

## **Annex II.H**

### **Some preliminary considerations for a Code of Conduct for Scientific Permit Whaling with respect to the Chair's proposal**

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#### **INTRODUCTION**

The Chair's proposal for an RMS (IWC/56/26) had suggested that a code of conduct be developed for whaling under scientific permit as part of an RMS package. We were asked to produce an initial draft of what elements might comprise such a code of conduct. Below are some first thoughts towards the development of such a code. We have not attempted to consider non-scientific aspects and we have not had chance to share this draft with our colleagues or even to meet to discuss it ourselves. We do not comment on the issue as to whether lethal research is philosophically desirable or not and we recognise the context in which the Chair asked us to develop a code of conduct. Despite its preliminary nature, we hope that this outline may prove of some value for your discussions. In developing such a code, the intention is not to suggest that scientific permit catches should be the norm. Although whatever code may finally be developed will be voluntary, it is assumed that Contracting Governments would agree to follow it, perhaps by making a formal declaration well as via a Resolution.

#### **DEVELOPMENT OF PERMIT PROPOSALS**

##### **Objectives**

The first stage of any permit proposal should be the development of precise, and to the extent possible, quantified objectives. This is clearly the responsibility of the Contracting Government. Although difficult to define, the concept of 'critically important research needs' should be captured in the context of the objectives. How to achieve this requires further consideration. As a minimum, the Contracting Government should include a statement in the objectives section of the proposal as to whether the proposed research is intended to provide information that will be used (1) to improve the conservation and management of whale stocks, (2) to improve the conservation and management of other living marine resources or (3) to test hypotheses not directly related to the management of living marine resources.

##### **Primary requirement**

Before submitting a proposal for a permit, an abundance estimate should be available for the species/regions involved, in order to be able to satisfactorily assess the possible conservation implications of any catches. The quality of that estimate may depend on the scale of the permit proposal (e.g. a one-off take of one animal versus a multi-year proposed take of hundreds of animals). Estimates should normally have been obtained following the guidelines developed for abundance estimates for use in the RMP although in certain circumstances alternative methods (e.g. mark-recapture estimates) may be acceptable. The data upon which the abundance estimates are based should be made available under the Scientific Committee's Data Availability Agreement (with its associated protection for data holders). The estimates should be reviewed and either agreed or revised by the IWC Scientific Committee within a specific time frame after submission of the data/estimate.

##### **Initial proposal**

Once the objectives have been decided and sent to the Chair of the Scientific Committee and an abundance estimate is available, the Chair of the Scientific Committee, in consultation with the Convenors, will draw up a group of appropriate specialists to take part in the review process, primarily via a Workshop.

The first stage of the process is for the Contracting Government to develop an initial proposal. This must contain details on:

(1) *Objectives of the study* - quantified

(2) *Methods to address objectives:*

- (a) Field methods, including species, number and sampling protocol for lethal aspects of the proposal and an assessment of why non-lethal methods or methods associated with any ongoing commercial whaling have been considered to be insufficient
- (b) Laboratory methods
- (c) Analytical methods, including estimates of statistical power where appropriate
- (d) Time frame for project must be specified at the outset and intermediary targets set

*(3) Assessment of potential effects of catches on the stocks involved:*

(a) Where appropriate (e.g. for multiple-year proposals involving many animals), using a simulation approach similar to that in the RMP, including consideration of uncertainty

- For the proposed time-frame of the proposal
- For a situation where the proposal is continued for [double/triple....] the proposed time-frame at the same level.

**Review workshop**

Once the initial proposal has been developed, the relevant Contracting Government should host a Workshop that will comprise the review group of scientists referred to above. Scientists involved in the development of the original proposal should participate in the Workshop in an advisory role and data used to justify the proposal should be made available to the review group under the Committee's Data Availability Agreement.

The primary objective of the Workshop will be to review the proposal in the light of the stated objectives. However, it may comment on the perceived importance of those objectives from a scientific and management perspective. In particular the Workshop should focus on:

- (1) whether the proposed field and analytical methods are likely to achieve the stated quantified objectives within the proposed time-frame and, where appropriate, commenting on sample size and time-frame considerations;
- (2) the provision of advice and suggestions on components of the programme that might be achieved using non-lethal methods, including, where appropriate power analyses and time-frames;
- (3) the provision of advice on the likely effects on the stock or stocks involved under various scenarios of length of the programme – this may involve a different analysis to that provided in the original proposal and may include assumptions that short permit proposals may be projected further into the future.

Given (1) – (3) above, the Workshop may choose to develop a revised proposal or alternatives to meet the stated objectives of the original proposal. This may or may not include lethal methods and may include changes to the sample size and methods of the original proposal or its time frame. It will also include a specified time-table with review targets. It may also include comments on the feasibility of any approach to achieve the stated objectives.

**Status of the Workshop report**

Contracting Governments should agree not to issue a permit until at least after the Workshop report has been formally made available. The status of the report of the Workshop needs much further consideration. For example, should it go to the Scientific Committee and the Commission before being formally submitted to the relevant Contracting Government? Should it go directly to the relevant Contracting Government? What are the responsibilities/obligations of the Contracting Governments with respect to the recommendations/suggestions made in the report. These are extremely important issues.

As a start, we would suggest that Contracting Governments should at least agree to only implement research proposals that have been determined by the Workshop [and the Scientific Committee] to (1) have a reasonable likelihood of achieving the stated objectives in the time frame proposed and (2) have an acceptably low risk of causing the targeted species/stock(s) to decline below the abundance level associated with 0.54K.

**Periodic independent review and data availability**

Once a programme has been undertaken, periodic review of the actual progress against expected progress is important at regular intervals. The period between reviews will depend on the nature of the research and intermediate targets set. Therefore, following the development of the final research proposal, the Contracting Government should develop a specified time-table for subsequent independent reviews. It would seem sensible to us to make the data obtained under scientific permits available to the IWC Scientific Committee for periodic review under the IWC's Data Availability Agreement. One function of such reviews will be to comment on whether the research remains likely to meet its objectives and, if appropriate, to suggest changes (including suspension) to methods, sample sizes etc.

**Consideration of subsequent permit proposals**

Contracting Governments should agree to implement follow-up research programmes only after the initial research programme has been (1) completed, and (2) the results have been subject to review by the research group of scientists and the Scientific Committee.