

[EXTRACT FROM THE] CHAIR'S REPORT OF THE 57TH ANNUAL MEETING**6. REVISED MANAGEMENT SCHEME****6.1 Revised Management Procedure (RMP)¹***6.1 Report of the Scientific Committee***6.1.1.1 GENERAL RMP ISSUES**

In the light of difficulties experienced in recent years, particularly with respect to the North Pacific region (common minke whales and Bryde's whales), the Committee has spent some time discussing the general question of how best to ensure that the process of carrying out *Implementations* (or *Implementation Reviews*) is efficient and prompt, whilst taking into account the available information. To achieve this it agreed that they should be conducted at discrete intervals, using the data available at one point in time. This year, the Committee reviewed the process from '*pre-Implementation Assessment*' to initial *Implementation* and *Implementation Reviews* based on the experience gained thus far, and particularly with respect to the difficulties faced during the *Implementation* process for western North Pacific common minke whales. As a result, the Committee developed requirements and guidelines for the *Implementation* process as well as updating its document detailing requirements and guidelines for conducting surveys and analysing data within the Revised Management Procedure. Work on finalising some details of the *Implementation* process is continuing and is expected to be completed next year.

6.1.1.2 PREPARATIONS FOR IMPLEMENTATION

The Committee is examining two cases: the western North Pacific Bryde's whales and the North Atlantic fin whales.

North Pacific Bryde's whales

The Committee has made relatively slow progress on completing the *Implementation* for western North Pacific Bryde's whales *inter alia* due to its heavy workload. While noting last year that it was in the *pre-Implementation Assessment* stage, the Committee noted the considerable work already undertaken and agreed that it should be possible to move faster towards *Implementation* than would be the case for new situations. Given that, the Committee held an intersessional Workshop in March 2005 and at the 2005 Annual Meeting it was agreed that the *pre-Implementation* stage had been completed and that the *Implementation* process would now begin, following the new guidelines referred to above. The first intersessional Workshop will take place in Shimizu, Japan in October 2005. It is expected that the Committee will be in a position to make recommendations at the 2007 Annual Meeting.

North Atlantic fin whales

The Committee reviewed the available information in order to determine whether there was sufficient information to warrant the initiation of a *pre-Implementation Assessment* for North Atlantic fin whales. It agreed that there was and the Commission agreed with its recommendation that the Committee initiate the *pre-Implementation Assessment*. The first stage of this was reviewed at the 2005 Annual Meeting and it is hoped to complete the *pre-Implementation* stage at the 2006 Annual Meeting. To progress this work, a co-operative intersessional Workshop will be held in March 2006 with the NAMMCO scientific committee on general scientific issues of common interest, particularly with respect to stock structure, abundance and catch history.

6.1.1.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY**BYCATCH**

The RMP estimates a limit for the number of non-natural removals, not simply a catch limit for commercial whaling. It is therefore important to estimate the numbers of whales removed from the population by indirect means including, for example, bycatches in fishing gear and ship strikes.

The Scientific Committee began to consider this issue in some detail three years ago. It agreed that priority should be given to those areas where the RMP is likely to be implemented – such as the northwestern Pacific and the northeastern Atlantic. Four steps are required: (1) identification of the relevant fisheries; (2) description and categorisation of those fisheries to allow a sampling scheme to be devised; (3) identification of a suitable sampling strategy or strategies; and (4) design and implementation of the sampling scheme to enable estimation of the total bycatch.

The Committee has reviewed general methods for estimating bycatches. These fall under two headings: (1) those based on fisheries data and observer programmes; and (2) those based on genetic data. The former have been used

¹ For details of the Scientific Committee's deliberation on this Item see *J. Cetacean Res. Manage.* 8 (suppl.)
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successfully for several small cetacean populations. The Committee agreed that independent observer schemes are generally the most reliable means of estimating bycatch rates in a statistically rigorous manner, but that they may not always be practical and will require careful design.

Genetic approaches potentially represent a new way of estimating bycatches. The Committee has agreed that although genetic methods based on market samples may not be the primary approach to estimating bycatch, they could provide useful supplementary data that could not be obtained in another way. The use of market samples to provide absolute estimates should not be ruled out. However, further developments in sampling design with input from experts with detailed knowledge of market sampling issues are needed. A Workshop on that subject was held immediately prior to the 2005 meeting, in Ulsan, Korea. The objectives of the Workshop were:

(1) to review available methods that have been used to provide estimates of large cetacean bycatches via market samples, including a consideration of their associated confidence intervals in the context of the RMP;

(2) to provide advice as to whether market-sampling-based methods can be used to reliably estimate bycatch for use in addressing the Commission's objectives regarding total removals over time and, if so, the requirements for such methods.

The Committee agreed that market sampling approaches provided potentially useful methods to supplement bycatch reporting schemes and agreed to a proposal for a follow-up workshop to investigate this further, provided sufficient progress was made with the further work identified. It also agreed that any such bycatch estimates obtained from market surveys would be improved considerably if carried out in conjunction with the use of data from DNA registers on whales entering the market. Whilst recognising the political sensitivity of market-related issues in an IWC context, the Committee respectfully requested relevant governments to consider a collaborative effort to investigate these methods as a potentially valuable source of information for management and use in the RMP.

Other work to further explore improved bycatch estimation methods for the two approaches noted above is continuing. Improved data reporting for bycatches was also recommended.

VESSEL STRIKES

The Committee noted that direct mortality of whales due to vessel strikes could be a significant problem for particular species and stocks. It agreed that there was a need to improve both awareness of the problem and reporting methods. It noted that this issue was also being considered by ACCOBAMS and ASCOBANS.

MORTALITIES CAUSED BY OTHER HUMAN ACTIVITIES

The Committee noted that such issues were also being addressed by its working group on environmental concerns. In particular, attention was to be directed to the issue of the potential effect of seismic activity on cetaceans at the next meeting.

6.1.2 Commission discussions and action arising

6.1.2.1. GENERAL ISSUES

There were no comments. The Commission noted this part of the Scientific Committee's report and endorsed its recommendations.

6.1.2.2 PREPARATION FOR IMPLEMENTATION

Japan expressed appreciation for the completion of the *pre-implementation assessment* for western North Pacific Bryde's whales and noted that the Committee expected to complete the *Implementation Simulation Trials* in two years. Japan believed this stock to be robust and expected satisfactory catch limits.

The UK expressed appreciation for the ongoing work. However, it believed that work had not progressed sufficiently far for Japan's proposed Schedule amendment under agenda item 9 (Socio-Economic Implications and Small-Type Whaling) for takes of western North Pacific Bryde's whales.

The Commission noted this part of the Scientific Committee's report and endorsed its recommendations.

6.1.2.3 ESTIMATION OF BYCATCH AND OTHER HUMAN-INDUCED MORTALITY

The Commission also noted this part of the Scientific Committee's report and endorsed its recommendations. The Commission's discussions focused on bycatch, there being no comments regarding the Committee's report in relation to vessel strikes and other human-induced mortality.

Referring to the work on market sampling as a means of estimating bycatch, Japan noted that while it believed matters relating to markets are outside the mandate of IWC, it had been co-operating on a technical and scientific basis and would be prepared to continue in this context. However, it expressed concern that its data are often used in a non-scientific manner. Drawing attention to the concern expressed by some regarding the increased bycatch of Japan and the Republic of Korea, Japan suggested that this may be due to an increase in the numbers of whales. It recognised that there are different views on this matter, but believed that all information should be made available for proper scientific consideration.

The Republic of Korea noted that the reliability of data submitted by Contracting Governments on bycatch is disputed but believed that the data from Contracting Governments should be respected. It again reported that its compulsory reporting system is a very powerful tool in defining the size of, and controlling bycatch of cetaceans. It expressed concern regarding the use of market samples since the associated information such as that on origin and timing of catch may not be correct. It noted that while it had not joined the workshop on the market survey approach held this year, it would review the report and if necessary, may join discussions at IWC/58.

