

**CONFIDENTIAL**  
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**IWC REVIEW – FINAL REPORT**

**REPORT SUBMITTED BY IWC REVIEW TEAM**  
**(Christian Prip, David Sheppard, Fabio Hazin)**

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## **EXECUTIVE SUMMARY**

### **Introduction (Section 1)**

(a) In 2016, the IWC agreed to a comprehensive, independent review of institutional and governance arrangements for the IWC, under IWC Resolution 2016-1. The Review Team, comprising Christian Prip, David Sheppard and Fabio Hazin, commenced work in April, 2017, and this document constitutes our report according to the review Terms of Reference (ToR), which identified a number of areas inside and outside the scope of the review.

(b) This report reflects the professional judgement of the Review Team, which was informed by a survey undertaken by the review team, by interviews with IWC stakeholders, and by participation at a number of IWC Meetings in 2017. The report includes recommendations, which are listed throughout the body of the report, and summarized in Annex A. These recommendations are prioritized, in line with clear criteria, and a performance indicator is identified for each recommendation. A Road Map for implementing the recommendations is outlined in Section 10 of this report. This report also assesses governance arrangements of a number of multilateral treaty bodies and outlines implications for IWC governance in Section 9.

### **The Commission (Section 2)**

(c) The shift to biennial Commission meetings appears to be broadly supported by IWC stakeholders, however, both advantages and disadvantages were noted. The Review Team believes the advantages of biennial sessions exceed the disadvantages, provided the biennial meetings are accompanied by a structured, effective IWC inter-sessional process, to establish and maintain momentum between Commission meetings. This report suggests a number of means to improve the intersessional process, as well as approaches to improve the effectiveness and efficiency of Commission meetings.

(d) There was a convergence of views regarding the need for the Commission to play a greater role in preparing work programs with strategic and prioritized directions, both for the Commission and for its subsidiary bodies. While the Review Team acknowledges that the polarization of views within the IWC is not conducive to a long-term strategic approach, applying such an approach is essential to establish more clarity, coherence and cost-effectiveness across the IWC bodies.

(e) The Review Team notes the importance of ensuring effective and accountable follow-up to Commission decisions by its subsidiary bodies, consistent with normal practices of other multilateral treaty bodies. This could be based around the “Main Outcomes” document, which is adopted by the Commission at the close of each plenary session. This should ensure actions are followed from Commission decisions. It would also help to promote discussion on Commission level strategy.

(f) The Review Team notes the long-standing division amongst the membership over whaling makes it difficult for IWC to develop a central strategic plan and a performance reporting

system. Other multilateral treaty bodies have well-developed procedures for dealing with conflicts and diverging views at their governing body meetings. The Review Team believes there should be greater use of procedures for dealing with conflict and disagreements at Commission meetings, while having a greater focus on areas of cooperation and joint work, and also “agreeing to disagree” where required.

(g) IWC should continue to support and increase the involvement of NGOs in IWC Meetings and should consider ways to improve the effectiveness of their involvement. The Review Team notes other multilateral treaties have well developed systems for the involvement of NGOs and Observers in their meetings, and in their work in general. Secretariats interviewed noted that NGO involvement enhances and improves decision-making, while making procedures more open and transparent, thereby helping to build the credibility of the organisation.

(h) The Review Team notes recent improvement in the participation by developing countries in the work of the Commission and suggests IWC should develop a consistent capacity building policy to enhance their participation in the work of the Commission and its subsidiary bodies.

### **Bureau (Section 3)**

(i) The Review Team notes the Bureau can play an important role in the governance of IWC, including ensuring inter-sessional work by subsidiary bodies, such as the Scientific Committee, is occurring and is consistent with the proceedings of Commission meetings. The Bureau also provides an important platform for building trust and cooperation between Contracting Governments as it provides a more “neutral platform” than Commission meetings. This report suggests a number of improvements for the work of the Bureau, including better definition of the Rules of Procedure to clarify the role and functions of the Bureau, and also the staggering of membership terms of Bureau members.

### **IWC Subsidiary Bodies (Section 4)**

(j) While the subsidiary body system is one of the strengths of IWC, the Review Team considers this system is confusing and seems to have evolved organically. This needs to be addressed more strategically, including through a review of the overlaps and implementing actions to reduce duplication and increase effectiveness. The Review Team outlines a number of suggested improvements to the IWC Subsidiary body system in this report.

(k) The IWC Scientific Committee (SC) is the premier body worldwide regarding cetacean science, comprising some of the greatest experts on cetacean biology in the world. The unique and enormous expertise on cetaceans in the SC provides IWC with the stature and credibility to remain as the main global body for cetacean management and conservation. The Review Team notes the Scientific Committee is a key strength of the IWC and every effort should be maintained to ensure its effectiveness and global pre-eminence on cetacean research.

(l) This report outlines a number of issues regarding the Scientific Committee and suggests areas for improvement, including: improving the clarity of recommendations; streamlining

the number of sub groups under the Scientific Committee; improving structural and process issues; and addressing staffing and financial issues.

(m) The Conservation Committee (CC) was set up in 2003 to address conservation issues associated with cetaceans and its work has accelerated recently, in particular through the appointment of Project Development leads who have been able to give more Secretariat support than was previously available to non-SC work programmes. These leads have worked on issues across a range of groups including Welfare, Finance and Administration and Aboriginal Subsistence Whaling, as well as CC. The majority of persons interviewed for this review provided positive comments on the work of the Conservation Committee, although it faces a number of challenges, including: balance between the work of the SC and CC; role clarity; and limited budget.

(n) The Review Team believes a greater focus on the work of the Conservation Committee, with an associated increase in resources, is warranted, although this should not detract in any way from the work of the Scientific Committee on which the work of the Conservation Committee is highly dependent.

(o) The Finance and Administration Committee (FAC) has contributed to improved IWC governance over recent years, including on accounting transparency, civil society engagement, and external communication. The inter-sessional work of the FAC should be strengthened, including through better coordination of the Budgetary Subcommittee, and through an enhanced role of FAC in preparing the budget.

(p) The Review Team also considered the work of the Aboriginal Subsistence Whaling Subcommittee, the Infractions Sub-committee, and the Working Group on Whale Killing Methods and Welfare Issues. This report highlights key issues associated with each of these subsidiary groups and outlines suggestions for improvement.

#### **The Secretariat (Section 5)**

(q) The IWC Secretariat is of high quality and effective. There has been a great improvement in recent years, even despite an expanding workload and limited financial and human resources. This report notes a number of challenges, including the need for better alignment of the Secretariat with Commission business, priorities and international best practice. There are differing views on issues within the Secretariat and these need to be recognized and addressed in a positive, effective and diplomatic manner. The Secretariat also needs to address imbalances in workload and also to hire more professionals that do not have English as their native language, to improve capacity to engage more efficiently with a wider range of parties.

(r) A Human Resource Policy should be developed for the Secretariat, including, at a minimum: staff development; assessment of staff performance; and conflict resolution. A long-term strategic plan should also be developed. A Management Team has been established within the Secretariat and the review team suggests a number of improvements,

including the continual assessment and refinement of the Terms of Reference for the Management Team.

(s) There are growing pressures and demands on the Secretariat to effectively implement its mandate and many staff interviewed noted they are “overloaded” and “under stress” due to inadequate staff resources. IWC Secretariat resources are, in fact, far lower than in other comparable multilateral treaty secretariats. Options should be explored for increasing secretariat resources, including through secondments, internships, and through fundraising linked to increasing staff support for priority programmes. The Review Team also suggests the development of a Staff Development Plan and a Transition Plan, to ensure that the potential impact of key staff leaving IWC on the quality and quantity of IWC work is minimized.

(t) There is an organigram on the IWC website. The Review Team recommends functions and terms of reference for every position in the Secretariat should be clearly defined. This report reviews, and suggests improvement for, secretariat work relating to: communication and outreach; servicing and supporting IWC meetings; and internet services

### **Communication and Partnerships (Section 6)**

(u) The Review Team notes internal and external communication have improved over recent years and recommends this positive momentum be maintained. However, some areas of possible improvement were noted, including in communication between the Commission and its subsidiary bodies and between subsidiary bodies. Simple systems need to be in place to ensure that Commission decisions are actioned by the IWC subsidiary bodies, and also that more time is allocated at Commission meetings to review reports from subsidiary bodies and to provide clear direction for their subsequent work.

(v) From interviews with external agencies and stakeholders there appears to be limited awareness of the work IWC is undertaking regarding environmental impacts, although most were well aware of conflicts within IWC between pro- and anti- whaling interests. IWC is the leading global forum on cetaceans, and this global significance needs better prominence and recognition. Many issues addressed within the IWC are sensitive and the review team notes the importance of having a clear process for responding to the press on key issues without prejudicing State Party views, building on recent improvements in this area.

(w) IWC has been more proactive in developing partnerships in recent years as witnessed by IWC joining the Biodiversity Liaison Group, which comprises the heads of the secretariats of the seven biodiversity-related conventions: potential exists for increased future cooperation on areas of common interest. IWC should also improve cooperation and partnerships with FAO and Regional Fisheries Management Organisations (RFMOs) on areas of mutual interest, including the prevention of entanglement and bycatch of cetaceans. The IWC should also continue and increase its involvement in global ocean management cooperation in the context of UN Sustainable Development Goal 14.

### **Financial Issues (Section 7)**

(x) IWC has traditionally been financed by Member contributions. In recent times this has been supplemented by voluntary contributions coming to IWC to support work on particular issues. Challenges include the low level of resources relative to the increasing IWC workload, and inadequate prioritization.

(y) The Review Team considers voluntary contributions should supplement core funds and should not support entire work streams. Greater budgetary transparency is needed in terms of how funding from donors, including NGOs, is allocated and the outcomes from this support. IWC should consider a number of revenue generation options, including a potential increase in member dues. A better process for prioritization is also vital to ensure the Commission is more involved in making decisions on how funding is allocated: some suggestions are outlined in this report.

(z) The Review Team notes that IWC budgeting appears to be “retrospective”, based on what has existed previously, rather than strategic. The Review Team considers that “business as usual” is not acceptable given the considerable financial challenges the IWC currently faces. A more strategic and transparent approach should be taken to IWC budgeting, based on priorities set by the Commission, and including proactive, costed budgets and work plans. This should also address the issue of extra budgetary funding.

#### **Rules of Procedure (Section 8)**

(aa) The IWC Rules of Procedure (RoP) were drafted 60 years ago, but have undergone a number of amendments, bringing them closer to those of other multilateral treaty bodies. However, the IWC RoP are far more often in use than those of other treaty bodies and should be a standing agenda item for Commission meetings. The review team notes the IWC Secretariat, contrary to many other treaty secretariats, does not employ a legal expert. Options to strengthen legal preparedness in the IWC should be considered and a number of options are outlined in this report.

(bb) A number of specific aspects relating to the Rules of Procedure were considered by the review team, including in relation to: non- governmental organisations; credentials; subsidiary bodies; and IWC quorum. This report outlines key issues and suggests improvements and recommendations regarding each of these areas.

#### **Comparison of Practices of the Commission with Best Practice for similar organisations (MEAs and RFMOs) (Section 9)**

(cc) The Review Team assessed arrangements of a number of other multilateral treaty organisations, which are comparable with the International Convention for the Regulation of Whaling. This assessment is based on comprehensive interviews with the Secretariats of Multilateral Environment Agencies (MEAs) and Regional Fisheries Management Organisations (RFMOs). A full list of agencies consulted is outlined in Annex B.

(dd) Findings of this review are outlined in relation to a number of key areas, including: (i) Governing Councils; (ii) Bureaus and Standing Committees; (iii) Other standing Subsidiary Bodies; (iv) Ad-hoc Working Groups; (v) Budgets; Strategic directions; (vi) Observers; (vii) Decision-making; (viii) Review of implementation and compliance; (ix) Secretariat arrangements; (x) External relationships; and (xi) Capacity building and assistance mechanisms for developing countries.

(ee) This section of the report ends by listing some main differences between institutional and governance arrangements of the treaties assessed and the IWC. Implications and suggestions are also identified.

### **Recommendations, Road Map and Next Steps (Section 10)**

(ff) Annex A: “Recommendations and Road Map” outlines the 39 recommendations in this report and also provides: (i) a reference to the relevant paragraph number in the text; (ii) the Review Team’s view on the priority of the recommendation with: A having the highest priority (13 recommendations), B having medium level priority (22 recommendations), and C having the lowest priority (4 recommendations); (iii) a suggested lead component of IWC with responsibility for each recommendation; and (iv) a suggested performance Indicator for each recommendation.

(gg) The Table outlined in Annex A provides the Framework for the Road Map for IWC with recommendations denoted as priority A having the highest priority for attention and implementation. Criteria for the allocation of priorities are outlined. The Review Team recommends that the oversight of the implementation of these recommendations be undertaken by the IWC Operational Effectiveness Working Group, in close consultation with the IWC Secretariat.

(hh) The OEWG and the Secretariat should prepare an implementation Plan for these recommendations for consideration by the first Bureau Meeting to follow the 2018 IWC Commission Meeting. The OEWG and the Secretariat should report on progress towards implementing the implementation Plan at subsequent Bureau and Commission Meetings, for a period of 3 years after the 2018 IWC Commission Meeting.

## (1) INTRODUCTION

### 1.1 General

(1) The International Whaling Commission (IWC) is the global body charged with the conservation of whales and the management of whaling. All members are signatories to the International Convention for the Regulation of Whaling (1946) which is the legal framework that establishes the IWC and its Secretariat, as well as setting out the objectives of the organisation. The preamble to the Convention states that its purpose is to *“provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry”*.

(2) The work of the IWC covers both the regulation of whaling and the conservation of whale stocks. From 1985/86, the Commission established zero catch limits for commercial whaling, often referred to as the whaling moratorium. These catch limits remain in place today although whaling continues under objection or reservation by some states setting their own catch limits. The IWC continues to regulate and set catches for subsistence whaling by indigenous peoples (termed Aboriginal Subsistence Whaling), as well as issuing permits for the killing of whales for scientific purposes. In recent years, the IWC’s work to support the recovery of whale populations has increased and is leading to strengthened engagement with other inter-governmental organisations.

(3) IWC Contracting Governments have different views on the issue of whaling. Some members believe hunting whales is no different from any other kind of animal hunt, and should be permitted, as long as sustainability can be proved. Others believe whaling can no longer be justified, some on grounds of that it is no longer required, some due to ethics and welfare concerns, or combinations of these and other reasons. Along the same lines, states hold different opinions as to the competence and importance of the IWC to deal with issues such as small cetaceans, whale watching, environmental concerns and animal welfare.

(4) In 2016, the IWC agreed to a comprehensive, independent review of institutional and governance arrangements for the IWC, under IWC Resolution 2016-1. The Review Team, comprising Christian Prip, David Sheppard and Fabio Hazin, commenced work in April, 2017, and this report constitutes our report according to the review Terms of Reference (ToR).

(5) The task of the Review Team is to deliver the following for consideration by the 2018 IWC Commission Meeting (IWC67):

- ✓ A comprehensive review of the Commission’s institutional and governance arrangements (including an Executive Summary);
- ✓ Recommendations for reform that will enhance the Commission’s effectiveness (recommendations should be prioritized);
- ✓ A draft roadmap for implementing the recommendations; and
- ✓ Proposed performance indicators to track the implementation of reform measures.

(6) The Terms of Reference (ToR) for the Review identified a number of areas within the scope of the review and a number of areas outside the scope:

(7) Those areas within the scope of the review include: (i) The organisation of the Commission's work, including the role, functioning, effectiveness, and governance of its sub groups; (ii) The process for agreeing work programs and strategic direction; (iii) Methods and effectiveness of communication between the Commission and its subsidiary bodies; (iv) The process for allocation of the Commission's resources to subsidiary bodies; (v) The role, functioning, effectiveness and governance of the Secretariat; and (vi) The Commission's rules of procedure and financial regulations.

(8) Those areas not within the scope of the review include: (i) The text of the International Convention for the Regulation of Whaling; (ii) The Schedule of the International Convention for the Regulation of Whaling; (iii) The conservation and management status of cetaceans; (iv) Contracting Governments' compliance with the Convention and Schedule; and (v) Aligning the Commission's operations with the International Court of Justice's judgement in the case concerning Whaling in the Antarctic (Australia v. Japan: New Zealand intervening).

(9) The report is based on a survey undertaken by the Review Team (refer 1.2 below) and a large number of interviews with IWC stakeholders. Other inputs to this report included review of a range of IWC documents, attendance at the 2017 IWC Scientific Committee meeting and two IWC Bureau meetings. The report includes recommendations, which are listed throughout the body of the report, and summarized in Annex A. These recommendations are prioritized and a performance indicator is identified for each recommendation. A Road Map for implementing the recommendations is outlined in Section 10 of this report. This report also assesses governance arrangements of a number of multilateral treaty bodies and outlines implications for IWC governance (Section 9).

### 1.2 Survey and Interviews

(10) Besides a desktop review of relevant materials, as required by the IWC contract for performing the review, the Review Team also conducted a survey, which was distributed as widely as possible, as well as consultations with representatives of the Secretariat, of Contracting Governments, and accredited observers to the Commission. The Secretariats of various RFMOs, MEAs and Conventions were also interviewed in order to allow comparison of practices by the Commission with best practices for relevant multilateral treaty bodies and intergovernmental organisations.

(11) One of the inputs for this review were responses to a questionnaire, prepared and sent to IWC stakeholders. Before distribution, the questionnaire was circulated as a draft to a limited number of stakeholders, for inputs and contributions. The full, detailed report on this survey is outlined in Annex D to this report. The questionnaire was sent, by e-mail, to about 600 stakeholders, and 38 responded (around 6.5%), a very low response rate. Most of the respondents were from representatives from contracting Governments (41%), followed by non-governmental organizations (16%). Together, these two categories accounted for the majority (57%) of the responses received. The answers to survey questions were rated

according to a satisfaction scale from 5 to 1, as follows: 5) Very Satisfied; 4) Satisfied; 3) Moderately satisfied; 2) Unsatisfied; and 1) Very unsatisfied. Specific views and comments could also be provided for each question. Due to the low participation rate, the responses to the questionnaire were used by the Review Team in a much more qualitative manner than quantitatively, although the percentages of the scores given are indicated in the survey report. The Review Team notes there were differing views amongst Bureau members as to whether the survey results should be included in this report or not. Those against including the survey results considered the survey was not designed well enough to reflect the wide range of views on whales and whaling within IWC. Those in favour noted the survey, despite its low response rate, provided one input, amongst others to the content and the recommendations of the report. The Review Team notes that the survey was widely circulated to all IWC stakeholders, and that all had the opportunity to provide input. The response rate was low, however, the level of detail in those responses was considerable and the Review Team considers, on balance, that the survey should be included as one of the inputs to the final review Report

(12) Information arising from interviews also provided an important input to the review. The Review Team interviewed 57 persons, representing the following categories:

- ✓ IWC staff: 9 persons
- ✓ IWC Bureau Members: 9 persons, representing 5 Contracting Governments
- ✓ Other IWC Contracting Governments: 14 persons, representing 12 Contracting Governments,
- ✓ NGOs: 16 persons, representing 13 NGOs
- ✓ Secretariats of RFMOs, MEAs and Conventions: 12 persons, representing 11 organisations

(13) The list of all persons interviewed is outlined in Annex B. Most, but not all, interviews followed the standard template (refer Annex B) developed by the IWC Review Team to facilitate compilation and analysis of information provided through the interviews. The Review Team interviewed persons: (i) at the IWC Headquarters in Cambridge, UK; (ii) at the meetings of the IWC Scientific Committee and Bureau, held in Bled, Slovenia, in May, 2017; (iii) at the Bureau meeting held in Shimonoseki, Japan; and (iv) through a number of telephone/Skype/face to face interviews.

## **(2) THE COMMISSION**

### 2.1 General

(14) The Review Team notes that the Commission in recent years have been taking a range of well-founded measures to improve IWC governance. These include:

- ✓ Resolution 2011-1 on improving the effectiveness of operations of the IWC (which included measures to improve the financial procedures);
- ✓ Agreement in 2012 to move to biennial meetings and establish a Bureau;

- ✓ Resolution 2014-3 on civil society participation and transparency at IWC;
- ✓ Resolution 2014-4 on the Scientific Committee;
- ✓ Resolution 2016-1 on enhancing effectiveness of the IWC; and
- ✓ Resolution 2016-6 on the creation of a voluntary fund to support Governments of Limited Means.

(15) The shift to biennial Commission meetings appears to be broadly supported by IWC stakeholders, however, both advantages and disadvantages were noted. Advantages include: (i) the significant staff and financial savings for the organisation resulting from a two year meeting cycle; (ii) the opportunity to take a more strategic, longer term focus for IWC; (iii) the greater focus on intersessional working allowed by a two year cycle, which also enables IWC subsidiary bodies more time to develop better formulated proposals for Commission consideration and adoption. This 2-year cycle brings IWC more into line with other multilateral treaty bodies. Disadvantages include: (i) a reduction in meeting frequency could be seen as a reduction in commitment by Contracting Governments to IWC; (ii) some countries find it difficult to justify their membership of IWC when meetings are only held every 2 years; (iii) IWC could potentially lose momentum, focus and direction without annual IWC meetings, and associated activities; and (iv) it hinders the decision-making process, making it more difficult to IWC to properly react inter-sessionally to urgent matters that may arise.

(16) The Review Team believes that the advantages of biennial sessions exceed the disadvantages, provided that the biennial meetings are accompanied by a structured, effective IWC inter-sessional process, to establish and maintain momentum between Commission meetings. A number of measures have been taken by other Multilateral Environmental Agencies (MEAs) and Regional Fisheries Management Organisations (RFMOs) to strengthen the inter-sessional process, including: (i) having a strong and effective Bureau; (ii) a well-structured and effective subsidiary body system operating in line with clear mandates from the Governing Body; (iii) regular, effective and two way communication between the Secretariat, Bureau, and the Governing Body; and (iv) effective involvement of States in decision making during the inter-sessional period, particularly in the case of developing States. These measures are also relevant and applicable to the IWC and should be developed and applied as a priority.

**Recommendation 1: Biennial Commission meetings should be maintained, but measures should be implemented to strengthen the IWC inter-sessional process, including through having: (i) a strong and effective Bureau; (ii) a well-structured and effective subsidiary body system; (iii) regular, effective and two way communication within the Commission; and (iv) effective involvement of States in decision making during the inter-sessional period, particularly in the case of developing States, which should be supported to attend IWC meetings, including those of the scientific and conservation committees.**

(17) Alongside a streamlined subsidiary body system, the Review Team considers the IWC should undertake greater scrutiny and assessment of reports from subsidiary bodies at their meetings and provide clearer directions for their inter-sessional work.

**Recommendation 2: IWC should undertake greater scrutiny and assessment of reports from Committees and Working Groups at its biennial meetings and provide clearer directions for the inter-sessional work of all subsidiary bodies.**

(18) The agenda of Commission meetings is expanding and it is increasingly challenging to conduct business in the time available. Some stakeholders noted that the 2016 IWC Meeting was “an improvement” compared to previous meetings, reflecting good chairing and the fact that the Chair tried to “get all draft decisions out on the first day”, with an initial general discussion and a major attempt to reach consensus in small groups on contentious issues, such as Aboriginal Subsistence Whaling. The rule of a 100-day interval between the Scientific Committee and the Commission Meeting is an improvement compared to former back-to-back meetings of the two forums. Nonetheless, reports from the Scientific Committee to Commission are often “dense and heavy”, according to many interviewed for this review, and it is important that information is provided to Commission Members in a format and structure which allows effective consideration of scientific and policy issues and their implications for Commission decision making. This is in line with the role of the Scientific Committee, which is to provide the best scientific advice to the Commission. There is an Executive Summary provided for the main SC report, however it is still important to have shorter, non-technical documents, which objectively set out the advice to the Commission stemming from scientific data in a format more digestible for Commissioners.

**Recommendation 3: IWC Scientific and other committees should provide information to Commission Members in a format and structure that allows effective consideration by the Commission of scientific and policy issues and their implications for Commission decision making.**

(19) The Review Team considers a contact group between the Commission and the Scientific Committee should be established, tasked to make SC proceedings and recommendations are clear, concise and policy relevant so as to establish the most suitable format for decision-making by the Commission. Hard deadlines should be set for the submission of papers in advance of meetings.

**Recommendation 4: Once the Commission has completed a revision of the structure and number of subsidiary bodies, streamlining them (Recommendations 14 and 15), a joint working group of scientists and managers should be created to improve dialogue between the Commission and the Scientific Committee and to ensure SC proceedings and recommendations are clear, concise and as policy relevant as possible.**

(20) The Review Team consider there are several ways to improve the effectiveness of Commission meetings. After the change to biennial Commission meetings, the normal 5 days duration of the meetings appear to be too short to address the agenda items with the necessary thoroughness. Besides allowing more time for Commission meetings, the Review Team sees a need to reduce and/or better prioritise the number of agenda items and to allow longer breaks within meetings for networking and coordination. Late submission of primary papers increases the already heavy workload and reduces the quality of discussion at

Commission meetings. Finally, there should be a well-structured approach of contact group discussion of contentious issues as practiced in other international treaty bodies.

**Recommendation 5: The following approaches to improve the effectiveness and efficiency of Commission meetings should be considered: (i) Allow more time (days) for Commission meetings; (ii) Reduce and/or better prioritise the number of IWC agenda items; (iii) Allow longer breaks within meetings for networking and coordination; (iv) Have draft decisions released as early as possible; and (v) Ensure a well-structured approach of contact group discussion of contentious issues.**

## 2.2 Strategic direction and prioritization

(21) There was a great convergence of views recognizing the need for the Commission to play a greater role in preparing work programs with strategic and prioritized directions, both for the Commission itself and for its subsidiary bodies. The IWC budget should then be determined according to pre-established priorities. Such an approach would enable better communication and coherence between the Commission and subsidiary bodies not least in the case of the Scientific Committee, which in the view of many stakeholders tends to set its own priorities and requires better guidance from the Commission.

(22) While the Review Team acknowledges that the polarization of views within the IWC is not conducive to a long-term strategic approach, applying such an approach is essential to establish more clarity, coherence and cost-effectiveness across the IWC bodies. The Review Team notes the IWC does not currently have a Strategic plan or Work Plan. The IWC should develop and adopt a Strategic Plan and multi-year programs of work setting strategic directions and clear priorities for the work of IWC. Best practices of other treaty bodies usually involves a hierarchy of planning documents, with an overall strategic plan providing high level guidance, and with this plan translated into actionable multi-year programs of work, as well as the work-plans of Secretariat staff. The Review Team envisions the implementation of this recommendation should be carried out in a structured and logical way, following the hierarchy mentioned i.e. development of the IWC Strategic Plan first followed by multi-year programs of work, as well as staff work plans. Ideally, “what”, “why”, by “whom” and by “when” should be clearly defined for each task agreed in the strategic plan.

**Recommendation 6. The IWC should develop and adopt a Strategic Plan and a multi-year work programme setting strategic directions and clear priorities for the work of IWC and its subsidiary bodies in line with best practice of other treaty bodies. Ideally, “what”, “why”, by “whom” and by “when” should be clearly defined for each task agreed in the strategic plan.**

## 2.3 Follow-up to IWC Decisions

(23) The IWC Review Team notes the importance of ensuring effective and accountable follow-up to Commission decisions by its subsidiary bodies, consistent with normal practices of other multilateral treaty bodies. For other multilateral conventions, there is a clear process flowing from COP/Commission decisions to each subsidiary body where the COP/ Commission

sets the direction and the “marching orders” to these bodies. CITES, for example, has a clear tracking system to ensure nothing is “lost in the process”. As another example, for RFMOs, such as the International Commission for the Conservation of Atlantic Tunas (ICCAT), their governing bodies assign work priorities and programmes for all subsidiary bodies and committees, including scientific committees, and all have clear work plans, covering all work assigned by the governing bodies.

(24) At present, when the Commission takes a decision or endorses a recommendation, there is no method to formally adjust the work programmes of the relevant subsidiary bodies, or to allocate the human or financial resources needed to ensure the proper implementation of that decision/ recommendation. Some respondents noted that Commission decisions are not always effectively followed-up by subsidiary bodies, including the Scientific Committee. An example given was the 2016 adopted resolution on the research gap analysis on ecosystem services for cetaceans, which, it appears, was not adequately factored into the workplan and agenda of the Scientific Committee. There is also a perception amongst some stakeholders that key decisions are made by Committees and Working Group Chairs rather than by the Commission, giving the impression sometimes that the “tail has been wagging the dog” for IWC. The Review Team considers the IWC should develop a clearer system to ensure that all Commission decisions are prioritized and taken up by IWC subsidiary bodies, including the Scientific Committee, with a clear follow-up mechanism in place.

