



# The International Whaling Commission - the way forward



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Department for Environment  
Food and Rural Affairs



The 1946 International Convention for the Regulation of Whaling recognised

*“the interest of the nations of the world in safe-guarding for future generations the great natural resources represented by the whale stocks”*

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## Introduction

The UK Government opposes all whaling apart from limited aboriginal subsistence whaling. We believe that protecting whales is a global responsibility.

We welcome the intention of all member countries and the Chair of the International Whaling Commission (IWC) – agreed at the IWC’s 2008 meeting (IWC60) – to discuss how the IWC could best fulfil its role in conserving whale stocks and managing whaling.

This paper examines each of the issues identified at the IWC60 meeting as needing to be resolved by the IWC so that it can address the problems facing the world's whales. We have set out what we consider to be practical and necessary solutions for each of the 33 issues. We see these solutions as important in their own right and not something to be traded or exchanged.

Many whale populations, even entire species, are today still under threat of extinction. Quite apart from the impact of directed takes, the viability of many populations is threatened by bycatch; pollution; ship strikes; destruction and degradation of their habitat; and climate change.

The UK Government accepts that when the International Convention for the Regulation of Whaling was established in 1946 its aims were to conserve whale stocks and allow the orderly development of the whaling industry. However, the world has moved on, and so must the Convention – as must any multilateral environmental agreement – if it is to be successful in meeting the challenges of new threats to its target species.

The UK’s policy on whaling is based on science, taking account of the precautionary principle. Just because a resource can be exploited does not mean it *must* be. Our policy reflects the disastrous history of commercial whaling. If certain types of whaling are to be allowed then whaling countries must now accept the robust monitoring and compliance mechanisms to which they subscribe in modern regional and global fisheries agreements.

The IWC must continue to evolve. In recent years it has been responsible for a number of significant conservation achievements. For example, its Conservation Committee has looked at ways of mitigating threats to the survival of whales and the IWC’s work on reducing the suffering of exploited whales led to the ban on the use of the cold (non-explosive) harpoon and of the electric lance. The IWC’s Scientific Committee, composed of over two hundred of the world’s best cetacean scientists, seeks to develop appropriate strategies to address the problems facing cetaceans and has produced authoritative guidance on the preservation of depleted cetacean populations. The IWC now needs to redefine itself as an organisation able to address conservation problems in a manner appropriate to the 21st century.

Whales are a common heritage so all nations are responsible for their conservation and protection. We must all ensure that the Convention and the IWC protect whales for future generations.

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## Issues

### 1. Advisory/Standing Committee or Bureau (*need for*)

The Advisory Committee has played an extremely useful role in steering and guiding the IWC through some difficult situations. IWC members often have widely diverging views and while it is hoped that the reform of the IWC will result in a more harmonious environment this may take some time and cannot be guaranteed.

**We therefore consider that an Advisory Committee (or something on similar lines) is desirable for the immediate future to help resolve and advise over difficult situations. The Committee's work needs, however, to be more transparent than it is at present and its status and function should be reviewed in about five years' time.**

### 2. Animal welfare

We maintain that there is no humane way to kill a whale at sea. Nevertheless, the UK Government, along with others, proposed a Schedule amendment, in the course of the recent discussions on a Revised Management Scheme (RMS) that set out an outline of an Annex to the Schedule concerning minimum conditions under which whales could be killed. These are set out in Appendix 7 of the Chair's Report of the RMS Working Group in Annex E of the 2006 Annual Report (*see [www.iwcoffice.co.uk/\\_documents/meetings/ulsan/AnnexE.pdf](http://www.iwcoffice.co.uk/_documents/meetings/ulsan/AnnexE.pdf)*).

This Appendix sets out general principles (i.e. that the killing method effectively and reliably achieves immediate insensibility or death) as well as specific criteria and conditions.

**We still subscribe to this position and believe that this, or very similar criteria should form part of any agreement on the way forward for the IWC.**

We are concerned that whaling countries are increasingly reluctant to provide welfare data to the IWC and to enter into meaningful discussion on how to improve the welfare of hunted whales. Often this refusal has been on the pretext that the data is simply used in a negative and condemning way.

**We consider that where whaling continues to take place, there is a moral obligation on countries to ensure that whales are killed as quickly and humanely as possible. Furthermore, we consider that there should be timely and accurate provision of welfare data which should be regularly and openly discussed at IWC meetings. Ideally, an RMS should set conditions about weather and sea conditions, which must be met before attempts are made to kill whales. These conditions should aim to minimise times to death of hunted whales.**

Animal welfare is an emotive topic that creates high levels of interest and criticism from governments and society worldwide. We note that the recommendations of the World Organisation for Animal Health (OIE) on the humane slaughter of animals for human consumption have been seen as a significant step towards standardising welfare requirements worldwide and ensuring that the most humane methods of slaughter are used.

**We therefore suggest that the IWC should investigate the possibility of developing a working relationship with the OIE to promote international standards on the humane slaughter of whales.**



Harpooned minke whale on boat

### 3. Bycatch and infractions

We consider that the adoption of a Revised Management Scheme (RMS) is essential before there can be any consideration of quotas or a return to commercial whaling. Penalties for bycatch and robust, transparent compliance measures are essential elements for any Regional Fisheries Management Organisation (RFMO) and such elements must apply to the IWC, if there is a return to commercial whaling in any way.

Accurate assessment of bycatch levels is vital to allow for the proper calculation of total killings of whales over time. This information is essential for the Revised Management Procedure (RMP) to operate successfully.

However, it is difficult to see how rules on bycatch and infractions can be agreed in isolation. In relation to the discussions on development of an RMS, various proposals were made on bycatch, illegal, unregulated and unreported (IUU) whaling and infractions. These papers might form the basis of any discussion on how these issues can be resolved.

**We therefore think that bycatch and infractions must be considered as part of a robust and comprehensive package based on international best practice. We believe that certain RFMOs and work carried out in the context of the RMS discussions might provide a suitable model for bycatch and infraction measures for the IWC to follow.**

**Robust compliance measures to deal with infractions and IUU whaling are essential. Contracting Governments should also take all necessary measures to prohibit the import of whales and whale products obtained illegally from operations not under the jurisdiction of Contracting Governments.**



Rod Arnold/British Antarctic Survey

Whales in their key Antarctic habitat

#### 4. Climate change

All modern environmental and conservation agreements and bodies need to take account of climate change in their decision-making. The threats from climate change are both serious and wide reaching, such as the shift in distribution of populations and reduction of access to key habitats and food sources. These

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threats are so serious and unpredictable that they call into question the extent to which targeted killing of any sort can be justified. The IWC has agreed to support a workshop in 2009 to look at the effects of climate change on cetaceans.

**We think a workshop is a good start and it will undoubtedly define further key research that the IWC should urgently support.**

## 5. Civil society

The essential role that civil society groups (non-governmental organisations (NGOs)) play in promoting sustainable development, in particular biodiversity conservation, was emphasised at the 1992 Rio Earth Summit. Chapter 27 of Agenda 21 recognises the vast experience and expertise of this global network and that their involvement should be maximised and strengthened, to enhance policy-making and decision-making. We note that NGOs actively participate in organisations like the Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species (CITES). They are allowed to make statements and interventions during formal meetings, enabling them to contribute actively and constructively to discussions. Members of NGOs are also often members of technical expert groups.