Germany expressed concern regarding the increase in cetacean bycatch in fisheries. It sought information from Japan and the Republic of Korea regarding measures in place or planned (e.g. the use of pingers on fishing nets to reduce bycatch). Japan responded that in its view, the increase in bycatch is not related to an increase in fishing effort, but rather a natural phenomenon. Furthermore, it is something that the fishermen would like to avoid, given the damage caused to their nets. Japan reported that work regarding improvements to nets is continuing. The Republic of Korea reported that in addition to its compulsory reporting system, it is improving public awareness of the bycatch issue, has taken measures to reduce total fishing effort in Korean waters and is developing acoustic equipment.

6.2 Presentation on the RMP

6.2.1. Presentation

Before entering into discussions on the RMS, IWC's Head of Science, Greg Donovan, gave an overview presentation on the RMP as requested last year.

He provided a summary of the work of the Committee in this regard, noting that work had begun as long ago as 1985. He explained the several year process that had led to the agreement in 1991 of the *CLA* or *Catch Limit Algorithm* – the method by which safe catch limits that explicitly take scientific uncertainty into account are calculated. The *CLA* is a feedback procedure, requiring regular estimates of abundance as well as estimates of past catches and accurate information on present catches. From the *CLA* came the additional components that formed the RMP – the scientific aspects of managing whaling in the 'real world'. These included:

- moving to multi-stock scenarios;
- options for determining catch limits and allowing for sex ratio differences in the catch;
- phase-out rules if new abundance data are not available;
- guidelines and requirements for (1) conducting surveys and obtaining abundance estimates, (2) collection and analysis of additional data and (3) for conducting the *Implementation* process that would lead to management advice being given to the Commission; and
- requirements for regular 5-year (and if necessary, additional) *Implementation Reviews* before new catch limit recommendations are made.

He stressed that major changes to the RMP are not envisaged to be made often (and strict conditions for this are laid down) although the annotations (which explain the practical application of the provisions of the RMP in the light of experience) and guidelines are expected to be updated more regularly.

In the second part of the presentation he explained the *Implementation* process in more detail (see Fig.1). He emphasised the role of the Commission at various stages in the process, including the decision to start the *pre-pre-Implementation Assessment* as well as the *Implementation* itself. At each stage in the process there are agreed conditions and requirements (including data availability) before moving to the next stage. In terms of timetables, it is likely that it would take at least three Annual Meetings to reach the *Implementation* stage. At that stage however, a strict two-year timetable is imposed involving two workshops and two Annual Meetings. He also noted that at the completion of that process, the Committee may put forward options to the Commission that include research requirements, under highly specified circumstances. In summary, the minimum time from the first proposal by a government or governments for a species/ocean area to be considered to a recommendation or recommendations on catch limits (which may include zero) by the Committee for consideration by the Commission is four Annual Meetings; it will almost certainly be longer. *Implementation Reviews* which occur at least very five years thereafter are vital to the process – these too will result in a recommendation or recommendations on catch limits for consideration by the Commission.

In summary, he highlighted the following points:

- (1) The RMP represents probably the most important development in the scientific management of natural resources and represents the most rigorously tested management procedure in the world, taking scientific uncertainty explicitly into account.
- (2) To do this it must be extremely conservative in setting catch limits e.g. at the start of the process, for a population estimated at 10,000, the catch would be about 50.
- (3) The RMP has been continuously reviewed by the Committee and it has been recommended unanimously.

(4) The Scientific Committee does not set catch limits but merely provides advice on safe levels of anthropogenic removals. Thus any *Implementation* and *Implementation Review* for any species/region will take into account *inter alia* special permit catches for the relevant species in the relevant region. The Committee's advice may include one or more options and the outcome of an *Implementation* might be that a catch limit of zero is recommended.

(5) It is the Commission that sets catch limits on the basis of the scientific advice provided.

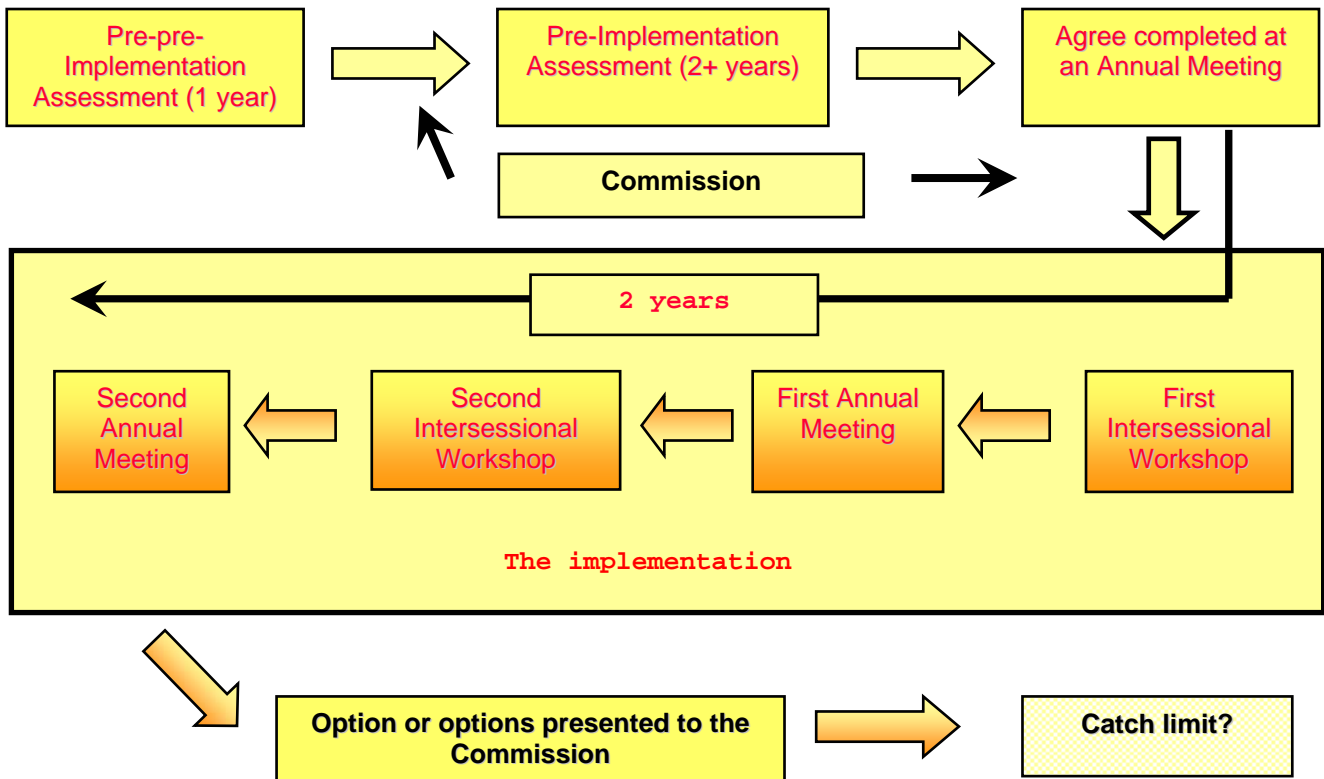


Fig. 1 Schematic diagram of the *Implementation* process (see text).

6.2.2 Commission discussion

The Commission was grateful for the clear presentation given on behalf of the Scientific Committee, as requested last year.