(25) Such a system could be introduced based around the “Main Outcomes” document, which is adopted by the Commission at the close of each plenary session. This should ensure actions are followed from Commission decisions. It would also help to promote discussion on Commission level strategy. In general, it is very important that decisions by the Commission and subsidiary bodies are better implemented, monitored and followed-up. Systems used by other treaty bodies are outlined in Section 9 of this report, have a number of common features which are also relevant to the IWC, including: (i) ownership and agreement of outcomes and decisions by member States; (ii) assignment of priorities by member States, based on criteria such as those outlined in paragraph 155 of this report; (iii) assignment of lead responsibilities for action; and (iv) clear systems of monitoring, evaluation and follow up.

**Recommendation 7: All IWC Commission decisions should be properly reflected in the work programme, in a prioritized manner, with the human and/or financial resources needed to ensure their implementation clearly identified and allocated. They should be taken up by Subsidiary Bodies, including the Scientific Committee, with a clear follow-up mechanism put in place. At the very least, in the report of the SC and other subsidiary bodies to the Commission, a clear and specific response on progress achieved on every recommendation/request presented by the Commission should be given.**

#### 2.4 Addressing disagreements in Commission meetings

(26) Other multilateral treaty bodies have well-developed procedures for dealing with conflicts and diverging views at their governing body meetings, including formal and informal contact groups, voting (open and closed) and conflict mediation (in rare cases). In most cases, these have delivered successful consensus outcomes.

(27) A number of respondents noted that the long-standing division amongst the membership makes it difficult for IWC to develop a strategic plan and a performance reporting system. IWC has long been unable to effectively prioritize its work, due to the fundamental divide over whaling. Surely, many other treaty bodies have points of fundamental disagreement and blockages which parties have failed to overcome for great lengths of time, but in the case of IWC the point of divergence has been very acrimonious over the years and has, in many instances, seriously hindered the work of the Commission. This divide has been the main area of attention at IWC Meetings, when there are many other areas to discuss and work on, and where Contracting Governments generally have considerable relevant expertise, such as in the areas of cetacean entanglement and ship strikes. The 2016 IWC Meeting was again highlighted by stakeholders as having demonstrated improvement through having a greater focus on areas of cooperation and joint work, while also “agreeing to disagree” at certain stages. Other treaty bodies make use of a range of procedures for dealing with conflicts and disagreements at Governing body meetings, including “Friends of the Chair” procedures, informal and formal mediation, and joint working/ contact groups. These are outlined in Section 9. A number of these procedures have also been used at IWC Commission meetings. This should continue and be expanded to include the full range of approaches applied by other multilateral bodies to ensure effective cooperation towards achieving Commission priorities.

**Recommendation 8: IWC should make more use of procedures for dealing with conflict and disagreements at Commission meetings, building on existing IWC procedures, and also applying the range of approaches used by other multilateral bodies for resolving disagreements at their COPs, including “Friends of the Chair” procedures, informal and formal mediation, and joint working/ contact groups. IWC should also focus on more effective cooperation towards achieving Commission priorities.**

#### 2.5 Involvement of NGOs and Observers

(28) IWC has made significant efforts in recent years to increase the involvement of NGOs and other observers in Commission meetings and in the work of IWC in general. IWC Resolution 2014-3 on civil society participation and transparency to a great extent brings the IWC in line with other multilateral treaty bodies in term of NGO participation and transparency. Observers and NGOs can and do play an important role in supporting the work of IWC. NGOs recognized that their participation in IWC has increased over the last 10 years and that new rules that allow NGOs to be involved in subsidiary bodies are positive improvements which should continue.

(29) Other multilateral treaties have well developed systems for the involvement of NGOs and Observers in their meetings, and in their work in general, as outlined in Section 9. Most Secretariats interviewed noted that this NGO involvement enhances and improves decision-making, while making procedures more open and transparent, thereby helping to build the credibility of the international body. It appears that the role of NGOs and other observers in IWC is still less prominent than in other Conventions, but it is increasing, particularly on issues such as speaking rights at Commission meetings. NGOs noted some possible ways of

improving their involvement in IWC Meetings, however, such as: (i) providing better facilities for NGOs at Commission meetings, including tables and microphones; (ii) allowing adequate time for NGO interventions; (iii) updating the existing Code of Conduct for NGO involvement; and (iv) enabling NGOs to have documents tabled. The Review Team suggests the trend of improved involvement of NGOs in IWC meetings should continue, and considers the above suggestions from NGOs have merit. The IWC Secretariat should consult with NGOs to ensure other relevant measures are taken to ensure more effective involvement of NGOs in future IWC meetings.

**Recommendation 9: IWC should continue to support and increase the involvement of NGOs in IWC Meetings and should consider ways to improve the effectiveness of their involvement, such as: (i) providing better facilities for NGOs at Commission meetings, including tables and microphones; (ii) allowing adequate time for NGO interventions; (iii) updating the existing Code of Conduct for NGO involvement; and (iv) enabling NGOs to have documents tabled. In this regard, the Secretariat should communicate with NGOs to assess what more could be done.**

#### 2.6 Opportunities for developing countries to participate in the work of the Commission

(30) A significant improvement in recent years was again recognized by many stakeholders with regard to the opportunities for developing countries to participate in the work of the Commission, particularly the establishment of a voluntary Assistance Fund at IWC 66 to strengthen the capacity of governments of limited means to participate fully in the Commission's work. Most of the respondents and interviewees, nevertheless, also emphasized the need to advance much further, since the participation of developing countries in the Commission so far has been mostly restricted to plenary meetings. Besides, many recognized the need for the Commission to invest in a much broader capacity-building effort, not only by facilitating the participation of developing countries in meetings, but to allow a much more substantive participation by them in all the work of the Commission and its subsidiary bodies. In the view of the Review Team, there is a clear need for a better regional balance in the work of IWC and, therefore, a more structured policy for capacity building in the Commission is very important. The Review Team believes that IWC Resolution 2016-6, to support Governments of Limited Means, is a significant improvement, but it is important, however, that this Resolution is effectively implemented to ensure smaller and developing country members of IWC can attend and adequately participate in IWC Meetings. Besides, capacity building must go well beyond simply supporting participation in meetings.

**Recommendation 10: IWC should increase the participation of developing States in the work of the Commission and its subsidiary bodies and develop a capacity-building policy/capacity development plan to enhance their effective involvement, in a transparent manner. This should go beyond participation in meetings, to include also technical and scientific training in specific areas, deemed as priority by IWC. In this regard, the capacities, weaknesses, and needs of developing states should be assessed so that they can be properly addressed.**

### 2.7 Reporting on IWC meetings

(31) The arrangements for reporting on meetings are generally satisfactory, while some stakeholders complained that it takes too much time for meeting reports to be circulated. It should be noted that most stakeholders welcomed the IISD/ENB reporting at Commission meetings, as IISD has done for many years in other multilateral treaty bodies, such as the COPs and scientific and technical bodies of CBD and CITES, for instance. This reporting service is seen as a positive step towards greater transparency and outreach for IWC Meetings and alignment with good practices of other treaty bodies.

**Recommendation 11: IWC should continue with the arrangements for IISD/ENB reporting of Commission Meetings and consider expanding this reporting to other key meetings, such as those of the Scientific Committee, subject to availability of resources. To the extent possible, the service should also be expanded to include detailed daily reports.**

### **(3) BUREAU**

(32) The Bureau, composed of seven members of the Commission, operates during the inter-sessional period to support the work of the Commission by providing advice to the Chair and Secretary. The recent establishment of an IWC Bureau is largely consistent with best practices of other multilateral treaty bodies, where Bureaus, or equivalent bodies, work on directions established by all members of governing bodies, in line with the Rules of Procedures. The roles of Bureaus, or equivalent bodies in other treaty bodies is outlined in Section 9. Most stakeholders found the Bureau to be an appropriate mechanism for IWC, while recognizing it is still relatively early in the process.

(33) In the view of the Review Team, the Bureau can play an important role in ensuring inter-sessional work by subsidiary bodies, such as the Scientific Committee, is occurring and is consistent with the proceedings of the Commission meetings. The Bureau also provides an important platform for building trust and cooperation between Contracting Governments as it provides a more “neutral platform” than Commission meetings.

(34) The IWC Rules of Procedure clearly state that the Bureau is not a decision-making body and shall not deal with substantive and policy matters. This is fully in accordance with rules and practices of other multilateral treaty bodies. However, there still appears to be some ambiguity about the role of the Bureau. Some respondents have noted (with satisfaction) that the Bureau is taking on urgent issues like the critically endangered vaquita, while others consider the Bureau should focus on broader governance issues due to the fact that the two year intervals between Commission meetings may delay important and urgent decisions-making. In case of a new and emerging issue under the IWC mandate that requires urgent decision-making, Rule E.4. of the Rules of Procedure on voting by post or other means of communication, however, should apply. The Review Team considers the Rules of Procedure should be better defined to determine the role and functions of the Bureau, in particular with

regard to the progression of work of the subsidiary bodies during the intersessional period, building on the Bureau Guidelines Document. This is addressed further in Section 8.

(35) Despite the Vice-Chair of the Bureau usually becoming the Chair and the Chair of the F&A Committee having a permanent seat, the majority of the Bureau will “turn over” at the 2018 Commission Meeting. This may have a negative effect, both in terms of continuity and of ensuring effective strategic leadership. It is thus important that the turn-over of Bureau Members is staggered in such a way that not all Bureau members leave at the same time, to provide for continuity in Bureau membership and enhance decision making.

**Recommendation 12: The membership terms of Bureau Members should be staggered to provide for continuity in Bureau membership and also to ensure more strategic and effective decision making.**

(36) IWC Bureau Meeting reports are available, through publishing reports on the web site, after each Bureau meeting has concluded. It is noted that Bureau background papers were publically available for the first IWC Bureau meeting, but not for subsequent Bureau meetings. It is not clear for the Review Team why this change occurred. Some other multilateral treaty bodies, such as ICCAT, have background papers publicly available on-line, prior to the meeting, except for confidential or sensitive issues, such as staff recruitment and/or assessment. The Review Team considers that IWC should be equally transparent while noting that papers on some issues, such as personnel matters and issues considered sensitive by the Chair, should remain confidential.

**Recommendation 13: Bureau documents should be made available, with the exception of documents on confidential and sensitive issues. The IWC Chair, in consultation with the Vice Chair and the Bureau, should determine whether documents are confidential and the level of availability.**

#### **(4) IWC SUBSIDIARY BODIES**

##### 4.1 General

(37) IWC Commission structures its work through the following subsidiary bodies:

- ✓ Scientific Committee: assembles around 200 leading scientists from many countries to provide advice and recommendations on all aspects of cetacean conservation and management;
- ✓ Conservation Committee: receives scientific advice from the Scientific Committee and provides conservation advice on non-whaling threats to cetaceans, develops partnerships with other organisations and seeks financing for conservation projects;
- ✓ Finance and Administration Committee: handles finance, budgets, operational effectiveness and governance issues, including updating of the Rules of Procedure;
- ✓ Aboriginal Subsistence Whaling Sub-committee: receives sustainability advice from the Scientific Committee and integrates this with information on cultural and nutritional

requirements to provide the Commission with management advice on quota requests submitted by Governments on behalf of aboriginal subsistence whaling communities;

- ✓ Infractions Sub-committee: provides a mechanism for Contracting Governments to report their compliance with measures set out in the Schedule to the International Convention for the Regulation of Whaling; and
- ✓ Working Group on Whale Killing Methods and Welfare Issues: originally focused on humane hunting, this group now includes all aspects of cetacean welfare, including those arising through accidental harm (e.g. bycatches in fishing gear).

(38) The Scientific as well as the Finance and Administration Committees are mandatory, permanent committees (RoP M.1) with formal requirements for commissioners to notify their desire to be represented prior to committee meetings. The same applies for the Technical Committee, although this body is no longer functional. *Ad hoc* committees may be established with similar requirements for notification (RoP M.2). A third category of subsidiary bodies referred to as “sub-committees and working groups” may be established according to RoP M.3 without the above formal requirements.

#### *Issues and possible improvements*

(39) While the subsidiary body system is one of the strengths of IWC, the Review Team considers that there are a number of improvements that can and should be made. These are outlined below.

(40) Overall, the structure of the system appears confusing to the Review Team and seems to have evolved organically. For the non-mandatory groups, it is not clear under which RoP rules they have been established, and it is not specified whether they are permanent or *ad hoc*. Their titles as either “committee”, “sub-committee” or “working group” seem random, without distinction and reflection on their variable levels of performance and subordination. In this regard, the Scientific Committee is in a category of itself, having resources at its disposal that the other subsidiary bodies lack. Adding to the lack of clarity is the fact that ‘sub-committees’ and ‘working groups’ have not only been established directly under the Commission, but also as subsidiary bodies to Committees.

(41) There appears to be some overlaps between the different groups. This needs to be addressed more strategically, including through a review of these overlaps and associated recommendations to reduce duplication and increase effectiveness. Reporting lines also require clarification. In general, the Review Team considers the number of Committees, Sub-Committees and Working Groups excessive. This creates difficulties, particularly for Contracting Governments with limited resources. This situation should be rationalized and streamlined with a clearer structure and hierarchy in the context of the Commission, providing overall policy and strategic direction for the whole IWC. In particular, there is a need to evaluate those bodies that do not meet nor conduct work inter-sessionally, since some may have already finalized their mandates. The broad authority and autonomy of the SC to create subsidiary bodies should also be critically evaluated. In the shorter term, a possible way to minimize the problem of the excessive number of committees, groups and concurrent

meetings would be to conduct more inter-sessional work, and to make better use of technological tools.

**Recommendation 14: A clearer and more logical structure should be established for the IWC Committee and Working Group system, setting out: (i) the roles of, and the distinction between, committees, sub-committees and Working Groups; (ii) which current groups fit into which category; and (iii) opportunities for reducing duplication and ensuring better reporting arrangements between the different groups. The development of this structure should be led by the Commission and should be included in the strategic plan, referred to in Recommendation 6.**

(42) The Review Team notes the performance of IWC subsidiary bodies often reflects the ability and time availability of the Chair, whose selection process is thus very important. Each group should be effectively chaired and their performances regularly assessed, with bodies, which have finished their business, concluded in line with a “sunset clause”. The process to select Conveners/Chairs should be clearer and more transparent. The Review Team notes that not all of the Committees, Working Groups and Sub Committees have ToR and that, further, not all of them are required to submit written reports.

**Recommendation 15: All IWC Committees, Subcommittees and Working Groups should have: (i) clear and consistent Terms of Reference and Rules of Procedure, including for the selection of the Chair; (ii) a sunset clause with a clear end date, or, alternatively, a clear recognition of their permanent nature; (iii) Submission of written reports at a minimum, annually, in a way that avoids duplication and the overburdening of the Chair of the IWC and the Executive Secretary.**

(43) The relationship between the subsidiary bodies is considered by the Review Team to be unclear, particularly to people who are not intimately involved in the Commission’s work, and should, therefore, be clarified, and also require more collaboration, coordination and communication on issues of mutual interest. In this context, the Joint CC-SC meeting was highlighted by many stakeholders as a positive move in this direction and a possible model that could be replicated to other subsidiary bodies, notwithstanding the limitations related to the availability of financial resources. Mechanisms for better communication and collaboration between the different IWC subsidiary bodies should be established. Given the IWC structure, and noting experience from other treaty bodies, these mechanisms could include: (i) joint meetings, such as those held by the CC and the SC; (ii) common membership of different subsidiary bodies; (iii) joint projects, involving two or more subsidiary bodies; and (iv) regular and effective communication of meeting minutes, key outcomes and products between the different subsidiary bodies.

**Recommendation 16: Mechanisms for better communication, collaboration and coordination between the different IWC subsidiary bodies should be established, to enable them to better address instructions from the Commission and to avoid overlapping. Such mechanisms could include, *inter alia*: (i) joint meetings; (ii) common membership of different bodies; (iii) joint projects; and (iv) regular and effective communication of meeting minutes, key outcomes and products.**

(44) The Scientific Committee (SC) and other Committees and Working Groups have confidentiality rules until background reports are tabled in plenary sessions. Such rules normally do not exist in other treaties. There was a clear rationale for such confidentiality in IWC when there was an industry advantage in keeping information confidential. However, this is no longer an issue and this should be reviewed. The Review Team suggests the IWC should make papers available in advance of Committee and Working Group Meetings, except for issues considered sensitive and/or confidential.

**Recommendation 17: IWC should consider making papers available in advance of Committee and Working Group Meetings, except for issues considered sensitive and/or confidential by the IWC Chair. The IWC Chair, in consultation with the Vice Chair and the Bureau, should determine whether documents are confidential and the level of availability.**

#### 4.2 Scientific Committee

##### *General*

(45) There seems to be universal agreement among IWC stakeholders that the IWC Scientific Committee (SC) is the premier body worldwide regarding cetacean science, comprising some of the greatest experts on cetacean biology in the World. The unique and enormous expertise on cetaceans in the SC provides IWC with the stature and credibility to remain as the main global body for cetacean management and conservation. The Review Team notes the Scientific Committee is a key strength of the IWC and every effort should be maintained to ensure its focus on meeting the needs of the Commission, while maintaining its global preeminence on cetacean research.

**Recommendation 18: The Scientific Committee should remain a key strength of the IWC and every effort should be maintained to ensure its focus on meeting the needs of the Commission, while maintaining its global preeminence on cetacean research.**

##### *Data archiving and access*

(46) The procedures for scientific data archiving and access were highly praised by stakeholders and considered to be well-thought out, time-tested, transparent and credible, despite being a bit burdensome, slow and with uncertain outcomes. Notwithstanding a significant improvement in recent years, the system could perform much better if the resources requested by the Secretariat had been provided.

**Recommendation 19: The Secretariat should continue with improvements to scientific data archiving and access, to assist effective Commission decision making, and adequate resources should be made available to that aim. With this purpose, the Secretariat should prepare a comprehensive data management strategy/ plan for data archiving and access, to deliver a modern and cost-effective solution, with priorities and budget clearly indicated.**

*Relationship between the Scientific Committee and Other Committees*

(47) The relationship between the Scientific Committee and other committees and working groups is seen as reasonably satisfactory by IWC stakeholders. The main criticism relates to a lack of communication and cooperation between different groups, particularly during inter-sessional periods. One of the negative consequences of this is the overlapping and duplication of work. The Scientific Committee and other committees and working groups, therefore, should have better coordination and clearer mandates.

(48) In the absence of formal Terms of Reference and guidance from the Commission, some subsidiary bodies tend to self-determine their mandates, resulting in duplication of work and waste of valuable resources. The establishment of a Joint Working Group of the CC and the SC is welcomed as a step in the right direction, but is considered to be less effective than it could be, mainly because of the short time available to it and the inappropriate timing. The meeting of the Conservation Committee is currently held once every two years, just before the Commission meets. However, the Conservation Committee Planning Group meets for a few hours directly after the Scientific Committee. This is a small planning meeting, to ensure intersessional progress with work and to plan for the biennial Conservation Committee meeting. The holding of concurrent sessions of the Scientific Committee and Conservation Committee during the normal course of Scientific Committee meetings could be a more effective way to ensure better coordination and joint work. The Review Team notes however, that concurrent sessions pose challenges for delegations with only one or two members. The Review Team notes the Joint Conservation Committee - Scientific Committee Working Group is progressively developing a database of IWC recommendations which will be presented to the Joint CC/SC Working Group in May 2018. The Review Team commends this positive initiative.

*Accountability*

(49) According to many stakeholders, the SC tends to set its own agenda and priorities, including too much discretion for the chair, vice-chair, IWC Head of Science and conveners, reflecting, in some instances, the personal interests of the scientists involved rather than those of the Commission. The Review Team finds it important that the Commission provide clear and unambiguous direction to the SC at its biennial meetings as already noted in Recommendation 2, with regard to all subsidiary bodies. The Commission should undertake greater scrutiny and assessment of the SC reports at their biennial meetings and should also provide clearer and more explicit directions for the inter-sessional work of the SC. The SC submits its draft two-year workplan and agenda to the Commission at least 100 days before the Commission meeting for Commission approval or otherwise and this should provide time for adequate preparation for scrutiny and assessment at Commission meetings.

(50) Also, Commission directions should be followed-up more effectively by the SC and reported on at subsequent Commission Meetings.

**Recommendation 20: A more effective process should be developed to ensure that resolutions and other decisions by the Commission are included in the IWC Workplan and**

**that these items are afforded high priority by the SC and other subsidiary bodies. A clearer channel of communication and a process should be developed for following-up on IWC Resolutions by the Chair of the SC.**

*Clarity of recommendations*

(51) The inability of the SC to deliver clear recommendations on contested issues was considered to hamper its credibility. At least part of the problem stems from the confusing, and many times conflicting, rules of procedure (RoP) of the organization. SC RoP E (3), for instance, allows the Scientific Committee to make recommendations on any topics under its consideration, while IWC RoP M (4) suggests that the Scientific Committee may consider only topics referred to it by the IWC or the Commission Chair and that any reports and recommendations must derive only from its prescribed course of work. A thorough revision and consequent harmonization of the rules of procedure of Commission and SC RoP is, therefore, warranted.

**Recommendation 21. Recommendations from the SC to the Commission should be clearer. The RoP of the Commission, the SC and other subsidiary bodies should be thoroughly revised and harmonized.**

*Politicization of the SC*

(52) Some respondents noted an inherent political bias in some of the activities performed by the Scientific Committee. For example, pro-whaling governments considered it is spending less and less time and resources on management matters, and more and more time on the conservation agenda. On the other hand, pro-conservation governments considered that too much time and resources are being spent on whaling-related issues. Although the Review Team does recognize the problem, its mandate does not allow it to make any recommendation on the subject.

*Structural and process issues*

(53) The SC agenda covers too many areas, with an associated excessive amount of information being provided annually to the SC by some sub-committees for evaluation and discussion. Therefore, the annual scope of work and materials need to be reviewed and refined to ensure SC meetings are more manageable. The Review Team also notes there are 14 sub-committees under the Scientific Committee, which is unwieldy and creates a very large volume of information that needs rationalization and streamlining. It should also be noted that not all sub-groups are allocated the same amount of time within the SC agenda. Having so many sub-committees also makes it harder for countries with small delegations to cover all of the issues and the sub-committees. The Review Team notes considerable work is underway to limit the papers and agenda items submitted to the SC in accord with its agenda (as agreed by the Commission).

(54) Many stakeholders noted the positive benefits of having the Chair of the Scientific Committee seconded to work with the Secretariat, both in terms of enabling the Chair to work

effectively with the Secretariat and the Head of Science and also by enhancing the capacity of both the Secretariat and the Scientific Committee. The Review Team considers this arrangement should be continued if possible and suggests options should be explored to ensure it while recognizing financial limitations. IWC members should also be invited to consider secondment arrangements to support the Commission's work in more general as recommended in recommendation 35 below.

**Recommendation 22: Options for continuing the current secondment arrangements for the Chair of the Scientific Committee, to the IWC Secretariat, should be explored with member governments and partners, with the aim of continuing this arrangement after the current secondment concludes.**

#### *Finance issues*

(55) The cost of the Scientific Committee is a substantial part of the overall budget of the Commission, and it is notable that the Scientific Committee meeting was over budget by 20% in 2017. The Review Team notes SC Research (commonly known as 'the SC Budget') is separate to the budget for SC Meetings. The budget allocation for the Scientific Committee needs to be carefully reviewed relative to other IWC activities and the Chair of this Committee and the Secretariat should ensure that over-expenditure relative to allocated budget is not permitted to occur. The Review Team notes the current IWC budget for the Scientific Committee is 120,000 GBP and that this is considered inadequate by Commission members and Scientific Committee participants. The Review Team draws attention to the fact that other MEAs and RFMOs look for a range of funding sources for statutory and non-statutory meetings, including support from the host country of these meeting. IWC should look to additional sources of funding for SC meetings, in addition to funds available through the IWC core budget.

**Recommendation 23: The budget allocation for the SC, as well as for all other subsidiary bodies of the Commission, should be revised in order to allow a more equitable distribution of the resources available and to ensure alignment with IWC priorities. This should be done in conjunction with the revision of the structure and number of subsidiary bodies (Recommendations 14 and 15). Over-expenditure relative to allocated budget should not be allowed to occur. IWC should also look for additional sources of funding for SC meetings, in addition to funds available through the IWC core budget.**

#### 4.3 Conservation Committee

(56) The Conservation Committee (CC) was set up in 2003 to address conservation issues associated with cetaceans and to assist IWC to respond to inter-related environmental concerns. However, progress on work was slow initially, with debates over issues of competence, funding, and what should be the focus of the Committee. The work of the Conservation Committee has accelerated recently, in particular through the appointment of Project Development leaders who have been able to give more Secretariat support than was previously available to non-SC work programmes. These leads have worked on issues across a range of groups including Welfare, Finance and Administration and Aboriginal Subsistence

Whaling, as well as CC. The majority of persons interviewed for this review provided positive comments on the work of the Conservation Committee, in terms of the work undertaken and also of the role of the Conservation Committee in encouraging greater cooperation within the IWC. However, the Review Team notes there are diverging views of some Commission members regarding the utility and relevance of the CC.

(57) In spite of recent years' momentum, the CC still faces many challenges, including:

- *Imbalance between the work of the SC and CC.* First and foremost, the allocation of resources to the SC is from the core budget, while resources to the CC are allocated through voluntary contributions. This is a constraint for the work of the CC. Moreover, the SC holds major annual meetings separate from the biennial Commission meeting, while the Conservation Committee is currently held once every two years, just before the Commission meets. As mentioned above, the Conservation Committee Planning Group meets for a few hours directly after the Scientific Committee. This disparity in resources as well as meeting frequency and duration constrains the effectiveness of the CC.
- *Role clarity.* Some respondents noted the lack of clarity of mandates of the CC and SC, resulting in overlap and confusion of roles. A better coordination and synergy between the CC and the SC, as well as with other subsidiary bodies, in particular with the Working Group on Whale Killing Methods and Welfare Issues, is, therefore, much needed.
- *Limited budget.* The CC lacks an adequate budget to carry out its work, since its activities are funded exclusively through voluntary contributions, limiting its performance and effectiveness. According to some of the respondents, this reflects the much higher priority (and thus more time and financial resources) being placed on whaling related items, such as RMP and special permits, than on conservation related issues.
- *Recognition of the CC.* The Review Team notes a number of member governments do not attend the CC 'on principle' and this poses challenges for the effectiveness and legitimacy of the CC.

(58) The Review Team believes a greater focus on the work of the Conservation Committee is warranted, although this should not detract in any way from the work of the Scientific Committee on which the work of the Conservation Committee is highly dependent. There is a strong case to increase the number of dedicated staff to support the CC, including a Head of Conservation to mirror the Head of Science, and to enhance the time and funds available, from the core budget, for it to undertake its work. There is considerable expertise on cetacean conservation within Contracting Governments, and the Scientific Committee, and there is potential for better use of this expertise within the work of the Conservation Committee. Consequently, there is also a need to upgrade the contact group between the Scientific and Conservation Committees from its current rather marginal role.

**Recommendation 24: The Conservation Committee (CC) should be upgraded through: (i) allocation of resources from the core budget; (ii) appointing a Head of Conservation to mirror the Head of Science position; (iii) increased Secretariat support of the Committee;**

**and (iv) by making better use of existing expertise on cetacean conservation. The frequency and timing of CC meetings should also be revised.**

#### 4.4 Finance and Administration Committee (FAC)

(59) There is widespread satisfaction with the work of the FAC. Important reforms introduced by the FAC over the last ten years, including accounting transparency, civil society engagement, and external communication, were particularly praised by stakeholders. The Review Team also notes that there is currently a very effective working relationship between the IWC Finance and Administration Committee and the Secretariat. The Chair of the FAC Committee is a position on the IWC Bureau; this is well-founded and should continue. Nevertheless, intersessional coordination within the FAC appears deficient, with most decisions being left to its Chair. The establishment of a subset of the Commission to serve on the FAC to conduct intersessional work could be a possible solution to this problem. Likewise, a better intersessional coordination of the Budgetary subcommittee, made up of representatives from each of the different “capacity to pay” groups, could also be useful. Given the number of potential budget requests from the various sub-committees, the budgetary sub-committee could review these requests to prioritize them and to provide advice to the FAC on how and when to fund these proposed projects. The need to review the effect that the move to biennial Commission meetings has had on budgeting and yearly financial statements was also noted.