Greater public involvement in the IWC through the participation of NGOs would be a positive step that would improve the quality of decision-making by increasing the information and expertise available to Contracting Governments. It would additionally also give full transparency of decision-making

**We believe that the IWC should follow the best practice of other progressive international organisations and encourage the involvement of civil society. We consider that NGOs should be allowed to speak at plenary sessions and in committees and sub-committees. While we recognise that some decision making might benefit from closed sessions, these should be the exception, because they lead to lack of transparency, trust and understanding.**

## 6. Coastal whaling (*i.e. within Exclusive Economic Zones*)

A number of whale stocks are particularly vulnerable to coastal whaling because they rely on coastal waters to calve and nurse their young. In addition to subsistence harvests, these stocks in coastal waters are also most likely to face threats such as ship strikes; entanglement in commercial fishing gear; degradation of coastal habitat; pollution; and over-exploitation of their prey. Many whales are highly migratory, so allowing uncontrolled killing of whales in certain areas cannot lead to effective management and conservation of individual populations. An example is the critically endangered J stock of minke whales that cannot be safely excluded from any coastal whaling because it is impossible to differentiate between different stocks at sea.

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Some countries have consistently sought agreement to allow some limited small type coastal whaling (STCW). As it stands, the Schedule to the International Convention for the Regulation of Whaling (ICRW) regulates and envisages two types of whaling – commercial and aboriginal subsistence whaling (ASW) with whaling under objection or under special permit being outside the control of the IWC. Despite assurances to the contrary, we maintain that coastal whaling operations would essentially be commercial and would undermine the moratorium and further, risk undermining the international ban on trade in whale products.

Some IWC members seek to draw parallels between coastal and aboriginal subsistence whaling. However, one of the characteristics of many aboriginal subsistence whaling communities is that they are isolated, so that the onward distribution of the whale meat to the wider community is difficult or impractical. It is hard to see how, without this natural barrier, trade can be restricted to the coastal community for whose benefit the whaling operations are allowed.

Advocates of coastal whaling also propose that ‘local consumption’ from coastal whaling should be on similar terms to aboriginal subsistence whaling, but should be possible throughout the whole of the country. Increased uncontrolled trade in whale products can only weaken and undermine the current CITES restrictions on trade in whale products. We believe that it is equally crucial that key terms in aboriginal subsistence whaling are defined, and it is properly managed by the IWC to ensure that it is restricted and abuses are prevented. We would be extremely cautious about using aboriginal subsistence whaling criteria for coastal whaling.

It is important to remember that the Scientific Committee has never agreed a quota for small type coastal whaling. Without an RMS in place and independent supervision, the control measures previously proposed by advocates of coastal whaling would result in the IWC not having any more control over coastal whaling, including welfare aspects, than it has over scientific whaling.

**We have serious doubts about the potential impact on whale stocks, the commercial aspects of small type commercial whaling and the lack of defined and genuine subsistence needs of coastal communities. We consider that unless effective control or restrictions on the distribution of the resulting whale product (including a ban on international trade) are agreed, then coastal whaling is not viable. In this context, we believe that there should be:**

- **rigorous controls on commercial sales – including measures to prevent spread of whale products beyond the coastal area;**
- **a detailed ‘needs’ statement;**
- **clear and binding rules on the presence of international observers;**
- **a vessel monitoring system (VMS);**
- **a DNA register system;**

- IWC scientific advice on acceptable numbers of whales to kill;
- management and conservation of individual populations;
- provision for collection of welfare data;
- minimum requirements for hunter training;
- weaponry requirements; and
- an adequate inspection system.

All these measures must be in place before there could be any consideration of setting quotas for 'small-type' coastal whaling.

We consider that any 'new' type/category of whaling operation would essentially be commercial whaling and would undermine the current moratorium. Even if the actual moratorium (paragraph 10(e) of the Schedule to the Convention) is not removed or amended, if a new category of 'coastal whaling' is added to the Schedule, the moratorium would still be undermined.

There is a danger that if one country is allowed to carry out coastal whaling, then other countries would argue that they should be allowed similar provisions, resulting in a network of coastal whaling, ultimately outside direct control of the IWC. (This could lead to a higher number of whales killed than now). Advocates of coastal whaling refuse to agree to limit or control the number of whales killed. Consequently, coastal whaling would provide the opportunity to kill the same number, and potentially more, in the name of coastal rather than commercial whaling. Also, because the IWC cannot restrict the award of quotas to a specific country, it is not clear how the IWC will be able to ensure that a coastal whaling quota set on a specific stock is not 'sub-let' to other countries.



David Walton/British Antarctic Survey

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## 7. Commercial whaling moratorium

The moratorium on commercial whaling came into effect in 1985/86. Its adoption in 1982 was a bold environmental step, years ahead of its time. Yet, according to the IWC's Scientific Committee, no whale populations have so far recovered to historic, pre-exploitation levels. Removing the ban on commercial whaling, even in the Exclusive Economic Zones of whaling countries, would result in pressure within the Convention on International Trade in Endangered Species (CITES) to remove the existing restrictions on trade in whale products. Any weakening of the CITES restrictions in the face of such pressure could lead to increased demand for whale products, and a significant increase in the volume of whale products traded internationally. All this could cause commercial whaling to increase quickly and be virtually uncontrolled, with the possibility of high levels of Illegal, unregulated and unreported (IUU) killing of whales – much as it was before the moratorium was put in place.

The moratorium is in Schedule paragraph 10 (e) which states:

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

In adopting Schedule paragraph 10(e), the IWC showed that it wanted a pause in commercial whaling. At the time two main reasons were given for the pause: to provide an opportunity to consider new regulations for commercial whaling and to give depleted populations the chance to recover. To date, neither objective has been met.

When the IWC attempted to undertake a comprehensive assessment of the effects of the moratorium on whale stocks it was unable to do so, because of a lack of suitable data. It was, however, able to do some work on a comprehensive assessment of the state of whale stocks themselves. The IWC has regularly considered the establishment of other catch limits because there have been proposals for establishing non-zero catch limits at most IWC meetings since 1990.

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**No catch limits for commercial whaling for any stocks should be set until a complete RMS has been agreed and adopted without objection by any Contracting Government.**

**We believe that the present uncertainty about the abundance of whale stocks effectively precludes any decision to lift the moratorium and allow a resumption of commercial whaling. The conditions for lifting the moratorium have not yet been met. The moratorium should therefore stay in place.**

## 8. Compliance and monitoring and 26. Sanctions

We consider that the adoption by all countries of a Revised Management Scheme (RMS) is essential before there can be any consideration of quotas, small type coastal whaling, or a return to commercial whaling. We have provided a paper on 'Options for Compliance Mechanisms under the RMS' which included references and proposals on compliance, monitoring and sanctions. These are set out in Appendix 6 of the Chair's Report of the RMS Working Group in Annex E of the 2006 Annual Report (see [www.iwcoffice.co.uk/\\_documents/meetings/ulsan/AnnexE.pdf](http://www.iwcoffice.co.uk/_documents/meetings/ulsan/AnnexE.pdf)).