Austria took confidence in the fact that the RMP is still the unanimous recommendation of the Scientific Committee, and therefore questioned why changes, as proposed by Norway², were being entertained and discussed by the Scientific Committee. The Head of Science explained that while the Committee did not envisage major changes to the RMP, it had developed a well-defined process regarding how proposed changes could be introduced and evaluated, should they be suggested. He stressed that in this event, the Committee would follow this process strictly and make recommendations to the Commission for decision-making as appropriate.

Norway confirmed that it planned to propose some changes to the RMP next year. It recalled that during the RMP development process, the Scientific Committee had explored a range of different tuning levels in the late 1980s, finally offering a range of 0.60 to 0.72 (all of which it considered 'safe') to the Commission from which it chose 0.72K. Norway explained that use of a tuning level of 0.72 would give approximately half of the catch limit than a level of 0.60 and that the choice of 0.72 was purely a political decision with no scientific rationale. Norway recalled that when the Commission adopted the RMP with a tuning level of 0.72 by Resolution in 1991, it indicated that it would follow the Scientific Committee's advice on the RMP, but could not accept a tuning level of 0.72. Since that time, Norway has moved close to a tuning level of 0.60 for setting its national catch limits. Norway explained that association of 0.72 with the annotation 'K', meaning carrying capacity (a measure of the steady-state abundance that a species can have for a particular habitat to support sustainably), meant that after a long time, a stock should reach 72% of its carrying capacity. However, it noted that more recent calculations with better computer equipment have shown that the value would be much higher and somewhere in the mid 80%. Norway cited this as one of the reasons that it wishes to adjust

² At last year's meeting, Norway gave notification to the Scientific Committee of its intention to develop and propose a change to the *CLA* of the RMP for minke whales in the North Atlantic. See *Ann. Rep. Int. Whaling Comm. 2004:21*
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and perhaps to propose small changes to the RMP. Given that the RMP is nearly 20 years old, it suggested that it is not unreasonable to make improvements and noted that the Scientific Committee had already changed the RMP by the introduction of block quotas.

The UK sought clarification on two points. With respect to the first, it noted that the Commission had adopted the RMP by Resolution (requiring only a simple majority) but that the RMP had not yet been implemented into the Schedule (requiring a three-quarter majority) – this would be part of the task of defining an RMS. The UK asked whether it was correct in thinking that amendment of the RMP would still only require a simple majority, but that there would need to be a three-quarter majority for an amended version to be included into the Schedule. The Head of Science and the Commission Chair confirmed that this is the correct understanding. Secondly, the UK requested clarification on the procedure for amending the RMP and on the respective responsibilities of the Scientific Committee and Commission. The Head of Science explained that the procedure to amend the RMP included a number of steps. Firstly the proponent would need to notify the Scientific Committee of the proposed change, perform the same rigorous trials that were used to test the current procedure and present the results to the Committee for review. If the Committee believed that the proposal was worth considering, it would run the trials itself and then make recommendations to the Commission as appropriate. He stressed that the Scientific Committee can only provide advice. It is for the Commission to decide whether or not to accept any recommendations.

France noted that within the RMP, it is important to define an abundance estimate and carrying capacity. Noting that the Scientific Committee has guidelines for the former, it asked whether similar guidelines existed for the latter. The Head of Science responded that the concept of carrying capacity is complex. It is not a directly measured (or indeed measurable) parameter but one that is estimated from *inter alia* past catch history and modelling. The RMP has been extensively tested for sensitivity to this parameter and assumptions about its stability over time.

The Republic of Korea considered that the presentation would help its citizens to understand the role of sightings surveys. Noting that within Korea there are arguments regarding the credibility of the surveys performed by the government, Korea stressed that all surveys performed since 1999 follow strictly the Scientific Committee's guidelines.

6.3 Revised Management Scheme (RMS)

6.3.1 Report of the RMS Working Group

The meeting of the RMS Working Group took place on 15 June chaired by Henrik Fischer. Delegates from 36 Contracting Governments participated. A summary of the report is provided below. The full report is given in Annex E.

The Terms of Reference for the Working Group, given in Resolution 2004-6 adopted last year, were to:

- (1) complete work on the RMS package, with the goal of having a finalised RMS text ready for consideration, including for possible adoption, at IWC 57, and/or to identify any outstanding policy and technical issues;
- (2) take account of delegates' comments at IWC 56, as well as written submissions from delegates;
- (3) provide guidance to, and to review the work of, the Small Drafting Group³.

At the meeting in Ulsan, the Working Group focused on item (1), since items (2) and (3) were relevant to the intersessional work that took place since IWC/56 in Sorrento and had therefore already been addressed.

6.3.1.1 OVERVIEW OF INTERSESSIONAL WORK

As background to the Working Group's discussions, the Secretariat gave an overview of the intersessional work.

The RMS Working Group and the SDG met twice prior to IWC/57. The first Working Group meeting was held in Borgholm, Sweden, from 29 November to 1 December 2004. This was followed by a two-day meeting of the SDG. The second Working Group meeting was held in Copenhagen, Denmark, from 30 March to 1 April, and again was followed by a two-day SDG meeting.

At its first meeting, the main topics considered by the Working Group were: practical mechanisms for adopting an RMS; what elements should comprise an RMS package; the development of instructions to the SDG; and the development of instructions to the technical specialist groups.

Most time was devoted to a discussion of what elements might comprise a final RMS package. It took as its starting point the Chair's proposal in which the following elements were proposed: (1) the RMP as endorsed by Commission; (2) a phase-in of commercial whaling with it initially being restricted to national waters; (3) a national inspection and international observer scheme that was largely the same as the one developed by an earlier expert drafting group; (4)

³ Under the auspices of the RMS Working Group the SDG had the following responsibilities: (1) to prepare a consolidated draft text for the replacement of parts of Chapters V and VI of the current Schedule; (2) to prepare consolidated draft text on other related issues in the RMS package; (3) to utilise the Chair's proposal (IWC/56/26) and his statement (IWC/56/28), as a framework for this work; (4) to rearrange, revise and renumber paragraphs in the draft text for Chapters V and VI as appropriate but not to attempt to merge them with other parts of the Schedule.

additional catch verification measures involving national DNA registers/market sampling with international oversight, a resolution to deter IUU whaling and a national catch documentation scheme assisted by the IWC if required; (5) a Compliance Review Committee with terms of reference that had been largely developed by an earlier expert drafting group; (6) a mechanism to apportion costs, with some being shared and others allocated to the whaling nations; (7) a link between an agreed RMS and the lifting of Para.10(e) provided that whaling only took place under the full RMS; (8) a voluntary code of conduct for scientific whaling; (9) animal welfare issues reflected in general text in Schedule plus the voluntary provision of data and an agreed research programme to improve killing techniques. The Borgholm meeting reviewed each element in the light of written comments from member governments and comments from the floor. For all of these elements, views were expressed by at least some countries that did not support the Chair's proposal. It was agreed that rather than trying to reach compromises on these it was preferable to develop further options for consideration by the SDG. The floor was also open for additional issues or elements to be raised. These included discussion of the inclusion of a 'statement of principle' and an explicit consideration of sanctuaries. The Borgholm meeting also agreed to establish four technical specialist groups to consider in greater depth the following issues: VMS; DNA/market sampling; code of conduct for scientific permit whaling; and animal welfare issues.

At its first meeting, the SDG drafted text for those issues for which it had been given instructions. In addition New Zealand and Sweden agreed to undertake some additional work on possible catch documentation systems.

The second meeting of the RMS Working Group in Copenhagen reviewed the work of the technical groups, undertook a further discussion of each element, developed further instructions for the SDG and identified further work to be undertaken prior to IWC/57 to aid the formulation of text for some of the options proposed. This included the finalisation of the technical specifications for DNA registers/market sampling, the further elaboration of IWC catch document scheme, an exploration of the nature of additional compliance measures possible within context of the Convention and the development of minimum conditions for hunting. The need for further technical specifications for VMS was recognised but no group was established.

