



Report of the Intersessional Meeting of the Revised Management Scheme Working Group

Monaco, 6th – 8th February 2001

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The list of participants is given in Appendix 1.

1. WELCOME

Professor Doumenge, Commissioner to the IWC for Monaco, welcomed the Revised Management Scheme (RMS) Working Group to Monaco on behalf of His Serence Highness Prince Rainier III of Monaco and the Minister of State for Monaco. He hoped that the 3-day meeting would successfully make progress towards completing the RMS.

2. APPOINTMENT OF CHAIRMAN

Fer von der Assen (the Netherlands) was appointed as Chairman.

3. APPOINTMENT OF RAPORTEURS

Nicky Grandy and Greg Donovan from the IWC Secretariat were appointed as rapporteurs.

4. MEETING OBJECTIVES, PLANS FOR THE REPORT AND 'OPENING STATEMENTS'

Objectives

Referring to Resolution 2000-3 on the RMS adopted in Adelaide in July 2000, the Chairman recalled that the purpose of the meeting was to:

- (1) make further progress on revising Chapter V of the Schedule that deals with supervision and control;
- (2) develop a text to incorporate the structure and elements of the RMS, including the RMP, into the Schedule based on the draft prepared by the Secretary in consultation with the Chairman.

Plans for the report of the intersessional meeting

The Chairman reminded the Working Group that according to Rules of Procedure Q2, the report of the intersessional meeting is strictly confidential until it has been distributed by post to Commissioners and Contracting Governments; this rule applies equally to Contracting Governments and

observers. Direct quotation from the report or disclosure of what was said by individuals/countries is thus prohibited until after the report has been circulated. The Chairman suggested that the Secretariat prepare a brief draft statement for the end of the meeting that summarises what was discussed, what was agreed and what the next steps are. The Working Group will be able to review the statement which will be released at the end of the meeting for any one to use and to comment on. The Working Group agreed with this procedure (see item 10).

'Opening statements'

A number of countries expressed their views and positions with respect to work on the Revised Management Scheme. These views and positions are reported in Appendix 2. Appendix 2 also includes a statement from the Embassy of India in Paris sent by fax to the Secretary on 7th February. India had planned to send a representative to the meeting, but due to unforeseen circumstances its representative was unable to attend.

5. REVIEW OF DOCUMENTS

The documents presented to the Working Group are listed in Appendix 3. The Chairman proposed that comments on Document 1 (Report of the Revised Management Scheme Working Group, 28-29 June 2000, Adelaide) received from the Republic of Korea just prior to the meeting would be appended to Document 7 (Comments and proposals in relation to Chapter V, Supervision and Control). Document 7 collates comments received on Document 1 from Japan, Norway, New Zealand/Sweden (joint proposal) and Sweden. The Chairman noted the document circulated to Commissioners by Professor Wold (Northwestern School of Law of Lewis and Clark College in the USA) that compares monitoring, control and surveillance programmes of international fisheries agreements might provide useful background to meeting discussions. The Working Group agreed to his suggestion that this document be considered as part of the meeting documentation.

The Chairman noted the view expressed by a number of countries (see Appendix 2) that Documents 5, 6 and 8, introduced issues and proposals they considered to be outside the scope of

the Convention. However, it was the Chairman's view that Documents 5 and 6 provided background information to discussions under agenda item 7, and should therefore be considered by the Working Group. He also stated that as Document 8 was a UK proposal for the inclusion of data on animal welfare issues into Chapter VI of the Schedule, it should be addressed.

6. ADOPTION OF THE AGENDA

The adopted agenda is given as Appendix 4. It was agreed to discuss Items 8.1 and 8.3 concerning Document 2 (Proposed revisions needed to incorporate the RMS, including the RMP, into the Schedule) together. Item 8.2 on the UK proposal to include animal welfare data in Chapter VI of the Schedule on information required would be considered separately.

7. DISCUSSION OF REVISIONS TO CHAPTER V, SUPERVISION AND CONTROL

Following initial discussions in the Working Group, a small drafting group (Donovan, Secretariat; Joseph, Antigua and Barbuda; Gillespie, New Zealand; Øen, Norway; Ynnesdal, Norway; Hayes, USA) was convened to prepare revised text for consideration by the Working Group. The drafting group's report is given as Appendix 5, where any proposed revisions to the June 2000 version of Chapter V (i.e. given in Document 1) are accompanied by comments and/or explanations. Appendix 6 contains the text agreed by the Working Group after reviewing Appendix 5.

The Working Group drew attention to two particular issues which are discussed below.

DNA profiles and verification of catch data by genetic monitoring

Sweden and New Zealand presented revised text for paragraphs 3 and 19 concerning a diagnostic register of DNA profiles (Document 7, Section 3) and the verification of catch data by genetic monitoring (Document 7, Section 4). While the Working Group agreed the importance of a register of DNA profiles of all whales killed, there was no consensus on the need for a central (IWC) register or centralised genetic monitoring. The revised texts have been included as options for consideration in Appendix 6 (now Paragraphs 3 and 18 due to new numbering).

New Zealand presented a proposal (Document 5) to incorporate catch certification data into the RMS, as has been done in a number of fishery agreements. While this approach was supported by many countries, others saw no need for such provisions which they considered excessive and beyond the scope of the Convention. Text drafted by New

Zealand has been included as an option for consideration in Appendix 6 (Paragraph 18(a)).

Oversight

The proposal to establish a Review Committee to review and report on the compliance of all whaling operations introduced by the USA to the Working Group in Adelaide in June 2000 and revised by Sweden (see Document 7, Section 4) was discussed. Some countries considered such a committee to be one of the fundamental changes needed to ensure a credible RMS. It would provide appropriate oversight of infractions, and with the two accredited international observers (who would be allowed to speak but not to vote) would provide the necessary transparency and perspective. They did not believe that the current Infractions Sub-committee would be sufficient (e.g. in being able to respond quickly to infractions) should commercial whaling resume. Others believed that the existing Infractions Sub-committee could provide the necessary oversight (with revised terms of reference if necessary) and transparency (since observers are already admitted). There was also some uncertainty as to how the two observers would be selected under the new proposal.

In response to Norway's concern that a Review Committee might result in unfair judgements, New Zealand proposed an addition to the text of the oversight paragraph and this is given in Appendix 6 (Paragraph 19(b)(iv)).

Norway considered the proposal to be helpful but still had doubts regarding the need for a Review Committee. It also questioned whether the intention would be that the Review Committee would consider aboriginal subsistence whaling infractions and bycatches. The US confirmed this intention. Regarding aboriginal subsistence whaling, Denmark stressed that the RMS is not relevant to such catches, although these would of course be taken into consideration within the Revised Management Procedure.

8. INCORPORATION OF THE STRUCTURE AND ELEMENTS OF THE RMS, INCLUDING THE RMP, INTO THE SCHEDULE

The Working Group briefly discussed the draft of the Schedule provided by the Chair of the Working Group and the Secretariat (Document 2). That document suggested how the RMS might be incorporated into the Schedule and indicated other parts of the Schedule that might benefit from review. A number of issues were discussed including: the possible deletion of Paragraphs 10(d) and 10(e); clarification that whaling under the RMS could not occur in Sanctuary areas; and the possible limiting of commercial whaling to coastal waters for the purposes of local use. A range of views was expressed as to whether these topics were within the

terms of reference of this Working Group. Some general and specific suggestions for modifications to Document 2 were made and some delegations indicated that they would submit written comments after the meeting. It was agreed that written submissions should be received by the Secretariat no later than 1 April 2001. The Secretariat will then develop a revised draft that incorporates comments made during the Working Group meeting and in writing, and circulate this in advance of the July Annual Meeting (i.e. in mid May). In this version, the source of the various proposed texts (e.g. country proposals, Resolutions) will be included.

The UK proposal (Document 8) to include data on animal welfare issues into Chapter VI, Information Required, was also discussed. Several countries expressed support for this proposal, believing that it would bring the Schedule in line with many countries' domestic legislation and other international Conventions that now recognise the increasing importance of animal welfare. Other countries, while acknowledging the importance of animal welfare issues, considered the proposal to be outside the scope of the Convention and believed that such issues are adequately covered by their own national legislation. They also considered the

proposed requirements to be excessive and impractical. Following discussion, the UK indicated that it would also forward a modified proposal for the details to be considered by the Working Group on Whale Killing Methods and Associated Welfare Issues at the 53rd Annual Meeting in London.

9. ANY OTHER BUSINESS

There was no business raised under this item.

10. STATEMENT

The statement about the meeting for immediate public release is given as Appendix 7.