The Annex notes that existing compliance mechanisms in the international environmental and fisheries fields broadly have three aspects:

- reporting and monitoring obligations;
- verification procedures; and
- a non-compliance response, including appropriate forms of enforcing/providing incentives for compliance.

We therefore argue that the issue of compliance is intrinsically linked to:

- catch documentation;
- the International Observer Scheme;
- VMS;
- DNA registration and tissue archiving;
- Data collection;
- the establishment of the Compliance Review Committee (CRC) and agreement on suitable collective responses to non-compliance.

As for bycatch and infractions, robust and transparent compliance and monitoring measures are essential elements of any Regional Fisheries Management Organisation (RFMO). This must apply equally to the IWC. Most RFMOs have complementary monitoring, surveillance and control (MSC) mechanisms in place and the IWC should look at these arrangements for guidance on how it might introduce similar measures.

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Many IWC members, including the whaling nations, belong to RFMOs and so have proved themselves willing to participate in the control and monitoring of fishing activities.

In addition, many Multilateral Environmental Agreements (MEAs) and other agreements (e.g. CITES) have robust and effective compliance mechanisms. In the context of the RMS discussion, various options for compliance and monitoring were considered (e.g. Appendix 5 of RMS4 – ‘Supervision and Control’). These options and the overview of the monitoring, control and surveillance schemes of other international organisations and RFMOs (IWC/01/EDG 2) might provide guidance and examples of suitable compliance and monitoring measures that follow international best practice.

### **Compliance**

The IWC has been rightly criticised for not having an effective compliance mechanism, with the Infractions Sub-committee currently not having the powers to punish infringements and violations. Many RFMOs have clear definitions of infractions together with dispute mechanisms. Many also insist that countries adopt national legislation to ensure that any violations of the respective agreements are a punishable offence liable to prosecution. Together with sanctions, this ensures that the agreements are adhered to, as well as deterring future violations. Many countries which belong to the IWC are also members of various MEAs and RFMOs and currently adhere to and co-operate with these compliance measures without question.

The IWC Secretariat provided a paper on ‘Control, Monitoring and Surveillance measures undertaken by RFMOs’ and this might help in deciding compliance and monitoring measures for the IWC. This paper is now however slightly out of date (see [www.iwcoffice.co.uk/\\_documents/commission/RMSdocs/IWC-N04-RMSWG7.pdf](http://www.iwcoffice.co.uk/_documents/commission/RMSdocs/IWC-N04-RMSWG7.pdf)).

### **Monitoring**

Any compliance mechanism needs a complementary and transparent monitoring system to ensure it is effective and fair. To address and deter IUU fishing, most RFMOs have monitoring, observation and reporting mechanisms in place, using methods such as Observer and Inspection Schemes, vessel registration and Vessel Monitoring Systems (VMS), traceability and Catch Documentation Schemes (CDS). As well as deterring IUU fishing and ensuring catch limits are adhered to, they enable successful prosecution, thus discouraging further violations.

### **Sanctions**

A number of multilateral treaties provide the means to investigate and make findings of non-compliance against a person or organisation and, in some cases, offer inducements or impose sanctions to make them comply. Whilst inducements

might be preferred, we consider that sanctions should form part of an RMS and compliance and monitoring scheme. A number of organisations have accepted recommendations by international bodies which are not binding in international law; but the member states can treat them as authoritative. For example, CITES treats resolutions as authoritative and can impose trade measures in cases of non-compliance. The International Commission for the Conservation of Atlantic Tunas (ICCAT) only has powers of recommendation, but Contracting Parties agreed to a compliance regime which includes restriction of quota and the imposition of trade measures.



Antarctic minke whales

**We believe that a fully comprehensive RMS must include effective compliance and monitoring measures to ensure proper implementation and enforcement of the agreement and its future shape and direction. The IWC should have a compliance mechanism and complementary Monitoring, Surveillance and Control (MSC) mechanism in place that follows best international practice in RFMOs, MEAs and other international agreements. The UK's paper on compliance measures (see page 13) concluded that there were 'no insurmountable legal obstacles to the development of an effective multilateral compliance regime in the ICRW...it will be crucial to the credibility of an RMS that its compliance arrangements should be as robust as possible...'**

**For compliance this should include:**

- **effective compliance and enforcement powers, including penalties to deter non-compliance;**
- **a body to consider infractions and propose penalties, including**

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sanctions, loss of privilege (e.g. in the event of serious infractions, catch limits being set temporarily to zero), trade restrictions; and

- a process of appeal and a binding dispute mechanism.

For monitoring this should include:

- national inspection and international observer schemes;
- a DNA register;
- specific provisions on the welfare of hunted whales;
- real-time VMS;
- vessel registration;
- catch verification measures;
- traceability of trade/ Catch Documentation Scheme (CDS).

For sanctions, there should be effective suitable penalties to ensure compliance (e.g. loss of quota) to complement forms of inducement, developed in the light of modern best practice in fisheries law and in international environmental law.

We believe the measures must compare favourably with other international compliance, monitoring and surveillance schemes. These include the nationality of independent observers, agreed measures on selecting or vetoing independent observers, and specification for VMS, which should be installed on all vessels, and provide real-time reporting. International best practice must be applied to these and other catch verification measures.

## 9. Conservation Committee

We appreciate that there was concern from some IWC members over how the Conservation Committee was established. However, it is important to remember that the Committee was established because the IWC remains dominated by discussion on management, partly as a throwback to when whaling took place on a large scale. The Committee therefore provides an important forum for discussion on conservation issues within the IWC. This should benefit both lethal and non-lethal users because if whale stocks are in decline they cannot be used by either. The Committee has been very careful only to address non-divisive issues. It is also important to note that despite its initial difficulties the Committee has done some extremely useful work (for example on ship strikes and 'stinky whales') and shows every sign that it will continue to do so.

There have been attempts to change the title and terms of reference of the Committee in the past, but these have been inconclusive and may have been deliberately destructive. There is a real danger that any further attempts will result in the same situation.

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**We wish to maintain the Conservation Committee and believe it can continue to make a useful contribution to the IWC's work, benefiting all IWC members. The continuation of the Committee should therefore be part of any reform agreement. However, we also want to see greater participation in the Committee and will consider any proposals to amend the title and terms of reference, provided that they are reasonable and do not affect the principal remit of the Committee. Nevertheless, we consider that all Contracting Governments should formally recognise that they need to assist the Committee in its work.**

## 10. Conservation Management Plans

We note the contents of the paper submitted by the Australian Government on 'Conservation Management Plans for Improved Cetacean Management' (IWC60/60/15). We fully support the content and suggestion for the way forward for the IWC in this area.

**We wholeheartedly endorse the merits of Conservation Plans and see them as an important area of work for the Conservation Committee and the Scientific Committee. We agree that developing Conservation Plans could make a 'positive contribution to conservation'.**

## 11. Convention (*purpose of*)

The IWC was founded in response to the rapid disappearance of whale populations because of the activities of the whaling industry. This is clear from the preamble of the ICRW which states:

*'Recognizing the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks;  
Considering that the history of whaling has seen over-fishing of one area after another and of one species of whale after another to such a degree that it is essential to protect all species of whales from further over-fishing;*

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

It is clear that the 1946 Convention was concerned both with conservation and exploitation; but, there have been significant changes and developments since the Convention was agreed. Demand for whale products is, in the modern world, much reduced as we now have perfectly adequate substitutes. The demand for whale meat is limited to a few remote indigenous peoples.