During the intersessional period, progress was made in developing a better description of, and technical specifications for, some of the possible RMS package elements. However, at the same time there was no consensus on what elements should be part of a package or on a single option for any of the possible elements. In fact one result of the intersessional work was an increase in the number of options for most of the potential elements of an RMS.

6.3.1.2 PROGRESS WITH FURTHER TECHNICAL WORK THE 'BLUE BOX'

At the Copenhagen meeting, Norway had indicated that it was developing an Automated Electronic Monitoring System (colloquially known as the 'blue box') to monitor whaling operations that would obviate the need to have national inspectors on each vessel. In Ulsan, information on the blue box and on the results of trials carried out during whaling operations was presented. In summary, the blue box comprises an independent GPS (that can monitor position and time – and thus speed and course – of the vessel) and a series of sensors (calibrated for individual vessels) that can identify when a harpoon has been fired and when a whale has been hauled alongside and onto the vessel. Data are encrypted. Blue box development work began in 2001 and field trials on 13 vessels took place in 2004. As a result, some modifications have been made and further trials with 29 vessels are taking place. The development programme is expected to be completed in 2005.

In response to a number of questions relating to the role of the blue box and the possibility of fraud, Norway clarified that its intention was that the final version of the blue box would replace national inspectors on every vessel, although there would be monitoring checks by inspectors during the season. The data from the blue box will also be checked for consistency against the detailed log books that must be filled out by each skipper. Norway noted that it would be extremely difficult for a skipper to fabricate the logbook information such that it matched the blue box data. There are a number of inbuilt monitors that can restart the system in case of failure and can also detect whether the box has been unlawfully tampered with.

A number of delegations expressed concern that the blue box would not be able to collect all of the information about the hunt that they believed to be necessary, particularly in relation to animal welfare. It was also noted that the system would not be able to confirm the species of whale caught or whether the animal was a pregnant or lactating female. Other delegations congratulated Norway on the system it had developed, noting that many other fisheries bodies are moving towards automated monitoring systems. To those expressing concern, Norway stressed that the blue box is just one part of the overall national inspection scheme. See [Annex E](#) for further details of the discussions.

DNA REGISTER/MARKET SAMPLING SCHEME

The SGDNA (Technical specialist group on DNA registers and market sampling schemes) met at the Southwest Fisheries Science Center in La Jolla, USA and its report was presented at the RMS Working Group meeting in Copenhagen. As a result of discussions there, instructions were given to the SDG. The primary drafting options considered were for either a centralised system or a national system with international audit. It was noted that the technical specifications for both options are essentially the same, the primary differences relate to who is responsible for carrying them out. Given this, the Head of Science developed draft text for a 'dated' Appendix to the Schedule called 'Specifications and Requirements for Diagnostic DNA Registers and Market Sampling Schemes'. The aim was to

develop text with as few square brackets as possible and indicating where decisions of the Commission are needed. Following the Copenhagen meeting the draft was circulated to the members of the SGDNA who agreed with the text. Little further technical work is possible until the Commission decides which option, if any, it wishes to include in the RMS.

CATCH DOCUMENTATION AND LABELLING SCHEMES

Options considered by the Working Group in Borgholm and Copenhagen were the Chair's proposal for a national scheme (with a voluntary IWC *pro forma*) and a full IWC-operated scheme including product labelling. The question of whether this should be to point of entry/landing, wholesaler or retailer was left open. An updated version of the IWC scheme discussed in Copenhagen was presented in Ulsan. Discussion within the Working Group centred on two issues previously considered: the relationship with CITES documentation; and the competence of the IWC with respect to trade related matters.

Some countries commented on the need to avoid overlap with the documentation requirements of CITES; they believed that unnecessary duplication would merely add an additional burden on whaling countries to no appreciable benefit. Others believed that the requirements of IWC in this context would be different from those of CITES and that the two systems should be kept separate. It was also noted that if commercial whaling were to resume, it was possible that changes in the CITES listings would follow and that CITES documentation may no longer be a requirement. It also noted that an IWC scheme would aid traceability.

With respect to the competence of the IWC in trade-related issues, some countries considered that such matters are outside IWC's mandate and that many aspects of the proposals being considered conflicted with this position. In this context, Japan noted that it has its own regulations relating to labelling and traceability of products, and that it was prepared to share such information on a voluntary basis. Other countries believed that the issue was not one of monitoring trade *per se* but rather of using this as a compliance tool to ensure that IWC rules are not being broken and that breaches are identified.

OPTIONS FOR COMPLIANCE MECHANISMS UNDER THE RMS

The issue of the IWC's role in setting penalties and imposing sanctions with respect to infractions was discussed extensively in Borgholm and Copenhagen. It had been agreed that a group comprising the UK, Australia, Argentina and New Zealand would develop a discussion document exploring the measures the Commission may be able to take in this regard under the Convention. In Ulsan, the UK introduced a paper (see Appendix 6 of Annex E) that examined developments in international environmental and fisheries agreements, looked at the basis for a compliance procedure under IWC Convention and proposed some key components for an IWC compliance scheme. In the paper, the key components identified were: reporting and monitoring obligations; verification procedures; and non-compliance response. It proposed *inter alia* that the Compliance Review Committee should: (1) be able to consider how effectively Contracting Governments have fulfilled their obligations with respect to investigating alleged infractions thoroughly and ensuring that violators are deprived of the benefits of non-compliance; (2) be able to recommend to the Commission that information on vessels committing infractions be shared and that revocation of vessel licences /registration be considered; (3) be able to make recommendations to the Commission on a reduction in quotas in response to non-compliance (including to zero in extreme cases). It also considered that quotas should be set for three-year blocks and that they automatically revert to zero at the end of the block, with the Commission taking into account the views of the Compliance Review Committee before new quotas are set. The UK noted that this approach may be an alternative to considering a change to the Convention.

On being asked if it was a correct understanding of the paper that it did not foresee binding decisions by the IWC but rather non-binding recommendations, the UK confirmed that this was correct, adding that there would be a gentleman's agreement that decisions would stand.

Some countries expressed reservations (e.g. because of questions related to the compatibility of suggestions in the paper with the Convention) and/or suggested that they needed more time to consider the paper further. Others indicated their broad agreement although some believed that emphasis should be given to the development of a binding compliance mechanism and that progress could be made on this intersessionally. Argentina, Australia and the USA agreed to work with other countries to form a scoping group to determine how this might best be achieved.

ANIMAL WELFARE ISSUES

At the Copenhagen meeting, the UK had agreed to develop text on a set of minimum standards that incorporate welfare conditions when specifying whale killing techniques. They presented a document in Ulsan (see Appendix 7 of Annex E) that they believed provided a suitable structure for such text, while recognising that further research was necessary.

6.3.1.3 ASSESSMENT OF PROGRESS IN RELATION TO RESOLUTION 2004-6 AND GENERAL COMMENTS

A summary of the status of present discussions and outstanding issues in relation to each issue/potential element of the RMS is provided in Table 1, Annex E. The Working Group agreed that policy issues remained on each issue/element and that for many of them, further technical work is also needed.

COMMENTS ON THE CHAIR'S PROPOSAL

A wide range of views were expressed over the value of the Chair's proposal. A number broadly welcomed the proposal as a constructive way forward, even though they may have reservations on one or more aspects of it (e.g. Scientific Permits). Some of these noted that no alternative to the Chair's proposal exists and that it therefore remains the only possible alternative to letting the whole RMS process collapse. Other delegations were unhappy with many or even all aspects of the proposal and did not believe that it represented a basis for future discussions.