**Recommendation 25: A mechanism to strengthen the intersessional work of the FAC should be developed, including through better coordination of the Budgetary Subcommittee, made-up of representatives from the different “capacity to pay” groups. The Budgetary Subcommittee should have a leading role in preparing the budget for consideration by the Commission, reviewing the requests from the various subcommittees and making sure that budget allocation meets the priorities set by the Commission. It should prioritize budget requests and provide advice to the FAC on how and when to fund proposed projects and activities.**

#### 4.5 Aboriginal Subsistence Whaling Sub-Committee

(60) The Aboriginal Subsistence Whaling Sub-Committee works well and efficiently, with a high scientific standard, being well supported by Contracting Governments. Some respondents considered it to be particularly significant since aboriginal subsistence catches are the only ones presently set by the Commission and are thus under close scrutiny. Important progress in the work of the subcommittee in more recent years was recognized, together with a more active participation of observers. The establishment of an ASW Working Group (ASWWG) within the ASW Sub-Committee is considered a very positive development, helping the subcommittee to tackle many relevant issues related to ASW, particularly by enabling key intersessional work to be completed on activities that are unwieldy to complete at the full subcommittee level. On the downside, some stakeholders considered it to be overly politicized, with only few members being actually able to understand the science behind its work.

#### 4.6 Infractions Sub-committee

(61) The IWC Convention lays down that it is the responsibility of each Contracting Government to ensure that the operations under their jurisdiction comply with the Convention (including the Schedule), and that they shall report cases of infractions to the Commission as well as the measures taken at national level to deal with the infractions. These reports are reviewed and commented by the Infractions Sub-committee. Despite IWC having a clear regulatory framework that defines infractions and how such infractions should be sanctioned, the Contracting Governments themselves determine when infractions have occurred. The Sub-committee does not have the competence to oversee State compliance with the Convention.

(62) While some stakeholders considered it to work well and gather information efficiently, others deemed it unclear on what constitutes an infraction and unable to provide any mechanism to ensure and restore compliance.

(63) The Review Team notes that the IWC handling of infractions does not correspond with how compliance issues are handled in other comparable treaties like CITES, CMS and a number of regional fisheries management organizations and agreements. Some of these have established implementation/ compliance mechanisms often not as part of the original treaty, but having evolved over time through resolutions and practice. Generally, these have a facilitative approach with reactions in the form of advice and assistance to restore compliance. To a varying degree, this approach is combined with a punitive consequence with first warnings and then penalties in cases of persistent non-compliance and lack of cooperation. Typically, these compliance mechanisms include not only violations of the treaty provisions themselves, but also of decisions taken by their governing bodies.

**Recommendation 26: The IWC should establish a compliance mechanism, in accordance with best practices of other treaties bodies, to not only record cases of non-compliance but also identify measures to promote and ensure compliance.**

#### 4.7 Working Group on Whale Killing Methods and Welfare Issues

(64) This Working Group has expanded its work programme to cover a number of "non-hunting" threats to welfare, such as cetacean strandings and entanglement, and also to finding common ground between member States, and, therefore, successfully improving killing methods and welfare outcomes for cetaceans. Activities are outlined in a Welfare Action Plan. This development was highly welcomed by most stakeholders contacted for this review.

(65) However, polarized views are expressed on this topic. Some note a lack of opportunity to discuss improvement of killing methods, an important issue for both the whaling industry and for whale welfare, because almost all of the discussion taking place in that Working Group presumes total protection of whales. Others, on the contrary, consider the discussion to be dominated by whaling interests. The lack of reporting by some members is recognized by

some as one of the main hindrances this group still faces, undermining its performance, in spite of the good work accomplished by it. The need to improve coordination with other IWC bodies (e.g. the SC and Conservation Committee) on topics of mutual interest is also highlighted, although some consider the present interaction to be very good.

(66) The Review Team views the Working Group on Whale Killing Methods and Welfare Issues as important and generally well-functioning despite the controversial nature of its subject matter. However, given the importance of the group and the attention to its topics, it is imperative that the conflicts in the group be addressed and, ideally, resolved and mutual confidence restored. For this group, it is also important to work closely both with other IWC partners and with external partners, as previously noted.

**Recommendation 27: Conflicts in the Working Group on Whale Killing Methods and Welfare should be addressed and mutual confidence restored, in order to increase effectiveness, while ensuring broad and full participation by IWC Members. Cooperation with external parties should be actively sought.**

## **(5) THE IWC SECRETARIAT**

### 5.1 General

(67) The Secretariat provides the Commission with a range of services and capabilities including administrative and financial management as well as scientific, policy and governance support to the Commission and its many committees and sub-groups. The Secretariat organizes meetings and workshops, manages statistical data, IT, HR services, publications and communications. It is also responsible for compliance with various duties including Health and Safety, data protection and the maintenance of the Commission's premises through its Headquarters Agreement with the United Kingdom.

(68) There appears to be a unanimous view regarding the high quality and effectiveness of the IWC Secretariat in spite of quite challenging circumstances, due to split positions among Contracting Governments and limited resources. Secretariat staff are seen as hard-working friendly, positive and especially effective in their interactions with Contracting Governments, NGOs and other stakeholders. There is a clear recognition of a great improvement in recent years, including closer alignment of IWC with other MEAs, despite the growing workload and the very limited financial and human resources, which are already overstretched.

(69) Despite the very positive appraisal of the work done by the Secretariat, the need for it to better align its resources with Commission business, priorities and international best practice for secretariats was noted by some respondents. The same criticism with regard to the SC being too independent was also directed to the Secretariat, which sometimes, according to some views presented, tended to take decisions prioritizing their own agenda.

(70) The Review Team notes a discrepancy of views between long-standing members of the Secretariat and newer members who are "used to" more modern procedures and working practices (e.g. staff appraisal system, improved financial procedures), resulting in a degree

of resistance to change. These differences are not helpful for the overall effectiveness of the Secretariat and need to be openly recognized and addressed in a positive, effective and diplomatic manner.

(71) A relative imbalance in the distribution of work in the Secretariat, with some members of the staff being underutilized and others, like the Head of Science, being overloaded, was also suggested. In this context, the outstanding scientific capacity of the Head of Science in IWC was recognized, but with the caveat that this position should not participate as a convener of any group, not only to ensure impartiality, but also to allow this position to be available for all discussions and subsidiary bodies during key IWC meetings. Finally, the hiring of professionals that do not have English as their native language was recommended in the future to broaden the Secretariat capacity to engage more efficiently with a wider range of parties. The Review Team notes UK law precludes the IWC Secretariat from undertaking 'positive discrimination' in its hiring practices and also notes that current staff do have language skills (French, Spanish, and Italian). However the Review Team suggests the Secretariat should consider language skills as an attribute in recruiting and hiring additional staff in the future.

**Recommendation 28. The workload of the Secretariat should be better distributed among members of the staff. IWC staff should not act as conveners of any IWC group, to ensure impartiality and to not compromise the secretariat function of assisting other subsidiary bodies. In future hiring of personnel, the Secretariat should consider language skills as an attribute in recruiting and hiring additional staff, to improve the Secretariat capacity to engage more efficiently with a wider range of parties.**

#### 5.2 Strategic Planning and Executive Management

(72) The Review Team notes recent improvements in internal management, including the development and application of a staff appraisal system in 2017. However, there is room for improvement and IWC should develop a comprehensive Human Resource policy, including staff training, team-building, assessment of staff performance, and conflict resolution (building on guidelines in the Staff Handbook)

**Recommendation 29: A Human Resource Policy should be developed for the Secretariat, including, at a minimum, staff development, assessment of staff performance, and conflict resolution. A long-term plan for secretariat staffing should also be developed.**

(73) A Management Team has been established within the Secretariat, with Terms of Reference, and this meets monthly and circulates summary notes to all Secretariat staff. This is a positive initiative, consistent with best practice in other Convention Secretariats. It is, however, noted that this is a recent initiative and the Terms of Reference, and the overall performance of the Management Team, should be regularly reviewed.

#### 5.3 Adequacy of staffing levels

(74) There are growing pressures and demands on the Secretariat to effectively implement its full mandate (e.g. conservation and management) and there was a clear feeling from the Secretariat, and a number of stakeholders, that staff levels need to be increased to meet these increasing demands. Many IWC staff interviewed noted they are “overloaded” and “under stress” due to inadequate staff resources. IWC Secretariat resources are, in fact, far lower than in other comparable multilateral treaty secretariats. There have been some initiatives to increase staff resources, including through the current secondment of the Chair of the Scientific Committee, and joint arrangements with other organisations, such as the involvement of Dr. David Mattila with the Secretariat to deal with entanglement response measures. These arrangements appear to be working well, and the secondment of the SC Chair is a major contributor to the success and effectiveness of the Scientific Committee. However, it is not an open-ended arrangement, and there is no guarantee it will continue after the term of the current Chair expires. The Review Team considers options should be explored for expanding secondment opportunities at the Secretariat from Member Governments, including for the continuation of the current secondment arrangements for future chairs of the Scientific Committee to the IWC Secretariat. IWC members should be invited to consider secondment arrangements to support the Commission’s work. The Review Team notes it is essential that any increase in resources must be allocated in line with priority programmes defined by the Commission.

**Recommendation 30: Options should be explored for increasing secretariat resources, including through secondments, internships, and through fundraising linked to implementation of priority programmes, as defined by the Commission.**

(75) The Review Team notes there is a need for additional personnel in the Secretariat, particularly in the finance, human resource and IT areas, including:

- ✓ a Deputy Head of Science. The current IWC Head of Science has outstanding skills and expertise, which contribute significantly to the high quality and global reputation of IWC’s work. However, the Head of Science is approaching retirement and a Deputy Head of Science is thus crucial due to the current concentration of knowledge/expertise in one person and the need to ensure an effective transition, with minimal disruption to the work of IWC;
- ✓ a Head of Conservation, to support the Conservation Committee and associated activities;
- ✓ an IT personnel to improve electronic archiving and to ensure effective database organization;
- ✓ a legal expert;
- ✓ a professional position for the IWC Journal;
- ✓ a professional position to liaise with other organizations, to strengthen IWC cooperation and communication with other international and regional institutions

**Recommendation 31. Additional staff should be appointed to allow the Secretariat to meet its increasing demands. The Executive Secretary should determine an organigram and staff priorities once the Commission has agreed its Strategic Plan and multi-year work programme (Recommendation 6). Priority positions should include a deputy Head of Science, a Head of Conservation and additional IT expertise.**

(76) The Review Team notes several Secretariat members are approaching retirement age and considers a clear and effective staff transition plan should be developed within the Secretariat to ensure the potential impact of the departure of key staff is minimized.

#### 5.4 Professional skills and staff development

(77) The Secretariat ability to engage in a range of issues was enhanced by the appointment of Project Development Officers. The work of the technical advisor to the Secretariat on human impact reduction is also considered very successful. However, there are currently limited staff development opportunities within the Secretariat and IWC is unique among related conventions as not having an adequately funded staff development plan. The Review Team considers a clear Staff Development Plan should be developed and options for funding a programme should be explored, such as the UK Apprenticeship Levy, which appears to offer potential for supporting operational-level staff development.

**Recommendation 32: A Staff Development Plan for the IWC Secretariat should be implemented and options for funding this programme should be explored. This should include a clear Transition Plan to ensure that the potential impact of key staff leaving IWC on the quality and quantity of IWC work is minimized.**

#### 5.5 Balance of staff: (a) professional and administrative; and (b) policy and scientific.

(78) Regarding staff grades, the IWC Secretariat has both professional grade staff and administrative staff. Currently there are only three professional staff, these being the Secretary (graded D1 equivalent on the UN scale), the Head of Science (graded P4 equivalent) and the Head of Statistics (P3 equivalent). These seniorities reflect the historical priorities of IWC and do not reflect the current situation where the scope of IWCs work has significantly increased, including through a much broader range of subsidiary bodies, requiring a significantly increased range of specialist support. This leads to imbalance in the Secretariat and creates a source of tension. The Review Team suggests the solution is to formally recognize each of these roles as specialists and of equal importance in their own right, and to establish a culture where all disciplines work more effectively together to provide support for the Commission's emerging strategy.

**Recommendation 33: An organigram with definition of functions and terms of reference for every position in the Secretariat, and a clear career structure, should be developed. The number of professional-grade staff and administrative staff should reflect the reality of the obligations and responsibilities of their work.**

(79) On the balance in the Secretariat between scientific and policy development, views from respondents on this topic were polarized. Some considered that recently policy development has been overplayed, arguing for strengthened science and better distribution of the excessive responsibility and influence that presently rests with the Head of Science (e.g. through establishing a "co" or "vice" head of science). Others, on the contrary, considered that the relative allocation of staff to science is presently much greater than to conservation

work, and this imbalance should be rectified, including by appointing a Head of Conservation, to mirror the role presently played by the Head of Science. The need for more support for policy work, particularly on conservation and management, as the IWC expands its work to more fully address its mandate, was highlighted and is recognized by the Review Team.

5.6 Secretariat work on: (a) communication and outreach; (b) servicing and supporting IWC meetings; and (c) internet services

(80) In line with the majority of respondents, the Review Team considers the work of the Secretariat on communication and outreach to be of good quality. Several respondents noted significant improvements in recent years, particularly after the appointment of a professional communications officer, including cooperation and communication with other international and regional institutions (e.g. with IMO, FAO, IOTC, CMS, etc).

(81) The Secretariat provides Commission members and observers with timely and relevant updates, and is very responsive to requests for information, communicating with Contracting Governments, as well as with the public, in an objective, balanced, and professional way. Notwithstanding, some NGOs considered that the work of the Secretariat on communication and outreach to the general public could still be improved, particularly by being more active on social media, such as Twitter and Facebook.

(82) The work of the Secretariat in servicing and supporting IWC meetings is also considered of good quality. The Secretariat works very effectively with host countries to organize the Commission's biennial meetings and annual Scientific Committee meetings and are going well "above and beyond" requirements to ensure that meetings run smoothly, on all aspects, from internet access to badging, quickly addressing any issue that might develop in a professional and proactive manner. According to the Secretariat, the meetings provide the opportunity to come together as a strong team with a shared and common goal.

(83) Some suggest the hiring of a legal counselor that could advise parties on relevant legal aspects during IWC meetings, including on the interpretation of different rules, resolutions, the convention, as well as assisting with drafting Commission decisions, with clarity and precision. The Review Team agrees with this suggestion and this is further discussed in Section 8. Some considered that the provision of internet services at the meetings could also be improved. Others opined that security pre-assessment of meeting venues, presently done by the Secretariat itself, should be done by hired security professionals/ specialized companies, better prepared for this kind of task. Finally, it has been advised that religious holidays should be taken into account when scheduling plenary meetings, since otherwise some delegations might have their participation limited for religious reasons.

(84) The introduction of paperless meetings and the inclusion of the organizational structure on the IWC website is a significant achievement of recent years. The archives webpage has also been updated and now offers clear presentation of information on whales. Despite this vast improvement, which has ensured the current website is much better than the previous version, there is still room for improvement, particularly regarding access to documents on the website and internet services during the meetings. Although the website does contain a

lot of very useful information, some respondents considered it is still rather difficult to navigate, particularly to the archives on the IWC website, and also to find documents, papers and articles related to meetings. Besides, historic documents and particularly documents from the Scientific Committee still require a user account for access, when they should be made freely available in line with best practice from other convention secretariats. The small Secretariat staff working on IT (two) and the lack of resources have limited progress in this area, particularly on web servicing and archiving.

**Recommendation 34: An IT plan, including the hiring of additional IT personnel, should be developed to improve IWC internet services, archives, search functions, web presence, etc.**

### 5.7 Secretariat facilities

(85) The facilities of the Secretariat are considered generally satisfactory and, again, much improved in recent years.

## **(6) COMMUNICATION AND PARTNERSHIPS**

### 6.1 Internal Communication

(86) The Review Team notes that both internal and external communication has improved over recent years and recommends this positive momentum be maintained. However, some areas of possible improvement were noted.

(87) There is a need for improvement in communication between the Commission and its subsidiary bodies and between subsidiary bodies as discussed above. In particular, there is a need for effective and accountable follow-up to Commission decisions by subsidiary bodies, consistent with practice for other multilateral treaty bodies. Simple systems need to be in place to ensure that Commission decisions are actioned by the IWC subsidiary bodies, and also that more time is allocated at Commission meetings to review reports from subsidiary bodies and to provide clear direction for their subsequent work (see Recommendation 7).

### 6.2 External Communication

(88) There are a range of tools and approaches applied for external communications, including through the excellent IWC web site, IWC Circulars, newsletter and through press releases and other media approaches. The Review Team notes that external communication has improved over recent years, in large part due to the recruitment of a communications professional, and that effective communication is very important for the IWC.

(89) From interviews with external agencies and stakeholders there appears to be limited awareness of the work IWC is undertaking regarding environmental impacts, although most were well aware of conflicts within IWC between pro- and anti- whaling interests. IWC is the leading global forum on cetaceans, and this global significance needs better prominence and recognition. IWC could be more proactive in its communication to highlight the role and work of the IWC in cetacean management and conservation. The positive contribution by IWC at

2017 UN Oceans Conference in New York is one positive example of this approach, which was noted by some respondents.

(90) Many issues addressed within the IWC are sensitive and the Review Team notes the importance of having a clear process for responding to the press on key issues without prejudicing State Party views. With increasing outreach, this becomes challenging, but in the view of the Review Team the IWC Secretariat handles this challenge effectively.

**Recommendation 35: IWC should strengthen its internal and external communication and outreach efforts, with an increased emphasis on proactive communication and further use of modern electronic means.**

### 6.3 Partnerships

(91) For a long time IWC operated in “splendid isolation” (as mentioned by one interviewee), with limited cooperation with UN and other relevant agencies. However, IWC has been more proactive in developing partnerships in recent years as witnessed by IWC joining the Biodiversity Liaison Group, which comprises the heads of the secretariats of the seven biodiversity-related conventions. This Liaison Group meets regularly to explore opportunities for synergistic activities and increased coordination, and to exchange information.

(92) Discussions with the Secretariats of the BLG multilateral treaties indicate the interaction has increased but been generally limited in scope. The Review Team considers potential still exists for increased future cooperation on areas of common interest and it is clear this would be welcomed by BLG Members. For example, IWC has common objectives relating to cetacean conservation with CITES, and CMS, and with that an opportunity for the development of joint programmes with the IWC. IWC has an MOU with the CMS and a significant amount of collaboration with CMS and its related agreements including joint work to develop the Whale Watching Handbook and collaboration on issues including bycatch and cetacean strandings. CITES representatives noted the IWC Conservation Committee now increasingly overlaps with CITES and CMS and, therefore, suggested a workshop for all 3 conventions (CITES, IWC, and CMS) to discuss and agree on joint areas of work. Discussions between the Review Team and the UNESCO World Heritage Centre indicated the interest in cooperation between WHC and IWC where existing and proposed World Heritage properties have significant whale populations, such as the critically endangered Vaquita population occurring in the El Vizcaino World Heritage property in Mexico. In addition to BLG Members, there has been increasing cooperation with other IGOs, including with the International Maritime Organisation (IMO), reflected in the signing of an IMO-IWC MoU. In summary, there has been increasing cooperation between IWC and other relevant organisations and treaty bodies in recent years being welcomed by partners. However, there is still potential for increasing collaboration with the aim of enhancing the achievement of IWC objectives, in line with priorities established by the Commission.

(93) IWC has also had very scarce and ad-hoc relations with FAO and Regional Fisheries Management Organisations (RFMOs). There has been some communication but no real

cooperation or shared workplan. In the view of the Review Team this can and should change with the obvious potential for cooperation on the entanglement/by-catch issue.

(94) There are examples of increased IWC cooperation with other organisations, particularly on training and capacity building on cetacean entanglement and ship strikes, including cooperation on training with SPREP (Secretariat of the Pacific Regional Environment Programme). The Review Team recommends this type of IWC activity continue and be strengthened.

(95) There is an obvious link between healthy oceans and healthy cetacean populations and thereby also clear relevance for IWC of Sustainable Development Goal 14, which is to: “*Conserve and sustainably use the oceans, seas and marine resources for sustainable development*”. Given the primary global role for IWC on cetaceans, and also given the enormous expertise in IWC, the Review Team considers the Commission could be more actively involved in global forums for ocean management. Again, the appearance of and presentation by the IWC Secretariat at the UN Ocean Conference in June 2017 was a welcome move in that direction.

**Recommendation 36: IWC should continue and expand its cooperation with external organisations to enhance the achievement of IWC objectives. This outreach effort and cooperation should be embedded in the new IWC Strategic Plan and multi-year work programme and should include: (i) continuing its membership on the BLG and increase cooperation with BLG Members and other relevant treaty bodies on areas of mutual interest, supported by the development of MoUs where relevant and necessary; (ii) considering implementation of a joint workshop between CITES, IWC, and CMS to discuss and agree on joint areas of work; (iii) increasing cooperation with the FAO and RFMOs on the prevention of entanglement and bycatch of cetaceans; and (iv) continuing its involvement in global ocean management cooperation in the context of UN Sustainable Development Goal 14.**

## **(7) FINANCIAL ISSUES**

### 7.1 Adequacy of financial resources

(96) IWC has traditionally been financed by Member contributions. In recent times this has been supplemented by voluntary contributions coming to IWC to support work on particular issues. Most stakeholders found the adequacy of financial resources in general only moderately satisfactory, mainly because of a lack of a proper prioritization. In this regard, however, a polarization of views was again noticeable. Some considered that too many resources are being allocated to issues of low relevancy to the objectives of the Convention, while not enough financial resources are being used in recruiting modelers and/or statisticians who can work on RMP and other management related matters. Others, despite agreeing that an inadequate prioritization results in an unbalanced distribution of resources among different committees, considered that too big a priority was being given to the SC, in detriment of other subsidiary bodies. Indeed, presently core funds go almost entirely to the

SC, forcing other committees and working groups to depend heavily on voluntary donations, a situation seen as unsustainable in the long-term.

(97) Many, however, agreed that an important consequence of the inadequate prioritization strategy was an excessive reliance on voluntary funding, with the amount of financial resources available for the Commission to carry out its activities being, at the same time, inadequate to address the increasing IWC workload. Whenever more work is requested, the correspondent financial resources should be assigned to do it, but usually that has not been the case.

(98) Ideally, voluntary contributions should only supplement core funds and should not support entire work streams. This would ensure that the priorities and work of the Commission reflect the will of all its members, not of just a subset of those members who can provide additional funds. Consequently, voluntary funding ends up driving a significant part of the Commission's agenda and priorities. Despite the use of voluntary funds being important for addressing specific topics, their proliferation with different purposes tend to overburden the Secretariat by adding a lot of complexity to an already over-stretched administration. One possible way to mitigate this burden would be to charge an overhead for the Secretariat to manage these types of funds. Nevertheless, unless parties are willing to increase their contributions and agree on a more equitable distribution of resources among subsidiary bodies, which is very unlikely at the present, this situation will probably continue for a while.

(99) The Review Team considers it important that voluntary contributions and other extra-budgetary finance address priorities identified by IWC and also that effective systems are in place to track and report on resource allocation, both for Contracting Governments and for donors. Greater budgetary transparency is needed in terms of how funding from donors, including NGOs, is allocated and the outcomes from this support. Greater clarity and transparency should ensure funds are used appropriately, in line with Commission priorities, and could lead to more funds coming from donors.

(100) Committees other than the SC, that do not receive core funds and do not have a similar process, may benefit from one. With several voluntary funds and many committees that could utilize those funds or core funds, the Commission could link the work of these committees and sub-groups together. This would be appropriate, for example, for the CC to determine how voluntary funds are allocated from the Voluntary Conservation Fund.

(101) The Commission should not expect ambitious work plans to continue expanding without an increase in funding. In this regard, while some considered that the Commission will need to increase its member dues, others pondered that increasing annual contributions significantly is unlikely to be palatable to most Commission members.

(102) A better process for prioritization is, therefore, vital to ensure the Commission is more involved in making decisions on how funding is allocated. This could include ensuring the scope of committees, subcommittees and working groups is better defined, ensuring work programs are linked to the Commission's recommendations and priorities, and/or reducing the number of times committees meet in the intersessional period.

(103) The Review Team notes that IWC budgeting appears to be “retrospective”, based on what has existed previously, rather than strategic. This underlines the need for proactive, costed budgets and strategic work plans, as noted above. IWC Rule of procedure H.2.c requests the Secretary to “prepare and submit to the Chair a draft of the Commission’s budget for each two year period”. At present, this involves starting with last year’s budget and then making minor adjustments based on any changes to costs and the need to maintain the reserve at a preset level. This is a relatively quick way to produce and adopt a budget, and it has surely resulted in less controversy among Contracting Governments than is the case in other multilateral treaty bodies that negotiate their budgets. However, it also means that budget allocations have not varied significantly over time and thereby have not reflected the development of additional activities demanded by the IWC Contracting Governments over the years. The basic outline of the budget now is broadly similar to that employed thirty years ago and thus can be considered as “Business as Usual”.

(104) The Review Team considers that “Business as Usual” is not acceptable given the considerable financial challenges the IWC currently faces. For example, as at September, 2017, there was an overspend of 26,000 GBP in the years' budget and also a 20% overspend in the Scientific meeting budget. From the budget papers, it appears that the costs of major meetings, such as the Scientific Committee, are also not sustainable. Once Secretariat costs are taken away from the budget, then the Scientific Committee consumes 80% of the remaining funds. The Review Team notes the IWC Secretariat prepared a table in 2017 outlining costs for the last 5 Scientific Committee meetings: this is a positive trend towards greater transparency and should continue. However, the basic issue of sustainability of financing of these meetings remains.

(105) The Review Team considers the IWC budget needs to be “proactive” and not “reactive” and must be better linked to the priorities expressed by the Commission. An alternative, and proactive, method for budgeting has been suggested by the IWC Head of Finance, whereby the Secretariat would approach all Committee Chairs (i.e. Science, Finance, Conservation, ASW and welfare) to request costs for projects that members of their Committees have put forward, in line with Commission priorities. These requests would be combined with estimates of Secretariat costs and would likely produce an excess of expenditure over available income. In turn, this would require the Budgetary Sub-committee to start taking decisions and making recommendations on priorities for expenditure. This is a vital part of development of an IWC organisational strategy. Such an alternate method of budgeting would support discussions on priorities for the next two-year period, and accordingly would necessitate discussion on Commission level strategy. The Review team considers a more strategic approach should be taken to IWC budgeting, based on priorities set by the Commission, and including proactive, costed budgets and work plans.

(106) The Review Team notes there is also an issue of payment of membership contributions, the main contribution to core funds, with significant arrears in financial contributions from Contracting Governments. The total amount owed to the Commission at 31/12/2016 was £421,722. Despite these arrears, the Review Team notes that collection rates have improved significantly in recent years and every effort should be made to continue this positive trend.

**Recommendation 37: A more strategic and transparent approach should be taken to IWC budgeting, based on priorities set by the Commission, and including proactive, costed budgets and work plans. This should also address the issue of extra budgetary funding and other IWC funds and disbursing grants.**

## **(8) RULES OF PROCEDURE**

### 8.1 General

(107) The IWC Rules of Procedure (RoP) were drafted 60 years ago, but have undergone a number of amendments throughout the years bringing them closer to ‘mainstream’ RoP of later multilateral treaty bodies. However, the IWC RoP are far more often in use than those of other treaty bodies due to the sharp division of opinions among contracting governments, including on procedural matters, and the much more frequent use of voting in the IWC than in other bodies. For that reason, the IWC RoP should be under ongoing scrutiny and be a standing agenda item for Commission meetings similar to the practice of many other treaty-governing bodies.