11. ADOPTION OF REPORT

The Working Group thanked the Chairman of the Working Group and the Secretariat for the thorough preparation they had carried out before the meeting and for its smooth running. It also thanked Professors Doumenge and Briand, as well as the Principality of Monaco, for the excellent local facilities. The meeting closed after the adoption of the report at 4.30pm on 8 February 2001.

Appendix 1

LIST OF PARTICIPANTS

Antigua & Barbuda

Mr. Daven Joseph (C)
Mr. Nigel Lawrence

Australia

Mr. Howard Bamsey (C)
Dr. David Kay (AC)
Dr. Miranda Brown
Ms. Pam Eiser
Ms. Nicola Beynon

Argentina

Mr. Mariano Vergara (AC)

Brazil

Mr. Lauro Soutello (AC)
Mr. José Truda Palazzo Jr.

Denmark

Mr. Henrik Fischer (C)
Mr. Palle Uhd Jepsen
Ms. Amalie Jessen

Dominica

Mr. Andrew Magloire (AC)

Finland

Mr. Esko Jaakkola (C)

France

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Mr. Ibrahima Sory Toure (C)
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Ms. Nadine Szlifersztejn (I)

Ireland

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Italy

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Japan

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Mr. Joji Morishita
Mr. Toshiharu Tarui
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Japan (cont.)

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Ms. Midori Ohta (I)
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Mr. Dmitry Okhotnikov (AC)
Mr. Rudolf Borodin

St. Lucia

Mr. Cassius Elias (C)
Mr. Vaughn Charles (AC)
Mr. Horace Walters

St. Vincent & The Grenadines

Mr. Raymond Ryan (AC)

Solomon Islands

Mr. Sylvester Diake (AC)

South Africa

Mr. Guillaume de Villiers (AC)

Spain

Mr. Fernando Curcio (C)

Mr. Santiago Lens

Sweden

Prof. Bo Fernholm (C)

Dr. Thomas Lyrholm

Switzerland

Mr. Thomas Althaus (C)

United Kingdom

Mr. Chris Ryder (C)

Mr. Rob Bowman

Mr. Geoffrey Jasinski

Mr. Mark Bravington

Mr. Richard Hepburn

Mr. Lawrence Kell

Mr. Mark O'Reilly

USA

Mr. Michael Tillman (AC)

Ms. Nancy Azzam

Mr. Robert Brownell

Ms. Cathy Campbell

Ms. Maggie Hayes

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Non-Member Government Observers*Iceland*

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Mr. Mohamed Semlali

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Mr. Samiu Vaipulu (Alt)

Animal Welfare Institute

Mr. Ben White

Antarctic and Southern Ocean Coalition

Ms. Theda Freseman

Mr. Simon Reddy (Alt)

Beneficiaries of the Sea Coalition

Mr. Antony Poppleton

Born Free Foundation

Dr. Paul Spong

Campaign Whale

Mr. Andy Ottaway

Cetacean Society International

Ms. Kate O'Connell

Cousteau Society

Ms. Clark Lee S. Merriam

David Shepherd Conservation Foundation

Ms. Sue Fisher

Earth Voice

Ms. Betsy Dribben

Eastern Caribbean Coalition for Environmental Awareness (ECCEA)

Ms. Lesley Suttty

Ecodetectives

Ms. Jennifer Lonsdale

Environmental Investigation Agency

Mr. Allan Thornton

European Bureau for Conservation & Development

Mrs. Despina Symons

Mr. Raniero Leto (Alt)

Fauna and Flora International

Mr. Richard Mott

Greenpeace International

Mr. John Frizell

High North Alliance
Mr. Rune Frovik

Humane Society International
Ms. Patricia Forkan

Institute for the Study of Animal Problems
Ms. Leesteffy Jenkins

International Environmental Advisors
Mr. David McTaggart

International Fund for Animal Welfare
Mr. Vassili Papastavrou

International Institute for Environment and Development
Mr. Henning Røed

International Wildlife Coalition
Mr. Daniel Morast
Mr. Tim Nielson (Alt)

IWMC World Conservation Trust
Mr. Eugene Lapointe
Mrs. Helene Lapointe (I)

Inuit Circumpolar Conference
Mr. Aqqaluk Lynge

Japan Fisheries Association
Mr. Jay D. Hastings

Japan Whale Conservation Network
Ms. Naoko Funahashi

Monitor International
Ms. Kitty Block

PANGEA
Dr. Sandra Altherr

RSPCA
Ms. Laila Sadler

Waterlife Assoc
Ms. Audrey Caldwell

Werkgroep Zeehond
Mr. Geert Drieman

Whale & Dolphin Conservation Society
Mr Mark Simmonds

Working Group for the Protection of Marine Mammals (ASMS)
Ms. Katherine Hanly

World Society for the Protection of Animals
Ms. Clare Perry

World Wide Fund for Nature
Ms. Cassandra Phillips

Appendix 2

‘OPENING STATEMENTS’

(Note that Japan, Norway, Italy and Australia provided copies of their statements to the Secretariat and so these have been included below. The statements from the other countries are summaries by the Secretariat of verbal interventions made during Agenda item 4. The statements are given in the order in which they were made during the meeting. The statement from India was sent by fax to the Secretariat on 7th February).

Norway

Contemporary international agreements are sometimes equipped with a device called a *sunset clause*, meaning that if a certain provision of the agreement is linked to a specified time limit, and if the said provision has not been fulfilled by the required deadline, that provision automatically becomes null and void. The 1946 International Convention for the Regulation of Whaling does not have an explicit sunset clause, - in that case Schedule para 10(e) would obviously have vanished in thin air more than 11 years ago. Nevertheless, the very wordings of para 10(e) should make it abundantly clear that this provision is not only outdated but simply absurd.

The whole RMS exercise was embarked upon in 1992, at the behest of those countries that refused to accept the obligations that they themselves had undertaken back in 1982 by adopting para 10(e). Those obligations included implementing, by 1990 at the latest, revised management procedures (RMP) to replace the moratorium with new catch quotas. The fact that this commitment has not yet been fulfilled is more than ridiculous: It is a disgrace to our Commission (witness the letter of warning from the Secretary-General of CITES to the IWC Chairman in July last year).

It may seem to be a paradox that Norway – the most consistent and vociferous opponent of the moratorium – has also been the country that has most loyally and systematically abided by that decision, indeed the only country that has actually implemented its provisions by adopting – as envisaged and prescribed by para 10(e) - the RMP as the basis for setting catch quotas, since we resumed commercial whaling 8 years ago, thereby normalizing this component of the whaling industry.

The RMS was not a Norwegian invention. Indeed, we have considered it an artificial and unnecessary concept, to say nothing of the fact that it blatantly contravenes previous decisions and commitments made by the IWC. With the RMP in place, there was no objective need for the expanded concept of the RMS. Nevertheless, in the spirit of good cooperation, ever willing to engage constructively in discussions with other IWC countries if that is what it takes to achieve workable solutions, we have since the outset accepted to be a part of the RMS process. To reach agreements, one must negotiate in good

faith and be willing to make compromises. To this end, we have patiently pursued a conciliatory and accommodating approach in the face of relentless attempts by our opponents to “move the goal-posts” by introducing new and obstructive elements into the process. We have bent over backwards, turned the other cheek and walked the proverbial other mile, contributing more than our fair share to the common goal of reaching a compromise solution to the problems that the IWC majority had brought upon our Commission. Thus, we joined the consensus in IWC Resolution 1994-5. We have gone along with subsequent steps taken, including Resolution 2000-3, with the express purpose of reaching an agreement on RMS.

But, lest we forget: The very purpose of the RMS was and remains to replace the moratorium.

This is the key issue which we face at this meeting.

Thus, simple logic dictates that, if the RMS exercise is to have any meaning at all, Schedule para 10(e) has got to go. The time has come – if we want to be seen as serious and honest on this issue – to reaffirm our joint understanding to this effect.

Unfortunately, some Member countries have in the past made statements that seem to run counter to this understanding. In its Opening Statement to the 1997 Annual meeting Australia said that “Australia will vote against any proposal to adopt the RMS and the RMP”. Regrettable as this position may be, Australia nevertheless did the decent thing and decided to stay out of the RMS negotiations. Other states have, however, made similar statements without drawing such conclusions. Thus, the UK in its Opening Statement to the 1996 Annual meeting declared that “...the UK could only agree to the adoption of a Revised Management Scheme if this did not involve ending the moratorium”. In its Opening Statement to the 1997 Annual meeting the United States “...reiterated its opposition to all types of commercial whaling”. And New Zealand in its Opening Statement to the 1999 Annual meeting stated that “...we do not want to see the RMS become a precursor for lifting the global moratorium”. As I presume that these countries, like the rest of us, are conducting these negotiations in good faith, I take it that they would also like to avail themselves of this opportunity to retract such categorical and counter-productive statements.