COMMENTS ON THE PROGRESS OF RMS DISCUSSIONS

Several delegations expressed their concern that after 10 years of discussions, the Commission was still not close to a consensus RMS. They stated that international regulation of whaling is essential and believed that the present situation is not acceptable. Some commented that they believed that many of the issues that were being raised were outside the bounds for a discussion on ensuring sustainable whaling and were intended to slow down progress. In this context some delegations believed that views expressed by some countries that commercial whaling was never acceptable were in contradiction with the aim of the Convention. Other delegations commented that although they are opposed to commercial whaling, they are within their rights to participate fully in discussions to ensure that if commercial whaling was ever to resume, it would be undertaken under a regime that as a minimum represented best international practice, and preferably, given the history of whaling, set new standards. One delegation noted that the situation today with regard to whaling (where it is almost exclusively aimed at meat for human consumption, with a limited market) is completely different to previous large-scale whaling in the Antarctic where the demand for oil was immense.

COMMENTS ON SPECIAL PERMIT WHALING

Many delegations believed that a voluntary code of conduct on scientific permit whaling is not sufficient, although how to develop a mechanism to achieve a binding agreement (e.g. on a phase-out of scientific permit whaling) was unclear. Several stressed that this issue was the most important feature of RMS discussions. A number of delegations expressed their concern that catches would be even higher if an RMS was introduced without a restriction on scientific permit whaling. Other countries noted that Article VIII of the Convention is clear on the sovereign rights of states to issue special permits for scientific research, although they can accept the concept of scientific guidelines. They noted that if an RMS was introduced, for those species/stocks for which commercial whaling was allowed, catches by scientific whaling would be subtracted from total allowable takes to give the commercial catch limits. It was observed that this would not apply to protected species/stocks.

COMMENTS ON OTHER HIGH PRIORITY ISSUES

A number of delegations highlighted those areas which they believed were of particular importance in reaching agreement over an RMS package. These include the link (or otherwise) between an agreed RMS and the lifting of Paragraph 10(e); the apportioning of costs; animal welfare issues; compliance; and sanctuaries in the context of non-lethal management of whale resources.

Some countries noted that the impasse over some important issues despite many years of negotiating within the IWC were such that other approaches should be considered (e.g. a diplomatic conference, discussions at ministerial level).

CONCLUSION

The Chair concluded that the RMS Working Group was not in a position to put forward a 'finalised RMS text ready for consideration, including for possible adoption' to the Plenary. He confirmed that he would not be putting a proposal for RMS text forward to the Plenary as Chair. He proposed that he would refer the plenary to the Working Group's discussions of outstanding technical and policy issues.

*6.3.2 Commission discussions and action arising***6.3.2.1 COMMENTS ON THE REPORT FROM THE RMS WORKING GROUP**

Discussions focused on Norway's 'blue box' and on general comments.

THE 'BLUE BOX'

Spain acknowledged that while Norway's 'blue box' would be satisfactory for monitoring vessel position, speed and course and that it may have sensors to detect other activities, it did not believe it would be suitable for the collection of other data. It noted that in some other Regional Fisheries Management Organisations, not only is the use of VMS compulsory, but vessels must also have international observers on board. It did not believe that the 'blue box' would obviate the need for international observers. Spain viewed VMS and international observers as being complementary.

The UK considered that if in the context of an RMS, it could be accepted that VMS technology – such as the 'blue box' - can fulfil the role of a national inspector, it therefore follows that those boats on which Norway has argued that national inspectors should also play the role of international observers should now have room for a proper international observer. Austria noted that the Scientific Committee was informed that the boats involved in Iceland's scientific permit whaling have a full crew of experienced whalers and 2-4 scientists on board. It also noted that the boats used by Iceland are mostly smaller than those used by other countries involved in taking whales who argue that space limitations would not allow an international observer on board. Iceland responded that it uses vessels appropriate for its scientific research and that the nature of its scientific whaling operations are very different to those of commercial whaling. It therefore did not see the point of Austria's intervention.

Germany associated itself with the remarks of Spain and the UK. It believed that the 'blue box' could only be a supplementary tool. Norway confirmed that the 'blue box' is indeed a supplementary tool to its inspection scheme. It is a control of the hunters own log books – it being possible to control these by inspection at sea, at port or at the end of the hunting season, depending on how the government wishes to implement the control.

Japan, the Republic of Guinea and Mauritania congratulated Norway on the development of its 'blue box' technology believing it to represent important technical progress. The Republic of Guinea considered that implementation of the 'blue box' on small vessels would decrease significantly the costs for developing countries that may, if the moratorium is lifted, wish to take whales. Mauritania did not consider that use of the 'blue box' excluded other controls.

GENERAL COMMENTS

Japan noted that it had welcomed the initiative shown by the Chair in his proposal for an RMS package submitted to IWC/56 last year⁴, but regretted that once again, attempts to complete the RMS to allow the resumption of sustainable commercial whaling had failed. In fact it believed that discussions had gone backwards. As a result, it was deeply concerned about the future of IWC. Japan concluded that the whole process to develop an RMS had been a charade in which those countries opposed to commercial whaling had stalled negotiations for over 10 years by continuously insisting on the inclusion of an increasing list of unnecessary, duplicative and costly observation and control measures, demonstrating that these countries had never wanted a realistic and implementable RMS. It stressed that it has participated sincerely in the process to develop a framework for the resumption of commercial whaling on a sustainable basis and believed that its commitment to securing the implementation of a reasonable RMS has been demonstrated by the substantial compromises it has made. However, it considered that it is now clear that some Contracting Governments are simply opposed to commercial whaling despite the fact that a risk-averse procedure for setting quotas (i.e. the RMP) was agreed over 10 years ago and despite scientific advice that many stocks are abundant and increasing. Japan considered that such a position contradicts the purpose of the ICRW and that countries taking this position are abusing their membership status. It believed that these countries have not been willing to enter into serious good faith negotiations on a matter that should be the primary concern of IWC. Japan believed that no progress had been made as it had been without a negotiating partner. It re-iterated its view that paragraph 10(e) is not really still in effect (because of the 1990 deadline) and that its primary objective in IWC is the resumption of commercial whaling on abundant stocks on a scientific and sustainable basis and under strict international control. Japan believed that modern enforcement and monitoring measures will prevent the over harvesting seen in the past. Noting that some countries are now proposing amendments to the Convention, Japan considered that there is no longer anything for countries taking a pro-sustainable use position to negotiate. It viewed the fundamental changes to the Convention now being demanded as pre-requisites to completion of an RMS as a rejection of the Convention itself and unacceptable to many members. For these reasons, Japan was submitting a proposed Schedule amendment for an RMS (see 6.3.2.2).

The Solomon Islands, Republic of Korea, Denmark, Iceland and St. Kitts and Nevis also expressed great concern and disappointment that no real progress towards finalising an RMS had been made.

The Solomon Islands expressed its hope that through the Chair's guidance and with the co-operation of all Contracting Governments, the Convention, that it believed was sinking, will be rescued and that an RMS will be achieved. This would allow the use of whale resources for the benefit of those that would like to use them for their nutritional, traditional and cultural needs.

The Republic of Korea expressed its sincere appreciation to all of those who had been working hard on this matter, but together with the people of Ulsan, expressed disappointment over the outcome of discussions. It noted that it is aware of the fundamental differences existing among Contracting Governments, and suggested that one way forward would be to reduce the number of elements by going back to the Chair's original proposal. The Republic of Korea recognised that this proposal may not be a satisfactory solution to some, but that in its view, the elements contained within the Chair's proposal are the crucial elements required for a robust RMS.