(108) Given the often divergent views in the IWC on procedural matters and legal interpretations of the Convention, the Schedule and other documents, it is noteworthy that the IWC Secretariat, contrary to many other treaty secretariats, does not have a legal expert employed. The Review Team believes that legal preparedness in the IWC should be strengthened. At a minimum, the Secretariat should commission a legal expert to advise on legal matters during the biennial Commission meetings. There should also be consideration of costs associated with different options, including the possibility of potential challenges to different legal opinions. It is noted that other treaty bodies consulted through this review have legal expertise available at Governing Council Meetings. The Review Team notes that not all Commission members agree with the need for additional legal input.

**Recommendation 38: The Commission should strengthen its legal preparedness. One possible way of achieving this could be through commissioning a legal expert to advice on legal matters during Commission meetings.**

(109) The following will touch upon some specific areas covered by the RoP.

### 8.2 Non- governmental organisations

(110) One of the latest additions to the RoP are rules allowing NGO participation and speaking rights at Commission meetings, largely corresponding to similar rules in other treaties. However, there is one notable difference: in case of seating limitations, Rule C.1 (b) empowers the Secretariat to limit the number of representatives of NGOs, but not of other observers. Other treaty RoP, like the ones of the Ramsar and CMS Conventions, do not make this distinction between observers. There is also a power therein to limit participation, but it applies to non-party governments and intergovernmental organisations as well. Besides, under these rules, the secretariats are not allowed to limit representation below two

representatives of each observer government/ organisation. The Review team recommends that the IWC adopts a similar ‘non-discriminatory’ rule for limitation of the number of all observer representatives in case of seating limitations.

### 8.3 Credentials

(111) As observed by some respondents, Rule D.1 (a) on credentials implies that credentials for contracting government participation in Commission meetings may be issued by the Commissioner her or himself. This is in contrast to most other treaties, which require credentials to be issued by the Head of State/Government or by the Ministry of Foreign Affairs. This requirement reflects the seriousness attached to government representatives acting in strict accordance with government instructions. This consideration has no less importance in the IWC, a body with sharp divides that attracts extensive political attention and with Commissioners placed on quite different levels in government hierarchies.

### 8.4 Subsidiary bodies

(112) The RoP requires the Commission to establish a Scientific Committee, a Technical Committee and a Finance and Administration Committee. Rule M includes provisions for their conduct and, moreover, each of the committees has its separate rules of procedure. Since the Technical Committee has not been in operation since 1999, the Review Team assumes that it is no longer necessary for the operation of the Commission, however a short review should be undertaken of the previous role of the Technical Committee, before this decision is implemented.

(113) A number of the other subsidiary bodies do not have RoP. As discussed above, the Review Team recommends a revised and streamlined subsidiary body system with fewer and more structured bodies. In this context, the general IWC RoP should be amended to prescribe that RoP shall be established for all IWC subsidiary bodies.

### 8.5 IWC Quorum

(114) Some respondents argued for clearer language in Rule B.1 on what constitutes a quorum. The Rule lays down that ‘attendance by a majority of the members of the Commission shall constitute a quorum’. The respondents drew attention to the disagreement among governments at IWC63 in 2011 on this issue when a number of governments walked out from the meeting refusing to take part in a voting procedure. In spite of this incident, the rule has remained unchanged, and the disagreement on the matter may thus occur again.

(115) The Review Team recommends an amendment of the rule that would remove any doubt as to what constitutes a quorum. Attention is drawn to the RoP of the CITES and the CMS Convention that may offer clearer language in this respect. However, the Review Team will abstain from recommending a certain ‘model’, but only indicate the need for a clarification of the language so as to avoid a repetition of the IWC63 incident.

**Recommendation 39: The Rules of Procedure (RoP) should be a standing item for Commission meetings and should be comprehensively reviewed. This review should address, at a minimum: (i) better definition of the role and functions of the Bureau, building on the Bureau Guidelines Document; (ii) revising rules on observer participation in Commission meetings so they are consistent with other treaty RoP on this matter; (iii) revising IWC Credentials rules so they are brought in line with normal treaty practice; (iv) formally terminating the Technical Committee, in conjunction with the restructuring recommended in recommendations 14 and 15; (v) requiring RoP for all IWC subsidiary bodies; and (vi) revision to clarify what constitutes a quorum.**

## **(9) COMPARISON OF PRACTICES OF THE COMMISSION WITH BEST PRACTICE FOR SIMILAR ORGANISATIONS (MEAs and RFMOs)**

### 9.1 General

(116) The terms of reference for this review state as an objective “to identify opportunities to align the Commission’s institutional and governance arrangements with best practice from other multilateral treaty bodies, and enhance the Commission’s effectiveness”. To that end, the Review Team has assessed arrangements of a number of other multilateral treaties comparable with the International Convention for the Regulation of Whaling.. These can roughly be clustered under 3 categories of treaties, as at 1 February, 2018: (i) Global biodiversity related conventions; (ii) Other global environmental treaties; and (iii) Regional fisheries and marine living resources treaty arrangements. For the sake of convenience, all treaties under the latter category are referred to as Regional Fisheries Management Organisations, RFMOs.

(117) The assessments were conducted in line with a number of reference points that will follow below on the basis of interviews with treaty secretariat staff as outlined in Annex B and Annex C and personal experience by the Review Team from involvement with the treaties. This chapter ends by listings some main differences between institutional and governance arrangements of the treaties assessed and the IWC.

### 9.2 Governing councils

(118) All the treaties assessed have governing councils, often referred to as Conferences of the Parties (COPs) or Committees, as overall bodies for decision-making and setting the directions for subsidiary bodies. (For convenience they are all referred to as ‘governing councils here). They meet either annually (WHC and RFMOs), biennially (BSR Conventions and the CBD), or triennially (Ramsar, CMS and CITES).

### 9.3 Bureaus and Standing Committees

(119) To carry out interim activity on behalf of the governing councils between their meetings, treaties with two years intervals between governing council meetings typically have established bureaus, while those with three years intervals have established standing committees. Both types of bodies consist of members elected with due regard to geographical

distribution and normally also include representatives from the countries which hosted the previous and will host the next meeting of the governing council. While the meetings of bureaus typically are confined to their actual members, meetings of standing committees are larger meetings allowing participation of both state and non-governmental observers and with open circulation of documents. Documents from bureaus are either publicly available on the treaty websites, or y circulated only between bureau members who will then circulate and discuss them with their regional “constituencies”.

(120) Bureaus/standing committees meet with one year or shorter intervals and typically also back-to-back with and during governing council meetings acting as steering committees for these. Besides, they have frequent interaction on line.

(121) Treaties with governing council meetings every year either do not have bureaus/standing committees, or (like WHC) have a bureau that is in function only during governing council meetings.

#### 9.4 Other standing subsidiary bodies

(122) Besides bureaus and standing committees, the treaties assessed have standing subsidiary bodies to a varying extent. The most common type of such permanent bodies can be classified as scientific committees with the aim to provide scientific and technical advice for the governing councils. Such bodies have been established under nearly all of the treaties with different names. For the global treaties, formal members of the committees typically are a specified number of experts nominated by country parties and appointed by the governing councils on the basis of equitable geographical distribution in some cases added with appointed individual specialists in the particular scientific field. Besides, there is a rather broad access for others to participate and speak either as alternate representatives, invited experts or as observers (governmental or approved non-governmental). The CBD version of a scientific committee, the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) has a more open-ended character with participation from all country parties and without membership by individual experts.

(123) Another common type can be classified as bodies for review of implementation and/or compliance which have been established in different versions under the CBD, the Basel and the Stockholm conventions and the RFMOs. For CITES and CMS, their Standing Committees have been assigned responsibilities for review of implementation and compliance. The RFMOs have standing committees on finance and administration and the WHC has an open-ended Working Group on Governance and Budget. For CMS, CITES and Ramsar, financial matters is a responsibility of their Standing Committees. The subsidiary bodies are either prescribed by the treaties themselves or established by the governing councils to which they report and make recommendations. Their proceedings are mostly subject to rules of procedure (RoPs) in the form of either governing council rules applying *mutatis mutandis* or specific ROPs.

(124) For all of the treaties, there are quite clear communication lines between governing councils and their subsidiary bodies. The governing councils set overall directions and provide

requests on topics to the subsidiary bodies. These respond to the requests by discussing the topics, reporting the discussions and providing concrete recommendations

#### 9.5 Ad-hoc working groups

(125) Under all the treaties assessed, ad-hoc working groups, committees etc. are being established either by the governing councils, or by the standing subsidiary bodies. They discuss, report and make recommendations to their mother bodies in the same way as outlined above on permanent subsidiary bodies. In terms of time frame, their end dates are often future meetings of the bodies establishing them and to which they are to report. RFMOs typically do not have expiration dates, but working groups mostly 'die out' naturally when they have completed their tasks.

(126) The ad-hoc groups are often expert groups on a particular subject with restricted representation. As regards the global treaties, appointment of members based on equal geographical representation is often done by the secretariats. As a special category of ad-hoc groups, the CBD has established open-ended working groups on certain matters operating very much like permanent subsidiary bodies.

#### 9.6 Budgets

(127) The treaties have different sources of funding. Core funding based on assessed contributions from state parties normally cover operations of the Secretariat and of meetings of the governing councils and subsidiary bodies. Other costs such as meetings of ad-hoc groups and projects to support implementation are normally covered by voluntary contributions from state parties. In global treaties such as the CBD, decision of activities and establishment of ad-hoc technical working groups are often taken without certainty on financial coverage and thus accompanied by a clause stating that the decision is dependent on the availability of resources from other sources than the core budget. If the resources are provided, it will normally be from one or more individual countries.

(128) Budgets are normally prepared by the treaty secretariats and discussed in budget committees prior to and/or in the margins of the governing council meetings which will finally decide on the budgets. Budgets are prepared in light of the strategic directions of the treaty and the activities with financial implications included in the draft decisions put forward for the governing councils. Unlike the IWC, budget decisions of other treaties have been subject to lengthy and difficult negotiations during governing council meetings. This applies both to the size of the budget and the distribution between core funding and voluntary contributions. At CBD COP 13 in 2016, the finalisation of the meeting was postponed by more than 8 hours due to disagreement on the budget.

#### 9.7 Strategic directions

(129) To a varying degree, the assessed treaties have adopted strategic directions for their work. The need for adopting strategic directions seems to be particularly relevant to broad framework-like treaties like the CBD to fill out vague and general provisions. Thus, for this

treaty, the Strategic Plan for Biodiversity 2011-2020 with its 20 'Aichi Targets' adopted at CBD COP 10 in 2010 has been an important focal point at both global and national level. The same applies for the strategic plans adopted for the CMS and Ramsar conventions. In return, the Rotterdam and Stockholm conventions, two chemical treaties with very concrete focus areas and provisions, have not found a need to develop strategic plans. The same applies to the WHC and the RFMOs. The third of the chemical conventions, the Basel Convention, has adopted a relatively broad 'Strategic Framework' with apparently limited effect on the operations of the treaty. Of the same general type, CITES has adopted a 'Strategic Vision'.

(130) It should be noted that the Strategic Plan for Biodiversity 2011-2020 and the 'Aichi Targets' mentioned above has been endorsed not only by the CBD, but also by the other global treaties that make up the Biodiversity Liaison Group (BLG) including WHC, Ramsar, CITES and CMS. The IWC very recent joined the BLG and thus has not yet related to the Strategic Plan. Preparation of its post-2020 successor has started, and it is likely that this will also aim to encompass the broader cluster of biodiversity related conventions – now including the IWC.

(131) As mentioned by some of the treaty secretariat interviewees, the UN Sustainable Development Goals (SDGs) for 2030 have also provided an important strategic framework for their treaties. The SDG strategic framework are relevant to all the treaties assessed.

#### 9.8 Observers

(132) In general, the treaties assessed allow and welcome the attendance of observers at governing council and to a large extent also at subsidiary body meetings. Observers include among others, non-party countries, representatives from science and academia, intergovernmental organisations and non-governmental organisations (NGOs). The latter have to apply for admission, which is normally granted by the treaty secretariats based on determined criteria of interest and affiliation to the subject of the treaty. While these criteria vary from treaty to treaty, they generally seem to provide room for participation of a large number of interested and relevant NGOs. Very few applications from NGOs are denied. Generally, NGOs as other observers are allowed to speak on the issues under deliberation in second place after the party delegates. Sometimes their speaking time is reduced or denied due to time constraints.

(133) There is an extensive NGO interest in most of the treaties assessed, and the treaty secretariat interviewees generally view contributions by NGOs as very useful for the work of the treaty bodies. An exemption from the pattern outlined above is CCAMLR with limited NGO involvement due to very strict admission requirements.

#### 9.9 Decision-making

(134) All treaties but one (IATTC) have rules on procedures on voting, but except for CITES and now CMS, voting rarely takes place. Rules differ on when to require qualified and simple majorities, but often a 2/3 or ¾ majority is required for voting on substantial matters while a simple majority is required for procedural matters. Treaties like WHC and CITES under certain

conditions allow for secret voting. For the CBD, agreement on voting rules has remained an unresolved matter implying that in practice all matters need to be resolved by consensus. For CITES voting often takes place mainly on decisions of listing animal and plant species in the annexes attached to the treaty. The annexes mark the degree of protection of the species. At the latest meeting of the CMS Conference of the Parties in October 2017 (COP 12), CMS for the first time also resorted to voting on listing species.

(135) For all treaty arrangements assessed, voting is the last resort and will not take place before all other possibilities for reaching consensus have been exhausted. In case of disagreements between countries that cannot be resolved in the formal settings, a well-known approach to break the ice is the convening of contact groups or drafting groups to work on the specific outstanding topics in a more informal manner. These are typically open to interested parties and – depending on treaty practice and the character of the outstanding matter – also to observers. They are typically not chaired by the chair of the treaty body, but by a delegate being assigned this role by the chair. A slightly different type of conflict resolution is when the treaty body chair takes full responsibility of the outstanding matter and convenes a ‘Friends of the Chair’ group. Its participants are typically handpicked to ensure balanced geographical representation and/or balance in representing the diverging views. Sometimes Friends of the Chair groups come after unsuccessful contact groups as a last resort.

(136) Before getting to these kinds of arrangements, it often happens that Chairs ask delegates representing different views to meet informally in the corridors or in the corner of the meeting room to resolve outstanding issue and report back to the meeting. Many minor disagreements are settled this way.

(137) It should be noted that the types of decisions taken by the different treaty bodies are very different in terms of precision. It is harder to achieve compromise text and consensus on decisions concerning listing or not listing in treaty annexes (like in CITES and CMS) than for broader and more aspirational decisions (very widely used in e.g. the CBD). Disagreements of the kind discussed above are never brought before the formal dispute settlement mechanisms that most treaties have established. In general, these mechanisms are very rarely in practice.

#### 9.10 Review of implementation and compliance

(138) Review of implementation is handled somehow differently by the treaties reviewed. The differences are largely dependent on how explicit the treaty obligations are expressed. However, national reporting obligations are common to all treaties assessed.

(139) A number of global environmental treaties were established in the 80s, 90s and 00s. Since then few have been created. This is largely due to a common international understanding to prioritise implementation of existing treaties above creating new treaties. Thus, mechanisms for review of implementation have been high on the agenda for these treaties.

(140) The broadest of the assessed treaties, the CBD, in 2014 established a new Subsidiary Body on Implementation (SBI) to replace an ad hoc open-ended working group on review of implementation. The SBI has four functions and core areas of work: (a) review of progress in implementation; (b) strategic actions to enhance implementation; (c) strengthening means of implementation; and (d) operations of the convention and the Protocols. The SBI has met once in 2016. As its predecessor, it addressed review of implementation in a general sense and not by individual countries. From time to time proposals have been brought up in the CBD to establish a peer review mechanism for individual implementation performance of countries, but these have not received sufficient support due to resentment by some countries to be openly exposed as lacking behind in implementation. In 2016, it was agreed to establish a voluntary peer-review mechanism to be applied in a pilot phase. Because of the vague and qualified language of most of the CBD articles, it would be difficult to establish and manage an actual compliance mechanism like other treaties with more concrete and measurable provisions.

(141) The WHC and the Ramsar Convention also conduct rather broad reviews of implementation based on national reports with measures in place to assist Parties in their implementation. The CMS in 2017 decided to establish a Review Mechanism for individual countries to facilitate compliance managed by the Standing Committee. Also, a National Legislation Programme was established to support strengthening the implementation of the Convention through national legislation and support Parties, if needed, in developing or improving relevant national legislation. It is specified that the Review Mechanism shall take a supportive, non-adversarial and facilitative approach, and that implementation matters shall be applied in a fair, consistent, transparent and consultative manner. As a last resort, the Standing Committee may request an implementation action plan developed in consultation between the Standing Committee and the Party concerned to be submitted. Also in the CMS, possible exposure of countries in non-compliance has been an issue, and it is specified that communications between the Secretariat and individual countries on implementation matters are generally confidential. The mechanisms may be triggered not only by the party concerned, but also by others including other parties, the CMS Standing Committee and Secretariat and accredited NGOs. The CMS Review Mechanism has significant similarities with mechanisms named ‘compliance mechanisms’ under other treaties.

(142) Such a compliance mechanism has been established under CITES and managed by its Standing Committee. Any Party concerned over matters related to trade in specimens of CITES-listed species by another Party may bring the matter up directly with that Party and/or call upon the Secretariat for assistance. If the compliance matter is not resolved, the Standing Committee may provide advice and different kinds of capacity-building support. If the compliance matter remains unresolved and persistent and the Party is showing no intention to achieve compliance, the Standing Committee may recommend the Conference of the Parties to suspend the party’s trade in specimens of one or more CITES-listed species. While an implementation and compliance mechanism has been established under the Basel Convention, the two other chemicals conventions (the Rotterdam and Stockholm conventions) have still not agreed on the modalities for such a mechanism.

(143) With regard to the RFMOs having rather concrete provisions for catch limits, all of those assessed have compliance mechanisms managed by compliance committees that report directly to the governing councils on how Parties are implementing the management and conservation measures adopted. Monitoring of compliance is achieved mainly by direct reporting by Parties, but other means such as through direct collection of data and information by observer programs, compilation of trade data, use of catch certification schemes etc. are also often used.

#### 9.11 Secretariat arrangements

(144) All of the assessed treaty arrangements have secretariats of very different sizes (from more than 100 employees in the CBD secretariat to 3 in NAMMCO). Of the global treaties, CBD, CMS, CITES and the BST conventions are administered by UN Environment, WHC is administered by UNESCO while Ramsar is administered by IUCN. For those secretariats, the staffing policies and rules of the host organisations apply including on regular performance assessments, work planning and recruitment. The heads of secretariats report to the hosting organisations with regard to administrative matters. Except for CITES, reviews have been carried out recently of these global treaty secretariats.

(145) On employment duration, there is a changing pattern for the UN administered secretariats. The main rule used to be continuous contracts, but increasingly time-limited contracts are being applied. For Ramsar, the main rule is also time-limited contracts.

(146) The RFMO secretariats are self-standing as the secretariat of the IWC and their structures are highly variable reflecting their different size, number of members and complexity. The secretariat of IATTC is unique having its own scientific staff composed of several experts well recognized in their field who are assisted by a number of technical personnel. This provides the Commission with a considerable amount of autonomy in the field of scientific research since its own staff can carry out the research needed and formulate conservation and management recommendations based on the best science available. The scientific staff at headquarters comprises 32 staff members, and the total number of secretariat staff there is 43. Besides, a number of staff members are based in different countries of the region. Other RFMO secretariats are considerably smaller. In all RFMO secretariats except one, the staff have clear Terms of Reference with regular performance assessments. For most of the RFMOs, the staff do not have fixed terms. A number of the RFMOs have conducted performance reviews of their secretariats as such.

#### 9.12 External relationships

(147) The treaties assessed all have extensive relationships with other international bodies and in many cases with each other such as the biodiversity related conventions as members of the Biodiversity Liaison Groups and the RFMOs. Joint work plans have been adopted for CMS and CITES and for CMS and Ramsar. The relationship of the BSR conventions is particularly close with a joint secretariat and combined governing council (COP) meetings. Most of the external relationships are conducted on an informal basis, but are also to a large

extent formalized and mainly through Memoranda of Understanding (MoUs). Conclusion of these MoUs is mostly under the discretion of the secretariats.

(148) As for relationships with the IWC, there is a clear basis for cooperation with most of the treaties addressed here. The CBD covers conservation and sustainable use of biodiversity in general including marine biodiversity, cetaceans populations could be seen as World Heritage properties and thereby relevant for the WHC and some cetacean species are relevant for both CITES and CMS as threatened migratory species. Finally, since by-catch and entanglement has become a major threat to cetaceans, there is a clear potential for collaboration with RFMOs on fishing methods. Although the increased outreach by the IWC in recent years has been noticed, the respondents from most treaty secretariats generally report about no or very limited contact with the IWC. NAMMCO and CCAMLR with marine mammals under their jurisdiction have some degree of involvement with the IWC.

#### 9.13 Capacity building and assistance mechanisms for developing countries.

(149) Such mechanisms are generally in place for the global treaties addressed here financed mostly by voluntary contributions to special trust funds. Rarely these activities are covered by the core funding of the treaties. The Global Environmental Facility (GEF) provides the financial mechanism for implementation of both the CBD and the Stockholm Convention. As such, it provides assistance to developing countries, in accordance with the guidance provided by the governing bodies, in fulfilling their commitments under these conventions. Being biodiversity related conventions and partners with the CBD in the Biodiversity Liaison Group, CITES and CMS have also benefited from GEF funds.

(150) Under the CBD, there are also voluntary Trust Funds through which countries and organisations can support important work of the Secretariat which is not provided for within the regular budget as well as participation of developing countries representatives in convention meetings.

(151) The Ramsar Convention have a number of capacity building activities including Wetlands for the Future for the Americas funded by USA, and activities in Africa funded by Switzerland. Also the RFMOs generally have some sort of mechanisms mainly fed through voluntary contributions.

#### 9.14 Comparison with IWC institutional and governance arrangements.

(152) As mentioned above in this report, the Commission in recent years have been taking a range of measures to improve IWC governance and bring it more in line with 'mainstream' governance practices of other treaty arrangements. While our assessment above of a number of other treaty arrangements reveals some differences in government structures, there are also some general features to compare with IWC governance. The following will highlight some differences between the general picture of the treaties and IWC:

- The treaties assessed generally have an orderly hierarchy of bodies. Governing councils give instructions to standing subsidiary bodies to address certain issues within a specified

period of time. These report back to the governing body with recommendations for decisions. There is a similar relation between subsidiary bodies and time bound ad-hoc working groups established to assist them. The IWC subsidiary body system is not as structured with unclear mandates and reporting lines and often with no expiration dates of groups established. Besides, there is no system to ensure that Commission's decisions are taken up by subsidiary bodies.

- Treaty budgets are normally prepared as a result of needs stemming from the strategic directions of the treaty and the activities with financial implications included in the draft decisions put forward for the governing councils. In this light, budget proposals are subject to often difficult negotiations among Parties at the governing council meetings. The IWC budgets are 'retrospective' updates of the budget of the previous year decoupled from planned activities and not provided in a transparent manner.
- To a varying degree, the assessed treaties have adopted strategic directions for their work that guide decisions taken and activities carried out. This not the case for the IWC.
- Decision-making are mostly done by consensus. Some treaties never resort to voting and for those who do it is mostly on decisions without compromise opportunities. Many IWC decisions are taken through voting which may not be conducive to a trusting atmosphere and to commitment for implementation. However, some of these decisions are also not suitable for compromises. It should be noted that for the treaties that never or rarely revert to voting, this is not necessarily viewed as positive. The price of consensus is often vague and ambiguous decisions for which the effects are difficult to measure.
- Treaties for which compliance is easy to detect like CITES the RFMOs and now CMS, have developed implementation and compliance mechanisms to be triggered not only by the Party itself, but also by other Parties, the secretariats, NGOs and others. Under these mechanisms the Party may be assisted and advised to restore compliance, but also be sanctioned in case the Party shows no sign of cooperation. The IWC Infractions Subcommittee receives report from governments on their own non-compliance, but is not available for reports by others on non-compliance. Besides, the Committee provides neither 'carrot' nor 'stick' measures to restore compliance.
- The secretariats of the global treaties assessed are hosted by either UNESCO, UN Environment or IUCN and as such they are covered by their rules and guidelines on human resources management. The IWC Secretariat is not under any host organisation and lacks some of the features of the other secretariats such as performance reviews and staff developments plans. It is noted that the hosting of Secretariats by UN agencies provides an additional cost to the treaty budget, for example 13 % in case of UNEP.
- The treaties assessed attach great importance to outreach to and collaboration with other international bodies and have concluded a large number of MoUs with these. The work of the IWC has links to many other bodies, and IWC has increased its outreach considerably in the last years. Still, IWC lives a relatively isolated life in comparison with the other treaties.

**(10) RECOMMENDATIONS, ROAD MAP AND NEXT STEPS**

(153) Annex A: “Recommendations and Road Map” outlines the 39 recommendations in this report and also provides:

- reference to the relevant paragraph number in the text;
- the Review Teams view on the priority of the recommendation with:
  - A having the highest priority (13 recommendations);
  - B having medium level priority (22 recommendations); and
  - C having the lowest priority (4 recommendations)
- a suggested lead component of IWC with responsibility for each recommendation; and
- a suggested Performance Indicator for each recommendation.

(154) The Table outlined in Annex A provides the Framework for the Road Map for IWC with recommendations denoted as priority A having the highest priority for attention and implementation. The allocation of priorities (A, B or C) is based on the professional judgement of the Review Team in light of the following criteria:

- The need to take urgent/immediate action, such as, for example, in relation to the need for action due to the immediacy of the 2018 Commission Meeting
- The level of potential impact of the recommendation on the effectiveness and efficiency of the IWC
- The level of potential impact of the recommendation on the reputation of the IWC
- The level of potential impact of the recommendation on the delivery of the IWC work plan
- The level of impact on the IWC work plan and/or reputation if a recommendation is not implemented.
- The level of potential for immediate outcomes or “quick wins”
- A broad assessment of benefits relative to costs of the recommendation

(155) The Review Team considers that grouping of the recommendations will facilitate more effective implementation and suggests the recommendations be grouped under the following headings:

- Improving IWC Strategic Planning and Work Programming – Recommendations 6,7,20
- Enhancing the operation and effectiveness of the Commission, including IWC Meetings – Recommendations 1,2,4,5,8,9,10,11,17
- Enhancing the operation and effectiveness of the Bureau – Recommendations 12, 13
- Enhanced operation and effectiveness of the Scientific Committee – Recommendations 3,18,21,22,23
- Enhancing the operation and effectiveness of other Subsidiary Bodies – Recommendations 14,15,16,24,25,27
- Enhanced operation and effectiveness of the Secretariat – Recommendations 19, 28,29,31,32,33,34
- Improving Communication and Outreach – Recommendations 35 and 36
- Improving IWC Financial Management – Recommendations 30, 37
- Improving Rules of Procedure and Legal Preparedness 26, 38, 39

(156) The Review Team recommends that the oversight of the implementation of these recommendations be undertaken by the IWC Operational Effectiveness Working Group, in close consultation with the IWC Secretariat.

(157) The OEWG and the Secretariat should prepare an Implementation Plan for these recommendations for consideration by the first Bureau Meeting to follow the 2018 IWC Commission Meeting.

(158) The OEWG and the Secretariat should report on progress towards implementing the implementation Plan at subsequent Bureau and Commission Meetings.

(159) The assessment of achievement of the Implementation Plan and specific recommendations will be undertaken by the Bureau on an annual basis and by the Commission on a biennial basis.

