya Protocol on Access and Benefit-Sharing: The thirteenth meeting of the CBD COP, the eighth meeting of the COP serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP 8), and the second meeting of the COP serving as the Meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing (COP/MOP 2) will be held concurrently. The CBD COP will address, *inter alia*, ecologically or biologically significant marine areas (EBSAs), marine spatial planning, biodiversity and acidification in cold-water areas, marine debris and underwater noise, and biodiversity mainstreaming, including in the fisheries sector. **dates:** 2-17 December 2016 **location:** Cancún, Mexico **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <https://www.cbd.int/cop2016>

IWC Aboriginal Subsistence Whaling Management Procedure Workshop: The initial discussions of this workshop will complete the Revised Management Procedure implementation for North Atlantic common minke whales and lead into the AWMP workshop. **dates:** 16-21 December 2016 **location:** Copenhagen, Denmark **contact:** IWC Secretariat **phone:** +44-1223-233-971 **fax:** +44-1223-232-876 **www:** <https://iwc.int>

World Ocean Summit 2017: This Economist event will be the fourth World Ocean Summit, and will discuss how to finance a sustainable ocean economy, including consideration of the types of investment frameworks and capital necessary to bring the blue economy to scale. **dates:** 22-24 February 2017 **location:** Bali, Indonesia **contact:** Economist Events **email:** oceanspeakers@economist.com **www:** <http://www.economist.com/events-conferences/asia/ocean-summit-2017>

BBNJ Prepcom-3: The third session of the Preparatory Committee (PrepCom-3) on the development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) will continue negotiations so as to make substantive recommendations to the UN General Assembly on the elements of a draft text of an international legally binding instrument under the UN Convention on the Law of the Sea (UNCLOS). **dates:** to be confirmed 2017 **location:** UN Headquarters, New York **contact:** UN Division of Oceans and the Law of the Sea (UNDOALOS) **phone:** +1-212-963-3962 **email:** doalos@un.org **www:** www.un.org/depts/los/biodiversity/prepcom.htm

NAMMCO-25: The 25th annual meetings of the North Atlantic Marine Mammal Commission will discuss conservation and management measures for marine mammals, with a particular focus on scientific knowledge of the North Atlantic marine ecosystem as a whole. **dates:** 4-6 April 2017 **location:** Nuuk, Greenland **contact:** NAMMCO Secretariat **phone:** +47-77-68-73-71 **email:** nammco-sec@nammco.no **www:** <http://www.nammco.no/news/nammco-25/>

IWC Scientific Committee 67A: The next meeting of the IWC Scientific Committee (SC-67A) will be held in May 2017 in Bled, Slovenia. **dates:** to be confirmed, 2017 **location:** Bled, Slovenia **contact:** IWC Secretariat **phone:** +44-1223-233-971 **fax:** +44-1223-232-876 **www:** <https://iwc.int>

IMO Marine Environment Protection Committee: The 71st Session of the Marine Environment Protection Committee of the International Maritime Organization (IMO) will consider any matter within the IMO's scope that is concerned with prevention and control of pollution from ships **dates:** 8-12 May 2017 **location:** London, UK **contact:** IMO Secretariat **phone:** +44-20-7735-7611 **fax:** +44-20-7587-3210 **email:** info@imo.org **www:** <http://www.imo.org/en/MediaCentre/MeetingSummaries/Pages/Default.aspx>

The Marine Environment and UN Sustainable

Development Goal 14: The 41st Annual Conference of the Center for Oceans Law and Policy will convene under the theme "The Marine Environment and UN Sustainable Development Goal 14." Through SDG 14, the international community agreed to aim to "conserve and sustainably use the oceans, seas and marine resources for sustainable development." **dates:** 17-18 May 2017 **location:** Yogyakarta, Indonesia **contact:** University of Virginia Center for Oceans Law and Policy **phone:** +1-434-924-7441 **email:** colp@virginia.edu **www:** www.virginia.edu/colp/annual-conference.html

High-Level UN Conference to Support the Implementation of SDG 14: This high-level UN Conference co-hosted by the Governments of Fiji and Sweden, will coincide with the World Oceans Day, and seeks to support the implementation of SDG 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development). **dates:** 5-9 June 2017 **location:** UN Headquarters, New York **contact:** Permanent Missions of Fiji and Sweden **phone:** +1-212-687-4130 (Fiji); +1-212-583-2500 (Sweden) **www:** <https://sustainabledevelopment.un.org/topics/oceans/SDG14Conference>

CMS COP 12: The twelfth meeting of the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals (CMS COP12) together with the associated meetings of the Standing Committee will be held in 2017. **dates:** 22-28 October 2017 **location:** Manila, Philippines **contact:** CMS Secretariat **phone:** +49-228-815-2401 **fax:** +49-228-815 2449 **email:** cms.secretariat@cms.int **www:** <http://www.cms.int/cop12>

IWC Scientific Committee 67B: The 2018 meeting of the IWC Scientific Committee (SC-67B) will be held in 2018 in Kenya, with the dates and precise location to be confirmed. **dates:** to be confirmed, 2018 **location:** Kenya **contact:** IWC Secretariat **phone:** +44-1223-233-971 **fax:** +44-1223-232-876 **www:** <https://iwc.int>

IWC-67: The 67th session of the International Whaling Commission (IWC) will take place in 2018 in the state of Bahia, Brazil, with the dates and precise location to be confirmed. **dates:** to be confirmed, 2018 **location:** Bahia, Brazil **contact:** IWC Secretariat **phone:** +44-1223-233-971 **fax:** +44-1223-232-876 **www:** <https://iwc.int>

For additional meetings, see <http://nr.iisd.org/>

GLOSSARY

ASCOBANS	Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas
ASW	Aboriginal Subsistence Whaling
ASWWG	Aboriginal Subsistence Whaling Working Group
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMPs	Conservation Management Plans
FAO	Food and Agricultural Organization of the UN
ICJ	International Court of Justice
ICRW	International Convention for the Regulation of Whaling
IFAW	International Fund for Animal Welfare
IMO	International Maritime Organization
IUCN	International Union for the Conservation of Nature and Natural Resources
IWC	International Whaling Commission
MEA	Multilateral environmental agreement
NAMMCO	North Atlantic Marine Mammal Commission
NEWREP-A	Japan's New Scientific Whale Research Programme in the Antarctic Ocean
RMP	Revised Management Procedure
RMS	Revised Management Scheme
SAWS	South Atlantic Whale Sanctuary
UNEP	UN Environment Programme
WKM&WI	Working Group on Whale Killing Methods and Welfare Issues
WWF	World Wide Fund for Nature