Denmark noted that discussion on the RMS is, like last year, by far the most important issue on the Commission's agenda. It fully agreed with the Chair's statement at IWC/56 last year⁵, including the need for early completion and adoption of an RMS. It believed that if considered honestly, Commission members would recognise that the Chair's proposal was and continues to be the best and only way forward as the basis for discussions. It is the only consolidated draft, taking account of the many different views and interests of Contracting Governments in a balanced way. Like Japan, Denmark had the impression that some governments with an overwhelming interest for details wish to block progress at any price. It did not think they should be allowed to succeed. Denmark believed that without an RMS, the Commission will cease to function in accordance with its own Convention and many members will probably have to consider reasons for their continued membership. Referring to expressions of frustration from both 'sides' of the debate for some years, it suggested that there is now a window of opportunity with the Chair's proposal. It could see no excuse for further delay.

⁴ *Ann. Rep. Whaling Comm 2004*: 21-22, 82-91.

⁵ *Ann. Rep. Whaling Comm 2004*: 92

Noting the lack of progress over many years despite the efforts of several delegations, Iceland believed that the most important contribution has been the Chair's proposal for a possible compromise submitted for consideration at IWC/56 last year. While the Chair's proposal includes several elements of which Iceland disapproves (as is the same for every delegation), Iceland recognised that it remains the only real compromise proposal available. It believed the only alternative is to let discussions on the RMS collapse – a situation that Iceland did not wish to see. It therefore believed that a solution based on the Chair's proposal should be found. Iceland recalled that at IWC/56, the Commission, via Resolution 2004-6, decided to establish a process that was much wider than it would have been if it had been based only on the Chair's proposal. It noted that this outcome took the Commission no closer to reaching its goal and that in fact with every meeting, there was an increase in the number of issues for discussion and options available. Iceland therefore believed that the Commission had reached something of a watershed. It noted that the Commission could choose to continue to have wide-ranging discussions (knowing already that this achieves nothing) or could choose to bring discussions back on track. The latter would involve acceptance of a solution based on the Chair's proposal and acceptance that an RMS could probably not be agreed by consensus but rather by voting. Iceland was willing to contribute to finalising discussions.

St. Kitts and Nevis also considered that some Contracting Governments were putting unnecessary obstacles in the way of progress rather than working to develop compromises. It believed that this was particularly true in relation to proposals to amend the Convention, knowing that the Commission does not have the authority to discuss such proposals. It urged the Commission to consider the implications of operating without an RMS. It believed that the moratorium had served its purpose and is now obsolete. It considered that IWC was becoming irrelevant in relation to the management of whaling, suggesting that countries will have to establish their own management regimes for whales in their own EEZs while seeking co-operation with other whaling countries in the region.

Brazil expressed concern regarding the difficulty in making progress towards an acceptable RMS. It wished to place on record that the lack of progress is directly related to the unwillingness of whaling countries to accept minimum international standards common in other marine resource management organisations - standards from which IWC could not reasonably expect to be exempted. Brazil believed that discussions to date have largely circumvented some fundamental policy matters of relevance to countries like itself, such as establishing and respecting sanctuaries and recognising and protecting the rights of coastal states to appropriate whales in a non-lethal way. It was deeply disappointed that no alternative proposals had so far been presented that include possible compromises on accommodating the protection of non-lethal management regimes against the encroachment of pelagic whaling by distant nations in spite of its efforts to participate constructively in several intersessional meetings. Brazil believed that the Commission needed to get back to principles or it would continue to be locked into future drafting exercises. Finally Brazil noted its strong objection to any future intersessional meetings being again held in remote Northern Hemisphere locations. It believed such locations prevent full participation of all interested and especially, developing countries.

Monaco stated that Japan had no basis and no right to accuse those not sharing its views of negotiating in bad faith. As others, Monaco is committed to the adoption of a pragmatic, robust and modern RMS for the reasons as outlined by Brazil. It believed that the situation with respect to scientific permit whaling should be highlighted. Monaco believed that the careless and provocative use of such permits by Japan to be an abuse of Article VIII of the Convention. It noted that Japan kills hundreds of animals every year on the high seas under the guise of science and without any control from the Commission. While Monaco acknowledged that Japan's actions are not illegal, it considered they showed an unwillingness to build bridges and to negotiate in good faith with others. Monaco noted that many delegations have problems with negotiating an overall package if, once a package had been agreed, some countries would then simply make use of the objection procedure⁶ to render themselves not bound by those decisions to which they had objected. It asked for confirmation from the Chair that if this was to happen then the whole agreement would become null and void. The Chair responded that part of the RMS discussions have involved exploration of ways in which adoption of an RMS could be linked with the lifting of the moratorium whilst ensuring that whaling operations would be undertaken under the full RMS package as agreed by the Commission. He noted that this is a difficult issue that still requires resolution.

The Netherlands noted that the Chair's proposal had served as a good basis for discussions. While it had concerns with some parts of the Chair's proposal, such as the proposals relating to scientific permit whaling, it recognised that all parties would have to compromise if progress was to be made. The Netherlands considered that solutions could be found on some elements, but that reaching agreement on others of a more fundamental nature (scientific permit whaling, compliance, lifting of the moratorium) would be difficult. It therefore supported the suggestion made in the RMS Working Group that these more difficult issues should be discussed at a Ministerial or diplomatic level.

⁶ Article V.3 of the Convention provides that any government can 'object' to any decision which it considers to seriously affect its national interest, provided it is done within 90 days of notification of the decision. Should this happen, further time is allowed for other governments to object. The government or governments that object are not then bound by that particular decision.

Finally under this item, the Chair allowed an intervention from a representative of the Eastern Caribbean Cetacean Commission (ECCO)⁷. ECCO found it disheartening to note that development of an RMS appears to be grinding to a halt. It noted the support given by some governments to the Chair's proposal and regretted the manner in which it was being treated.

6.3.2.2 PROPOSAL TO AMEND THE SCHEDULE

Japan recalled that at last year's meeting, it had made a statement noting that its parliamentarians had reached the end of their patience regarding lack of progress in developing an RMS and had demanded that the Japanese Government consider all options to resume sustainable whaling if the IWC does not implement a reasonable RMS at IWC/57. Given the outcome of the intersessional work and RMS Working Group discussions, Japan was therefore proposing a draft Schedule amendment for the inclusion of an RMS. It also noted that after the close of the SDG meeting in Copenhagen in April this year, a number of participants, including representatives of countries both for and against the resumption of commercial whaling, and the Secretariat, had a short informal discussion as to how it might be possible to make progress. It was concluded that given the different views, it was unlikely that a single RMS text would be developed and that the only way forward would be for a country or group of countries to prepare a proposal at IWC/57. This is what Japan had done. Japan believed that its proposal met fully the requirements of a strict and transparent regime for setting conservative quotas for abundant stocks and for ensuring that quotas are not exceeded.

Japan went on to describe various aspects of its proposal. It explained that the version of the RMP text to which its proposal referred was that considered at the RMS Working Group in Copenhagen, but with a tuning level of 0.62 rather than 0.72. Given what it considered to be the unacceptable delay in completing the RMS and its bitter experience with the *Implementation Simulation Trials* for North Pacific minke whales, Japan noted that it reserved its position on the RMP, particularly with respect to the tuning level. It looked forward to revision of the RMP, particularly to making it stock specific rather than generic and to taking account of interspecies interaction. Japan noted that its proposed Schedule amendment retained provision for adjustments to catch limits to account for human-induced mortalities. It drew attention to provisions for a national inspection and international observer scheme but noted that it had not included provisions for other catch verification measures such as DNA registers and market sampling and catch documentation systems. While it expected to receive criticism from some for these omissions, it stressed its view that the inspection and observation scheme would be sufficient to verify that quotas are not exceeded. It noted that paragraph 10(e) had been deleted since it was contrary to the objective of the Convention. Finally it reported that it had retained many current Schedule paragraphs, but that it had deleted those that it considered to be outdated and redundant.