Whale watching has emerged as the largest source of revenue from whales. It is reasonable to regard whale watching as the largest part of the industry based on whales.

The following extracts from the Convention capture our vision for a reformed IWC:

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

*'Having decided to conclude a convention to provide for the proper conservation of whale stocks'*

We feel therefore that the Convention's purpose is, and should be, to conserve the world's whale stocks worldwide through extensive non-lethal scientific research, the management of the whale watching industry and the provision of political focus and scientific advice for the protection of critically endangered cetacean species and populations.

**We therefore believe that the IWC should resist efforts to encourage it to adopt a narrow interpretation of the 1946 Convention, namely that the primary purpose of conservation is to enable the setting of sustainable quotas. We urge that the IWC should agree on a modern interpretation with an emphasis on conservation and non-lethal use of whales.**



Chris Gilbert/British Antarctic Survey

Existing scientific research in the Southern Ocean offers scope for co-operative work.

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**As the Australian Government set out in its paper ‘Whale Conservation and Management – A Future for the IWC’ (see IWC/M08/INFO 11), we believe that the IWC must respond to the major changes in ocean management, human uses and the conservation of whales since the ICRW was concluded. Any amendment to the Convention as part of any agreement on IWC reform should reflect these changes.**

## 12. Co-operative non-lethal research programmes

We consider that the Australian Government’s paper ‘Regional Non-Lethal Research Partnerships: a proposal for the Southern Ocean in IWC document’ (IWC/60/16), provides a useful template and example that could be used to establish non-lethal research programmes across the globe. We agree that regional non-lethal whale research partnerships could strengthen and improve the credibility of the scientific framework that underpins the management and conservation activities of the IWC.

**We strongly support the recommendations and proposals in IWC/60/16 as a useful way forward to be considered as part of an agreement on reform of the IWC.**

## 13. Data provision

All effective MEAs, international agreements and RFMOs rely on timely and accurate provision of data to ensure effective decision-making. Accurate data provision should also be essential to a reformed IWC, feeding into, and applying, to Animal Welfare and Ethics, Bycatch and Infractions, Compliance and Monitoring, as well as for aboriginal subsistence hunts. It is important for data to be provided to ensure that compliance, infractions and monitoring can operate effectively. Therefore failure to supply data in accordance with the IWC’s requirements should carry sanctions and penalties. Data collection was discussed in the context of the RMS negotiations and should form part of any RMS-type package. The adequacy of data provision is also vital to the achievement of objectives discussed under other issues in this paper.

While the Scientific Committee continues to provide effective data greatly assisting the IWC’s decision-making, we consider that serious lapses in data provision have occurred over recent years. There has been increasing reluctance by whaling countries to provide welfare data to the IWC. The provision of data on whaling to other organisations but not to the IWC should not be allowed to continue.

It is unfortunate that the Small Working Group did not include aboriginal subsistence whaling in its list of issues for discussion. We, and many others at IWC60, thought that there was an increasing need for up-to-date and comprehensive data to support and complement aboriginal subsistence whaling needs statements.

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**We consider that there should be timely and accurate provision of data on a range of areas including aboriginal subsistence whaling (including ‘needs’) and whaling (including welfare), which should be regularly and openly discussed at IWC meetings. There were specific proposals for data collection on animal welfare in Annex 2 of IWC57/RMS/RMS (see [www.iwcoffice.co.uk/\\_documents/commission/RMSdocs/RMS3AnnexesII.I-J.pdf](http://www.iwcoffice.co.uk/_documents/commission/RMSdocs/RMS3AnnexesII.I-J.pdf)) and these proposals should form part of any agreed package on IWC reform. Penalties and sanctions should be agreed in case of failure to provide timely and accurate data.**

#### 14. Developments in ocean governance

The sector-based and single species management and conservation approach has not been effective in reducing the threats to ocean biodiversity. The importance of adopting an ecosystem-based and precautionary approach to management of human activities on the oceans is being increasingly recognised. The cumulative impacts of human activities on ocean biodiversity, including whales, need to be addressed. This is reflected in the current reforms to modernise the mandates of Regional Fisheries Management Organisations to include the ecosystem-based and precautionary approach.

**We consider that the IWC must be more flexible in responding to the new and increasing threats to cetaceans, by widening its scope and adopting the principles of precaution and ecosystem-based management. A core part of this move towards ecosystem-based management will be the need for much greater co-ordination and co-operation with all relevant bodies. Therefore the IWC must ensure that it develops formal relationships with other organisations which are involved in marine issues. Whales are only one part of a marine ecosystem and therefore measures cannot be introduced or agreed without understanding their role within the ecosystem. The IWC must therefore widen its scope to take into account other relevant processes and decisions, including the outcomes of biodiversity-related treaties such as the Convention on Biological Diversity (CBD). This could be achieved through agreements such as Memoranda of Understanding with other Conventions.**

#### 15. Ecosystem-based approach to management

There has been a move towards an ecosystem-based approach to fisheries management (see Developments In ocean governance above), the principles of which are open to interpretation but as stated by the Food and Agricultural Organisation (FAO) (World Fisheries and Aquaculture Atlas) are ‘... to ensure that, despite variability, uncertainty and likely natural changes in the ecosystem, the capacity of the aquatic ecosystems to produce food, revenues, employment and, more generally,

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other essential services and livelihood, is maintained indefinitely for the benefit of the present and future generations’.

We interpret this as seeking to ensure that fishery management decisions do not adversely affect ecosystem function and productivity, so that harvesting of target stocks, with resultant economic benefits, is sustainable in the long term. We do not envisage that it requires the active management or manipulation of ecosystem processes.

Some marine scientists reject the idea of managing the ecosystem and instead concentrate on managing human activities that impact on the ecosystem, but making allowances for the needs of associated and dependent species when setting catch limits for target species.

The theory that whales are consuming large quantities of fish and therefore disrupting a balanced ecosystem has been widely discredited by the scientific community. We do not see this as justification for the culling of whale stocks or the resumption of commercial whaling

**We consider that the IWC should agree that ecosystem-based management requires a precautionary approach, and that protection of the ecosystem must be a primary consideration, but should not involve managing the ecosystem in an attempt to increase yields of a target species.**

## 16. Environmental threats to cetaceans

Human impacts continue to affect whale stocks worldwide severely. Populations are threatened by bycatch, marine dead zones; large-scale marine pollution; habitat degradation; ship strikes; overfishing; noise from human activities; and many other human impacts on the oceans. The long-term effects of these on whales and the marine environment are unknown. We therefore believe that the IWC should be focusing on protecting whales from these threats and not on the potential for commercially exploiting whales..

**We believe that environmental threats, which caused the recent, tragic extinction of the Baiji and continue to affect critically endangered populations such as the Western Gray Whale and Vaquita, should be areas on which the reformed IWC should focus its expertise and power to conserve the world’s cetaceans and prevent human impacts causing the unacceptable loss of further species or populations.**

## 17. Ethics

There are a number of aspects of whaling where ethics could be considered important and relevant. For example, there is the issue of whether whaling itself

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is ethical, considering the level of pain and suffering that a whale endures before death or escape. Also, if whales are in decline, endangered or subject to other pressures, is it acceptable to hunt them in view of the need to conserve species and populations; particularly where there are viable alternatives? Is it ethical to kill whales for scientific research, when non-lethal methods are available? Other ethical arguments can apply to the human right to hunt for whales, food security and the 'needs' related to aboriginal subsistence hunts.