## **ANNEX A**

# **RECOMMENDATIONS AND ROAD MAP**

## Introduction

This Annex outlines each recommendation in the report and also provides:

- reference to the relevant paragraph number in the text
- the Review Teams view on the priority of the recommendation, in line with criteria outlined in paragraph 154, with:
  - A having the highest priority;
  - B having medium level priority; and
  - C having the lowest priority
- suggested lead components of IWC with responsibility for each recommendation; and
- a suggested main performance Indicator for each recommendation

<b>RECOMMENDATION (and Paragraph Number)</b>	<b>PRIORITY (A, B, C)</b>	<b>LEAD</b>	<b>MAIN PERFORMANCE INDICATOR</b>
1 (Para. 16): Biennial Commission meetings should be maintained, but measures should be implemented to strengthen the IWC inter-sessional process, including through having: (i) a strong and effective Bureau; (ii) a well-structured and effective subsidiary body system; (iii) regular, effective and two way communication within the Commission; and (iv) effective involvement of States in decision making during the inter-sessional period, particularly in the case of developing States, which should be supported to attend IWC meetings, including those of the scientific and conservation committees.	A	Commission Secretariat	More effective Bureau and Commission Meetings, based on self-assessment by Chair, Vice Chair, Bureau Members and Executive Secretary.  Increased participation from a broad array of contracting governments, including developing country representatives, in intersessional meetings of SC, CC, and other sub-committees.
2: (Para. 17) IWC should undertake greater scrutiny and assessment of reports from Committees and Working Groups at its biennial meetings and provide clearer	A	Commission Secretariat	Increased participation by Contracting Governments in the meetings of sub-committees during the week prior to the full Commission, specific

directions for the inter-sessional work of all subsidiary bodies.			directives to these sub-committees in the record of these meetings and in the full Commission meetings.
3: (Para. 18). IWC Scientific and other committees should provide information to Commission Members in a format and structure that allows effective consideration by the Commission of scientific and policy issues and their implications for Commission decision making.	A	Scientific Committee Other Committees Secretariat	Development of a reporting format synthesising committee reports ensuring they become accessible and policy relevant for non-experts.
4: (Para. 19) Once the Commission has completed a revision of the structure and number of subsidiary bodies, streamlining them (Recommendations 14 and 15), a joint working group of scientists and managers should be created to improve dialogue between the Commission and the Scientific Committee and to ensure SC proceedings and recommendations are clear, concise and as policy relevant as possible.	B	Commission Scientific Committee Secretariat	Joint working group of scientists and managers established.  Development of a reporting format that synthesise SC reports to become more accessible and policy relevant for non-experts.
5 (Para. 20) The following approaches to improve the effectiveness and efficiency of Commission meetings should be considered: (i) Allow more time (days) for Commission meetings; (ii) Reduce and/or better prioritise the number of IWC agenda items; (iii) Allow longer breaks within meetings for networking and coordination; (iv) Have draft decisions released as early as possible; and (v) Ensure a well-structured approach of contact group discussion of contentious issues.	A	Commission Secretariat	The effectiveness and efficiency of the Commission meetings assessed by considering the quantity and the quality of significant decisions reached, and the process used to reach those decisions. This could include an assessment of whether some of the suggested approaches were tried.
6. (Para. 22) The IWC should develop and adopt a Strategic Plan and a multi-year work programme	A	Commission Secretariat	A Strategic Plan

setting strategic directions and clear priorities for the work of IWC and its subsidiary bodies in line with best practice of other treaty bodies. Ideally, “what”, “why”, by “whom” and by “when” should be clearly defined for each task agreed in the strategic plan.			and a multi-year work programme adopted.  Annual reviews of implementation by the bureau and bi-annual by the Commission carried out
7: (Para. 25) All IWC Commission decisions should be properly reflected in the work programme, in a prioritized manner, with the human and/or financial resources needed to ensure their implementation clearly identified and allocated. They should be taken up by Subsidiary Bodies, including the Scientific Committee, with a clear follow-up mechanism put in place. At the very least, in the report of the SC and other subsidiary bodies to the Commission, a clear and specific response on progress achieved on every recommendation/ request presented by the Commission should be given	A	Commission Secretariat	System in place, ensuring Commission decisions are prioritized and addressed, as assessed annually by the Bureau.
8: (Para. 27) IWC should make more use of procedures for dealing with conflict and disagreements at Commission meetings, building on existing IWC procedures, and also applying the range of approaches used by other multilateral bodies for resolving disagreements at their COPs, including “Friends of the Chair” procedures, informal and formal mediation, and joint working/ contact groups. IWC should also focus on more effective cooperation towards achieving Commission priorities.	A	Commission Secretariat	New approaches and procedures are applied to resolve conflict and disagreements at Commission meetings. Fewer draft decisions are resorted to voting.
9: (Para. 29) IWC should continue to support and increase the involvement of NGOs in IWC Meetings and should consider	B	Commission Secretariat	NGO participation is stable or increasing, more NGO delegations have access to tables/chairs/placards and

ways to improve the effectiveness of their involvement, such as: (i) providing better facilities for NGOs at Commission meetings, including tables and microphones; (ii) allowing adequate time for NGO interventions; (iii) updating the existing Code of Conduct for NGO involvement; and (iv) enabling NGOs to have documents tabled. In this regard, the Secretariat should communicate with NGOs to assess what more could be done.			microphones. NGOs have increased opportunities to make interventions during debate of issues in addition to during the wrap-up at the end of sessions. Qualitative feedback from NGOs is sought.
10: (Para. 30) IWC should increase the participation of developing States in the work of the Commission and its subsidiary bodies and develop a capacity-building policy/ capacity development plan to enhance their effective involvement, in a transparent manner. This should go beyond participation in meetings, to include also technical and scientific training in specific areas, deemed as priority by IWC. In this regard, the capacities, weaknesses, and needs of developing states should be assessed so that they can be properly addressed.	B	Commission Secretariat	Increased participation from developing country representatives, in intersessional meetings of SC, CC, and other sub-committees Qualitative assessment of level of effective involvement undertaken.
11: (Para. 31) IWC should continue with the arrangements for IISD/ENB reporting of Commission Meetings and consider expanding this reporting to other key meetings, such as those of the Scientific Committee, subject to availability of resources. To the extent possible, the service should also be expanded to include detailed daily reports.	C	Secretariat	Continued and enhanced IISD/ENB reporting of Commission Meetings.
12: (Para. 35) The membership terms of Bureau Members should be staggered to provide for continuity in Bureau membership	A	Commission Bureau Secretariat	Staggered membership terms of Bureau Members decided and implemented.

and also to ensure more strategic and effective decision making.			
13: (Para. 36) Bureau documents should be made available, with the exception of documents on confidential and sensitive issues. The IWC Chair, in consultation with the Vice Chair and the Bureau, should determine whether documents are confidential and the level of availability.	C	Commission Bureau, Secretariat	Decision adopted and implemented on availability of Bureau documents as the main rule.
14: (Para. 41) A clearer and more logical structure should be established for the IWC Committee and Working Group system, setting out: (i) the roles of, and the distinction between, committees, sub-committees and Working Groups; (ii) which current groups fit into which category; and (iii) opportunities for reducing duplication and ensuring better reporting arrangements between the different groups. The development of this structure should be led by the Commission and should be included in the strategic plan, referred to in Recommendation 6.	A	Commission Secretariat	A new structure for the IWC subsidiary body system adopted and implemented.
15: (Para. 42) All IWC Committees, Subcommittees and Working Groups should have: (i) clear and consistent Terms of Reference and Rules of Procedure, including for the selection of the Chair; (ii) a sunset clause with a clear end date, or, alternatively, a clear recognition of their permanent nature; (iii) Submission of written reports at a minimum, annually, in a way that avoids duplication and the overburdening of the Chair of the IWC and the Executive Secretary.	A	Commission Committees Subcommittees and Working Groups Secretariat	Clear and consistent Terms of Reference and Rules of Procedure for IWC Committees, Subcommittees and Working Groups developed. Their end dates are determined, as appropriate and progress reports are submitted to the Commission.
16: (Para. 43) Mechanisms for better communication,	B	Commission	Arrangements are established for improved

<p>collaboration and coordination between the different IWC subsidiary bodies should be established, to enable them to better address instructions from the Commission and to avoid overlapping. Such mechanisms could include, inter alia: (i) joint meetings; (ii) common membership of different bodies; (iii) joint projects; and (iv) regular and effective communication of meeting minutes, key outcomes and products.</p>		<p>Subsidiary Bodies Secretariat,</p>	<p>communication, collaboration and coordination between IWC subsidiary bodies.</p>
<p>17: (Para. 44) 17: IWC should consider making papers available in advance of Committee and Working Group Meetings, except for issues considered sensitive and/or confidential by the IWC Chair. The IWC Chair, in consultation with the Vice Chair and the Bureau, should determine whether documents are confidential and the level of availability.</p>	<p>B</p>	<p>Commission Secretariat</p>	<p>Papers made available in advance of Committee and Working Group Meetings.</p>
<p>18: (Para. 45) The Scientific Committee should remain a key strength of the IWC and every effort should be maintained to ensure its focus on meeting the needs of the Commission, while maintaining its global preeminence on cetacean research.</p>	<p>B</p>	<p>Commission Scientific Committee,</p>	<p>Global preeminence of the Scientific Committee on cetacean research maintained and reinforced</p>
<p>19: (Para. 46) The Secretariat should continue with improvements to scientific data archiving and access, to assist effective Commission decision making, and adequate resources should be made available to that aim. With this purpose, the Secretariat should prepare a comprehensive data management strategy/ plan for data archiving and access, to deliver a modern</p>	<p>C</p>	<p>Commission Secretariat</p>	<p>Increased resources available for scientific data archiving and access. A data management strategy/ plan for data archiving and access developed, adopted and implemented.</p>

and cost-effective solution, with priorities and budget clearly indicated.			
20: (Para. 50) A more effective process should be developed to ensure that resolutions and other decisions by the Commission are included in the IWC Workplan and that these items are afforded high priority by the SC and other subsidiary bodies. A clearer channel of communication and a process should be developed for following-up on IWC Resolutions by the Chair of the SC.	A	Commission Subsidiary bodies Secretariat	Commission Resolutions and other decisions by the Commission requesting relevant subsidiary bodies to examine them and report back to the Commission on their deliberations.
21. (Para. 51) Recommendations from the SC to the Commission should be clearer. The RoP of the Commission, the SC and other subsidiary bodies should be thoroughly revised and harmonized.	B	Commission Scientific Committee, Secretariat	Increased number of SC recommendations followed by Commission decisions. RoP of the Commission and the SC revised and harmonized.
22: (Para. 54) Options for continuing the current secondment arrangements for the Chair of the Scientific Committee, to the IWC Secretariat, should be explored with member governments and partners, with the aim of continuing this arrangement after the current secondment concludes.	B	Scientific Committee Secretariat	Continuation of secondment arrangements for the Chair of the Scientific Committee.
23: (Para. 55) The budget allocation for the SC, as well as for all other subsidiary bodies of the Commission, should be revised in order to allow a more equitable distribution of the resources available and to ensure alignment with IWC priorities. This should be done in conjunction with the revision of the structure and number of subsidiary bodies (Recommendations 14 and 15). Over-expenditure relative to allocated budget should not be allowed to occur. IWC should also	B	Commission ,Secretariat	Higher level of activity and participation by more contracting governments and individual experts in IWC subsidiary bodies in general. Over-expenditure relative to allocated budget ceased.

look for additional sources of funding for SC meetings, in addition to funds available through the IWC core budget.			
24: (Para. 58) The Conservation Committee (CC) should be upgraded through: (i) allocation of resources from the core budget; (ii) appointing a Head of Conservation to mirror the Head of Science position; (iii) increased Secretariat support of the Committee; and (iv) by making better use of existing expertise on cetacean conservation. The frequency and timing of CC meetings should also be revised.	B	Commission Conservation Committee Secretariat	Higher activity and participation by more contracting governments and individual experts in the CC.
25: (Para. 59) A mechanism to strengthen the intersessional work of the FAC should be developed, including through better coordination of the Budgetary Subcommittee, made-up of representatives from the different “capacity to pay” groups. The Budgetary Subcommittee should have a leading role in preparing the budget for consideration by the Commission, reviewing the requests from the various subcommittees and making sure that budget allocation meets the priorities set by the Commission. It should prioritize budget requests and provide advice to the FAC on how and when to fund proposed projects and activities.	A	Secretariat Commission Finance and Administration Committee	Transparent and strategic budget allocation on the basis of IWC priorities.
26: (Para. 63) The IWC should establish a compliance mechanism, in accordance with best practices of other treaties bodies, to not only record cases of non-compliance but also identify measures to promote and ensure compliance.	B	Commission Secretariat	Better opportunities to identify cases of non-compliance and bring them to an end.

27: (Para. 66) Conflicts in the Working Group on Whale Killing Methods and Welfare should be addressed and mutual confidence restored, in order to increase effectiveness, while ensuring broad and full participation by IWC Members. Cooperation with external parties should be actively sought.	B	Commission Whale Killing Methods and Welfare WG Secretariat	Conflicts brought to an end and mutual confidence restored in the Working Group on Whale Killing Methods and Welfare.
28. (Para. 71) The workload of the Secretariat should be better distributed among members of the staff. IWC staff should not act as conveners of any IWC group, to ensure impartiality and to not compromise the secretariat function of assisting other subsidiary bodies. In future hiring of personnel, the Secretariat should consider language skills as an attribute in recruiting and hiring additional staff, to improve the Secretariat capacity to engage more efficiently with a wider range of parties.	B	Commission Secretariat	More effective distribution of workload within the Secretariat. Secretariat staff employed who do not have English as their native language.
29: (Para. 72) A Human Resource Policy should be developed for the Secretariat, including, at a minimum, staff development, assessment of staff performance, and conflict resolution. A long-term plan for secretariat staffing should also be developed.	B	Secretariat	Enhanced Human Resources flowing from an adopted HR policy.
30: (Para. 74) Options should be explored for increasing secretariat resources, including through secondments, internships, and through fundraising linked to implementation of priority programmes, as defined by the Commission.	B	Commission Finance and Administration Committee Secretariat	Increased resources for the IWC Secretariat and for IWC programmes provided.
31. (Para. 75) Additional staff should be appointed to allow the Secretariat to meet its increasing demands. The Executive Secretary	B	Commission Finance and Administration	Additional staff appointments made to IWC Secretariat

should determine an organigram and staff priorities once the Commission has agreed its Strategic Plan and multi-year work programme (Recommendation 6). Priority positions should include a deputy Head of Science, a Head of Conservation and additional IT expertise.		ion Committee Secretariat	
32: (Para. 77) A Staff Development Plan for the IWC Secretariat should be implemented and options for funding this programme should be explored. This should include a clear Transition Plan to ensure that the potential impact of key staff leaving IWC on the quality and quantity of IWC work is minimized.	B	Secretariat	Maintaining the work quality and quantity of the IWC Secretariat when experienced key staff leave.
33: (Para. 78) An organigram with definition of functions and terms of reference for every position in the Secretariat, and a clear career structure, should be developed. The number of professional-grade staff and administrative staff should reflect the reality of the obligations and responsibilities of their work.	B	Commission Secretariat	Greater clarity on roles and responsibilities of IWC staff, leading from a new organigram.
34: (Para. 84) An IT plan, including the hiring of additional IT personnel, should be developed to improve IWC internet services, archives, search functions, web presence, etc.	B	Secretariat	IT Plan developed and implemented.
35: (Para. 90) IWC should strengthen its internal and external communication and outreach efforts, with an increased emphasis on proactive communication and further use of modern electronic means.	B	Commission Secretariat	Improved IWC communication and outreach.
36: (Para. 95): IWC should continue and expand its cooperation with external organisations to enhance the achievement of IWC objectives. This outreach effort and	C	Commission Secretariat	Signing Memoranda of Understanding and other types of agreements with international bodies to establish more

<p>cooperation should be embedded in the new IWC Strategic Plan and multi-year work programme and should include: (i) continuing its membership on the BLG and increase cooperation with BLG Members and other relevant treaty bodies on areas of mutual interest, supported by the development of MoUs where relevant and necessary; (ii) considering implementation of a joint workshop between CITES, IWC, and CMS to discuss and agree on joint areas of work; (iii) increasing cooperation with the FAO and RFMOs on the prevention of entanglement and bycatch of cetaceans; and (iv) continuing its involvement in global ocean management cooperation in the context of UN Sustainable Development Goal 14.</p>			<p>partnerships. Holding a workshop with CMS and CITES. Continuing IWC participation and visibility in SDG 14 follow-up activities.</p>
<p>37: (Para. 106) A more strategic and transparent approach should be taken to IWC budgeting, based on priorities set by the Commission, and including proactive, costed budgets and work plans. This should also address the issue of extra budgetary funding and other IWC funds and disbursing grants.</p>	A	Commission Finance and Administration Committee, Secretariat	Transparent and strategic budget allocation on the basis of IWC priorities.
<p>38: (Para. 108) The Commission should strengthen its legal preparedness. One possible way of achieving this could be through commissioning a legal expert to advise on legal matters during Commission meetings.</p>	B	Commission Secretariat	More effective handling of legal issues at Commission meetings.
<p>39: (Para. 115) The Rules of Procedure (RoP) should be a standing item for Commission meetings and should be comprehensively reviewed. This review should address, at a</p>	B	Secretariat Commission	RoP included as a standing item at Commission meetings.

<p>minimum: (i) better definition of the role and functions of the Bureau, building on the Bureau Guidelines Document; (ii) revising rules on observer participation in Commission meetings so they are consistent with other treaty RoP on this matter; (iii) revising IWC Credentials rules so they are brought in line with normal treaty practice; (iv) formally terminating the Technical Committee, in conjunction with the restructuring recommended in recommendations 14 and 15; (v) requiring RoP for all IWC subsidiary bodies; and (vi) revision to clarify what constitutes a quorum.</p>			<p>Effective progress made towards the review of the Rules of Procedure</p>
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# **ANNEX B**

## **INTERVIEW PROCESS**

## 1- PERSONS INTERVIEWED

Information arising from interviews provided an important input to this Report. The Review Team interviewed 57 persons, representing the following categories:

IWC staff – 9 persons

IWC Bureau Members – 9 persons, representing 5 Contracting Governments

Other IWC Contracting Governments – 12 persons, representing 12 Contracting Governments (including 3 countries from the Buenos Aires Group)

NGOs – 16 persons, representing 13 NGOs

Secretariats of RFMOs, MEAs and Conventions – 12 persons, representing 11 organisations

Most, but not all, interviews follow the standard template (refer Annex B) developed by the IWC Review Team to facilitate compilation and analysis of information provided through the interviews. The IWC Review Team interviewed persons: (i) at the IWC Headquarters in Cambridge, UK; (ii) at the meetings of the IWC Scientific Committee and Bureau, held in Bled in May, 2017; and (iii) through a number of telephone/Skype/face to face interviews.

The final report of the IWC Review Team will include a chapter on governance arrangements and best practice for multilateral treaty bodies, based on interviews with relevant Secretariats, with associated recommendations for enhancing the effectiveness of the Commission.

Interviews for the IWC Review are on-going and will be concluded by the end of December, 2017. Specific details on interviews undertaken to date are outlined below: -

### NAME OF ORGANISATION

### PERSON(S) INTERVIEWED

#### IWC SECRETARIAT STAFF

Simon Brockington, Executive Secretary  
 Kate Wilson, Acting Executive Secretary  
 Greg Donovan  
 Sarah Ferris  
 Brendan Miller  
 Katie Penfold  
 Sarah Smith  
 Cherry Allison  
 David Mattila

#### REPRESENTATIVES OF IWC CONTRACTING GOVERNMENTS

**Bureau Members**

Japan	Joji Morishita, Chair Hideki Moronuki
Slovenia	Andrej Bibic, Vice Chair
Australia	Nick Gales Deb Callister Bill De la Mare
St Lucia	Harold Walters
USA	Ryan Wulff Carolyn Doherty

**Other Contracting Governments**

Austria	Michael Stachowitsch
Belgium	Stephanie Langerock
Buenos Aires Group (Brazil, Argentina, Costa Rica, Mexico)	Javier Fonseca - Costa Rica
Denmark	Gitte Hundahl Amalie Jessen (Greenland)
Germany	Nicole Hielscher
Iceland	Gisil Vilkingsson
Luxembourg	Pierre Gallego
Mexico	Lorenzo Rojas Bracho
Norway	O.D. Stenseth Lars Walloe
United Kingdom	Gemma Harper Jamie Rendell

**NGOs**

Animal Welfare Institute	Sue Fisher DJ Schubert
Cetacean Conservation (Chile)	Elsa Cabrera Barbara Galletti
Environmental Investigations Agency (UK)	Jenny Lonsdale
Global Guardian Trust (Japan)	Mr. Toshikazu Miyamoto Secretary General
Humane Society (UK)	Claire Bass
Humane Society International	Naomi Rose
IFAW	Matt Collis
Institute of Cetacean Research (Japan)	Dr. Yoshihiro Fujise Director General
IUCN	Justin Cook
Japan Small-Type Whaling Association (JSTWA)	Mr. Chikao Kimura Secretary
Japan Whaling Association (JWA)	Mr. Kazuo Yamamura, President
National Environmental Defenders Institute, US	Kate O'Connell  Taryn Kiekow Heimer

WWF

Aimee Leslie

**OTHER INTERVIEWS**

Doug Butterworth

Invited Expert, IWC Scientific Committee

Ray Gambell

Former Executive Secretary, IWC

Nicky Grandy

Former Executive Secretary, IWC

IISD/ENB

Kimo Goree and Nienke Beintema

Catarina Fortuna (Chair)

Chair, IWC Scientific Committee

Alexander Gillespie

Author of the Publication: “Whaling Diplomacy”,

Michael Donoghue

Former Member of NZ Delegation to IWC Scientific Committee

Cassandra Phillips

**SECRETARIATS OF RFMOs, MEAs AND CONVENTIONS**

Basel, Stockholm and Rotterdam Conventions  
CBD (Convention on Biological Diversity)

Juliette Kohler, Legal Officer

Neill Pratt

CCAMLR (Convention on the Conservation of Antarctic Marine Living Resources)

Executive Secretary

CITES (Convention on International Trade in Endangered Species)

David Morgan, CITES Legal Officer

CMS (Convention on Migratory Species)

Lyle Glowka, Executive Coordinator, Abu Dhabi Project Office.

IATTC

Senior Policy Advisor

ICCAT

Executive Secretary

NAMMCO

General Secretary

Ramsar

Martha Rojas-Urrego, Secretary General

SEAFO

Executive Secretary

SPREMO

Executive Secretary

Jonathan Barzdo (Deputy Secretary General).

UNESCO World Heritage Convention

Mechtild Rossler, Director

**2- LIST OF INTERVIEW QUESTIONS USED BY THE IWC REVIEW TEAM**

**These questions were used by the IWC Review Team when interviewing representatives of IWC Contracting Governments, NGOs, and other IWC Stakeholders.**

General

- ✓ Background on the scope of the review – provided by the Review Team
- ✓ What is your background with the IWC

Commission systems and processes

- ✓ Views on the organisation of the Commissions work, including the role, functioning, effectiveness and governance of its sub-groups. How can Commission and Bureau Meetings be improved? Any comments on the shift to two year IWC Meetings and establishment of a Bureau
- ✓ Views on the process for agreeing work programs and strategic direction, and how they can be improved
- ✓ Views on the Commission's rules of procedure and financial regulations, including the process for allocation of resources, including to subsidiary bodies

IWC Committee System

- ✓ Views on IWC Committee System, how effective are the Committees, how can they be improved?
- ✓ Any views on the effectiveness of specific Committees: Scientific Committee, Conservation Committee, other Committees. How effective are the linkages between these Committees?

IWC Secretariat

- ✓ Views on the role, functioning, effectiveness and governance of the Secretariat and how this governance can be improved

External relationships

- ✓ Views on IWC relationships with other Conventions and Agreements and how these can be improved
- ✓ Views on communication within the IWC and between the Commission and external bodies and persons.

Other

- ✓ Any other general suggestions as to how IWC Governance can be improved
- ✓ Any other comments relevant to the review?

**These questions were used by the IWC Review Team when interviewing representatives of MEAs, Conventions and RFMOs.**

General

- ✓ Interviewer will provide background on the IWC Review, including its scope.

- ✓ What is your position within the Secretariat? Has your Secretariat had any previous involvement with the IWC?

#### Governance structures

- ✓ How is the Governing Council of your organisation structured? How often does it meet? Is there a Bureau and how does it work with, and communicate, with the Governing Council?
- ✓ Does your organisation have sub-groups (Committees, Working Groups, Task Forces etc) and how are they structured? Do they report regularly to your Governing Council? Do any of these sub-groups have “sunset clauses” (closure after completing tasks)
- ✓ How does your organisation agree work programs and budgets?
- ✓ How does your organisation agree strategic directions? Does your organisation have an overall Strategic Plan, or equivalent
- ✓ What is the process for allocation of resources, including to sub-groups, within your organisation? How is this process linked to your Strategic Plan or annual Workplan?

#### Governing Council (GC) Meetings

- ✓ How often does your GC meet?
- ✓ How does your GC involve Observers, including NGOs? Do you have any comments on the effectiveness and utility of this involvement?
- ✓ Does your GC vote on issues, or all decisions made by consensus? If your GC has voting, how are decisions made (eg by simple majority or by other means), has closed (secret) voting ever been used in your GC?
- ✓ Do you have any formal or informal processes for resolving conflicts on matters discussed at your GC?
- ✓ Do you have a process for follow up of recommendations and resolutions from GC meetings? If so, can you please outline the process and comment on its effectiveness?
- ✓ Is there any process for making recommendations and resolutions inter-sessionally, between, GC meetings?

#### Secretariat

- ✓ How is the Secretariat of your organisation structured?

- ✓ Have there been any recent (last 5years) initiatives to improve the effectiveness and governance of your Secretariat and, if so, can you share any comments on this process and its effectiveness?
- ✓ Do staff in your organisation have clear Terms of Reference and regular performance assessment? Can you share details of the process of performance assessment?
- ✓ Who does your CEO report to and how is her/his performance assessed?
- ✓ Are there fixed terms for any staff within your organisation?
- ✓ How is internal communication within the Secretariat of your organisation carried out?

#### External relationships

- ✓ How does your organisation cooperate with external organisations, is this cooperation normally covered by MoUs, or equivalent documents?
- ✓ Are these MoUs, or equivalent documents, subject to agreement by your GC or is this within the discretion of your CEO?
- ✓ Are these MoUs, or equivalent documents, subject to review and assessment? If so, how is this undertaken?
- ✓ What are the main ways in which your organisation communicate with external bodies and persons (newsletter, web etc)?

#### Other

- ✓ Does your organisation have any mechanisms for capacity building and assistance for developing states? If so, could you please elaborate.
- ✓ Do you have any other general comments regarding Governance within your organisation?
- ✓ Do you have any other comments relevant to the IWC review?

## **ANNEX C**

# **INTERVIEWS WITH RFMOs AND MEAs**

## 1 - INTERVIEWS WITH MEA SECRETARIATS

Interviews were undertaken with the following MEA Secretariats.

Basel, Stockholm and Rotterdam Conventions	Juliette Kohler, Legal Officer
CBD (Convention on Biological Diversity)	Neill Pratt
CCAMLR (Convention on the Conservation of Antarctic Marine Living Resources)	Executive Secretary
CITES (Convention on International Trade in Endangered Species)	David Morgan, CITES Legal Officer
CMS (Convention on Migratory Species)	Lyle Glowka, Executive Coordinator, Abu Dhabi Project Office.
IATTC	Senior Policy Advisor
ICCAT	Executive Secretary
NAMMCO	General Secretary
Ramsar	Martha Rojas-Urrego, Secretary General
SEAFO	Executive Secretary
SPREMO	Executive Secretary
	Jonathan Barzdo (Deputy Secretary General).
UNESCO World Heritage Convention	Mechtild Rossler, Director

The outcomes from these interviews were distilled and are presented in Section 9 of this IWC review, under the following headings:

- General
- Governing councils
- Bureaus and Standing Committees
- Other standing subsidiary bodies
- Ad-hoc working groups
- Budgets
- Strategic directions
- Decision-making
- Review of implementation and compliance
- Secretariat arrangements
- External relationships
- Capacity building and assistance mechanisms for developing countries.
- Comparison with IWC institutional and governance arrangements.

## 2 - INTERVIEWS WITH RFMO SECRETARIATS

The interview questions were sent to 8 different RFMOs: CCAMLR, IATTC, ICCAT, NAMMCO, NEAFC, SEAFO, SPRFMO, and WCPFC. Of these, only NEAFC did not respond. Four of the respondents were Executive Secretaries, one was the General Secretary, one was a Senior Policy Advisor and one did not indicate his/her position. Only CCAMLR and NAMMCO had previous involvement with IWC. In the case of CCAMLR, there has been reciprocal observer status at many Commission and Scientific Committee meetings of both organizations (usually by a member of both organizations), since the first meeting of CCAMLR's Scientific Committee, in 1982. Besides, a Joint Workshop was convened in 2008 and another one is being planned for 2018/19. In the case of NAMMCO, the Secretariat staff have been regularly observing many IWC Commission, sub-committees and working groups meetings, as well as meetings of the Scientific Committee. Similarly, IWC staff have also participated in scientific working group meetings and symposia organized by NAMMCO. NAMMCO also gets data support from the IWC secretariat for large whale assessments.