We have come a long way towards solving the practical issues concerning the revision of Schedule Chapter V – Supervision and Control. That exercise will, however, have been in vain if we cannot reach agreement on the main issue that triggered off the whole RMS process in the first place: Namely to have the moratorium replaced by a revised set of management rules that would bring about the normalization of the whaling industry, based on the principles laid down in the 1946 Convention. That issue should no longer be dodged.

Japan

Mr. Chairman, the IWC has been discussing the RMS for almost 10 years. In the process, Japan has always supported the early completion of the RMS to allow the resumption of appropriately managed sustainable whaling. At this meeting, our basic position is to complete the RMS at the earliest possible date through constructive discussion, and thus I stress that we will not spare any effort to achieve this goal in good faith.

In recent years there have been increasing calls from the international community for the IWC to complete the RMS and to restore its function as an international organisation to manage the sustainable use of cetaceans. This is evident in the messages conveyed by CITES and the IUCN. I emphasize that we cannot delay the process any longer if the IWC is to regain its credibility as an international organisation.

Some members of the IWC have officially declared their opposition to the implementation of RMS while others have expressed the incomprehensible policy that they would oppose the resumption of whaling while supporting the RMS. The Comprehensive Assessment by the Scientific Committee has revealed that some cetacean stocks have fully recovered or are abundant. In 1992, the Scientific Committee also completed the most advanced and conservative management regime, the RMP, which was subsequently adopted by the Commission. There remain only a few elements of the RMS to be resolved to fulfil the requirements for effective management compared with the examples of other organisations concerned with the conservation and use of living resources. I assume that the reason for not already having completed the RMS must be an emotional argument or a political voice representing anti-whaling groups.

The early completion of the RMS is a very important matter which will determine the future of the IWC. All of the contracting parties have an obligation to comply with the provisions of the ICRW. The ICRW provides for the sustainable utilisation of the cetaceans that are abundant based upon scientific findings.

Whether the IWC can complete the RMS in a timely manner and in accordance with the provisions of the

ICRW are issues that relate to the utilisation and management of all the wildlife resources. The international community is closely watching with great interest to see whether the IWC can build a framework to provide for the utilisation of cetaceans in accordance with the principle of sustainable use which is clearly stated in the Agenda 21, or whether it will bow to emotional and political arguments. Taking this into account, Japan renews its commitment to make a positive contribution towards the completion of the RMS.

On the other hand, we must express our concern regarding some decisions and some proposals which have deliberately delayed the completion of the RMS. First of all, we are concerned about the procedures taken to decide the location of this intersessional meeting. Our position on this matter has already been stated in the letter circulated to members. We believe the procedure was improper.

The second point of our concern is that once again we have been presented with new proposals for incorporation into the RMS in addition to including proposals that have been repeatedly opposed by many countries in the past IWC discussion and that these matters are clearly outside the competence of the IWC from a legal standpoint.

Specifically, these proposals are contained in the documents circulated by the Secretary on January 19 and concern animal welfare aspects which had nothing to do with sustainable use, the incorporation into the RMS of DNA registration and whale products market monitoring which is outside the competence of the ICRW and a catch data verification system.

These attempts to introduce additional substantive elements into the RMS at the final stages of the process must be seen solely as an attempt to further delay the completion of the RMS. Delay in the completion and implementation of the RMS prevents application of the principle of sustainable use, contrary to the provisions of the ICRW.

Japan has already made substantial progress on the implementation of a comprehensive DNA sampling program and registry that will satisfy international concerns related to possible illegal trade. This voluntary initiative includes sampling in the domestic market, sampling of all whales taken under our research program, sampling of all frozen stockpiles of whale meat as well as samples from all stranded animals and those caught accidentally in fishing gear. Results of sampling on the domestic market have been reported to the Scientific Committee of the IWC. With respect to international trade in whale products, it is the position of the Government of Japan that we will carry out necessary measures to control such trade in compliance with the regulations under CITES which

has legitimate competence to deal with international trade.

In conclusion, I would again like to refer to the basic position of the Government of Japan with respect to the Supervision and Control Scheme of the RMS.

Firstly, the Supervision and Control Scheme of the RMS must follow the objective and provisions of the International Convention for the Regulation of Whaling. Measures under the Scheme must be such as are necessary and reasonable in order to achieve the objective of the Convention. The purpose of the RMS is to ensure that the number of whales actually taken does not exceed catch limits calculated by the Revised Management Procedure and that sampling and the collection of information required for those components of the RMS already agreed is carried out efficiently.

Secondly, the Supervision and Control Scheme must reflect the reality of whaling operations and must be practical to implement. This is particularly the case for small-type whaling operations, where the size of vessels as well as the scale of operations are small and, therefore, require a scheme reflecting such specific characteristics.

Thirdly, in finalising the RMS, the IWC should refer to measures presently applied by other international fishery management organisations. It should be noted that whaling is one form of utilisation of a natural resource, just as is the case for other fisheries and that there is no reason to view whaling as some kind of criminal activity.

Mr. Chairman, in closing my statement, I would like to emphasise that it is the sincere hope of the Government of Japan that the views of reason and common sense be fully respected and that we will make significant progress in our task of completing the RMS.

The 52nd Annual Meeting of the IWC held in Australia last year adopted Resolution 2000-3, which recognises that 'it is important for the future of the Commission that the process of completion of the RMS proceed expeditiously'. All IWC members should negotiate in good faith, abandon emotional positions and biased political agendas and follow the provisions of the ICRW.

Italy

Italy is opposed to commercial whaling, which we believe is unsafe, unhealthy, cruel and should be a thing of the past, like the paintings on the ceiling of this hall suggest. Nevertheless, in the likelihood of an uncontrolled escalation of commercial whaling as we are seeing today, in spite of the moratorium, with about half of the global catch taking place in a sanctuary under the pretence of science, Italy has fully supported Resolution 2000-3 and will work in earnest towards the completion and implementation of a serious Revised Management Scheme (RMS).

At the same time, Italy will work towards and expansion of the world's sanctuaries, and will insist that catch quotas be set to zero in sanctuaries, by definition.

To the RMS effort Italy shall participate in good faith, and it is in good faith that Italy expects every other Party to participate. Commercial whaling is marred by countless episodes of illegality and malpractice everywhere. Our objective with the implementation of the RMS, which we believe and hope should be everybody's objective, is to make illegality disappear and ensure complete transparency over the practice of whaling in all its components. This will entail, among other things, the implementation of a fully-covering observer scheme, the ability of tracking any whale product to its source, and a serious compliance regime. Italy recognises that compliance is a fundamental component of most modern international marine resource management agreements; notes that science and technology have made control feasible and affordable; believes that there is no reason why this should not apply also to the IWC.

Denmark

Denmark stated that completion of the RMS is critically important, and that it feared for the credibility and future of the IWC if the RMS is not finished soon (i.e. over the next few years). It considers that delay in reaching agreement on the RMS would threaten the great whales since world-wide co-operation on management of whaling through the IWC could be lost. Denmark regarded that the inclusion in the RMS of some aspects of animal welfare is reasonable, but that the best place to discuss such additions would be in the Working Group on Whale Killing Methods and Associated Welfare Issues. It considered that national schemes for the DNA tracking of whale products were useful but firmly opposed any international control over domestic markets. It stressed that aboriginal subsistence whaling was outside the scope of the RMS, but acknowledged that aboriginal takes would be taken into account in the Revised Management Procedure.

Brazil

Brazil supported the comments of Italy, and stressed that if whaling resumes there should be credible and enforceable rules. It would therefore participate constructively in the discussions to complete the RMS which it believed should contain satellite monitoring, DNA sampling and international observation of all vessels and installations.

Australia

In Adelaide last year, Australia said that it could not be part of the consensus to hold this meeting to develop the RMS. We have consistently made it clear that we will oppose the adoption of the RMS because it is a precursor to the resumption of commercial whaling. However fine and conservative

an instrument it is in its own right, its purpose is to regulate commercial whaling.

Now, as Australia is committed to opposing the adoption of the RMS in whatever form it might be agreed by other members, it follows that we cannot participate in negotiating its terms.

We will maintain both these elements of our position: we will oppose any proposal to adopt the RMS and will not participate in negotiations either this week or in the future.

I am pleased to have this opportunity to explain why we have taken this stance.

We oppose the RMS because we oppose commercial whaling. I will not rehearse in detail why we oppose the resumption of commercial whaling but the reasons range from the scientific to the economic and ethical. Let me try to distil them. We do not believe that commercial whaling is required to meet essential human needs. It is inevitably accompanied by an unacceptable level of cruelty. Although there has been some recovery amongst some whale species, it is still possible given what we do know of potential threats to whales and what we do not know about stocks, that even limited commercial whaling could lead to catastrophic destruction of whale populations. Data on stocks globally are still sparse and unreliable.