It is extremely difficult to provide a definitive analysis of what is universally ethically acceptable in a wide range of areas and subjects. What is perfectly acceptable to do or eat in one part of the world can be totally abhorred in another. It is therefore difficult to see how the Small Working Group or the IWC could hope to achieve an agreed analysis of the ethics of such a controversial and emotive subject. **Bearing this in mind, what is important is that the ethics involved in whaling are genuine and wherever possible based on fact.** For example, excessive and unnecessary lengthy 'time to death' can directly relate to the pain and suffering by a whale in a hunt. A genuine and substantiated 'needs' statement as part of an aboriginal subsistence hunt can support the necessity for whale meat to sustain remote and isolated populations. Equally, facts can dismiss arguments of, for example, food security, where viable substitutes are available.

**We feel that in considering all the facts available the IWC can formulate a balanced position from all the ethical arguments involved, without the need to pass an opinion on the merits or relevance of the ethics concerned.**

## 18. Financial contribution scheme

As with any contribution scheme for an international organisation, the scheme adopted by the IWC must ensure a fair balance between a country's capacity to pay, and the need to encourage as wide a membership as possible. The minimum contribution should represent a long-term commitment to membership of the IWC, and the 'user pays' principle should apply. For countries which choose to whale both the nature (whether commercial or aboriginal) and the scale of the operations must be taken into account. If the IWC were to adopt a more conservation-minded agenda, activities and research, then alternative funding arrangements might be considered. Any changes to the current agreement must be adopted by consensus and not by simple majority.

If commercial whaling resumes or a new type/category is agreed, we do not consider that costs should be apportioned equally amongst Contracting Governments, but that the costs should be borne principally by the whaling countries. In particular, all costs arising from an International Observer Scheme; national inspection, the setting up and maintenance of DNA registers and CDS, and associated checks and oversight; training and recruitment should be borne by whaling countries or the industry. Capital costs could be met initially by the IWC and recovered from whaling countries over an agreed number of years.

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## 19. Frequency of meetings

The IWC, unlike the majority of comparable organisations, chooses to meet once a year rather than every two or three years. If the present disagreements within the IWC are resolved there would be merit in reducing the frequency of meetings.

**We do, however, see a need for annual meetings of the Scientific Committee.** This Committee has an ongoing programme of work which needs to be assessed at fairly regular intervals. We do not consider that the workload could easily be dealt with if the Scientific Committee meet only once every two years.

**We also see some merit in separating in time the meeting of the Scientific Committee from the meeting of the IWC.** We consider that a longer gap between meetings would allow the science to inform policy, (allowing Commissioners more time to consider and evaluate the content of the Scientific Committee's Report) and therefore be beneficial overall. It may also mean that the nature of the Committee's work will adjust to the new timing of the meetings of the Commission.

## 20. Marine protected areas (MPAs) and 27. Sanctuaries

Whale sanctuaries have been established since 1979. They are not simply 'no-take' zones, but give greater protection to whales in important feeding areas. They are also valuable for non-lethal scientific study. We think it is regrettable that many countries in the IWC refuse to recognise sanctuaries and consistently vote against the maintenance of existing sanctuaries and the creation of new ones, continually challenging their legal status.

Marine Protected Areas (MPAs) can offer a more wide ranging protection from human impacts for everything within them (therefore protecting whales, their food sources and habitat). Ideally MPAs for cetaceans should form a network to protect whales on essential breeding and feeding grounds. The IWC should work with other international organisations, if this is necessary to protect cetaceans.

MPAs are often suggested as the best way to protect species from climate change if a series of interlinked MPAs could be set up worldwide. One of the main arguments in favour of MPAs is that although they cannot provide complete protection to some marine mammals they provide a habitat where disturbance by human activity is minimised. We already have clear evidence that the behaviour of species changes and important processes in their dynamics, (mating, etc.) can be disturbed by human activities, such as fishing and unregulated sightseeing. MPAs are therefore an effective tool to control such activities. Also, MPAs could reduce conflicts among groups in society which support different "uses" of marine mammals in an area.

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**We believe that whale sanctuaries and MPAs address a real conservation need and are important for non-lethal scientific research. Sanctuaries have a sound legal basis in the ICRW and, once established, they should be recognised and observed by all IWC members. We request the facility to create further sanctuaries in the IWC, where range states so desire, and encourage IWC members to respect that desire.**

**We expect any sanctuary to provide complete protection irrespective of the state of stocks in the area concerned as determined by the RMP. We therefore expect, as a prerequisite to any new quotas, that all countries lift their objections to existing sanctuaries.**

Zoning of sanctuaries would be undesirable for protection and conservation. Many whales are highly migratory animals so it is very difficult to predict accurately the location, population structure, inter-population mixing levels and movements of whales within a specific area and therefore almost impossible to zone populations for whaling within a sanctuary. The impact of climate change is likely to make this more complicated as whales move in pursuit of the resources that they need.

## 21. Objections and reservations

There are obvious difficulties in arguing that provisions of international treaties and decisions taken to meet them should be seen as entirely binding on members. There is a long-standing tradition of objections and reservations which has effectively allowed treaties which would otherwise have been unnegotiable to function more or less adequately. However, IWC decisions on some matters clearly do need to be binding on all members or else have a provision built into the procedure which results in them being binding unless a minimum number of objections is made to them. If that number is reached, the decisions should be rendered nul and void for all. Within this category of decision, one might include the setting of zero or non-zero quotas, decisions on the adoption of the RMP and RMS and on appropriate compliance provisions. We see amendment of current IWC rules on objections as removing a historical anachronism and bringing the IWC into line with modern multilateral practice.

The easy solution would be simply to propose the amendment of the Convention's Article V(3) to remove the right of objection, i.e. delete all the text beginning ", except that (a) if any ..." right to the end of the sub-paragraph. This would mean that all Contracting Governments had to abide by decisions made by the Commission.

A further amendment might be that reservations would only be possible for a Contracting Government which had not been represented at a Commission meeting where amendments to the Schedule had been agreed. This would have the advantage

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of enabling a Contracting Government to avoid being bound by measures on which it had not expressed a view if it was unable to send delegates to the Commission. However, this could open the door to countries simply failing to attend Commission meetings at which they feared unpopular decisions may be taken.

The only way to prevent the abuse of future regulations of whaling is to amend the Convention to remove the right of Governments to make objections to any of its parts or provisions, and to explicitly forbid reservations. The trend in modern treaties is to prohibit the ability to take reservations, for example reservations are forbidden by the CCSBT, FFA and MHLG.

There is no explicit right to take reservations in the ICRW, but they are recognised in international law (Vienna Convention) and this has happened in the IWC (although only Iceland has taken a reservation to a core conservation measure). A way needs to be found to avoid a country leaving the IWC and then rejoining and coming back with reservations to new management provisions, like the RMS. Amendments to the Convention to achieve this change would require the unanimous agreement of the Commission. The Convention could be amended in this way or a side protocol could be developed. The simplest route would be to prohibit reservations to any Schedule amendment – many other modern multilateral treaties, particularly environmental ones, do this.