The USA thanked Japan for its presentation and recognised the significant effort that went into the preparation of the proposed Schedule amendment. As the proposed amendments were not limited to those measures necessary to implement an RMS, the USA noted that careful side-by-side comparisons with the current Schedule and other reference documents (e.g. those of the SDG) were required to gain a full understanding of the proposals. The USA identified the following key issues that it believed required further discussion: (1) the moratorium as provided for in Schedule paragraphs 10(e) and 10(d) is eliminated; (2) the Indian Ocean and Southern Ocean whale sanctuaries are eliminated; (3) several whales had been deleted from the section on definitions (i.e. beaked, killer and pilot whales); (4) some provisions for whaling under special permit have been added, but these essentially reflect current practice regarding provision of information to the IWC and do not constitute a code of conduct; (5) the provisions for international observers represent the weaker options from the SDG texts and costs borne by Contracting Governments through membership contributions assessed under the financial contributions scheme; and (6) there is no Compliance Review Committee or catch verification scheme for any other provisions the USA believe essential for a modern robust scheme. The USA believed it critical that an RMS address the current unconstrained permit whaling in a meaningful manner. It could not accept Japan's proposal.

New Zealand signalled its determination to ensure that there is no return to the over exploitation of the past that brought many species of whale to the brink of extinction and stressed that there must be a management scheme put in place that is credible, rigorous and in line with international best practice. It recalled that during the years of negotiations on an RMS, it had indicated that it could accept certain compromises (e.g. on the international observer scheme), but that these were dependent on the entire 'package' and reciprocity by others. New Zealand considered that the text put forward by Japan ignored the previous 10 years of discussions and contained fundamental defects. It added to those items of concern identified by the USA with the following: (1) it saw no logical or legal link between the lifting of the commercial whaling moratorium and adoption of the RMS – these in its view being two separate issues; (2) Japan's proposal made no provision for ensuring that whales would be killed humanely; (3) Japan's proposal opened the door to the weakening of the RMP by a reduction in the tuning level and the inclusion of a periodic review; (4) it believed that observer costs should be borne by the governments under whose jurisdiction whaling takes place and not shared among all members; and (5) there was no provision for DNA registers and market sampling combined with a catch document system to enable the tracking of whale products through the distribution chain. Finally, New Zealand indicated that it could not accept that special permit whaling could continue under an RMS.

⁷ At the beginning of the Annual Meeting, the Chair confirmed that Intergovernmental Organisations would be allowed to make one intervention on a substantive agenda item. He asked to be notified in advance of IGOs wishing to speak.

France, Germany, the UK, Spain, Australia, Austria, Ireland, the Netherlands, Sweden, Mexico, Monaco, Switzerland and Argentina had similar objections to Japan's proposal as noted by the USA and New Zealand particularly with respect to the proposal not taking sufficient account of past discussions and an inadequate approach to dealing with special permit whaling. Ireland referred to statements made in the previous agenda item that the Chair's proposal is the only proposal on the table. For the record it wished to note that the so-called Irish Proposal was introduced in 1997. It explained that this was an unashamedly pro-conservation proposal that, had it been accepted by the Commission, would have resulted in fewer whales being taken compared with the present situation, would have *de facto* created a global ocean sanctuary by limiting whaling to the EEZs of whaling nations and would have confined the consumption of whale meat to local consumption with no international trade. Ireland noted that its 1997 proposal had not found favour and had been overtaken by the Chair's proposal. Mexico thanked Ireland for its earlier initiative.

Norway congratulated Japan on its presentation of a straightforward and practical RMS. It noted that it could support the proposal in general but that it had some problems with the provisions suggested regarding the appointment of international observers. Mauritania fully supported Japan's proposal, noting that sanctuaries and a moratorium are not needed if an RMS is in place. Gabon also supported the proposal believing that the management of whale stocks should be based on science. Denmark indicated that if Japan's proposal was put to a vote it would abstain as it had not had sufficient time to evaluate it properly. However, it noted that Japan had made an effort and that efforts should be encouraged. It would like to see similar efforts from others. Iceland associated itself with Norway and agreed with much of Denmark's comments. In relation to Ireland's comments, Iceland noted that although it believed there were some positive aspects of the Irish proposal, if Japan's proposal fails to attract the necessary support, the Chair's proposal would be the only realistic proposal remaining. This might be a simple solution to the dilemma faced by the Commission.

Japan thanked those acknowledging the work it had put in to developing the proposal and appreciated the constructive comments of some members. It stressed that it had not ignored past discussions but noted that it simply could not agree with many of the provisions requested by others. Its only option was therefore to include those provisions with which it could agree and suggested that some management measures, even though not sufficient for some countries, is better than nothing.

The proposed Schedule amendment failed when put to a vote, there being 23 votes in support, 29 against and five abstentions. Kiribati explained that it had abstained since, as a new member, it wished to have more time to study the issue.

6.3.2.3 FURTHER WORK

Two possible ways forward were presented in draft Resolutions. The first, proposed by Denmark and the Republic of Korea had the following operative paragraphs:

'NOW THEREFORE THE COMMISSION:

AGREES to request that the Secretariat provide the wording necessary to prepare a document containing a draft RMS package in accordance with the Chair's Proposal. In this work the Secretariat shall use, as appropriate, wording already developed to this end, including that of the SDG.

AGREES to hold an inter-sessional meeting of the RMS Working Group to consider how the Secretariat's text reflects the above described assignment and to discuss the issues of:

- whaling under special permits
- Article 10 (e) of the Schedule
- compliance

AGREES to consider, if appropriate, ministerial or other high-level possibilities to resolve these issues amongst the contracting governments to the Convention.

AGREES to hold a meeting of the RMS Working Group in connection with IWC 58 with the aim of finalizing a draft containing all necessary items of an RMS package for consideration and possible adoption at IWC 58.'

The second draft Resolution was proposed by Germany, Ireland and South Africa. It proposed that:

'THE COMMISSION:

AGREES to hold an intersessional meeting to advance the work of the Working Group on the Revised Management Scheme (RMS) and that of the Small Drafting Group, as established by Resolution 2004-6, with particular emphasis on any outstanding issues and taking as a starting point the Group's report to this Commission (IWC/57/RMS 3).

AGREES to hold a meeting of the RMS Working Group in connection with IWC 58 to discuss the remaining issues that must be resolved before adoption of the RMS can be considered.

AGREES to consider, if appropriate, ministerial, diplomatic, or other high-level possibilities to resolve these issues among the Contracting Governments to the Convention.'

In introducing the first draft Resolution, Denmark noted that of the initial co-sponsors (that had included Finland, the Netherlands, Oman, Sweden and Switzerland), only Denmark and the Republic of Korea remained, the others withdrawing mainly because they believed there was insufficient support within the whole Commission. Denmark explained that it supported the draft Resolution as it wanted to put a strong RMS in place soon and not in 10 years time. It believed that the Commission needed to capitalise on the work already done by the RMS Working Group, the SDG and others. While it recognised that individual governments could produce draft RMS texts, as Japan had done, Denmark considered that such work is resource intensive and that it would be more efficient to ask the Secretariat (a resource shared by all Contracting Governments) to do the work under instruction from the Commission. Denmark also recognised that there are a number of obstacles to the completion of an RMS, but in its view, the three identified in the draft Resolution (i.e. whaling under special permit, Schedule paragraph 10(e) and the possible lifting of the moratorium, and compliance) are the most important and most difficult to solve. It was strongly of the opinion that work on the RMS could not continue in the current fashion, producing more diverse options rather than leading to a common position. It viewed the proposal as a compromise, and one which followed moderation and reason. While Denmark acknowledged that it is in the nature of a compromise that everyone is likely to find something that they do not like, everyone should also be able to find positive elements. It urged the meeting not to try to destroy the draft Resolution with proposed amendments. Denmark noted that currently the number of whales being killed is increasing and that while the takes are legal, much of them are without IWC control and oversight. It feared that failure to put an RMS in place would lead to increased whaling outside of IWC control and an increase in scientific whaling. Finally Denmark thanked those countries with whom it had held constructive consultations and expressed its gratitude for all the input it had received. The Republic of Korea echoed the remarks of Denmark and supported a conclusion based on current discussions.