Most importantly, there is an alternative to exploiting whales by hunting them. That is non-consumptive use. It is truly sustainable use. Already in Australia, whale watching creates greater economic benefit nationally and for local communities than hunting ever did. And there is enormous potential for growth because the resource is not being consumed. In our region it is very clear that whale watching is not compatible with hunting. People will not come to watch whales if they know the whales are potential targets. So for Australia there is a clear economic imperative to oppose commercial whaling.

We have to consider the role of the RMS against the background of severe, almost ultimate depletion of whale stocks when this Commission last regulated commercial whaling. We hear arguments from whalers and their sponsors that, now that some species are beginning to recover, the Commission is somehow obliged to authorise a resumption of commercial whaling. We reject this: second chances are rare in the conservation of wild animals and marine wildlife.

Against this background, sober reflection on what might happen provides a fund of good reasons for opposing the RMS even if you do not, like us, have an a priori objection to commercial whaling. A management system combining hunting and conservation in the circumstances we have just considered should be comprehensive, taking

appropriate account of all of the factors that bear on the future of the stock and be able to guarantee safety. How many times have we seen supposedly safe management systems tick over steadily as stocks collapse?

Some factors are inherently incalculable, either because we are not aware of them as they occur or cannot observe them, or because we have no idea of their implications. Sometimes the implications can be of such a scale that they threaten the safety margins of even very conservative management systems. Changes in the environment can fall into this category.

Let us look briefly at a series of events that may constitute a case in point. Although the details are uncertain, it may be that in recent years the Antarctic krill biomass has fallen by as much as 85 percent. This was unexpected. Its causes are unknown but could be related to a retreat of sea ice in the region that began some decades ago. But what are the implications for this Commission of these perhaps remote events? It could be that they provide some of the answers to the questions before the Scientific Committee at present on the status of Southern Hemisphere minke stocks. If the decline in krill stocks has been as severe as the estimate I have just mentioned, the answers could be very surprising to say the least.

Another unforeseen environmental development is the detection recently of alarmingly high levels of toxins in whales, particularly some of those in the Northern Hemisphere. This has obvious implications for the health of any humans unfortunate enough to consume them. But it also reveals an unexpected threat to the health of whales and the future of the populations concerned. We are just beginning to analyse the implications of this development and it creates another level of uncertainty.

With all of this uncertainty I assume that if the Commission chose to resume commercial whaling it would want to ensure that any hunting that took place was strictly in compliance with the controls and limits it imposed. But the lesson of our Convention is that there is no basis for any confidence that compliance is assured. As you know, enforcement under our Convention is a matter for members. If that system had worked in the past, the Commission might be a very different organisation with a very different agenda from what we are familiar with.

The evidence from our Convention and others of similar purpose is that once commercial activity commences, the pressures to service capital and provide profits too often result in over exploitation of the resource.

More modern conventions than ours deal with this with systems of international verification and

compliance. Without that, the RMS would be a very hollow system indeed.

The bottom line for us is that commercial whaling regulated by this Commission has taken us close to the edge, decimating stocks and threatening the extinction of some species. It could all too easily happen again. The Commission ought to embrace as its future truly sustainable use of whales: their non-consumptive use.

Antigua and Barbuda

Like Norway and Japan, Antigua and Barbuda expressed concern about the number of new proposals on the table. It acknowledged Australia's stance on the RMS, noted statements made previously by some countries present who have said they would never support the resumption of commercial whaling, and called for an objective debate during which progress could be made.

USA

The USA stated that although it is against the resumption of commercial whaling, it is interested in completing the RMS for the following reasons: (1) it alone cannot control or predict what might happen in the future; (2) if catch limits are set, it wants hunts to be conducted according to the RMP; and (3) an ineffective and non-transparent RMS will not be of benefit to anyone. The USA undertook to try to seek solutions and to propose new text for the RMS. It added that it had studied the supervision and control schemes of other fisheries organisations regarding their conservation measures, and believes that there is not a huge disparity with revisions proposed for Chapter V of the Schedule. It believed that the proposed Review Committee would provide similar oversight to that occurring in other fisheries organisations

UK

The UK stated that it is opposed to whaling except for some aboriginal subsistence whaling. However, it undertook to participate in work to complete the RMS to ensure that an adequate system would be developed should commercial whaling ever resume. Regarding its proposal to include data on animal welfare issues into Chapter VI of the Schedule on Information required (Document 8), it emphasised that the proposal: (1) raised no new points or concerns that had not been expressed in the past; (2) was not outside the scope of the Convention; and (3) reflects best practice. It believes that animal welfare issues will gain more importance should commercial whaling resume. The UK undertook to take a constructive approach to ensure that under the RMS developed, catch limits would not be exceeded. It added that it is vital to ensure compliance with the scheme, and that the current draft of Chapter V needs to be strengthened in this respect, e.g. to include such aspects as tracking of whale products and the provision of central oversight.

St Vincent and The Grenadines

St Vincent and The Grenadines reported that it is committed to collaboration on the regional and international management of marine resources, and to the sustainable use of such resources – particularly whales. It also believes that the traditional and cultural rights of those whose activities involve the sustainable harvest of whales must be respected by all states party to the IWC Convention. It is anxious to see discussions on the RMS proceed and conclude in a transparent manner.

St Lucia

St Lucia indicated that it supports sustainable use as well as whalewatching, and that the RMS should be structured so that monitoring of commercial whaling is a priority. It noted the strong positions that had been taken by some countries over the last three years regarding the resumption of commercial whaling and hoped that IWC's mandate to regulate whaling would not be dissipated through countries withdrawing from the organisation.

New Zealand

New Zealand supported the comments of Italy, Brazil, the USA and the UK and indicated that it too opposes the resumption of commercial whaling. It noted that its proposals contained in Documents 5 (on catch certification data) and 6 (on DNA registers) are based on current best practice in other fisheries regimes, and regretted the attempt of some countries to block discussions on these documents. New Zealand commented that it has been participating for a long time on discussions on the RMS, and that during this time it has always expressed the view that the monitoring and tracking of whale products should be included and that such issues fall within the scope of the Convention. It added that the proposals comply with the Working Group's own recommendations (i.e. Resolution 1994-5), are not new issues and are required to distinguish between legal and illegal catches.

Mexico

Mexico condemned illegal whaling, and indicated that it did not support the resumption of commercial whaling. However, given that commercial whaling may take place in the future Mexico supports a strong RMS that ensures transparency and compliance.

Republic of Korea

Korea supported the early completion of the RMS. It noted that ensuring that the RMS is practical from a fisherman's perspective is important. The completion of the RMS should not be precluded by the unwillingness of some member nations over the resumption of commercial whaling.

Ireland

Ireland acknowledged that whaling outside of IWC control currently exists and stated that in its view, such activities should be brought under the IWC. Ireland believes that the RMS therefore needs to be part of a package of measures to bring this about, i.e. the 'Irish proposal' raised during the 50th Annual Meeting of the IWC in Monaco in 1997.

Republic of Guinea

The Republic of Guinea drew the Commission's attention to the fact that the RMS should take all necessary measures to supply a database on whale stocks. Taking into account the other countries' interventions, such countries having undertaken their own research and investigation, it would be essential to take this matter into consideration to ensure the rational and sustainable use of whale species. Once again, Guinea stressed that no database on the stock evaluation has been made available for the last ten years to bring us to a mutual flexibility i.e. catch/non-catch. Such a database should definitely be a priority to avoid any unnecessary disputes.

India

India has always played a prominent role in bringing about a moratorium on commercial whaling and strengthening the Whaling Commission. India's position on some of the important issues are summarized below:

- A. India is against commercial whaling and is maintaining the current moratorium on it. Current moratorium should be continued until all safeguards of a comprehensive Revised Management Scheme (including watertight provision for observation and inspection) are in force, fully funded and operational.
- B. India is opposed to pelagic whaling.
- C. India whole-heartedly support the Australian and New Zealand's proposal for establishment of South Pacific Sanctuary for great whales.
- D. India oppose any move to abolish the South Ocean Sanctuary.
- E. India also oppose resuming international trade in whale products and so also down listing of any species of whales until the International Whaling Commission has established an effective management.