We have no 'ideal' solution for this problem but believe that it needs to be fully considered. **The Small Working Group could seek independent legal advice on how objections and reservations should be dealt with in future.**

## 22. Procedural issues (*improvements to*)

Many changes to procedures have already been discussed. We will carefully consider any proposals by the Small Working Group that might help to improve the IWC's workings and procedures. The IWC has already discussed having a 60 days cut-off point before the meeting of Commissioners takes place. We consider that this may have some merits. However, it remains important that the IWC is still able to react quickly to developments. Other than consideration of objections and reservations, there should, however, be an element of caution in completely overhauling current procedural measures. It could be argued that the perceived problems in the functioning of the IWC have more to do with the Contracting Governments and their behaviour and posturing, rather than fundamental problems with the IWC procedures.

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## 23. Research under special permit

Scientific whaling remains the most controversial issue within the IWC. We believe that all of the scientifically relevant data collected in 'scientific' special permit hunts can be obtained using non-lethal means. The number of whales killed annually has risen considerably since the start of the moratorium without any reference to the RMP and without an RMS in place. It is clear that the current scale of the killing of whales for 'scientific research' was never envisaged when the rules were drawn up. Not only has the number of whales killed increased, but the field of operations and the range of target species have both been considerably widened. The range of target species is now such that even species listed as 'endangered' and 'vulnerable' on the IUCN Red List of Threatened Species are potential targets. **We believe that progress cannot be made on defining a role for the IWC in the future without addressing the issue of scientific whaling, which continues to undermine the moratorium and the credibility of the IWC.**

**We could not agree to any proposal that seeks to legitimise scientific whaling, nor zoning of whale sanctuaries. Any commitment on scientific whaling must be binding and not 'voluntary'. It must not be vulnerable to the making of objections or reservations. We feel that the proposal for co-operative, non-lethal research plans, such as those suggested by the Australian Government at IWC60 (see IWC/60/16) are the modern, preferable means of obtaining scientific data on whale populations.**

## 24. Revised Management Procedure (RMP)

After the adoption of the moratorium on commercial whaling in 1982, the Scientific Committee spent over eight years developing the RMP for baleen whales. The RMP is a management procedure designed to estimate safe catch limits for commercial whaling of baleen whales. The RMP processes population estimates and historic catch data to calculate catch limits

The RMP was accepted by the Commission, at the 1992 meeting, but not formally adopted into the Schedule of the ICRW. The Commission has stated that it will not set catch limits for commercial whaling for any stocks until it has agreed and adopted a complete RMS (see RMS section below). Despite this agreement, some countries have suggested changes to it; Norway has twice used "tuning" levels below those agreed by the IWC to increase its self-awarded quota.

Nevertheless, a significant weakness of the procedure stems from the fact that it was designed to secure the highest catches possible while maintaining the stock above a certain level. This is a weakness for two reasons. The first is that the level of stock below which catches are not allowed is very low. Information we have accumulated over the years shows that such declines in the stock of species, with

biology and dynamics similar to that of most marine mammals, are associated with over-exploitation of stocks and optimum exploitation is achieved at much higher stock levels. However, this reference point has not been revised in the light of this information. The second is that the RMP considers fishing as the only use of this resource and does not evaluate how the proposed catch levels affect alternative uses of the resource. The RMP needs to be updated to account for these new aspects of the use of marine resources and to provide a more holistic approach to evaluating the consequences of fishing. Such update/extension will allow for inclusion of aspects of ecosystem-based management in the RMP. There is also a need to extend the objectives of the RMP to support management in a changing environment. Such procedures need to recognise the challenges and new threats from a changing environment, so the management of any form of exploitation of marine mammals is adjusted to take account of the effects of such changes on the populations of marine mammals.



Sperm whales

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**We consider that to be effective, the RMP must be buttressed by a robust and agreed RMS with transparent reporting and enforcement mechanisms that ensure compliance. Furthermore, the agreed, published version of the RMP (including the tuning level of 0.72 and the protection level of 0.54) should be adopted into the Schedule and adhered to by all countries.**

**We maintain that a mechanism has to be agreed so that any agreement on reform is binding and formal commitments ‘not to object’ are not sufficient.**

## 25. Revised Management Scheme (RMS)

The concept of the Revised Management Scheme (RMS) was first adopted by the Commission in a Resolution passed at its 44th Annual Meeting in 1992. The Resolution accepted the Revised Management Procedure (RMP) as completing the main scientific component of the RMS. The RMS can be seen as the political jacket that fits the RMP's scientific advice.

It has been clear in examining the 33 issues listed for consideration by the Small Working Group that many are interlinked and require a comprehensive RMS for them to be effective in their own right. In particular animal welfare; bycatch, infractions; compliance and monitoring; sanctions; and data collection should all form part of a comprehensive RMS. Furthermore, extensive work has already been carried out in the RMS discussions so schedule amendments, guidelines, papers and templates on most key elements of an RMS already exist for consideration by the Small Working Group. What is needed is the political and collective will of Contracting Governments to agree a modern, effective and robust RMS based on best international practice. It is important to note that there is still no agreed RMS, including a Revised Management Procedure (RMP) for setting catch limits, in place. Whaling has a long history of IUU catches and those countries which currently hunt whales pay little regard to the IWC rules.

**We feel strongly that RMS control measures must at least reflect best practice from other international monitoring and surveillance schemes. We believe a fully effective RMS must include national inspection and international observation; catch verification measures; a DNA register; compliance and enforcement provisions; specific provisions on the welfare of hunted whales; and real-time vessel monitoring systems. We should also insist that completion, and adoption, of the RMS should be a prerequisite to, and quite separate from, any consideration of the future of the moratorium, or creation of a new category of whaling.**

## 26. Sanctions

See Compliance and monitoring (page 13).

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## 27. Sanctuaries

See Marine Protected Areas (page 23).

## 28. Science (*role of science and functioning of Scientific Committee*)

Science underpins the work of the Commission and this should continue to be the case. However, there are some aspects of the interaction between science and policy-making that can be improved. One of them is about how we communicate uncertainties in the scientific advice to a non-technical audience. Scientific results can easily be misinterpreted, especially if they involve concepts which are fully understood only by a small, specialised group of individuals. Also, the nature of scientific research is that it continuously evolves and improves its findings. Understanding the level of maturity of the scientific research that is supporting the scientific advice could prevent (or discourage) inappropriate use of that advice. A way to support such an understanding is to communicate effectively the uncertainties in the scientific advice and the nature of these uncertainties. For example, low uncertainty in a scientific result could be because research has reached such a level that it is able to account for all major sources of uncertainty in the system it studies and has found ways to reduce the uncertainty or to provide advice which is robust to that uncertainty. However, such low uncertainty might be the result of research that is at its infancy and has not identified all sources of uncertainty. Thus, it cannot account for them in its calculations. In this case, the uncertainty that has been quantified might be small but in reality, the understanding of the system of interest is limited. The recipients of scientific advice are bound to put the same weight on the outcomes of these two types of research unless a mechanism is in place to ensure that they receive the information that will allow them to make such distinctions. The Small Working Group is in a position to highlight the need for such a mechanism and take steps to address this issue.