With regard to governance structure, all bodies have a Commission made by representatives of member countries. Most have subsidiary bodies, related to Administration and Finance, Compliance, and Science, including specific working groups, besides the Secretariat. Only ICCAT has a Bureau-like body, called the Council, but it has been inactive for several years now. In fact, the Council used to be active when the Commission meetings were biennial. Since they have become annual, the bureau became inactive. So, IWC seems to have moved in the opposite direction, by making the Commission meetings biennial and creating a bureau to guide its work inter-sessionally. The main subgroups of each of these RFMOs are:

- a) CCAMLR- a Standing Committee on Implementation and Compliance, a Standing Committee on Administration and Finance, and a Scientific Committee, with 4 working groups and one subgroup: Working Group on Ecosystem Monitoring and Management (WG-EMM), Working Group on Fish Stock Assessment (WG-FSA), Working Group on Statistics, Assessments and Modelling (WG-SAM), Working Group on Incidental Mortality Associated with Fishing (WG-IMAF), and a Subgroup on Acoustics, Survey and Analysis Methods (SG-ASAM).
- b) IATTC- the Committee for the Review of Implementation of Measures Adopted, the Scientific Advisory Committee (SAC), and the Committee on Administration and Finance (CAF). In the case of the SAC, however, it is interesting to note that “organizations or persons with recognized scientific experience in matters related to the work of the Commission” may be invited by the Commission “to participate in the work of the Committee” and that it is chaired by the Director of the Commission. IATTC is peculiar also in having its own scientific staff composed of several experts well recognized in their field who are assisted by a number of technical personnel. This provides the Commission with a considerable amount of autonomy in the field of scientific research since its own staff can carry out the research needed and formulate conservation and management recommendations based on the best science available. Because of that, the IATTC does not have to rely exclusively on the inputs of national scientists, which are channeled, inter alia, through the Scientific Advisory Committee, as well as through several working groups (e.g. the Working Group on FADs). There are also a number of other subsidiary bodies that have been established for addressing specific topics or carrying out specific tasks. They are generally open to all members and sometimes to representatives of non-governmental entities also or individual experts. Most recently, it has been deemed convenient to give

them a “virtual” nature, without discarding the possibility of face-to-face meetings (e.g. the “Ad Hoc Permanent Working Group on FADs”. The Rules of Procedure adopted by the Commission apply *mutatis mutandis* to all these bodies.

- c) ICCAT: The Standing Committee on Research and Statistics (SCRS), the Standing Committee on Finance and Administration (STACFAD), the Conservation and Management Measures Compliance Committee (COC), the Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (PWG), four technical Panels (Panel 1: Tropical tunas - yellowfin, bigeye and skipjack; Panel 2: Northern temperate tunas - albacore and Atlantic Bluefin; Panel 3: Southern temperate tunas -albacore and southern Bluefin; and Panel 4: Other species - swordfish, billfishes, small tunas), and other ad hoc working groups (e.g. Working group on the Convention Amendment and the Standing Working Group on the dialog between Scientists and Managers).
- d) NAMMCO: Two Management Committees (MC): one for Seals and Walruses and one for Cetaceans, a Committee on Hunting Methods (CHM), a Committee on Inspection and Observation (CIO), a Finance and Administration Committee (FAC), and a Scientific Committee (SC). All committees have their own RoP, and are also governed by the RoP of the Council. There is no Task Forces. All committees have the possibility of having working groups (WG), either long-term or ad-hoc. They can also organise symposia, conference or establish expert groups (EG) to inform their recommendations to Council. Council has also the possibility to establish WG under its direct jurisdiction outside of committees. Recently, Council 25 established a WG on By-catch, Entanglement and Live Strandings for dealing with non-hunting related welfare issues. Presently the SC has 8 standing WGs meeting regularly: Abundance Estimate, Large Whale Assessment, Beluga and Narwhal, Harbour Porpoise, Walrus, Coastal Seals, Harp and Hooded Seals and By-Catch. The CHM works mostly with ad hoc EG, but has a standing EG on Time to Death.
- e) WCPFC: the Scientific Committee, the Technical and Compliance Committee, the Northern Committee, and the Finance and Administration Committee. Specific working groups are also established, as required.
- f) SPRFMO: the Scientific Committee (SC), the Compliance and Technical Committee (CTC), the Finance and Administration Committee (FAC), and the Eastern and Western Sub-Regional Management Committees (currently dormant). There are several working groups, mostly operating intersessionally by remote communication, set up by the commission or its subsidiary bodies.
- g) SEAFO: the Administration and Finance Committee, the Scientific Committee, and the Compliance Committee.

In all cases, the subsidiary bodies report regularly to their Governing Council/ Commission. In CCAMLR, the science-based Working Groups report annually to the Scientific Committee, while all the subsidiary bodies of the Commission report annually to it. In IATTC, all the subsidiary bodies report either directly to the Commission or indirectly, when they are to report to the competent Committee instead of the Commission itself. In ICCAT, all subsidiary bodies are requested to provide a report to the Commission for approval. In NAMMCO, as well, all subsidiary bodies report to their mother committees, which review and comment their recommendations, before forwarding them to the Council. All reports from any subsidiary bodies are both sent to the mother committee and to council at the same time. The different committees report to Council at its annual meeting. Similar mechanisms are used in WCPFC, SPRFMO, and SEAFO. No “sunset clause” is set for subsidiary bodies, except for

NAMMCO. In most cases they just “die out” naturally (e.g. IATTC Working Group for the negotiation of the Antigua Convention), are kept “dormant” (CCAMLR ad hoc Working Group on Incidental Mortality Arising from Fishing, which has not met for several years) or are closed once their tasks are considered completed (e.g. ICCAT WG on Convention Amendment).

On the periodicity of meetings, differently from IWC presently, in all of them, both the Commissions and its subsidiary bodies meet annually. In some cases, like in ICCAT, some subsidiary bodies, such as the Scientific Subcommittee (SCRS), hold several meetings in a same year.

In all cases, the work programs and budgets are initially discussed in the relevant subsidiary bodies and then submitted to the formal approval by the Commission. With regard to the budget, specifically, the subsidiary bodies first present their demands to the Finance and Administration Committee that discuss and approves the budget and then send it subsequently for the approval of the Commission. Generally, the annual (e.g. IATTC) or biannual (e.g. CCAMLR, ICCAT) budget is prepared by the Secretariat, on the basis of all demands and decisions stemming from the subsidiary bodies, which is then presented to the Finance and Administration Committee and subsequently to the Commission. The process for allocation of resources, including extra-budgetary funds, to the Commission subgroups, therefore, is done on a case-by-case basis, first by the subsidiary bodies themselves and then by the Commission, which approves a budget prepared by the Secretariat and pre-approved by the Committee on Administration and Finance.

Despite none of the RFMOs have a formally adopted Strategic Plan or annual Workplan, the allocation of resources follows the decisions made with regard to the strategic directions and priorities, which are decided first by the subsidiary bodies and then by the Commission itself. The work programs and associated budgets, thus, reflect those decisions and directions. None of the interviewed RFMOs, however, have an overall Strategic Plan, or equivalent. NAMMCO and WCPFC informed they are presently working on adopting one. The ICCAT SCRS does have a long term Strategic Plan, but not the Commission itself. In the case of CCAMLR, the Secretariat has a 4-year strategic plan, but not the Commission. Finally, in IATTC, the Performance Review done in 2015 recommended the development of a five-year strategic plan, with biennial implementation plans, tied to the budget. In response to that recommendation, a first draft has been prepared, but it has not been submitted yet to the Members, since the Commission has not finalized its review and approval.

On the involvement of observers, including NGOs, in the work of the Commission, all of the RFMOs allow them to participate, upon an application, with the right to speak and comment on issues under deliberation. Some of them, such as ICCAT and IATTC, have very detailed guidelines, principles and criteria for granting the Observer status in their meetings, including both of the scientific committee as well as of the Commission. In the case of CCAMLR, the participation of NGO observers in Scientific Committee Working Group meetings at present is, however, rather limited, since they are only able to participate if they have expertise that would qualify for an invitation from the Scientific Committee, which rarely occurs. Because of that, observers have long been requesting the RoP to be revised to enable them to routinely observe Scientific Committee Working Group meetings. All of the RFMOs, however, considered their involvement to be quite positive and very important, not only in relation to their participation in the meetings, but also through the support they provide for the carrying out of certain activities and projects (e.g. IATTC, ICCAT). “Effective”, “quite active”,

“useful”, “very productive”, and “mutually beneficial” have been some of the adjectives used by the RFMOs to qualify the involvement of NGOs in their work.

On the recourse to voting, all RFMOs, but the IATTC, do have a voting procedure, if the possibility of consensus is exhausted, but with different rules for majority. In the case of CCAMLR, decisions on matter of substance must be by consensus, otherwise a voting with simple majority is required. In ICCAT, a vote in the plenary requires a simple majority, unless the issue is under the scope of a given panel, in which case, if a voting is taken in plenary it will require a 2/3 majority. In the relevant panel, however, a simple majority would be required for voting on the same issue. In WCPFC, a 3/4 of plenary is required for voting, to be further supported by 3/4 support of two chambers consisting of FFA members in one and Non-FFA members in another. In NAMMCO, the rule is unanimous vote of those contracting parties present. In SPRFMO, a simple majority is required on questions of procedure and three-fourths majority on questions of substance. Majority is determined based on the number of members casting affirmative or negative votes only. SEAFO only requires a simple majority. In IATTC consensus is the rule. Although the convention itself stresses that the Commission may decide otherwise, there is no pre-established rule for voting. Despite the possibility of voting, except for ICCAT and SPRFMO, all others either have never resorted to a vote (e.g. NAMMCO), or voting has only been used for the selection of the Executive Secretary (e.g. CCAMLR, IATTC, WCPFC).

On the existence of a formal process for resolving conflicts, the CAMLR Convention provides for an Arbitration Tribunal, if required. In the case of IATTC, the Antigua Convention contains provisions on conflict in its Article XXV, Settlement of Disputes, but this article has never been implemented, at least until now. Recent experience seems to show that members do prefer the far less costly recourse to negotiations and consultations rather than a third party procedure. SPRFMO also have a formal process established in Article 17 and Annex II of the Convention. NAMMCO, WCPFC, SEAFO and ICCAT do not have a formal process, although ICCAT is just finishing a revision of its Convention, which includes the introduction of a formal dispute settlement mechanism.

On the process for follow-up of recommendations and resolutions from the GC meetings, most of them informed that this is done in a “continuous” basis, in every annual meeting of the Commission. Since all subsidiary bodies report directly or indirectly to the Commission, they have to inform every year the way and extent to which they have implemented the decisions made by it. With regard to compliance by members, all of them have a Compliance Committee that reports directly to the GC and tracks how the members are implementing the management and conservation measures adopted. The process of monitoring compliance is achieved mainly by direct reporting by members, but other means such as through the direct collection of data and information by observer programs, compilation of trade data, use of catch certification schemes, etc., are also often used. In all cases, the process was considered to be effective. Formal processes for intersessional decision-making is available in all interviewed RFMOs (e.g. CCAMLR: Rule 7 of the RoP; IATTC: Rule 8; ICCAT: Rule 9; SPRFMO: Rule 7).

The Secretariat structure is highly variable among the various RFMOs, reflecting their different size, number of members and complexity. CCAMLR has about 25 staff members (Fig. 1), including a science manager, a data manager, a finance and administration manager, a manager of information and communication technology (ICT), a manager of communication services and a fishery monitoring and compliance manager.

As pointed out above, the presence of a big scientific staff, including a Coordinator of Scientific Research, is one of the most important and original characteristics of the IATTC, which sets it apart from most of its sister RFMOs. Presently, the so-called scientific staff at headquarters comprises 32 staff members (not including the Coordinator of Scientific Research) grouped in 4 programs: 1. Stock Assessment Program (4 scientists); 2. Biology and Ecosystem Program (8 scientists); 3. Bycatch Program and International Dolphin Conservation Program (4 scientists, 4 professionals); 4. Data Collection and Database Program (6 professionals, 2 IT staff and 4 clerical staff). There is also a small policy unit (Fishery Management and Policy) with 2 professionals and an administrative unit (Administration) with 1 professional, 5 clerical staff and 1 translator. There is, therefore, a total of 43 staff members at headquarters, including the Director and the Coordinator of Scientific Research. In addition, the Commission has 6 field offices, 2 in Ecuador (6 staff members in Manta, 2 staff members in Playas), 2 in Mexico (2 staff members in Manzanillo, 3 staff members in Mazatlán), 1 in Panama (2 staff members) and 1 in Venezuela (2 staff members). Finally, the Commission has a research laboratory in Achotines, Panama, with 2 permanent staff members, including its director, and not including scientists and local staff that work in the laboratory but without being IATTC staff members.

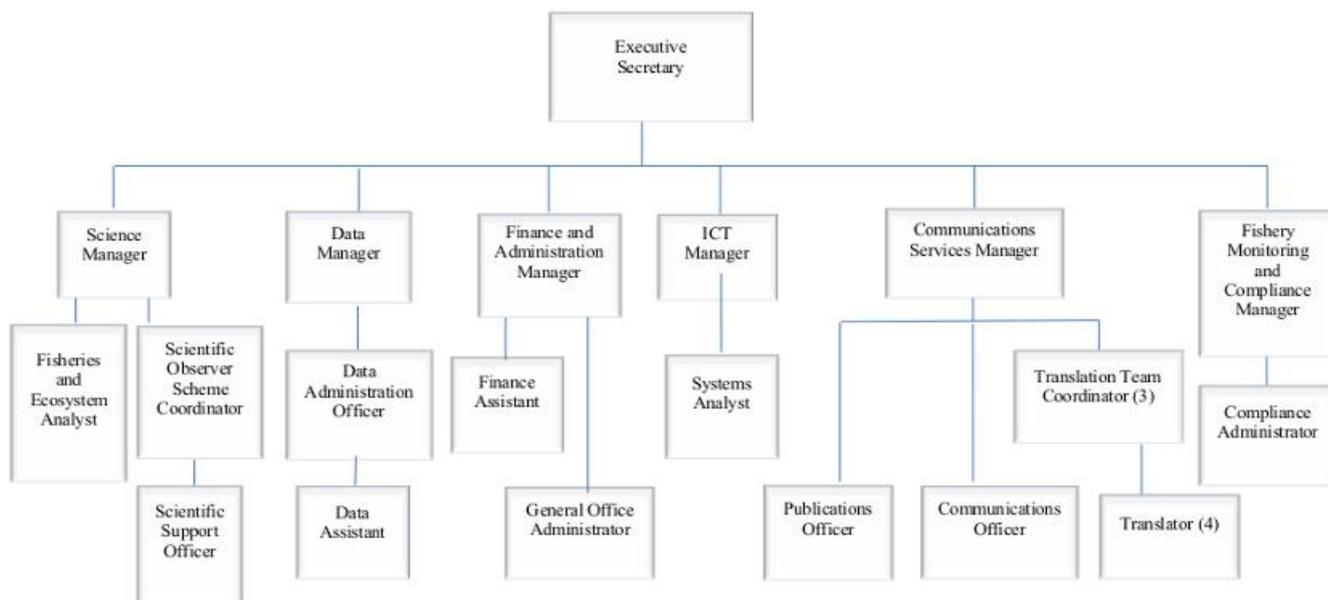


Figure 1- Administrative structure of CCAMLR Secretariat.

The ICCAT Secretariat is organized according to the organogram shown below (Fig. 2). Several tasks that are coordinated directly by the Executive Secretary or his deputy are not included in this document. Some of these are: coordination of communications with delegates; coordination of translation and distribution of documents during meetings; and, updating of the webpages.

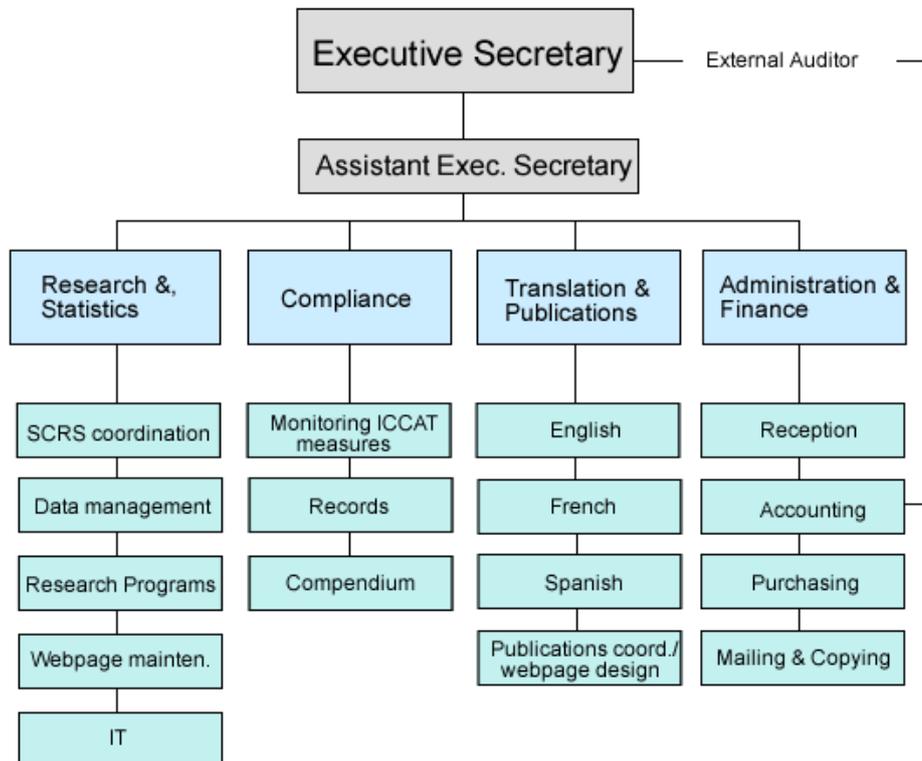


Figure 2- Administrative structure of ICCAT Secretariat.

Compared to CCAMLR, IATTC and ICCAT, the other 4 interviewed RFMOs are much smaller. WCPFC, apart from the executive management, has three main divisions: science programme, compliance programme and finance and administration programme. SPRFMO has only 5 staff members, 3 internationally recruited (Executive Secretary, Data Manager, Coordinator and Communications Officer) and two locally (Finance and Office Manager, IT Manager). NAMMCO has only three staff members: a general secretary (general responsibility and specifically communication, strategy and communication with FAC), a scientific secretary (responsible for issues related to the scientific committee and its subsidiary bodies), a deputy secretary (responsible for issues related to the committees on Hunting Methods and on Inspection and Observation, as well as the joint Control Scheme for the Hunting of Marine Mammal, and administrative matters). SEAFO is the smallest of all, with only an Executive Secretary and one administrative person.

In all of them, the staff have clear Terms of Reference and regular performance assessments, conducted on an annual basis, except for IATTC, which has not yet established any formal or bureaucratic procedures for assessing the performance of each staff member, as it is usually done in other international organizations. In the case of CCAMLR, the annual performance appraisal is carried out by a direct reporting system, set out in 4 stages: 1. self-assessment against established criteria for the previous 12 months; 2. managers appraisal and review; 3. manager and staff member agreed tasks and outputs for the next 12 months (including professional development opportunities); and 4. final review signed off by the Executive Secretary. In ICCAT, each staff member is evaluated by his/ her supervisor. The Executive Secretary makes the final review and decides on the promotion. In NAMMCO, it is done in a meeting that takes ca. 2-3 hours, together with a questionnaire responded by the staff member a few days ahead. The answers are reviewed and discussed during the performance evaluation meeting and the required actions are then defined. In SPRFMO, annual performance reviews

consist of a self-assessment regarding tasks performed, strengths and weaknesses, areas for professional development, followed by a conversation with the Executive Secretary, and a final document based on the self-assessment incorporating comments from the Executive Secretary and signed by both.

In the case of the CEO, generally entitled Executive Secretary or Director, the assessment of performance is done by the Commission itself (IATTC), by the Chair of the Commission (e.g. NAMMCO, SPRFMO, SEAFO), by the Commission Chair, in consultation with members (WCPFC), and, in the case of ICCAT, by the Commission Chair, the two vice-Chairs and the Chair of STACFAD. In CCAMLR, the Executive Secretary is assessed through the presentation of an Annual Report (which in effect is a report on the 12-month implementation of the Secretariat's Strategic Plan). In most cases, the CEO reports directly to the Commission/members, but in CCAMLR this is done through the Standing Committee on Administration and Finance.

In most of the interviewed RFMOs the staff do not have fixed terms, except for the Executive Secretary, whose term is generally 4 (CCAMLR, IATTC) or 5 years (ICCAT), but with the possibility of extensions (for only one time in CCAMLR, but limitless in ICCAT and IATTC). In the case of WCPFC, the staff can serve for two terms of 4 years before position must be advertised, but they are eligible to reapply.

On the initiatives to improve the effectiveness and governance of the Secretariat in the last 5 years, CCAMLR informed that a revised Strategic Plan was adopted for the period 2012-2014 and was renewed for 2015-2018, with minor revisions. In addition, since 2012, the Standing Committee on Administration and Finance has been supporting a process to establish a sustainable financing basis for the organization. CCAMLR undertook its first performance review almost 10 years ago, in 2008. In 2016, CCAMLR decided to undertake a second review of its performance. In IATTC, after a series of unsuccessful attempts to agree on the scope and terms of reference, the Commission finally reached a consensus to submit itself to a performance review, carried out in 2015 and endorsed by the Commission in 2016. A draft Action Plan for the implementation of the recommendations of the performance review has been prepared by the Secretariat and circulated twice to collect eventual comments and suggestions by the members. ICCAT already did two performance reviews, the first one in 2008 and the second one in 2017. In the case of SEAFO, an external performance review is conducted every four to five years. WCPFC had a performance review done in 2011 and is presently working to develop a Strategic Plan. NAMMCO is also working on a Strategic Plan, but have never had a performance review. Nevertheless, in its last meeting, it endorsed the process of its first Performance Review. Finally, SPRFMO informed they have been only recently established and, therefore, did not have enough time to run an assessment of their performance yet.

With regards to internal communication within the Secretariat, most of them use face-to-face meetings and e-mails. In ICCAT, the Executive Secretary has established a rule to hold regular weekly meetings with the Head of Departments, which constitute an opportunity to go through all the pending issues and adopt the actions necessary to address any requested task. WCPFC has a "communication plan".

On the cooperation with external organizations, without prejudice to informal cooperation, in most instances, especially when specific actions are foreseen, the cooperation is formalized

through the signature of MoUs or letters of agreement (e.g. CCAMLR, with CCSBT, SIOFA, SEAFO, WCPFC, ACAP and SPRFMO; IATTC with WCPFC, CPPS and ACAP; SPRFMO, with ACAP and CCAMLR; NAMMCO with ICES; etc.). In all cases, except for IATTC, the MoU must be approved by the Commission. In IATTC, it depends upon the scope and purpose of the MoU. Most are entirely within the discretion of the Director, in the framework of the implementation of the general work plan that has been approved by the Commission, but others are developed within the Commission itself or with its review and approval (for instance the IATTC-WCPFC MoU on crossed endorsed observers). In some cases, the MoUs are subject to periodic reviews. In other cases they are open ended, and the review is at the discretion of the Parties. The Secretariat, however, is sometimes requested to submit reports on the progress made on the implementation of the MoUs (e.g. ICCAT).

The means used by the interviewed RFMOs to communicate with external bodies and persons vary widely, but include mainly telephone, e-mails and official letters, although circulars and website is also used by almost all of them. In some cases (e.g. IATTC and NAMMCO), a Facebook page has also been created. In the case of IATTC, the performance review report has recommended the appointment of a dedicated Communications Officer, which is still to be formally endorsed by the Commission. At its last meeting, NAMMCO adopted (for the first time) both a Communication Strategy and a two-year Communication Plan. In the case of ICCAT, when communicating with members, the Secretariat tries to communicate through Government representatives only, avoiding to establish a direct dialog with individuals.

Except for NAMMCO, that only has developed countries as members, all other RFMOs have some sort of mechanism for capacity building and assistance for developing states. In the case of CCAMLR, although not specifically devoted to developing States, it has a Science Capacity Special Fund, fed through voluntary contributions, available to early career scientists from all Members. A proposal to the global Environment Facility is currently in preparation to support capacity building for engagement in CCAMLR for 5 GEF-eligible CCAMLR Members: India, South Africa, Namibia, Chile and Ukraine. IATTC, in 2011, adopted a resolution establishing the special sustainable development fund for fisheries for highly migratory species to strengthen the institutional capacity of developing countries and territories, which was later amended by a second resolution, in 2014. A considerable step forward was made with that second resolution, since Members agreed to provide an additional contribution to the fund for an amount of 2% of the approved operative budget of the Commission. The categories of activities to be undertaken with the support of the fund include scholarships, training courses, and workshops for developing scientific capacity in developing CPCs, as well as to help their participation in the annual meeting of the Commission and its subsidiary bodies. ICCAT also has a number of capacity building and meeting participation funds. At its 2005 meeting, the Commission decided to make assistance to developing coastal States a permanent item on the annual meeting agenda. Since then, the Commission has been formalising assistance to developing ICCAT Contracting Parties through the adoption of several specific recommendations (e.g. Rec. 11-26, establishing a Meeting Participation Fund; Rec. 13-19, establishing a Scientific Capacity Building Fund; Rec. 14-14, amending Rec. 11-26). WCPFC also has a special requirement fund for developing states, which is fed by voluntary contributions. In SPRFMO, a fund has been set up in accordance with Convention Article 19 (Recognition of the special requirements of developing States).

## **RESPONSES FROM RFMO SECRETARIATS**

## General

1) What is your position within the Secretariat?

CCAMLR: Executive Secretary

IATTC: Senior Policy Advisor (the responses and comments below do not prejudice the position of the Commission and of its Secretariat)

ICCAT: Executive Secretary

NAMMCO: General Secretary (GS)

WCPFC: -

SPRFMO: Executive Secretary

SEAFO: Executive Secretary

2) Has your Secretariat had any previous involvement with the IWC?

CCAMLR: Yes. As far back as the first meeting of CCAMLR's Scientific Committee in 1982 (then IWC SC Chair, Dr J. Bannister, observed). There has been reciprocal observer status at many Commission and Scientific Committee meetings of both organizations (usually by a member of both organizations) ever since. A Joint Workshop was convened in 2008 and another is being planned for 2018/19.

IATTC: None that I know of.

ICCAT: To my best knowledge ICCAT have never been involved with IWC

NAMMCO: Yes. Secretariat staff have been regularly observing many IWC Commission, sub-committees and working groups meetings, as well as meetings of the Scientific Committee. IWC staff have also participated in scientific working group meetings and symposium organized by NAMMCO. NAMMCO also got data support from the IWC secretariat for large whale assessments. ES Simon Brockington observed the two last Council meetings (2016 and 2017). Previously the IWC had as observers at the NAMMCO council meetings commissioner from IWC member countries.

WCPFC: -

SPRFMO: No

SEAFO: Not that I am aware of

## Governance structures

3) How is the Governing Council of your organisation structured?

CCAMLR: A Commission, normal subsidiary bodies (Finance, Compliance), a Scientific Committee and specialist working groups.

IATTC: There is no Governing Council as such. The highest authority is the Commission itself.

ICCAT: The **Commission** is composed of Contracting Party Delegations. It carries out the objectives set forth in the 1966 International Convention for the Conservation of Atlantic Tunas. The Commission makes all decisions.

NAMMCO: One councilor by member country and delegates (no limitation in numbers). Decision taken by consensus.

WCPFC: Contracting Parties vote where decision is required by CP. Members include one fishing entity- Chinese Taipei. Most decisions by consensus. Where the option for decision by voting is available, it requires a  $\frac{3}{4}$  of plenary to be further supported by  $\frac{3}{4}$  support of two chamber consisting of FFA members in one and Non-FFA in another. This is set out in the decision making provision in WCPFC Convention article XXXX.

SPRFMO: See Convention, Article 6 and 7. The Commission is composed of the 15 Members. It has a Chairperson and a Vice-Chairperson.

SEAFO: Commission with subsidiary bodies (admin & finance, scientific, compliance and then the secretariat).

4) How often does it meet?