Appendix 3

LIST OF DOCUMENTS

- Document 1: Report of the Revised Management Scheme Working Group, 28-29 June 2000, Adelaide (i.e. IWC/52/14)
- Document 2: Proposed Revisions Needed to Incorporate the RMP and RMS into the Schedule
- Document 3: RMS, Chapter V, Supervision and Control: main issues to be resolved
- Document 4: Texts related to DNA identification and tracking.
- Document 5: Incorporation of catch certification data into the RMS. A paper submitted by New Zealand.
- Document 6: Status of establishing specifications for genetic data required for a diagnostic DNA registry. A paper submitted by New Zealand.
- Document 7: Comments and proposals relation to Chapter V, Supervision and Control (Document 1, Appendix 4). This document includes contributions from Japan, Norway, New Zealand/Sweden (joint proposal), Sweden. and Republic of Korea.
- Document 8: Inclusion of data on whale killing methods and associated welfare issues in Chapter VI (Information Required) of the Schedule. A proposal submitted by the UK.
- Document 9: Extract from the Chairman's Report of the Fifty-Second Annual Meeting, Adelaide, July 2000, covering discussions on the Revised Management Scheme

Background Documents Supplementing Document 2

1. Resolutions
2. Scientific Committee Recommendations
3. Guidelines to Data Collection and Analysis under the Revised Management Scheme (RMS) Other than those Required as Direct Input for the Catch Limit Algorithm (CLA)
4. Requirements and Guidelines for Conducting Surveys and Analysing Data within the Revised Management Scheme.

Other

Wold, C.W., Arrigotti, S., Johnson, L., Van Horn, A. and White, L. 2000. A review of monitoring, control, and surveillance programs of international fisheries agreements with a view to the IWC's inspection and observation scheme of the RMS. Unpublished Report by the International Environmental Law Project, Northwestern School of Law of Lewis & Clark College.

Appendix 4

AGENDA

Monday 5th February

13.30-18.00 Registration

Tuesday 6th February

09.00 Registration

10.00 Coffee

Intersessional Meeting of the RMS Working Group

- 10.30
1. WELCOME
 2. APPOINTMENT OF CHAIRMAN
 3. APPOINTMENT OF RAPPORTEURS
 4. MEETING OBJECTIVES

The purpose of the meeting, as specified in Resolution 2000-3, is to:

- *make further progress on the draft text in Document 1, Appendix 4 for a revision of Chapter V of the Schedule;*
- *develop a text, based on the draft to be prepared by the Secretary, for the incorporation of the structure and elements of the RMS, including the RMP, into the Schedule.*

5. REVIEW OF DOCUMENTS
6. ADOPTION OF THE AGENDA
7. DISCUSSION OF REVISIONS TO CHAPTER V, SUPERVISION AND CONTROL

7.1 General Requirements (Documents 1, 3, 5 & 7)

Under this agenda item, remaining issues concerning paragraphs 1 and 2 of Chapter V will be discussed, i.e. points of control. Note that paragraph 3 on DNA profiles will be addressed under item 7.5.

7.2 National Inspection Schemes (Documents 1, 3, 5 & 7)

Under this agenda item, remaining issues concerning paragraphs 4-6 will be discussed, i.e. what sort and level of tracking of whaling vessels there should be.

12.30 Lunch

14.00 7.3 National Inspection Schemes (cont)

7.4 International Observation Scheme (Documents 1, 3, 5 & 7)

Under this agenda item, remaining issues concerning paragraphs 7-18 of Chapter V will be discussed – including:

- *need for observers on all vessels*
- *need to distinguish between factory ships and small-type whaling operations*
- *need for daily reporting on any whales hunted, struck and killed*
- *possibility for a Contracting Government to object to the appointment of an observer*
- *observers' salaries and expenses*

15.30 Coffee break

16.00-17.30 7.4 International Observation Scheme (cont)

19.00-20.30 Reception in the Hotel Hermitage (salon Eiffel), hosted by the Minister of State for Monaco

Wednesday 7th February

- 09.00 7. DISCUSSION OF REVISIONS TO CHAPTER V, SUPERVISION AND CONTROL (cont.)
- 7.5 Maintaining DNA profiles and verification of catch data by genetic monitoring (Documents 1, 3, 4, 5, 6 & 7)
- Discussions under this agenda item will address paragraphs 3 and 19 of Chapter V, i.e.:*
- *the need for DNA profiles of all whales killed to be maintained and made publicly available*
 - *the need for the Commission to establish procedures to monitor the origins of whale products sold and/or offered for sale*
- 10.30 Coffee break
- 11.00 7.5 Maintaining DNA profiles and verification of catch data by genetic monitoring (cont)
- 12.30 Lunch
- 14.00 7.6 Oversight/Review Committee (Documents 1, 3, 7)
- This item will address paragraph 20 of Chapter V, i.e. regarding body that should be responsible for reviewing and reporting to the Commission on the compliance of all whaling operations*
- 7.7 Review of revised text from earlier discussions
- A revised version of Chapter V including text developed during the discussions on Chapter V will be reviewed.*
- 15.30 Coffee break
- 16.00-17.30 7.6 Review of revised text from earlier discussions (cont)

Thursday 8th February

- 09.00 8. INCORPORATION OF THE STRUCTURE AND ELEMENTS OF THE RMS, INCLUDING THE RMP, INTO THE SCHEDULE
- 8.1 Feedback on proposals in Document 2
- Delegates will be invited to comment on whether the proposals regarding incorporation of the RMS, including the RMP, into the Schedule provide a useful basis on which a Schedule amendment could be prepared.*
- 8.2 Inclusion of animal welfare data in Chapter VI, Information Required (Docs 3, 7 & 8)
- Under this agenda item, the UK proposal (Document 8) to collect information on whale killing methods and associated welfare data as part of Chapter VI, Information Required, will be discussed.*
- 10.30 Coffee break
- 11.00 8.3 Consideration of the need for a major revision of the Schedule, and if so, how it might be done (Document 2)
- Delegates will be invited to discuss whether, once agreement has been reached on a revision to Chapter V, a thorough revision to streamline the Schedule and to remove current redundancies should be considered.*
- 12.30 Lunch
- 14.00 9. ANY OTHER BUSINESS
10. ACTION ARISING
11. ADOPTION OF THE REPORT
- A draft report containing a revised text of Chapter V and the outcome of discussions on agenda item 8 will be available.*
- 16.00 Close of meeting

WORKING GROUP TERMS OF REFERENCE

The Working Group's terms of reference, as specified in IWC Resolution 1994-5, include completion of work on:

- i) an effective inspection and observation scheme;
- ii) arrangements to ensure that total catches over time are within the limits set under the Revised Management Scheme; and
- iii) incorporation into the Schedule of the specification of the Revised Management Procedure and all other elements of the Revised Management Scheme.

ADMISSION OF OBSERVERS

Rule of Procedure C.2

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

Information about fees is provided in the letters of invitation to observers.

Appendix 5

PROPOSED DRAFT SCHEDULE TEXT FOR CHAPTER V PREPARED BY THE SMALL DRAFTING GROUP

Proposed Draft Schedule Text (numbering follows that in Document 1 (IWC/52/14)).	Comments by the small drafting group (Secretariat, Antigua and Barbuda, New Zealand, Norway and the USA)
General requirements	
<p>1. Whales may only be taken by vessels authorised by Contracting Governments. Primary processing may only be undertaken on vessels or at land stations approved by Contracting Governments. Secondary processing may only take place at processing plants authorised by Contracting Governments.</p> <p>Contracting Governments will inform the IWC Secretariat of: the number of vessels authorised for whaling [and the number of additional persons to the crew that they can accommodate]; the location of each land station; [and the names of approved processing plants]. Such information shall remain confidential and is to be used only in conjunction with the international observer scheme.</p> <p>[Contracting Governments under whose jurisdiction commercial whaling operations occur shall: notify each other of whaling vessels which are likely to operate in the same waters]; [notify any Contracting Governments in or near whose waters they will operate or navigate;][respond to requests received via the Secretariat from Contracting Governments or appropriate intergovernmental organisations concerning vessels observed in or near their waters].]</p>	<p>The text takes into account WG discussions.</p> <p>The need to supply the accommodation characteristics of each vessel rather than merely the numbers depends on a decision as to whether all small (to be defined) vessels carry observers. The Commission needs to know how many observers to appoint. Similarly, the need to have information on processing plants may depend on whether each vessel has an observer on board. If 'small' vessels do not have to have observers then it may be that observers should be present when the vessel arrives at the processing plant.</p> <p>The mechanism for confidentiality needs to be detailed. For example, the Secretariat may not need to know the actual names of the vessels. The Commission will determine the number of observers required. The Secretariat can then inform the national authorities of the names of the appointed observers and it could be the task of the member nation to inform the observer of the name of the vessel and the port of embarkation.</p> <p>With respect to the issue of Contracting Governments wishing to know if vessels observed in or near their waters are registered whalers, then if the vessels are operating within the EEZ of another country they would already have to notify that Government. If the vessel is 'near' (not defined) an EEZ, then the Government or intergovernmental organisation requiring the information could send a formal request to the Secretariat with the information they have on the vessel. This request could be passed on directly to the relevant Contracting Government(s) with vessels known to be operating in the appropriate <i>Small Area</i>, who can respond directly whether or not the vessel is registered with them.</p>