One of the issues that has been discussed repeatedly is how the Committee decides on the questions that it needs to address every year. On a number of occasions, the Committee has noted that requests from governments add to its already heavy workload, highlighting the need for clear guideline on: a) how we decide whether the Committee should look at a specific question and b) how we prioritise the tasks that are considered appropriate for consideration. Addressing these types of questions will help to redefine how the Committee functions.

The adoption of a more holistic approach to the evaluation of the effects of human activities on marine species and ecosystems means that concepts from additional scientific disciplines, such as socio-economics, are expected to become part of the work that the Committee will be asked to carry out. To do so, scientific expertise

in a broader range of scientific areas will be required and the Committee needs to identify the steps to take to respond to this challenge.

**We support moves towards a more conservationist approach to the Scientific Committee's work and agree with the content of 'A reformed approach to science' in paragraph 3.3 of the Australian Government's paper 'Whale Conservation and Management: A Future for the IWC' – (see IWC/M08/INFO 11).**



Common dolphins

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## 29. Secretariat (*implications for role of/expertise*)

The Secretariat currently does an excellent job, remaining neutral and seeking to facilitate and not to lead.

**We want this role to continue.**

## 30. Socio-economic implications

The UK Government considers that a whale is worth more alive than dead. Today, commercial whale watching is a well-established, rapidly expanding industry in many parts of the world. It is worth over US \$1 billion and attracts millions of tourists each year in over 90 states and territories.

There is much to be gained by promoting whale watching as part of sustainable tourism. In many countries whales contribute significantly to the tourism industry, making their protection and conservation a socio-economic priority as well as a conservation obligation. For example, in the Caribbean whale watching is a US\$10 million industry and a recent estimate by the Caribbean Whale Conservation Forum put potential income earned by a regional whale watching industry at approximately US\$24 million a year.

**In addition to its economic value, we strongly believe that whale watching provides great educational and social benefits, and that the use of this natural resource in a non-lethal and non-consumptive way is the only sustainable use of whales.**

However, the rapid growth of the whale watching industry is not without its concerns. Countries who benefit from whales have an obligation to ensure commercial whale watching is appropriately managed and regulated to minimise any potential impact. **The Australian Government identifies the regulation of whale watching as an area that the IWC could develop in its paper 'Whale Conservation and Management: A Future for the IWC' and we strongly support this initiative.**

## 31. Small cetaceans

Small cetaceans include some of the most critically endangered populations of all cetaceans. The pro-whaling countries in the IWC argue that the IWC does not have competence for small cetaceans, potentially denying these animals any protection by the IWC. However, the Schedule, which is an integral part of the International Convention for the Regulation of Whaling, has a detailed list of species

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which includes some small cetaceans. There can, therefore, be no doubt that the management and conservation of these species is within the competence of the Commission.

The IWC has passed numerous Resolutions on small cetacean species. There is no good reason why an organisation with as broad a knowledge base and influence as the IWC should not protect some of the most threatened of all cetacean species.

**No other international organisation has the ability, expertise or resources to ensure that small cetaceans are managed and protected from hunting. The IWC should learn from the recent extinction of the Baiji and focus its efforts on protecting critically endangered cetaceans such as the Vaquita.**

Many countries make conservation efforts on small cetaceans within their own waters, however many small cetaceans are not limited in their range to single territorial waters. The IWC is internationally recognised as the global scientific authority on small cetaceans, and without the current cover in the IWC, small cetaceans will struggle for adequate protection in international law.

We believe that the Scientific Committee and the IWC should, as the leading cetacean experts worldwide, maintain the right to provide management advice as well as continuing to discuss small cetacean hunts and criticise them where appropriate.

## 32. Trade restrictions

**We firmly support the CITES ban on international trade in whale meat and whale products. It is important that there is no attempt to create an artificial demand for whale meat by lifting the ban on whale meat trade, particularly as there are serious doubts about the commercial value of existing whale hunts. If new forms of whaling are agreed and/ commercial quotas are to be set at some point in the future, there must be a requirement for no international trade in the products. Violation of this requirement should result in the quota in question being set to zero.**

We are increasingly concerned about trade in whale products between countries holding reservations to the CITES Appendix I listing, or to countries which have not joined CITES. To eliminate the unacceptable risk of market-driven whaling in the future, we believe that Contracting Governments should lift all CITES reservations to cetacean species as a pre-requisite to negotiations on the future of the IWC.

### 33. Whale watching/non-lethal use

Despite the importance and value of whale watching to the economies of many countries, many pro-whaling countries continue to argue that it should not be considered by the IWC. We continue to believe that whale watching and the non-lethal use of whales is a legitimate and vital subject for consideration by the IWC, particularly as whale watching is now the more valuable and the main use of whale resources.

Whales are often highly migratory and a whale hunted and killed is lost forever to the whale watching sector (or others that might simply enjoy encountering it) possibly thousands of miles away. Hunting whales is also likely to lead to a change in their behaviour. Whales that have been chased are less likely to allow whale watching boats to approach them. Equally, whales that are familiar with whale watching boats will have little reason to fear whaling vessels until it is too late.

**We cannot therefore see that whaling and whale watching can easily co-exist. Using the RMP to agree the use of whales for whaling and whale watching would be likely to lead to conflict, confusion and justified criticism from the eco-tourism sector.**



IFAW/J. Mitchell

Gray whale approaches whale watching boat

## Summary of views on the 33 issues

### 1. **Advisory/Standing Committee or Bureau (*need for*)**

- An Advisory Committee (or something on similar lines) is desirable for the immediate future to help resolve and advise over difficult situations.

### 2. **Animal welfare**

- Minimum conditions under which whales could be killed should be established.
- There has been an increasing reluctance by whaling countries to provide welfare data to the IWC and enter into any meaningful discussion on how to improve the welfare of hunted whales – this needs to be rectified.
- The IWC should investigate the possibility of developing a working relationship with the Organisation for Animal Health (OIE) in its role promoting international standards on humane slaughter.

### 3. **Bycatch and infractions**

- Bycatch and infractions must be considered as part of a robust and comprehensive Revised Management Scheme (RMS) package based on international best practice.

### 4. **Climate change**

- The threats from climate change are both serious and wide-reaching. They are so serious and unpredictable that they call into question the extent to which any targeted killing of any sort can be justified.

### 5. **Civil society (*involvement of*)**

- The involvement of civil society should be encouraged and the IWC should copy the best practice of other progressive international organisations.
- Non-Governmental Organisations (NGOs) should be allowed to speak at plenary sessions and in committees and sub-committees.

### 6. **Coastal whaling (*i.e. within EEZ*)**

- When considering coastal whaling there are serious doubts about the potential impact on whale stocks; the commercial aspects; the lack of defined need; and the genuine subsistence needs of coastal communities.
- Effective control measures, together with restrictions on the distribution of the end product, should be in place before there is any consideration of allowing coastal whaling.
- Any “new” type/category of whaling operation would essentially be a different form of commercial whaling and would undermine the current moratorium.