CCAMLR: The Commission, its subsidiary bodies, the Scientific Committee and the WG's meet annually.

IATTC: "At least once a year" (Antigua Convention, Article VIII, Meetings of the Commission, par. 1) but it of "may also hold extraordinary meetings when deemed necessary" (ibid., par. 2).

ICCAT: The Commission meets annually, though their subsidiary bodies meet as often as necessary. The SCRS has one annual plenary meeting, while its subsidiary bodies (Species Groups and Sub-Committees) meet once a year, except in those cases when stock assessment are conducted that require an additional data preparatory meeting.

NAMMCO: The Council usually meets once a year, but could have intersessional meetings if necessary. According to its RoPs, decisions can also be taken by correspondence.

WCPFC: Once a year.

SPRFMO: All bodies meet annually. The Scientific Committee in September/October, all others in January/February.

SEAFO: Once a year.

5) Is there a Bureau and how does it work with, and communicate, with the Governing Council?

CCAMLR: No Bureau.

IATTC: Since the Commission has only 21 members and 4 cooperating non-members, there is no need for a "Bureau" as such; the trend that may be observed generally towards increasing the role and functions of "bureaus", in particular during the intersessional periods of the respective bodies, has expressed itself in the case of IATTC in the form of an increased involvement of the elected Chairman of the Meeting of the Commission (re-elected for a period longer than that established in the Antigua Convention to ensure his/her permanence and stability, and his/her participation alongside the Director in activities during the intersessional period in particular regarding the follow-up of the meetings of the Commission and its bodies and their preparation.

ICCAT: The Commission elects its chair, two Vice Chairs and the chair of subsidiary bodies every two years. Although the convention text established a council, it has never been active since the beginning.

NAMMCO: There is Finance and Administration Committee (FAC), with up to two members by country. Terms of reference of FAC:

1. The Committee shall function as an advisory body for the Council with respect to financial and administrative matters.
2. In particular the Committee develops, reviews and makes recommendations for the approval of the Council on the Commission budgets and the audited accounts.
3. The Committee may make proposals to the Council for specific tasks to undertake within its terms of reference.

Usually the members of FAC include the Councillors/ Head of delegations. FAC has his own RoP.

WCPFC: No.

SPRFMO: SPRFMO does not have a Bureau like the IWC.

SEAFO: There is a secretariat who executes the decisions from the commission. Communicate by emails during the year.

- 6) Does your organisation have sub-groups (Committees, Working Groups, Task Forces etc) and how are they structured?

CCAMLR: Yes, subsidiary bodies and working groups. See: <https://www.ccamlr.org/en/organisation/about-CCAMLR>

IATTC: The Antigua Convention in its Article VII, Functions of the Commission, par. 1(u) stipulates, as one of these functions, to “establish such subsidiary bodies as it considers necessary”. The Convention itself establishes two of these bodies, the Committee for the Review of Implementation of Measures Adopted by the Commission (known as the “Review Committee”) (COR) (Article X and Annex 3) and the Scientific Advisory Committee (Article XI and Annex 4) (SAC). After the entry into force of the Convention, in August 2010, the Commission decided to establish another Committee, the Committee on Administration and Finance (CAF), which it did in June 2012 through its Resolution C- 12-02. These three bodies are composed of the representatives designated by each member of the Commission. In the case of the SAC, however, it is interesting to note that “organizations or persons with recognized scientific experience in matters related to the work of the Commission” may be invited by the Commission “to participate in the work of the Committee” (Article XI, par. 2) and that the SAC is chaired by the Director of the Commission (ibid., par. 6) – the intention of the negotiators being to give a more technical outlook to that body instead of a political one. There are a number of other subsidiary bodies that have been established for addressing specific topics or carrying out specific tasks. They are generally open to all members and sometimes to representatives of non-governmental entities also or individual experts. Most recently, it has been deemed convenient to give them a “virtual” nature, without discarding the possibility of face-to-face meetings (a good example is the “Ad Hoc Permanent Working Group on FADs” established through Resolution C-15-03 amended the following year by Resolution C-16-01). The Rules of Procedure adopted by the Commission apply mutatis mutandis to all these bodies.

ICCAT: Other Commission bodies include the:

- i. The **Standing Committee on Research and Statistics** (SCRS) develops and recommends to the Commission such policies and procedures in the collection, compilation, scientific

analysis and dissemination of fishery statistics as may be necessary to ensure that the Commission has available at all times complete, current and equivalent statistics on fishery activities in the Convention area.

- ii. **Standing Committee on Finance and Administration (STACFAD)**, which advises the Commission on matters relating to the Secretariat management on the administrative and financial issues. This Committee reviews the administrative and financial reports prepared by the Secretary and approves the budget for two financial years.
- iii. **Panels** (Panel 1: Tropical tunas - yellowfin, bigeye and skipjack; Panel 2: Northern temperate tunas - albacore and Atlantic Bluefin; Panel 3: Southern temperate tunas - albacore and southern Bluefin; and Panel 4: Other species - swordfish, billfishes, small tunas). The panels are responsible for keeping under review the species, group of species, or geographic area under its purview, and for collecting scientific and other information relating thereto. Based on investigations from the SCRS, Panels may propose to the Commission recommendations for joint action by the Contracting Parties.
- iv. **Conservation and Management Measures Compliance Committee (COC)** reviews all aspects of compliance with ICCAT conservation and management measures in the ICCAT Convention Area, with particular reference to compliance with such measures by ICCAT Contracting Parties.
- v. **Permanent Working for the Improvement of ICCAT Statistics and Conservation Measures (PWG)** obtains, compiles and reviews all available information on the fishing activities of non-Contracting Parties, for species under the purview of ICCAT, including details on the type, flag and name of vessels and reported or estimated catches by species and area
- vi. **Other Groups**, the Commission may convene other Working Groups as required. Recently the Commission has established a Working group on the Convention Amendment and a Standing Working Group on the dialog between Scientists and Managers
- vii. **Secretariat**, performs multiple administration and coordination functions for the Commission.

#### NAMMCO:

- Two Management Committees (MC): one for Seals and Walruses and one for Cetaceans – meeting once a year, usually just previous to the meeting of the Council.
- A Committee on Hunting Methods (CHM) – meeting as often as he wishes to
- A Committee on Inspection and Observation (CIO)
- A Scientific Committee (SC) – meeting face to face once a year, if needed organizes intersessional sessions (usually as video conference).

All committees have their own RoP, and are also governed by the RoP of the Council. The relationship between the different committees are illustrated by the schema below:



There is no Task Forces. All committees have the possibility of having working groups (WG), either long-term or ad-hoc. They can also organise symposium, conference or establish expert groups (EG) to inform their recommendations to Council. Council has also the possibility to establish WG under its direct jurisdiction outside of committees. Recently, Council 25 established a WG on By-catch, Entanglement and Live Strandings for dealing with non-hunting related welfare issues. Presently the SC has 8 standing WGs meeting regularly (Abundance Estimate, Large Whale Assessment, Beluga and Narwhal, Harbour Porpoise, Walrus, Coastal Seals, Harp and Hooded Seals and By-Catch). The CHM works mostly with ad hoc EG, but has a standing EG on Time to Death. Council 25 decided that:

- To enhance transparency and openness, External Experts should participate in all meetings of committees' subsidiary bodies dealing with non-administrative questions.
- By External Experts is understood any relevant experts who are not a member of the Parent Committee organising the meeting and not involved in the data collection / analysis / interpretation of the work to be discussed, regardless of nationality and institution.

**WCPFC:** Four subsidiary bodies: scientific committee, technical and compliance committee, northern committee and the finance and administration committee. specific working group may also be established.

**SPRFMO:** See Convention, Articles 9 to 14. Subsidiary bodies: Scientific Committee (SC), Compliance and Technical Committee (CTC), Finance and Administration Committee (FAC), Eastern and Western Sub-Regional Management Committees (currently dormant) and Secretariat. There are several working groups, mostly operating intersessionally by remote communication, set up by the commission or subsidiary bodies.

**SEAFO:** Commission with subsidiary bodies (admin & finance, scientific, compliance and then the secretariat).

7) Do they report regularly to your Governing Council?

**CCAMLR:** The science-based Working Groups report annually to the Scientific Committee. The subsidiary bodies of the Commission report annually to the Commission.

**IATTC:** Yes, directly or instead indirectly, when they are to report to the competent Committee instead of the Commission itself. For instance, the Agenda of the 92nd Meeting of the Commission, in July 2017, item 5, reads as follows:

5. Reports of subsidiary bodies and working groups:

- a. 2<sup>nd</sup> Meeting of the Ad Hoc Working Group on FADs
- b. 5<sup>th</sup> Meeting of the Committee on Administration and Finance
- c. 8<sup>th</sup> Meeting of the Committee for the Review of Implementation of Measures Adopted by the Commission
- d. 18<sup>th</sup> Meeting of the Permanent Working Group on Fleet Capacity
- e. 7<sup>th</sup> Meeting of the Working Group on Bycatch

ICCAT: Every single meeting of the Commission, subsidiary bodies are requested to meet and provide a report to the Commission for approval.

NAMMCO: Subsidiary bodies report to their mother committees, which review and comment their recommendations before forwarding them to the Council. All reports from any subsidiary bodies are both sent to the mother committee and to council at the same time. The different committees report to Council at its annual meeting.

WCPFC: Every year.

SPRFMO: Yes.

SEAFO: Once a year.

8) Do any of these sub-groups have “sunset clauses” (closure after completing tasks)?

CCAMLR: No - but they may be placed in abeyance pending a specific issue arising that requires the attention of that particular specialist group – for example an ad hoc Working Group on Incidental Mortality Arising from Fishing has not met for several years.

IATTC: No. Sometimes, due to the nature of the task, a working group may cease to exist naturally (for instance the Working Group for the negotiation of the Antigua Convention established in 1998 which ceased to exist in 2003 when I presented its final report and when the Convention was adopted); sometimes a working group can become dormant and then be reactivated after a certain period of time, as in the case of the Working Group on Bycatch.

ICCAT: Yes, some of the Working Groups set provisionally by the Commission for specific tasks have been closed once their tasks are considered completed.

NAMMCO: Yes, typically the Expert Groups. Some SC WG have also been ad hoc.

WCPFC: Not for the 4 committees.

SPRFMO: No.

SEAFO: No.

9) How does your organisation agree work programs and budgets?

CCAMLR: The Scientific Committee and/or the Commission identify projects or activities, such as a performance review, and together with an annual budget prepared by the Secretariat, with forecasts for the 2 following years, are considered and approved by the Commission’s subsidiary Standing Committee on Administration and Finance.

IATTC: On a yearly basis, the Director and his/her staff presents detailed proposals for the work programs and the budget (including extra budgetary funding) for the following year. These proposals are first discussed in the Committee on Administration and Finance, which makes recommendations to the Commission for its approval.

ICCAT: The calculation method of establishing the budget has been approved by the Commission. The budget takes into account the activities of the two years ahead. The budget is first discussed and adopted at the STACFAD level before its approval by the Commission.

NAMMCO: At the Council meeting on the recommendation of FAC (see terms of references above in point 3).

WCPFC: Yes.

SPRFMO: The Commission takes such decisions advised by the subsidiary bodies.

SEAFO: With consensus at annual meeting but also between meetings.

10) How does your organisation agree strategic directions?

CCAMLR: The Commission periodically identifies priority work. The Scientific Committee has a Strategic Plan as does the Secretariat.

IATTC: It is generally understood that, because of the focused purpose and well circumscribed field of competence of the Commission, relevant strategic directions are to be found in the Antigua Convention itself as well as, whenever necessary, in the Resolutions successively adopted by the Commission or its decisions as they may be reflected in the formally adopted Minutes of its meetings. However, the Commission has recently agreed on the need to adopt a more specific process for the development of strategic directions (see response to question 9).

ICCAT: The Secretariat prepares and circulates draft agendas for the Commission and for the subsidiary bodies 4 months before the meeting. Contracting Parties review the draft agendas and submit proposals to be discussed during the meeting. All the issues raised are tabled for discussion and approval by the Commission.

By consensus of the Council, on recommendation from FAC.

WCPFC: By the Commission annual meeting.

SPRFMO: See Convention, Article 15 and the Financial Regulations. The annual budget proposal is prepared by the Secretariat, discussed in the FAC and adopted by the Commission.

SEAFO: With consensus at annual meeting

11) Does your organisation have an overall Strategic Plan, or equivalent?

CCAMLR: No.

IATTC: Not yet. Before or after the entry into force in 2010 of the Antigua Convention and more precisely before 2016 when the first performance review of the Commission was carried out, there has been little awareness or recognition of the need for such a plan. In accordance with the procedure established in its Resolution C-14-09 the first performance review of the Commission was carried out in 2015 and its results were embodied in a report that was endorsed by the Commission at its 90<sup>th</sup> meeting in July 2016. The Commission “agreed that the report would be received as presented, and that the next task should be to handle its recommendations.” (Minutes, p. 13). One of these recommendations called for the formulation of a five-year strategic plan, as well as additional planning, as follows:

*“Recommendation: Develop a five-year strategic plan, with biennial implementation plans tied to the budget.”*

*A critical factor in modernizing the Secretariat's business practices will be to develop a five-year strategic plan. The strategic planning process should engage staff, management, and appointed officials in developing short- and mid-term goals and objectives to address the long-term goals of the IATTC and AIDCP. The strategic plan will provide a comprehensive framework for the prioritization of work.*

*As part of the strategic plan, the Secretariat should establish clear outcomes and associated performance measures that are reported to the Commission on a regular basis. Regular output and outcome performance reporting will help to guide and improve decision-making. Output performance measures should focus on operational cost effectiveness and efficiency, and outcome measures should focus on progress toward scientific goals.*

*Once the strategic plan is complete, a staffing plan and communications plan should be developed, as noted in Findings 3 and 10. Biennial work plans should be developed as part of the budget process, and they should be evaluated quarterly and adjusted accordingly. Work plans and budgets should clearly link to strategic goals and objectives.”*

In response to that recommendation, a first draft has been prepared, but it has not been submitted yet to the Members since the Commission has not finalized its review and approval of the general Action Plan for the implementation of the recommendations of the performance review, which was postponed for its next annual meeting in 2018. It is possible however that when the first draft is finalized it might be circulated without waiting for that review and approval, for the sake of avoiding unnecessary delays.

ICCAT: No, it does not. However, the SCRS has a long term Strategic Plan and the subsidiary bodies have annual work plans.

NAMMCO: No but it is presently under discussion to have one.

WCPFC: No but working one.

SPRFMO: No.

SEAFO: No.

12) What is the process for allocation of resources, including to sub-groups, within your organisation?

CCAMLR: All participation costs are self-funded by Members. Allocation of financial resources to Scientific Committee or subsidiary body-initiated activities is decided on a case-by-case basis with the final decision resting with the Commission which approves a budget recommended by the Standing Committee on Administration and Finance.

IATTC: As described above, the allocation of resources including extra-budgetary ones is decided by the Commission, upon recommendation of the Committee on Administration and Finance; it must be implemented afterwards in strict compliance with the Antigua Convention as well as the IATTC Financial Rules, which includes an annual financial audit by a third party, whose results are reported to the Commission.

ICCAT: At the end of 90s ICCAT had established a Working Group on the allocation criteria. This WG has held several meetings with a proposal which is currently used as reference for negotiating the quota allocation for different tuna species. From time to time the allocation issue is raised to be reviewed, but there are no new established criteria.

NAMMCO: The Secretariat prepares draft budget for FAC for the two following years, taking into account specific demands of the committees if any, incl. planned meeting of subsidiary bodies. On the basis of these two draft budgets, FAC makes recommendation to Council which then adopt a final budget.

WCPFC: By consensus.

SPRFMO: No formal process, means are allocated as needed, usually proposed by the Secretariat (see 8). There are fixed budgets for the SC and for the meeting participation of delegates from developing countries (see Financial Regulations, Regulation 2, paragraph 3).

SEAFO: Approval at annual meeting- included in budget.

13) How is this process linked to your Strategic Plan or annual Workplan?

CCAMLR: -

IATTC: There is still no adopted Strategic Plan, as mentioned above, but it may be expected that in the future, after the adoption of that plan, allocation of resources will be made in close relationship with the goals and objectives defined in that plan. Presently, the proposal for the allocation of resources either budgetary or extra-budgetary that is submitted annually to the Commission is linked to the work plans prepared and presented, including the scientific workplan and its related projects. It is understood however that some flexibility is convenient when evaluating the funds that are needed for the limitation of these work plans and projects in order to avoid their underestimation and the negative consequences that might raise from such an underestimation .

ICCAT: While establishing the biennial budget, the Commission takes into consideration the financial requests made by the SCRS aiming to achieve the goals of the Strategic Plan and annual workplan.

NAMMCO: The draft budgets are elaborated according to the annual workplan of the committees.

WCPFC: Done on ad hoc basis

SPRFMO: N.A.

SEAFO: N.A.

### **Governing Council (GC) Meetings**

14) How often does your GC meet?

CCAMLR: Annual.

IATTC: See response to question 2 above.

ICCAT: According to the convention text the Commission holds its ordinary meeting every two years and an extraordinary meeting if necessary. Since the beginning of 90s, ICCAT and its subsidiary bodies meet every year. One year is the meeting is considered as an ordinary one and the following is a special meeting.

NAMMCO: Once a year.

WCPFC: Once but possibility of a special session if required.

SPRFMO: Annually.

SEAFO: Once a year.

15) How does your GC involve Observers, including NGOs?

CCAMLR: Yes.

IATTC: There are specific rules in the Antigua Convention on transparency and participation of observers including NGOs, contained in Article XVI, Transparency, which is maybe useful to quote in full:

*“ARTICLE XVI. TRANSPARENCY*

1. *The Commission shall promote transparency in the implementation of this Convention in its decision-making processes and other activities, inter alia, through:*
  - (a) *the public dissemination of pertinent non-confidential information; and*
  - (b) *as appropriate, facilitating consultations with, and the effective participation of, non-governmental organizations, representatives of the fishing industry, particularly the fishing fleet, and other interested bodies and individuals.*
2. *Representatives of non-Parties, relevant intergovernmental organizations, and non-governmental organizations, including environmental organizations with recognized experience in matters pertaining to the Commission and the tuna industry of any of the members of the Commission operating in the Convention Area, particularly the tuna fishing fleet, shall be afforded the opportunity to take part in the meetings of the Commission and of its subsidiary organs, as observers or otherwise, as appropriate, in accordance with the principles and criteria established in Annex 2 of this Convention as well as others that the Commission may adopt. Such participants shall have timely access to relevant information, subject to the rules of procedure and of confidentiality on access to such information that the Commission may adopt.”*

These provisions are complemented by those contained in Annex 2, Principles and Criteria for the Participation of Observers at Meetings of the Commission. When negotiating these provisions, the negotiators had in mind not only the existing precedents in relevant instruments (such as UNFSA) but they reminded also the positive experience in terms of participation of representatives of environmental NGOs as well as of the fisheries sector in the implementation of the Agreement on the International Dolphin Conservation Program (AIDCP) and its processes.

ICCAT: Observers may attend all ICCAT meetings once they have requested such status, which require the approval by the Contracting Parties. Additional information on the Guidelines and Criteria for granting the Observer status in ICCAT meetings can be found at: <http://iccat.int/Documents/Meetings/Announce/Observer%20Guidelines%20EN.pdf>

NAMMCO: They participate to the meeting and are given the right to speak and comment.

WCPFC: Apply and accepted if no objection, quite relax.

SPRFMO: Currently 11 NGOs and seven IGOs are registered as Observers. See Rule 9 of the Rules of Procedure. Observers can participate in all meetings (except for very few closed sessions); to be admitted as observer, an NGO has to notify the Secretariat once; it can be rejected if a majority of Members objects. IGOs are invited upon request.

SEAFO: They can apply to attend the Annual meetings.

16) Do you have any comments on the effectiveness and utility of this involvement?

CCAMLR: Engagement is effective in the Commission – at the invitation of the Chair, they may (and do) engage in discussion. NGO observers are only able to participate in Scientific Committee Working Group meetings at present if they have expertise that would qualify for an invitation from the Scientific Committee. This rarely occurs. Observers would like the RoP revised to enable them to routinely observe Scientific Committee Working Group meetings.

IATTC: Both in the context of the AIDCP and of the Commission, this involvement has been effective and useful. Not only in relation to the meetings where these NGOs can participate in addition to having provided position statements and other relevant accreditation that is published in advance, but also through the support that they provide for the carrying out of certain activities and projects (e.g. the ongoing project on capacity of the fleet in the Eastern Pacific Ocean funded by the World Bank through WWF).

ICCAT: The involvement of observers such as NGOs in ICCAT activities has been an important contribution for improving the management of the organisation. The debate is always an opportunity to address some sensitive issues.

NAMMCO: It seems to work and has been mutually beneficial.

WCPFC: They contribute and quite active.

SPRFMO: Is considered mostly useful; welcomed because it provides transparency; observers often make interesting contributions; so far SPRFMO has not encountered any issues.

SEAFO: It has proved very productive in the past.

17) Does your GC vote on issues, or all decisions made by consensus?

CCAMLR: Yes, in relation to matters of substance where the question of whether a matter is one of substance is treated as a matter of substance. Other matters are decided by simple majority.

IATTC: Consensus is the rule, although the convention itself stresses that the Commission may decide otherwise. Article IX, Decision Making, stipulates in its paragraph 1 “Unless provided otherwise, all decisions made by the Commission at meetings convened pursuant to Article VIII of this Convention shall be by consensus of members of the Commission present at the meeting in question.” In some circumstances and as a practical consequence of necessity, there might be a vote, but this vote will be considered as an indication of the building up of a consensus. An example of this approach can be found in the process followed in July 2006 for the the election in July 2016 of the Director of the Commission. A series of secret ballots was carried out to eliminate successively the various candidates until only one remained, who was deemed afterwards to have been to have been chosen by consensus. It should be recalled that, in the case of IATTC, the adoption of the rule of consensus was a step forward, since previously under the 1949 Convention decision-making required unanimity. During the negotiations of the Antigua Convention some participants favoured the possibility of voting if efforts to reach consensus failed, but several others strongly opposed the adoption of such a procedure. Late in the negotiation, as Chair, I tried my best to convince participants of the merits of weighted voting to avoid the impasse resulting from some member opposing consensus and blocking the taking of a decision, but my efforts were totally unsuccessful. Through direct consultations

with a group of participants that were even supporting strongly unanimity, all I could obtain from them was their agreement to move to consensus. This issue has been addressed also in the performance review, which recommended moving away from consensus, but already one of the most important members of the Commission objected such a move and commented negatively on the provisions of the draft action plan in this respect (suggesting either an amendment to the Convention or, more practically, a gentleman's agreement based on the wording of Article IX of the Convention as referred to above (" unless provided otherwise").

ICCAT: Decisions are mostly taken by consensus. However, there are cases in which voting has been requested and used to make decisions.

NAMMCO: Consensus. Contracting parties may call for a vote and each have then one vote.

WCPFC: Some decision by voting but most of the key ones by consensus.

SPRFMO: Majority voting is foreseen and frequently applied (see Convention, Article 16).

SEAFO: Mostly consensus but can go into voting.

18) If your GC has voting, how are decisions made (eg by simple majority or by other means)?  
Simple majority.

CCAMLR: See above.

IATTC: N.A.

ICCAT: There is a voting procedures which is established by the rules of procedures of the Commission. Additional info is available at: <http://iccat.int/Documents/Commission/BasicTexts.pdf>

NAMMCO: The rule is unanimous vote of those contracting parties present. So far as we can recall this has never happened

WCPFC: See above under structure

SPRFMO: Simple majority on questions of procedure and three-fourths majority on questions of substance. Majority is determined based on the number of members casting affirmative or negative votes only.

SEAFO: By simple majority

19) Has closed (secret) voting ever been used in your GC?

CCAMLR: Yes. Only in relation to the appointment of the Executive Secretary.

IATTC: See above response to question 15 - only as an indication of the consensus being built.

ICCAT: Yes, e.g. selection of the Executive Secretary

NAMMCO: No.

WCPFC: Voting has never been resorted except for appointment of CEO

SPRFMO: Yes

SEAFO: I am not sure

20) Do you have any formal or informal processes for resolving conflicts on matters discussed at your GC?

CCAMLR: Art. XXV of CCAMLR Convention provides for an Arbitration Tribunal, if required.

IATTC: These conflicts are usually resolved through negotiation and consultation during the meetings themselves, either formally at the level of Heads of Delegation meetings, or informally in the margins. Some lingering conflicts may be delegated for their consideration and proposed solution to a working group for further negotiation, particularly when a more technical and analytical approach is required, for instance the “disputes” related to capacity of the fleet. The Antigua Convention contains provisions on conflict in its Article XXV, Settlement of Disputes. But this article has never been implemented, at least until now. Recent experience seems to show that the members do prefer the far left costly recourse to negotiations and consultations rather than a third party procedure. Regarding this experience I could write:

*“At the members' request, the staff of the Commission had prepared draft terms of reference for the establishment of an ad hoc group of experts for the settlement of existing disputes concerning the carrying capacity of the fishing fleet. These draft terms of reference inspired two separate proposals submitted by the United States and by Ecuador respectively (Proposal by the United States, Draft Resolution on the terms of reference of an ad hoc expert panel for the settlement of the current dispute regarding capacity and Proposal by Ecuador, Terms of reference of the ad hoc groups of experts for the settlement of the current disputes regarding capacity, reproduced as appendixes 5c and 5d respectively of the Minutes of the 83rd meeting of the IATTC, June 2012). The IATTC however did not pursue the matter and decided instead to submit the disputes (along with other capacity claims) to a special meeting of the open-ended Permanent Working Group on Capacity of the Feet, which it had established long before.”* (J. F. Pulvenis, Chapter 40 - Regional Fisheries Bodies and Regional Fisheries Management Organizations and the Settlement of Disputes concerning Marine Living Resources, in Law of the Sea, From Grotius to the International Tribunal for the Law of the Sea -Liber Amicorum Judge Hugo Caminos, Brill Nijhoff, Leiden, 2015 p.712).

ICCAT: -

NAMMCO: No formal process. Only informal discussion between heads of delegation (HoD).

WCPFC: Side discussions always encouraged.

SPRFMO: Yes. See Article 17 and Annex II of the SPRFMO Convention.

SEAFO: No.

21) Do you have a process for follow up of recommendations and resolutions from GC meetings?

CCAMLR: -

IATTC: This is the task of the Review Committee, with the assistance of the Secretariat which prepares the corresponding documentation based on the inputs of the Members as prompted periodically to provide the corresponding reports or filled forms and questionnaires.

ICCAT: Yes, ICCAT has conducted two independent external performance reviews which came up with several recommendations. The Commission is in the process of reviewing these recommendations to address the issues raised.

NAMMCO: Parties response to NAMMCO past Proposal for Conservation and Management are reviewed every year. Each committee report every year to Council on the tasks it has been charged with by Council or the advice it has been requested to give. A list is kept on request for advice and recommendation from Council and Management Committees and answers given.

WCPFC: There is a compliance monitoring scheme that assess the level of compliance of members with Commission decisions and measures.

SPRFMO: There is no formal process. However, the Secretariat, in consultant with the Chairperson concerned, prepares the provisional draft agendas for each meeting and ensures that it includes all recommendations and relevant action items.

SEAFO: Responsibility is given for each task emanating from the GC- Most of the tasks are the responsibility of the Secretariat.

22) If so, can you please outline the process and comment on its effectiveness?

CCAMLR: Annual review by the Commission and the Scientific Committee.

IATTC: Conservation and management measures adopted by the Commission and other measures contain generally provisions regarding the compulsory reporting by Members and Cooperating Non-Members on compliance with these measures; monitoring of compliance is also achieved through directly obtaining data and information through observer programs, through the IATTC field offices and from the industry. Reports by Members and Cooperating Non-Members are then considered and discussed by the Review Committee, including through asking questions to the Member or Cooperating Non-Member during its presentation on their corresponding report to the Committee. In addition, before the meeting of the Review Committee, this information has been compiled, processed and summarised by the Secretariat in a general compliance report and compendium, which is not circumscribed to the previous year (as the individual member's report on its compliance during that year) but also highlights compliance with the various conservation and management measures throughout several years. The Commission is constantly endeavouring to increase the effectiveness of the process of reporting and discussion of the reports.

ICCAT: Most of the Commission's recommendations are being followed closely. ICCAT Contracting Parties show an important interest to the functioning of ICCAT.