<p>2. All whaling vessels engaged in whaling operations shall be equipped with an autonomous system which records data that assist in ensuring compliance with the RMS, (such as position, date, time and speed of the vessel). Contracting Governments shall supply copies of the data at the end of each season in a format specified by the Secretariat. Should the Commission deem necessary, it may request that the data be supplied to the Secretariat more frequently.</p>	<p>The wording here does not preclude the Commission requesting real-time data but sets a minimum requirement.</p> <p>If the data are available at the end of a season, the Secretariat will be able to prepare the selected appropriate information for the relevant Commission body should any conflicts arise between the report of an observer and that of a Contracting Government. This can also be done in the case of real-time transmission of data.</p> <p>It was noted that real-time transmission has a number of practical implications: (a) it will require the Secretariat to establish a mechanism for continuous monitoring of vast quantities of data; (b) there will need to be a set of agreed criteria in the data to cause the Secretariat to act; (c) the Commission will have to establish a protocol for the Secretariat to follow under such circumstances e.g. notify the relevant Contracting Government, notify the Commission, contact the observer etc.</p> <p>It was suggested by one member that consideration be given to financial aspects of the systems necessary to achieve this.</p> <p>Attention was also drawn to the comments from Norway about duplication of effort given in Document 7.</p>
<p>3.</p>	<p>The text was not discussed by the small drafting group.</p>
<p>National Inspection Schemes</p>	
<p>4. Each Contracting Government under whose jurisdiction whaling operations for commercial purposes are carried out shall have in place appropriate enforcement legislation and effective administrative frameworks to ensure that the requirements of the Revised Management Scheme are fully met. Copies of the relevant laws and regulations shall be transmitted to the Commission.</p>	<p>This was agreed with no changes.</p>
<p>5. National inspection schemes shall at least include:</p> <p>(a) provisions ensuring appropriate inspection during the season on each whaling vessel, at each land station and, [where appropriate, specified processing plants;]</p> <p>(b) provisions authorizing national inspectors to check and ensure compliance with the provisions of the Convention and national regulatory measures.</p>	<p>This reflects discussions under Para 1 above. It leaves the 'where appropriate' clause to the discretion of the relevant Contracting Government.</p>

6. National inspectors shall be appointed and paid by the Contracting Government having jurisdiction over the commercial whaling operations to be inspected and shall receive their instructions from their national authorities	This takes into account that the minimum requirements are spelled out in Para. 5. There is no need to specify the potential vessels etc. again in this paragraph which deals with financial responsibilities and instructions to inspectors.
International Observer Scheme	
7. For the purpose of monitoring compliance with the provisions of the Convention pertaining to commercial whaling operations, the Commission [may/shall] appoint observers to whaling vessels, land stations [and if the Commission deems necessary, specified processing plants]. [In exercising its discretion, the Commission may consider the size of the vessel, and the accommodation on board][If there is space for only one additional person to the crew on a vessel, priority shall be accorded to the [national inspector][observer.]	<p>The use of the word ‘may’ in this paragraph would relate to the <i>right</i> of the Commission to appoint observers, should it so wish. The obligations of Contracting Governments are dealt with under Para 9.</p> <p>The issue of processing plants is referred to under 1 above, i.e. if the Commission decided that it might not place observers on very small boats, then it might deem it necessary to have an observer present at the appropriate processing plant.</p> <p>The ‘discretion’ sentence reflects the suggestion made during WG discussions.</p> <p>It was noted that in Norway the number of crew members on a vessel is related to a number of factors including the size of vessel and its national quota allocation.</p>
<i>Note that old paragraph 8 was deleted prior to the meeting of this Working Group and so the subsequent paragraphs should be renumbered at the end of the meeting.</i>	
<p>9. Observers appointed by the Commission [shall/may] be present on all vessels undertaking whaling operations [nominated by the Commission] and at each land station. [The Commission may also designate observers to be present at specified processing plants.]</p> <p>The observer on a whaling vessel must be notified at the start of each hunt. The observer at a land station [and, where applicable, processing plant], must be notified in sufficient time to allow them to observe each landing.</p> <p>If, through no fault of the Contracting Government or relevant whaling operation, an observer is not available,[the Secretariat [shall/may], on behalf of the Commission, waive the requirement for an observer to be present.]</p>	<p>The use of the word ‘shall’ here relates to the obligation of Contracting Governments to accept observers where the Commission deems them necessary. The purpose of the use of the phrase <i>nominated by the Commission</i> gives the Commission flexibility to choose <i>all</i> vessels or to exempt certain small vessels. In the latter case the Commission may wish to specify that observers be present at the processing plants where the products are brought to shore, as discussed previously.</p> <p>The introduction of a more specific time element is particularly relevant if the observer needs to travel to a processing plant.</p> <p>This attempts to take into account WG discussions on availability of observers.</p>
10. Observers shall carry out the duties conferred on them by the Commission. Nothing in the duties confers on the observers authority to enforce the provisions of the Convention. Observers cannot intervene in whaling operations or activities connected with these operations. Observers’ duties shall include:	It was noted that this list may not be exhaustive depending on the Working Group’s discussions of later Agenda Items.

<ul style="list-style-type: none"> (a) monitoring that whaling operations are carried out in accordance with the provisions of the Convention; (b) monitoring that information required under the Revised Management Scheme is collected, sampled, maintained or processed; (c) checking licenses, logbooks and other relevant documents; (d) checking equipment used to catch and flense whales; (e) checking whaling operation areas on vessels, land stations [and processing plants]; (f) checking equipment referred to in paragraph 2; (g) reporting to the Commission on the observations carried out in accordance with the above and as required in paragraph 11. 	
<p>11. (a) Observers on whaling vessels shall report [daily] to the Secretariat on any whales [hunted] struck and/or killed. Reports on other relevant observations shall be made at the end of each whaling voyage, and on a monthly basis by land-based observers. However, if an observer suspects that an infraction of the provisions of the Convention has taken place, he/she shall immediately inform the captain of the vessel, the national inspector and/or the manager of the land station, as well as the competent national authority and the Secretariat.</p> <p>(b) Observers shall submit their reports in English to the Secretariat. The Secretariat shall have the reports translated into the language of the Contracting Government having jurisdiction over the commercial whaling operations observed and send copies to that Government. On receipt of the report the Secretariat will transmit a copy of the report to the senior personnel of the component of the whaling operation they had observed. If a report indicates a possible breach of provisions of the Convention, the Secretariat shall ask the Contracting Government to seek comments from the vessel captain, its national inspector and/or the manager of the land station as appropriate. Such comments shall be passed to the Secretariat and be attached as an addendum to the observer's report.</p> <p>(c) Observers shall ensure confidentiality with respect to the conduct of their duties and their reports.</p>	<p>The WG Chairman had suggested that whilst certain countries may view the need to supply information on a daily basis as unnecessary, they may be prepared to consider it acceptable as it is not particularly onerous. This draft clarifies the somewhat ambiguous previous wording relating to the phrase 'whales hunted, struck and killed' by clarifying that the information in the [daily] reports is to be the number of strikes and the number of whales actually killed.</p> <p>This incorporates the suggestion of Argentina in the WG.</p> <p>It also asks the Secretariat to send a copy of the report to the relevant personnel of the whaling operation.</p> <p>No change.</p>
<p>12.</p>	<p>Not discussed.</p>
<p>13. (a) The Commission shall ensure that each observer shall be adequately informed of the provisions of the Convention and have the biological and other relevant knowledge necessary to carry out his/her duties.</p>	<p>The wording explains the responsibilities of the Commission.</p>

<p>(b) The Commission shall ensure that each observer must be able to communicate effectively with the senior personnel of that component of the whaling operation they have been selected to observe.</p>	<p>This wording attempts to avoid the need to repeat the 'vessels etc. clause' again</p>
<p>14. (a) The Secretariat shall develop scientific and technical criteria to select suitable observers. These criteria shall be approved by the Commission. (b) The Secretariat shall annually call for applications; Contracting Governments shall make this opportunity known to their nationals. (c) The Secretariat shall select qualified candidates and annually circulate a list of qualified candidates available for observer duty. (d) The Secretariat shall develop appropriate administrative procedures for observers regarding, <i>inter alia</i>, remuneration, travel, insurance and conduct</p>	<p>No changes to the text are proposed. However, it was noted that the Secretariat will need to investigate the legal implications of employing observers, e.g. with respect to international agreements on labour and with respect to safety legislation aboard vessels.</p>
<p>15. (a) Contracting Governments under whose jurisdiction whaling activities are to be conducted shall provide the information specified in Para. 1 (above) at least 60 days prior to the start of the whaling season.</p> <p>(b) The Secretariat shall appoint the number of observers in accordance with paragraph 9 and shall by 30 days prior to the start of the whaling operations provide each Contracting Government with the list of observers appointed to observe whaling operations falling under the jurisdiction of that Government.</p> <p>(c) An individual shall not be appointed to observe in the territory or on a vessel flying the flag of the State of which he/she is a national or permanent resident.</p> <p>[NOR: (d). Contracting Governments may object to the appointment as observers of any persons.]</p> <p>(e) The personnel of the whaling operation to be observed cannot object to observation by an observer appointed under Para. 9.</p>	<p>It was pointed out that the Secretariat will need to investigate whether there are any legal issues surrounding para. 15(c) e.g. with respect to labour legislation.</p> <p>See earlier point about vessels etc.</p>