### 7. **Commercial whaling moratorium**

- The present levels of uncertainty on whale stocks effectively preclude any decision to lift the moratorium and allow a resumption of commercial whaling. We consider that the conditions for lifting the moratorium have not yet been met, and that non-lethal uses of whales (whale-watching) now bring in far greater income than killing them.

- 8. Compliance and monitoring and 26. Sanctions**
  - A Revised Management Scheme (RMS) should be established that includes effective *compliance* and *monitoring* measures and suitable *penalties/sanctions*, in order to ensure effective implementation and enforcement of the agreement and its future shape and direction.
- 9. Conservation Committee**
  - The Conservation Committee continues to make a useful contribution to the work of the Commission and benefits all Contracting Parties.
- 10. Conservation Management Plans**
  - Conservation Plans are a positive step and should be considered by the Conservation Committee and the Scientific Committee. Developing Conservation Plans could make a '*positive contribution to conservation*'.
- 11. Convention (*purpose of*)**
  - The IWC should resist efforts to return to a narrow interpretation of the 1946 convention.
  - The IWC must respond to the major changes in ocean management, human uses and the conservation of whales since the International Convention for the Regulation of Whaling (ICRW) was concluded and protect the world's whales.
- 12. Co-operative non-lethal research programmes**
  - The recommendations and proposals in the Australian Government's paper IWC/60/16 are an excellent way forward and should be considered as part of an agreement on reform of the IWC.
- 13. Data provision**
  - There should be timely and accurate provision of data on a range of areas, including aboriginal subsistence whaling and scientific whaling (including welfare data), which should be regularly and openly discussed at IWC meetings.
- 14. Developments in ocean governance**
  - The IWC must widen its scope and adopt the principles of precaution and ecosystem-based management.
  - The IWC should develop formal relations with other marine organisations and take into account other relevant processes and decisions including the deliberations and outcomes of biodiversity-related treaties such as the CBD.
- 15. Ecosystem-based approach to management**
  - The IWC should agree that ecosystem-based management requires a precautionary approach with protection of the ecosystem the top priority. It should not involve managing the ecosystem in an attempt to increase yields of a target species.
- 16. Environmental threats to cetaceans**
  - Human impacts continue to affect whale stocks worldwide severely.
  - The reformed IWC should focus its expertise and power on conserving the world's cetaceans and preventing human impacts from causing the extinction of species and populations worldwide.

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- 17. Ethics**
- In considering all the facts available, the IWC should reach a balanced position from all the ethical arguments involved, without the need to give an opinion on the merits or relevance of the ethics involved.
- 18. Financial contribution scheme**
- If commercial whaling were to resume or a new type/category be agreed, costs should be borne mainly by the whaling countries.
- 19. Frequency of meetings**
- If the present disagreements in the IWC are resolved there would be advantage in reducing the frequency of meetings.
  - There is, however, a need for annual meetings of the Scientific Committee.
- 20. Marine Protected Areas (MPAs) and 27. Sanctuaries**
- Whale sanctuaries and MPAs address a real conservation need and are important for non-lethal research. Sanctuaries have a sound legal basis in the IWC and, once established, they should be recognised and observed by all IWC members.
- 21. Objections and reservations**
- It is clear that there is not an ‘ideal’ solution for these problems. The Small Working Group could seek independent legal advice on how objections and reservations should be dealt with in future.
- 22. Procedural issues (*improvements to*)**
- Any proposals by the Small Working Group that might help to improve the workings and procedures of the IWC should be given serious consideration.
- 23. Research under special permit**
- All of the scientifically relevant data collected in ‘scientific’ special permit hunts can be obtained using non-lethal means.
  - No progress can be made on defining a future role for the IWC without addressing the issue of scientific whaling, which continues to undermine both the moratorium and the credibility of the IWC.
- 24. Revised Management Procedure (RMP)**
- All countries should adhere to the agreed, published version of the RMP.
  - To be effective, the RMP must be buttressed by a robust and agreed RMS with transparent reporting and enforcement mechanisms that ensure compliance.
- 25. Revised Management Scheme (RMS)**
- Many of the 33 issues listed by the Small Working Group are inter-related and require a comprehensive RMS for them to be effective in their own right.
  - Completion, and adoption, of the RMS should be required before, and be quite separate from, any consideration of the future of the moratorium, or creation of a new category of whaling.
- 26. Sanctions – See 8**
- 27. Sanctuaries – See 20.**

**28. Science** (*role of science and functioning of Scientific Committee*)

- Science underlies the work of the Commission and this work should be maintained and supported.
- Moves towards a more conservationist approach to the Scientific Committee's work should be supported. 'A reformed approach to science' as set out in section 3.3 of the Australian Government's document 'Whale Conservation and Management: A Future for the IWC' is a good starting point.

**29. Secretariat** (*implications for role of/expertise*)

- The Secretariat currently does an excellent job that should continue. It should remain neutral and seek to facilitate and not to lead.

**30. Socio-economic implications**

- A whale is worth more alive than dead. Today, commercial whale watching is a well-established, rapidly expanding industry in many parts of the world. It is worth over US \$1 billion and attracts millions of tourists each year in over 90 states and territories.

**31. Small cetaceans**

- The IWC should maintain the right to advise on small cetaceans. No other international organisation has the ability, expertise or resources to ensure that these creatures are managed and protected from hunting.
- The IWC should learn from the recent extinction of the Baiji and focus its efforts on protecting critically endangered cetaceans such as the Vaquita.

**32. Trade restrictions**

- The ban on international trade in whale meat should continue; particularly while the moratorium remains in place.
- To eliminate the unacceptable risk of market-driven whaling in the future, Contracting Governments should lift all CITES reservations to cetacean species as a pre-requisite to negotiations on the future of the IWC.

**33. Whale watching/non-lethal use**

- Whale watching and the non-lethal use of whales is a legitimate and vital subject for consideration by the IWC, particularly as whale watching is now the more valuable and the main use of whale resources.

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## GLOSSARY

ASW	Aboriginal Subsistence Whaling
AWMS	Aboriginal Whaling Management Scheme
CBD	Convention on Biological Diversity
CC	Conservation Committee
CCSBT	Convention for the Conservation of Southern Bluefin Tuna
CDS	Catch Documentation Scheme
CITES	Convention on International Trade in Endangered Species
CRC	Compliance Review Committee
EBFM	Ecosystem-based fishery management
FAO	Food and Agriculture Organisation
FFA	Pacific Islands Forum Fisheries Agency
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICRW	International Convention for the Regulation of Whaling
IO	International Observers
IUCN	International Union for Conservation of Nature, (or World Conservation Union)
IUU	Illegal, Unregulated and Unreported
IWC	International Whaling Commission
MEAs	Multilateral Environmental Agreements
MHLC	Multilateral High Level Conference (on South Pacific tuna fisheries)
MOUs	Memorandum of Understanding
MPAs	Marine Protected Areas
MSC	Monitoring Surveillance and Control
NGOs	Non-Governmental Organisations
OIE	The Organisation for Animal Health
RFMOs	Regional Fisheries Management Organisations
RMP	Revised Management Procedure
RMS	Revised Management Scheme
SC	Scientific Committee
STCW	Small Type Coastal Whaling
SWG	Small Working Group
VMS	Vessel Monitoring System

*“Collective action by nations across the globe is needed to protect whales for future generations.”*

Sir David Attenborough





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