The Netherlands, Sweden, Finland and Oman explained their reasons for withdrawing as co-sponsors from the first draft Resolution. The Netherlands appreciated the effort that had been put into the preparation of this draft Resolution. It agreed that the three items identified are the most important obstacles and it supported strongly the idea of pursuing the possibility of a ministerial or other high-level meeting as a way of breaking the current deadlock. However, it noted that during the consultations it had become aware that it would not be possible to obtain a sufficiently broad consensus on this proposal. For this reason it could not support it and would vote against the Resolution if put to a vote. Sweden explained that the idea behind the draft Resolution was to help focus and concentrate the RMS work and to build on the work of the SDG. Discussions had started among Nordic countries but Norway and Iceland had unfortunately had to withdraw. Like the Netherlands, Sweden had withdrawn from sponsoring the draft Resolution because of insufficient broad support. However, it was hopeful that Nordic countries would continue their discussions. Finland, Switzerland and Oman gave similar reasons. Oman indicated that it would abstain if the Resolution was put to a vote.

The USA noted that it continues to support the development of a robust yet practical RMS. However, in its view, the Resolution proposed by Denmark and the Republic of Korea raised questions regarding (1) its starting point (i.e. the Chair's proposal); (2) its selection of focussed elements and what happens to the balance of those elements; and (3) the instruction to the Secretariat to identify a compromise that the Commission to date has not been able to achieve. It therefore could not support the Danish/Korean draft Resolution, but could support that proposed by Germany, Ireland and South Africa.

Argentina acknowledged that the first proposal was being put forward as a compromise, but it could not support it. It acknowledged that the three items identified are important but that they are not the only important issues. Others include cost, sanctuaries and animal welfare issues.

Ireland congratulated Denmark and the Republic of Korea, the other initial co-sponsors and Norway and Iceland for their attempts to reach consensus language. However, Ireland found the draft Resolution too specific and therefore could not support it.

Iceland made comments pertinent to both proposed Resolutions. It noted that since it re-joined IWC, it had worked hard to bring the organisation closer to finalising an RMS, taking an active part in discussions within IWC and having informal discussions with many member countries. At this meeting, Iceland reported that it had worked hard, together with others to try to put RMS discussions on a track that could realistically result in progress and a finalised RMS in a short period of time. However, it was sorry to note that in its opinion, this work has been fruitless, and that both draft Resolutions would keep the discussions wide open making it unavoidable that the type of unsuccessful discussions had at IWC/56 last year in Sorrento would continue. Iceland regretted that the organisation now seemed to be in a situation in which no progress is being made or will be made in the foreseeable future, i.e. efforts to make progress in the RMS have failed. Although it could not support either draft Resolution, Iceland indicated that it would not seek to prevent either of them from being adopted if that is the wish of a number of members. It would therefore abstain if either Resolution was put to a vote.

Japan indicated that it wished to see the early completion of a cost-effective RMS. It appreciated the efforts of those involved in trying to find a compromise in the first draft Resolution which it believed contained many positive messages and good ideas and, above all, a clear indication of an intention to make progress. However, Japan noted that

as its basic position is that whaling under special permit should not be associated with RMS discussions it would abstain if this Resolution was put to vote.

The UK recognised the efforts of those trying to find a way forward via the first draft Resolution, but could not support it for a number of reasons. Although it has great respect for the Secretariat, it did not believe that the work proposed in the draft Resolution is within their power or scope of action, rather it is the responsibility of Contracting Governments to select elements to include in an RMS. Like Argentina, while it agreed that the three issues identified are important, it noted that other outstanding items would be equally important to at least some members. The UK noted that it was prepared to continue negotiations but believed that really what is needed is a political decision. It therefore supported proposals for a high-level meeting to break the deadlock. It was prepared to compromise in the long-run and believed that the second Resolution offered a better route.

New Zealand associated itself with the remarks of the USA, Ireland and the UK. Like the UK, it believed that a high-level meeting will be necessary to establish a satisfactory framework. It supported the second Resolution.

In response to the above remarks, Denmark acknowledged that the Chair's proposal is flawed, but stressed that it is the only compromise available. On being put to a vote, the Resolution proposed by Denmark and the Republic of Korea was not adopted. There were 2 votes in support, 26 against and 27 abstentions.

Ireland introduced the second draft Resolution on behalf of Germany and South Africa. It apologised for not consulting as widely as it would have liked but there had not be sufficient time available. Ireland described the proposal as a neutral Resolution designed as a genuine attempt to move the RMS forwards towards completion. By invoking Resolution 2004-6, the proposal retained the agenda adopted by consensus at last year's Annual Meeting. It noted that this agenda includes, but is not restricted to, the Chair's proposal for an RMS. Ireland also noted that the proposal takes the outcome of the RMS Working Group discussions from the Borgholm and Copenhagen meetings as a starting point for discussions and places emphasis on outstanding issues. In response to a comment from Dominica, it stressed that the intention was not to allow new items to be introduced into discussions, but to focus on those outstanding issues identified in the report from the intersessional meetings of the RMS Working Group (i.e. IWC/57/RMS 3). Ireland did not believe it appropriate to dictate timelines for the work. Finally Ireland noted that its draft Resolution acknowledged that proposed by Denmark and the Republic of Korea in that it included the operative paragraph on consideration, if appropriate, of a 'high level' meeting. Germany and South Africa endorsed these remarks. Germany stressed that the purpose of the proposal was to have a more general and neutral text that could be supported by all.

Italy, Argentina and France spoke in support of the second draft Resolution. Japan agreed that this draft was neutral but expressed concern that it would be a repetition, in some sense, of the last 10 years of discussion. However, it hoped that progress could be made and noted with appreciation the efforts of the sponsors. It indicated that it would abstain if the draft Resolution was put to a vote. Dominica indicated that it was uneasy about leaving matters so ill-defined and would have preferred to see the outstanding issues listed in clear terms in the draft Resolution. It indicated that without this, it could not support the Resolution. Mauritania agreed.

On being put to a vote, the Resolution proposed by Ireland, Germany and South Africa was adopted (see Resolution 2005-4, Annex C). There were 25 votes in support, 3 against and 28 abstentions. In response to a question from the Chair, Ireland indicated that the co-sponsors had not had time to consider the timing and location of the intersessional meeting of the RMS Working Group. The Chair suggested that this matter be returned to under item 23 (date and place of Annual and intersessional meetings). Japan expressed disappointment that the goal set out in Resolution 2004-6 had not been achieved, but it hoped that the Resolution adopted would lead to progress. It again noted that domestic pressure to resolve the issue would increase and that its proposed Schedule amendment is still on the table. Japan would welcome further dialogue on this proposal.

6.3.2.4 COMPLIANCE WORKING GROUP

Draft Terms of Reference for a Compliance Working Group were proposed by Argentina, Australia, Germany, New Zealand, the UK and the USA. After minor amendments the following Terms of Reference were agreed:

- (1) to explore ways to strengthen compliance by analysing the range of possible legal, technical, and administrative measures available to the Commission which are consistent within the ICRW; and
- (2) to explore possible mechanisms to monitor and possibly address non-compliance of Contracting Governments consistent with the ICRW and international law.

It was agreed that the Secretariat should call for expressions of interest in joining this working group after the Annual Meeting.