<p>16. (a) Observers are responsible to the Commission for the conduct of their duties as described in paragraph 10. Observers may neither seek nor receive instructions from any other person, organisation or authority.</p> <p>(b) Contracting Governments, national inspectors and all those involved in activities subject to the international observation scheme shall take appropriate measures to ensure the safety, freedom and dignity of the observer at all times and shall cooperate fully with the observer so that he/she can fulfill his/her duties properly and efficiently.</p> <p>(c) The Contracting Government under whose jurisdiction the observer is to carry out his/her activities shall take all necessary measures to assist the observer in obtaining the required visas and immigration documents.</p>	<p>No changes were proposed.</p>
<p>17. Each observer shall carry out his/her duties subject to domestic legislation and other applicable rules and customs, including the authorised mandate of the captain of the whaling vessel and the manager of the land station, of the State under whose jurisdiction the observation activities are carried out.</p>	<p>No changes were proposed.</p>

Appendix 6

REVISED TEXT FOR CONSIDERATION IN JULY 2001 IN LONDON

(Note that several Governments reserved the right to suggest further changes)

Para.	General requirements
1.	<p>Whales may only be taken by vessels authorised by Contracting Governments. Primary processing may only be undertaken on vessels or at land stations authorised by Contracting Governments. [Secondary processing may only take place at processing plants authorised by Contracting Governments.]</p> <p>Contracting Governments will inform the IWC Secretariat of: the number of vessels authorised for whaling [and the number of additional persons to the crew that they can accommodate]; [the location of each land station;] [and the names of authorised processing plants] [and other relevant data]. Such information shall remain confidential [, is to be made available to Contracting Governments on request] and is to be used only in conjunction with the international observer scheme.</p> <p>[Contracting Governments under whose jurisdiction commercial whaling operations occur shall: notify each other of whaling vessels which are likely to operate in the same waters]; [notify any Contracting Governments in or near whose waters they will operate or navigate;][respond to requests received via the Secretariat from Contracting Governments or appropriate intergovernmental organisations concerning vessels observed in or near their waters].]</p> <p><i>Notes: the UK may propose to reinsert the term ‘ landing site’</i></p> <p><i>Japan has some practical problems with including secondary processing</i></p>
2.	<p>All whaling vessels engaged in whaling operations shall be equipped with an autonomous system which records data that assist in ensuring compliance with the RMS, (such as [real-time reporting of]position, date, time and speed of the vessel). Contracting Governments shall supply copies of the data at the end of each season in a format specified by the Secretariat. Should the Commission deem necessary, it may request that the data be supplied to the Secretariat more frequently.</p> <p><i>Notes: Japan believes that the final two sentences more appropriately belong in Chapter VI</i></p>
[3.]*	<p>[(a) Contracting Governments shall maintain a tissue sample from each whale killed or otherwise obtained within its jurisdiction and that are destined for the market. The Contracting Government shall arrange for genetic analysis of each such sample according to the specifications drawn up by the Scientific Committee so that individual and species identity can be determined with a high degree of probability, and a copy of the resulting DNA profile shall be forwarded to the Commission within six months of the date of sampling for inclusion in a central diagnostic register of DNA profiles. The register shall be available to the Scientific Committee and accredited scientists according to the Committee’s Rules of Procedure.] [Contracting Governments which may not assume the costs of genetic analysis may/shall use the central archive of DNA analysis placed by the RMS to comply.]</p> <p>[(b) The Commission shall arrange for the establishment a central archive of tissue samples maintained according to specifications drawn up by the Scientific Committee. A sub-sample from each tissue sample maintained according to sub-paragraph (a) shall be submitted to the central archive within six months of the date of sampling, or the date of notification of establishment of the archive, whichever is the later. The means of transportation of samples shall be such that they ensure proper preservation. The Commission shall arrange for further genetic analysis of the archived samples based on advice from the Scientific Committee, including where appropriate the generation of additional DNA profiles for inclusion in the Commission’s register.]</p> <p>[(c) All perishable whale products traded domestically or internationally after January 1st, 2004 shall be derived exclusively from whales whose DNA profile has been submitted to the Commission’s register at the time of trade, or within six months of the date of capture, whichever is the later. Products not meeting this requirement shall be deemed to be derived from whales not taken in accordance with this Schedule.]</p> <p><i>Notes: New Zealand indicated it may wish to provide a revised draft of this paragraph</i></p>

* the whole paragraph is in square brackets.

Para.	National Inspection Schemes
4.	Each Contracting Government under whose jurisdiction whaling operations for commercial purposes are carried out shall have in place appropriate enforcement legislation and effective administrative frameworks to ensure that the requirements of the Revised Management Scheme are fully met. Copies of the relevant laws and regulations shall be transmitted to the Commission.
5.	<p>National inspection schemes shall at least include:</p> <p>(a) provisions ensuring appropriate inspection during the season on each whaling vessel, at each land station [and, where applicable specified processing plants;]</p> <p>(b) provisions authorizing national inspectors to check and ensure compliance with the provisions of the Convention and national regulatory measures.</p>
6.	National inspectors shall be appointed and paid by the Contracting Government having jurisdiction over the commercial whaling operations to be inspected and shall receive their instructions from their national authorities
	International Observer Scheme
7.	For the purpose of monitoring compliance with the provisions of the Convention pertaining to commercial whaling operations, the Commission [may/shall] appoint observers to whaling vessels, land stations [and if the Commission deems necessary, specified processing plants]. [In exercising its discretion, the Commission may consider the size of the vessel, the accommodation on board and other factors related to specific whaling operations.] [If there is space for only one additional person to the crew on a vessel, priority shall be accorded to the [national inspector][observer.]
8.	<p>Observers appointed by the Commission [shall/may] be present on all vessels [nominated by the Commission] undertaking whaling operations and at each land station. [The Commission may also designate observers to be present at specified processing plants.]</p> <p>The observer on a whaling vessel must be notified at the start of each hunt. The observer at a land station [and, where appropriate, processing plant], must be notified in sufficient time to allow them to observe each landing.</p> <p>If, through no fault of the Contracting Government or relevant whaling operation, an observer is not available, the Secretariat [shall/may], on behalf of the Commission, waive the requirement for an observer to be present.</p> <p><i>Notes: Japan would like the waiver to be automatic and will supply a form of words in due course</i></p>
9.	<p>Observers shall carry out the duties conferred on them by the Commission. Nothing in the duties confers on the observers authority to enforce the provisions of the Convention. Observers cannot intervene in whaling operations or activities connected with these operations. Observers' duties shall include:</p> <p>(a) monitoring that whaling operations are carried out in accordance with the provisions of the Convention;</p> <p>(b) monitoring that information required under the Revised Management Scheme is collected, sampled, maintained or processed;</p> <p>(c) checking licenses, logbooks and other relevant documents;</p> <p>(d) checking equipment used to catch and flense whales;</p> <p>(e) checking whaling operation areas on vessels, land stations [and processing plants];</p> <p>(f) checking equipment referred to in paragraph 2;</p> <p>(g) reporting to the Commission on the observations carried out in accordance with the above and as required in paragraph 10.</p>

10.	<p>(a) Observers on whaling vessels shall report [daily] to the Secretariat on any whales [hunted] struck and/or killed. Reports on other relevant observations shall be made at the end of each whaling voyage, and on a monthly basis by land-based observers. However, if an observer suspects that an infraction of the provisions of the Convention has taken place, he/she shall immediately inform the captain of the vessel, the national inspector and/or the manager of the land station, as well as the competent national authority and the Secretariat.</p> <p>(b) Observers shall submit their reports in English to the Secretariat. The Secretariat shall have the reports translated into the language of the Contracting Government having jurisdiction over the commercial whaling operations observed and send copies to that Government. On receipt of the report the Secretariat will transmit a copy of the report to the senior personnel of the component of the whaling operation they had observed. If a report indicates a possible breach of provisions of the Convention, the Secretariat shall ask the Contracting Government to seek comments from the vessel captain, its national inspector and/or the manager of the land station as appropriate. Such comments shall be passed to the Secretariat and be attached as an addendum to the observer's report.</p> <p>(c) Observers shall ensure confidentiality with respect to the conduct of their duties and their reports.</p>
11.	<p>The Secretariat shall write an annual report for review by the Commission about the functioning of the international observation scheme. This report shall, in particular, list all alleged infractions. It shall be considered by the [Infractions Sub-Committee][Review Committee described in Para. 19].</p>
12.	<p>(a) The Commission shall ensure that each observer shall be adequately informed of the provisions of the Convention and have the biological and other relevant knowledge necessary to carry out his/her duties.</p> <p>(b) The Commission shall ensure that each observer must be able to communicate effectively with the senior personnel of that component of the whaling operation they have been selected to observe.</p>
13.	<p>(a) The Secretariat shall develop scientific and technical criteria to select suitable observers. These criteria shall be approved by the Commission.</p> <p>(b) The Secretariat shall annually call for applications; Contracting Governments shall make this opportunity known to their nationals.</p> <p>(c) The Secretariat shall select qualified candidates and annually circulate a list of qualified candidates available for observer duty.</p> <p>(d) The Secretariat shall develop appropriate administrative procedures for observers regarding, <i>inter alia</i>, remuneration, travel, insurance and conduct.</p>
14.	<p>(a) Contracting Governments under whose jurisdiction whaling activities are to be conducted shall provide the information specified in Para. 1 (above) at least 60 days prior to the start of the whaling season.</p> <p>(b) The Secretariat shall appoint the number of observers in accordance with paragraph 8 and shall by 30 days prior to the start of the whaling operations provide each Contracting Government with the list of observers appointed to observe whaling operations falling under the jurisdiction of that Government.</p> <p>(c) An individual shall not be appointed to observe in the territory or on a vessel flying the flag of the State of which he/she is a national or permanent resident.</p> <p>[(d). Contracting Governments may object to the appointment as observers of any persons.]</p> <p>(e) The personnel of the whaling operation to be observed cannot object to observation by an observer appointed under Para. 8.</p> <p><i>Note: New Zealand suggested that all employment-related paragraphs be brought together into a single paragraph.</i></p>

15.	<p>(a) Observers are responsible to the Commission for the conduct of their duties as described in paragraph 9. Observers may neither seek nor receive instructions from any other person, organisation or authority.</p> <p>(b) Contracting Governments, national inspectors and all those involved in activities subject to the international observation scheme shall take appropriate measures to ensure the safety, freedom and dignity of the observer at all times and shall cooperate fully with the observer so that he/she can fulfill his/her duties properly and efficiently.</p> <p>(c) The Contracting Government under whose jurisdiction the observer is to carry out his/her activities shall take all necessary measures to assist the observer in obtaining the required visas and immigration documents.</p>
16.	Each observer shall carry out his/her duties subject to domestic legislation and other applicable rules and customs, including the authorised mandate of the captain of the whaling vessel and the manager of the land station, of the State under whose jurisdiction the observation activities are carried out.
17.	<p>[Observers' salaries and expenses shall be paid by the Commission.] [These costs shall be recovered exclusively from the Contracting Government under whose jurisdiction whaling operations are carried out.]</p> <p>[The Commission shall recover [these and][all] other costs resulting from the supervision and control scheme through a factor in the membership contributions assessed from Contracting Governments [under whose jurisdiction whaling operations are carried out].</p>
[18.]*	<p>[Verification of catch data by genetic monitoring]</p> <p>[(a) The Commission shall operate a standardised system for the collection of catch data that shall certify that all products derived from whales taken under the authority of a Contracting Government are within the chain of custody of that Government and are derived from whales taken in accordance with the provisions of the RMS. This scheme shall include a unique identifier for each product derived from each animal and shall include:</p> <ul style="list-style-type: none"> (i) date and location of catch; (ii) species; (iii) place and date of landing/transshipment (iv) vessel identification; (v) national issuing authority of catch quota; (vi) licence number for that catch quota.] <p>[(b) The Commission shall establish procedures to monitor the origins of perishable whale products sold and/or offered for sale in wholesale and retail markets under the jurisdiction of Contracting Governments. These procedures shall confirm whether the whale products are derived only from individual animals caught in accordance with the provisions of the Schedule, from individual animals that die as a result of by-catch, from strandings or from stockpiles of frozen meat. The overall purpose of these procedures shall be to confirm that whaling only takes place in accordance with the provisions of the Schedule, and that total human-caused mortalities are accounted for in the calculation of quotas under the Revised Management Procedure, as specified in Chapter III, paragraph 10.</p> <p>(c) Pursuant to this requirement, the Commission shall arrange for genetic surveys of perishable whale products sold and/or offered for sale in wholesale and retail markets under the jurisdiction of Contracting Governments to be conducted. These analyses shall involve comparisons of the DNA profiles of the market samples with those in the diagnostic DNA register as described in paragraph 3 in order to determine which of the sampled products arise from individual animals caught in accordance with the provisions of the Schedule For those samples that can not be identified as having been derived from animals caught in accordance with the Schedule the probable species and stock origins shall be determined so far as is possible.</p>

* the whole paragraph is in square brackets.

	<p>(d) Each year by 31 March, any Contracting Government with jurisdiction over a wholesale or retail market in which perishable whale products are sold or offered for sale, shall provide to the Secretariat information about the nature, quantity and distribution of the whale products offered in these markets under its jurisdiction. This information shall be provided in a format determined by the Commission such that it will be able to determine the necessary scope, frequency and mode of analysis of the surveys referred to in sub-paragraph (b). If a Contracting Government fails to provide such information, the Commission will determine the scope, frequency and mode of analysis based on the best available information. The results of these surveys shall be reported to the Secretariat and reviewed by the appropriate body or bodies of the Commission.]</p>
[19.]	<p>Oversight</p> <p>[(a) The Commission shall [establish a Review Committee to][, through its Infractions Committee,] review and report on the compliance of all whaling operations [with agreed conservation measures] [with the provisions of the Schedule][with the provisions of the RMS].</p> <p>[(b) The [Review][Infractions] Committee shall:</p> <ul style="list-style-type: none"> (i) review alleged infractions reported by observers and the information submitted by affected Contracting Governments regarding the actions that they have taken in response to the alleged infractions; (ii) identify those alleged infractions which are violations of [agreed conservation measures] [with the provisions of the Schedule][with the provisions of the RMS] and so inform the Commission; (iii) review available information on other cases where catches from commercial whaling appear to have exceeded catch limits established under paragraph 10 of Chapter III of the Schedule, and inform the Commission accordingly; (iv) act in accordance with the principles of natural justice in making any final decision in relation to any alleged infraction, breach of the RMS or other relevant requirements of the Commission; (v) review the operation of the DNA register and tissue archives established pursuant to paragraph 3, and make appropriate recommendations; (vi) review the results of surveys conducted pursuant to paragraph 19, paying particular attention to cases where products from individual whales are found that are not included on the DNA register established pursuant to paragraph 3; (vii) review the actions which affected Contracting Governments have taken in response to identified violations of [agreed conservation measures] [with the provisions of the Schedule][with the provisions of the RMS]; (viii) recommend to the Commission actions to be taken in order to ensure compliance [with agreed conservation measures] [with the provisions of the Schedule][with the provisions of the RMS]]. <p>[(c) The Commission shall determine the composition of the [Review] [Infractions] Committee which shall include, <i>inter alia</i>, at least two accredited international observers as non-voting members.] [chosen by consensus and in accordance with criteria to be established.</p> <p><i>Note: New Zealand may propose moving sub-paragraph (iv)</i></p> <p><i>Note: For the version of this document to be discussed by the Working Group in London, the Secretariat will improve the presentation of text for paragraphs with many square brackets so that the differing possibilities are easier to read</i></p>

Appendix 7

STATEMENT

Last July, the International Whaling Commission adopted Resolution 2000-3. This Resolution recognised that it is important for the future of the Commission that the process to complete the Revised Management Scheme (RMS) proceeds expeditiously. Accordingly, a Working Group met in the Oceanographic Museum in Monaco from 6th – 8th February 2001. Twenty-nine member nations were represented. There also were 2 government observers, 3 intergovernmental organisation observers and 39 non-governmental observers present.

The purpose of the meeting was to:

- (1) make further progress on revising the section of the Schedule that deals with supervision and control;
- (2) develop a text to incorporate the structure and elements of the RMS, including the Revised Management Procedure, into the Schedule.

There was a valuable exchange of views and ideas on what should comprise an appropriate supervision and control system, and how best to incorporate the RMS into the Schedule. Progress was made in several areas but some fundamental differences remain. New and revised draft texts were developed which will be refined intersessionally in time for further discussions at the Commission's Annual Meeting in London in July 2001.

The report of the meeting will be available before the end of February.