NAMMCO: The process is effective if the Secretariat do its job of following up and setting issues as point on the draft agendas it prepares.

WCPFC: Under independent review but rather complex and online based.

SPRFMO: See 19.

SEAFO: Very effective.

23) Is there any process for making recommendations and resolutions inter-sessionally, between, GC meetings?

CCAMLR: Rule 7 of the Commission's Rules of Procedure provide for inter-sessional decision making ([https://www.ccamlr.org/en/system/files/e-all\\_1.pdf](https://www.ccamlr.org/en/system/files/e-all_1.pdf)).

IATTC: The Rules of Procedure that the Commission adopted in 2012 and amended in 2014 contain a section on intersessional decision-making, as follows:

### VIII. INTERSESSIONAL DECISION-MAKING

1. *Without prejudice to the provisions of Article IX of the Convention, where a decision cannot be deferred until the next meeting of the Commission, a matter may be decided during the period between meetings electronically (e.g. email, secure website). Matters to be decided under this section shall not include those in paragraph 2 and 3 of Article IX of the Convention.*
2. *The Chair, on its initiative, or the Director, at the request of at least three (3) Members that have made a proposal, may move for adoption without delay of such proposal by intersessional decision. In doing so, the Chair, in consultation with the Vice-Chair, shall determine the necessity of considering the proposal intersessionally.*
3. *Where the Chair determines that it is not necessary to consider the proposal intersessionally, the Chair shall promptly notify the Members referred to in paragraph 23 of such determination and the reasons. Within ten (10) days of the notification, the Members may request an intersessional decision on the Chair's determination.*
4. *Where the Chair determines that it is necessary to consider the proposal intersessionally, the Chair shall promptly transmit to all Members of the Commission:*
  - a. *The proposal, including any explanatory note;*
  - b. *The determination made by the Chair under this paragraph; and*
  - c. *A request for an intersessional decision.*
5. *Members shall promptly acknowledge receipt of the transmittal under paragraph 25. If no acknowledgment is received within seven (7) days of the date of transmittal, the Director shall retransmit the transmittal, using all additional means available to ensure that the transmittal has been received. Confirmation by the Director that the transmittal has been received shall be deemed conclusive regarding the participation of the Member in the decision-making process.*
6. *Members shall respond within thirty (30) days of the date of the initial transmittal if they do not agree with the proposal, or if they require additional time to consider the matter. If a Member requests additional time for consideration, a further fifteen (15) days shall be allowed from the expiration of the initial thirty (30) day period. No additional extensions of time beyond one fifteen (15) day extension will be permitted. In the event of such an extension, the Director shall inform all Members of the final date by which responses must be received.*
7. *If no reply from a Member is received within thirty (30) days of transmittal, or by the extended deadline specified by the Director in the event of a fifteen (15) day extension to consider the proposal, that Member shall be deemed to have joined the consensus, as long as the Director has confirmed receipt of the transmittal by that Member pursuant to paragraph 26.*
8. *The result of a decision taken intersessionally shall be ascertained by the Director at the end of the decision-making period and promptly notified to all Members. If any explanations of positions are received, these shall also be transmitted to all Members.*
9. *Proposals adopted intersessionally shall become effective for all CPCs pursuant to Article IX of the Convention.*
10. *Proposals transmitted for intersessional decision-making shall not be subject to amendment during the decision-making period.*
11. *A proposal that has been rejected by intersessional decision for any reason shall not be reconsidered until the following meeting of the Commission.*

**ICCAT:** Yes, if requested voting can be used to adopt or reject Recommendations/ Resolutions intersessionally.

NAMMCO: NAMMCO decided not to work with resolutions. Council can also have intersessional meeting if a contracting party requires it and its RoP allows for decision to be taken by correspondence.

WCPFC: Available if required.

SPRFMO: Yes, Rule 7 of the RoP foresees that the Chairperson may propose that a decision be taken intersessionally by electronic means in the case of the need for adoption of an emergency measure between meetings, or where a decision needs to be taken intersessionally.

SEAFO: Yes if needed.

## **Secretariat**

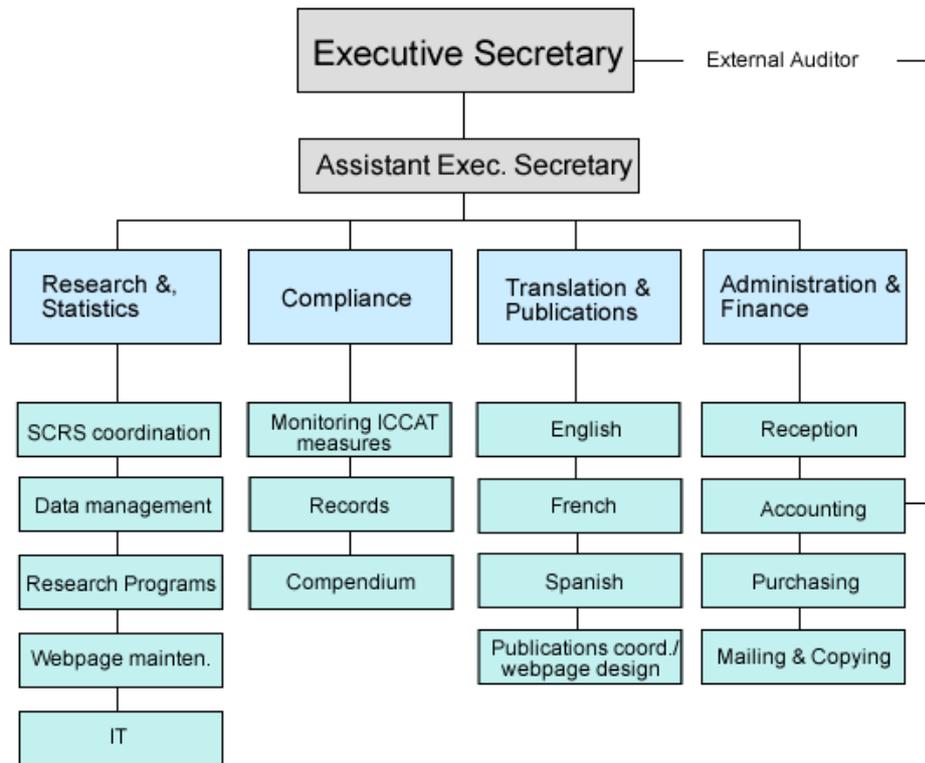
24) How is the Secretariat of your organisation structured?

CCAMLR: See: <https://www.ccamlr.org/en/organisation/secretariat>.

IATTC: The general legal framework governing the organization of the Secretariat is contained in Article XII, Administration and in Article XIII, Scientific Staff. The inclusion in the Convention of the latter article and the reference made by the Convention itself to the appointment of a Coordinator of Scientific Research illustrate one of the most important and original characteristics of the IATTC, which sets it apart from most of its sister RFMOs. IATTC has its own scientific staff, composed of several experts well recognized in their field who are assisted by a number of technical personnel. This provides the Commission with a considerable amount of autonomy in the field of scientific research since its own staff can carry out that research and formulate conservation and management recommendations based on the best science available, without the need to rely exclusively on the inputs of national scientists, which are channelled inter alia through the channel of the Scientific Advisory Committee as well as several working groups (e.g. the Working Group on FADs, which is chaired presently by a Spanish scientist, member of the EU delegation). To date the so-called scientific staff at headquarters comprises 32 staff members (not including the Coordinator of Scientific Research) grouped in 4 programs: 1. Stock Assessment Program (4 scientists); 2. Biology and Ecosystem Program (8 scientists); 3. Bycatch Program and International Dolphin Conservation Program (4 scientists, 4 professionals); 4. Data Collection and Database Program (6 professionals, 2 IT staff and 4 clerical staff). There is also a small policy unit (Fishery Management and Policy) with 2 professionals and an administrative unit (Administration) with 1 professional, 5 clerical staff and 1 translator. There is therefore a total of 43 staff members at headquarters, including the Director and the Coordinator of Scientific Research. In addition, the Commission has 6 field offices, 2 in Ecuador (6 staff members in Manta, 2 staff members in Playas), 2 in Mexico (2 staff members in Manzanillo, 3 staff members in Mazatlán), 1 in Panama (2 staff members) and 1 in Venezuela (2 staff members). Finally, the Commission has a research laboratory in Achotines, Panama, with 2 permanent staff members including its director, and not including scientists and local staff that work in the laboratory but without being IATTC staff members.

ICCAT: The ICCAT Secretariat facilitates the work carried out by the Commission. It is organized as shown in the organogram below. This organization is determined by aspects such as the mandate from the Commission, the number of staff and the staff classification and experience. Several tasks that are coordinated directly by the Executive Secretary or his deputy are not included in this document. Some of these are: Coordination of communications with

Delegates; coordination of translation and distribution of documents during meetings; and, updating of the Web pages.



**NAMMCO:** Three staff members, a general secretary (general responsibility and specifically communication, strategy and communication with FAC), a scientific secretary (responsible of issues related to the scientific committee and its subsidiary bodies), a deputy secretary (responsible for issues related to the committees on Hunting Methods and on Inspection and Observation, as well as the joint Control Scheme for the Hunting of Marine Mammal, as well as administrative matters).

**WCPFC:** Apart from the executive management, there are three main divisions ie science programme, compliance programme and finance and administration programme.

**SPRFMO:** 5 staff members, 3 internationally recruited (Executive Secretary, Data Manager, Coordination and Communications Officer) and two locally (Finance and Office Manager, IT Manager [new part-time position]).

**SEAFO:** Executive Secretary and one administrative person, at the moment.

25) Have there been any recent (last 5years) initiatives to improve the effectiveness and governance of your Secretariat and, if so, can you share any comments on this process and its effectiveness?

**CCAMLR:** A revised Strategic Plan was adopted for the period 2012-2014. That Plan, with minor revision, was renewed for the period 2015-2018. In addition, since 2012, the Standing Committee on Administration and Finance has been supporting a process to establish a sustainable financing basis for the organisation.

**IATTC:** Yes. After a series of unsuccessful attempts to agree on the scope and terms of reference of a performance review, the Commission finally reached a consensus and adopted

in October-November 2014 its Resolution C- 14 - 09 Terms of Reference for the Review of the IATTC and AIDCP. As indicated above (see response to question 9), the results of the review were embodied in a report that was endorsed by the Commission at its 90th meeting in July 2016. The Commission “agreed that the report would be received as presented, and that the next task should be to handle its recommendations.” (Minutes, p. 13). A draft Action Plan for the implementation of the recommendations of the performance review has been prepared by the Secretariat and circulated twice to collect eventual comments and suggestions by the members; only three members provided comments in writing ; during the last annual meeting of the Commission in July 2017 , the Committee on Administration and Finance started discussing the draft Action Plan, particularly with regards to the actions having budgetary implications, but could not achieve this exercise due to lack of time; for the same reason the Commission (which had prioritise the consideration of the proposals on conservation and management measures ) could not discuss the draft although it was able to agree on specific recommendations put forward by the CAF in this respect, for instance the carry out of a more detailed evaluation of the policy and practice of the Commission regarding human resources. Since this process has only started recently, any conclusion on its efficiency and effectiveness would be therefore quite premature.

ICCAT: Adjustments as regards the structure and staff expertise have been made to adjust to the work that is necessary to be developed to target specific requests of the Commission.

NAMMCO: There had not been, which could be clearly felt. This is one of my major task, as new General Secretary, to improve the effectiveness, professionalize and systematize the work of the Secretariat, as well as creating a process to have a clear and updated overview of what has been done in all committees.

WCPFC: Efforts to develop a strategic plan.

SPRFMO: The Secretariat has been established only recently; Headquarters Agreement and implementing national law (Order in Council) are from 2014; Staff Regs from 2016.

SEAFO: Every four to five years an external performance review is conducted. Not all recommendations from performance review are executed by GC.

26) Do staff in your organisation have clear Terms of Reference and regular performance assessment?

CCAMLR: Yes.

IATTC: Each vacancy announcement contains a detailed description of the terms of reference of the post that must be filled in terms of responsibilities, tasks to be performed and required skills. Each staff member is under his/her supervisor’s constant scrutiny and that of the Director as well. Throughout the almost 70 years of existence of the Commission, there has been apparently no awareness to establish more formal or bureaucratic procedures for assessing the performance of each staff member, similar to those that have been introduced in other international organizations. Accent has been put always on substantive delivery and reliability in response to the collective needs and requirements of the Commission and individual requests from members. This situation might well evolve as a consequence of the performance review that has addressed this issue and which led the Commission to agree on a more detailed review and assessment of the situation in that area (see above response to question 23).

ICCAT: Yes, staff responsibilities are clearly set and evaluation of their performance is conducted on an annual basis.

NAMMCO: There are Staff Rules for the NAMMCO Secretariat. Each staff member has also a job description, which is regularly updated. Performance assessment are performed once a year and face to face meetings with the GS once a month. There are also regular staff meetings. Decisions made and actions to be taken are summarized in a document, where should be indicated the date when the issue has been dealt with.

WCPFC: Yes.

SPRFMO: Yes.

SEAFO: Yes.

27) Can you share details of the process of performance assessment?

CCAMLR: Annual performance appraisal by their direct report. Four-stage process: 1. Self-assessment against established criteria for the previous 12 months, 2. Managers appraisal and review, 3. Manager and staff member agree tasks and outputs for the next 12 months (including professional development opportunities), and 4. Final review and sign off by the Executive Secretary.

IATTC: N.A.

ICCAT: All the Secretariat staff members are evaluated every year. Each staff member is evaluated by his/her supervisor. The Executive Secretary makes the final review and decides the promotion.

NAMMCO: It is a ca 2-3 hours meeting. The staff has answered a certain amount of questions as preparation a few days ahead. The answers are reviewed and discussed during the performance meeting and point of action defined. I have attached the form I have been using.

WCPFC: -

SPRFMO: Annual performance reviews consist of a self assessment regarding tasks performed, strengths and weaknesses, areas for professional development, followed by a conversation with the Executive Secretary, and a final document based on the self-assessment incorporating comments from the ES and signed by both.

SEAFO: No.

28) Who does your CEO report to and how is her/his performance assessed?

CCAMLR: To the Commission through the Standing Committee on Administration and Finance. Assessed through the presentation of an Annual Report of the Executive Secretary (which in effect is a report on the 12-month implementation of the Secretariat's Strategic Plan).

IATTC: The Director of the Commission reports directly to the Commission, which may remove him/her at its discretion or, on the contrary, if satisfied with his/her performance may decide to renew his/her term for a further period of four years. Article XII, paragraph 1, of the Antigua Convention stipulates: "The Commission shall appoint, in accordance with the adopted rules of procedure and taking into account any criteria established therein, a Director, whose competence in the field of this Convention is established and generally recognized, in particular in its scientific, technical and administrative aspects, and **who shall be responsible to the Commission and may be removed by the Commission at its discretion.** The term of

the Director shall be of 4 years, and **he may be reappointed as many times as the Commission decides.**”

ICCAT: There is no performance evaluation of the Executive Secretary stated by the convention text. In 2009, it was agreed that every year the ICCAT Chair, the two vice Chairs and the Chair of STACFAD make the performance evaluation of the Executive Secretary.

NAMMCO: The GS report to FAC and Chair of council. Performance is assessed by the Chair of the Council.

WCPFC: Report to members and assessment done by Chair in consultation with members

SPRFMO: Commission chairperson on behalf of the Commission. No formal procedure identified

SEAFO: The Executive Secretary. Assessed by the Chairperson of the Commission.

29) Are there fixed terms for any staff within your organisation?

CCAMLR: Only the Executive Secretary – 4 years with the possibility of a single 4-year extension, subject to the approval of the Commission.

IATTC: No for the staff proper, since stability and continuity are considered as important factors for the carrying out of the responsibilities of the Secretariat. These concerns are strikingly reflected in the performance review itself regarding the situation of staff near retirement , with arrangements proposed for ensuring transmission of knowledge and experience to their successors. A post is not merely a post, it is understood to be a career (hence also the recommendations in the performance review regarding the need for an optimum human resources policy in terms of incentives and promotions etc). Only the Director is subject to a fixed term under Article XII, paragraph 1 of the Antigua Convention quoted above.

ICCAT: Yes, the Executive Secretary mandates are for 5 years with possibility of extensions for more mandates. Other staff can have permanent positions and retire at the age of 62 (though under special circumstances the Executive Secretary may further extend their contract), while other staff may be contracted for a specific period (e.g. those contract within the scope of specific programmes).

NAMMCO: One permanent position and two on (varying) fixed terms, renewable.

WCPFC: Two terms of 4 years before position must be advertised, staff eligible to reapply.

SPRFMO: Only Executive Secretary

SEAFO: Yes

30) How is internal communication within the Secretariat of your organisation carried out?

CCAMLR: Face-to-face (1-on-1 or group meetings) and email primarily.

IATTC: There is a constant, flexible and direct communication between all staff members, since most tasks involve a degree of permanent collaboration and exchanges; this communication is mostly done through email, but also through face-to-face meetings, including with supervisors, the Director, and in collective meetings such as preparatory and post-mortem meetings before and after meetings of the Commission and its subsidiary organs; information is also a change through the intranet and internal newsletters, in addition to the postings on the Commission’s website. The review performance has addressed specifically this issue and has

formulated several recommendations for which specific actions have been proposed in the draft Action Plan, including the appointment of a communications officer.

ICCAT: The Secretariat is functioning as stated in the convention text and rules of procedures. There are also staff rules adopted by the commission which are published in the web page. The Executive Secretary has established a rule to hold regular weekly meetings with the Head of Departments. These meetings constitute an opportunity to go through all the pending issues and adopt the actions to address any requested task.

NAMMCO: We are three, so we talk together . We also use emails though. We have also started having a special “holiday” folder, where we note issues coming up during holiday of a staff member, so we avoid sending work-related mails during holidays.

WCPFC: Guided by a communication plan.

SPRFMO: We speak, email, text ☺. We have regular staff meetings...

SEAFO: Just two staff members – so verbally and by emails /letters.

### **External relationships**

31) How does your organisation cooperate with external organizations, is this cooperation normally covered by MoUs, or equivalent documents?

CCAMLR: Member-to-member; Secretariat-to-Secretariat; reciprocal Observer stats at each other’s meetings, occasional joint workshops, MoUs and Arrangements (CCAMLR with CCSBT, SIOFA, SEAFO, WCPFC, ACAP and SPRFMO).

IATTC: Without prejudice to informal cooperation, in most instances, especially when specific actions must be undertaken, cooperation with external organizations is formalised through the signature of MoUs or letters of agreement. The framework MoUs signed with other international organizations are generally posted on the Commission’s website. Of these , to date , three have been signed with WCPFC, one with CPPS and in July 2017 one with ACAP. There are a number of other MoUs and letters of agreement that have not been posted, some of them still in force until the finalization of the concrete projects that they cover, mostly with universities and research institutions.

ICCAT: In most cases the cooperation with other international organizations is covered by MoUs.

NAMMCO: NAMMCO has a MoU with ICES and reciprocal observer agreement with other bodies. NAMMCO cooperates at the scientific level with many organisation and have joint WG with the Greenland/Canada Joint Commission for Narwhal and Beluga and with ICES and NAFO (ICES/NAMMCO/NAFO joint WG on harp and hooded seals). NAMMCO has also been cooperating with hunters’ associations outside of any formal agreement. Whalers and sealers associations from NAMMCO countries are often represented in national delegations. Council 24 decided the following:

*In general, with climate change and unforeseeable consequences for marine mammals, the Council agreed that it was essential to increase the scientific cooperation between organizations dealing with marine mammals. NAMMCO should therefore aim at strengthening its cooperation with the Arctic Council, the International Council for the Exploration of the Sea (ICES), the International Whaling Commission (IWC), OSPAR, the Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas*

*(ASCOBANS) and any other international instrument, which may require the advice of NAMMCO. (Point 12.3 of meeting report).*

Following this, the secretariat has sent an invitation for an increased cooperation to ASCOBANS and to conduct a joint assessment of harbor porpoise stocks in the North Atlantic.

WCPFC: Usually by MOU of cooperation.

SPRFMO: We have so far two formal agreements (MoU with ACAP and Arrangement with CCAMLR) but we collaborate with other organizations on matters of common interest (e.g. FAO and other UN Orgs, CPPS and other RFBs, etc.).

SEAFO: MoUs and without MoUs.

32) Are these MoUs, or equivalent documents, subject to agreement by your GC or is this within the discretion of your CEO?

CCAMLR: Commission.

IATTC: This depends upon the scope and purpose of the MoU. Most are entirely within the discretion of the Director, in the framework of the implementation of the general work plan that has been approved by the Commission, but others are developed within the Commission itself or with its review and approval (e.g. the IATTC-WCPFC MoU on crossed endorsed observers).

ICCAT: All MoUs between ICCAT and other organizations should be submitted by the Secretariat to the Commission for approval.

NAMMCO: They are subject to agreement by Council

WCPFC: Must be cleared by GC

SPRFMO: Subject to agreement by the Commission

SEAFO: Agreement by GC

33) Are these MoUs, or equivalent documents, subject to review and assessment? If so, how is this undertaken?

CCAMLR: Varies – some 3 years; others open-ended and at the discretion of one of the Parties.

IATTC: To date and in view of the nature of the MoUs and their content, there has been no need to establish a formal process of their review and assessment as such; what is reviewed and assessed are the activities that are carried out through the implementation and their results.

ICCAT: The Secretariat is requested to submit reports on the progress made on the implementation of the tasks stated by the MoUs.

NAMMCO: NO, but they should. The Secretariat has however started a process of reconfirming observer status of the different observer organizations.

WCPFC: Depend on terms of MOU most have review provisions.

SPRFMO: No.

SEAFO: Agreed on during GC meeting.

34) What are the main ways in which your organisation communicate with external bodies and persons (newsletter, web etc)?

CCAMLR: Personal contact, email, website.

IATTC: Relations with other bodies and individual persons have been always given much attention within the Secretariat. For instance, frequently the Secretariat receives requests for information including from researchers or journalists; they are assigned to the most relevant staff member and respond directly generally through email. In more general terms, in addition to the communications and information that are sent directly to external bodies and persons and newsletters and quarterly and yearly reports, the main hub for the external provision of information is the website of the Commission that shall be overhauled in a near future. An IATTC Facebook account has been opened also ... No Twitter yet ... As noted above, the performance review report has recommended improving this aspect of the work of the Secretariat which led to the recommendation of the appointment of a specific communications officer, which is still to be formally endorsed by the Commission.

ICCAT: Communication with external bodies and persons is generally made by official letter or emails. The Secretariat refers always to the HD delegates to communicate with individual. The Secretariat tries to communicate through Government representative and avoid to establish a direct dialog with individuals.

NAMMCO: To persons by mails, letters and telephone. Our website has been completely renewed and opened in April 2017. We want the website to be the hubs of communication, both internal and external and also serve as a dissemination interface. Our Facebook site is mostly used as a teaser to the information on the website. NAMMCO adopted (for the first time) both a Communication Strategy and a two-year Communication Plan at its last Council meeting (Council 25, April 2017).

WCPFC: Website, e-newsletter, circulars

SPRFMO: Web, email, personal communications at meetings

SEAFO: The executive secretary belongs to RSN (Regional Secretariate Network) who shares common goals with other RFMO's. Work together mostly through international meetings and projects

### **Other**

35) Does your organisation have any mechanisms for capacity building and assistance for developing states? If so, could you please elaborate?

CCAMLR: Not specifically developing States but CCAMLR does support a Science Capacity Special Fund through voluntary contributions from Members available to early career scientists from all Members. A proposal to the global Environment Facility is currently in preparation to support capacity building for engagement in CCAMLR for 5 GEF-eligible CCAMLR Members: India, South Africa, Namibia, Chile and Ukraine.

IATTC: In 2011, the Commission adopted a resolution (C-11-11) on the creation of the special sustainable development fund for fisheries for highly migratory species to strengthen the institutional capacity of developing countries and territories, which was amended in 2014 through resolution C-14 -03. A considerable step forward was made with that second resolution, since Members agreed to provide an additional contribution to the fund for an

amount of 2% of the approved operative budget of the Commission. As an illustration of the categories of activities to be undertaken with the support of the fund, it is possible to mention those that were proposed by the Secretariat for 2018 and approved afterwards by the Commission upon recommendation of the Committee on Administration and Finance.

	Activity	Monto
1	Establishment of an annual IATTC scholarship for developing scientific capacity in developing CPCs (see Annex 2 for details)	US\$ 30,000
2	Development of an annual training course for creating capacity for developing CPCs, on matters such as sampling methods, stock assessment, and fisheries policy, among others	US\$ 20,000
3	Development of a workshop in Central America for guidance on the various reports to be sent to the Secretariat under the various existing resolutions	US\$ 40,000
4	Participation of representatives of developing Members in the annual meeting of the Commission and its subsidiary bodies	US\$ 45,000

ICCAT: Yes, ICCAT has a number of capacity building and meeting participation funds. At its 2005 meeting, the Commission decided to make assistance to developing coastal States a permanent item on the annual meeting agenda. Since then, the Commission has been formalising assistance to developing ICCAT Contracting Parties through the adoption of specific recommendations, such as:

- Recommendation by ICCAT on the Establishment of a Meeting Participation Fund for Developing ICCAT Contracting Parties [Rec. 11-26], adopted in 2011.
- Recommendation by ICCAT on the Establishment of a Scientific Capacity Building Fund for Developing States which are ICCAT Contracting Parties [Rec. 13-19]. It was adopted in 2013 and establishes a special Scientific Capacity Building Fund (SCBF) to support scientists from those ICCAT Contracting Parties which are developing States in their need to acquire knowledge and develop skills on ICCAT related issues.
- Recommendation by ICCAT Amending Recommendation 11-26 on the Establishment of a Meeting Participation Fund for Developing ICCAT Contracting Parties [Rec. 14-14], adopted in 2014.

Additional information can be found at: <http://iccat.int/en/meetingsFunds.htm>

NAMMCO: Our states are all developed . No established mechanisms for capacity building (CB) of the organization and secretariat, but CB is on the agenda of the next HoDs meeting at the initiative of the new Council chair, with a SWOT review of all committees and secretariat.

WCPFC: We manage a special requirement funds for developing states which is funded by voluntary contributions

SPRFMO: Yes, a fund has been set up in accordance with Convention Article 19 (Recognition of the special requirements of developing States). Guidelines for the administration are detailed in Annex 1 of the Financial Regulations.

SEAFO: We have supported training of observers and port inspectors previousy and in future

36) Do you have any other general comments regarding Governance within your organisation?

CCAMLR: No. It works well.

IATTC: No.

ICCAT: None.

NAMMCO: The Secretariat has an essential role and is certainly a driving force of the organization.

WCPFC: The WCPFC Convention; Rules of Procedures; Finance Regs all on our website.

SPRFMO: No

SEAFO: I am new to this type of organisation, so still very foreign to me to run an organisation basically on one meeting a year.

37) Do you have any other comments relevant to the IWC review?

CCAMLR: CCAMLR will consider a second review of its performance at this year's annual meeting in October.

IATTC: No.

ICCAT: None.

NAMMCO: Council 25 has endorsed the process of a Performance Review of NAMMCO, but has decided to ask organizations (FAO, IWC, NAFO) to propose members to the Review Panel and not to choose them themselves, to keep the review as external as possible. All NAMMCO documents can be found on the website, including RoPs of all committees and council.

WCPFC: No.

SPRFMO: No

SEAFO: No

## **ANNEX D**

# **DETAILED RESULTS FROM THE SURVEY**

### Analytical summary of survey responses

#### 1. Introduction.

At its last meeting in 2016 (IWC66), the IWC, through its Resolution 2016-1, agreed to undertake an independent review of the Commission's institutional and governance arrangements. Accordingly, the review is being carried out by a review panel of three experts selected by a Steering Group of Contracting Governments. The task of the review team is to deliver the following for consideration by IWC67 in 2018:

1. A comprehensive review of the Commission's institutional and governance arrangements (including an Executive Summary);
2. Recommendations for reform that will enhance the Commission's effectiveness (recommendations should be prioritised);
3. A draft roadmap for implementing the recommendations;
4. Proposed performance indicators to track the implementation of reform measures.

According to the terms of references for the review, the review panel will not consider the text of the Convention and the Schedule, the conservation and management status of cetaceans, Contracting Governments' compliance with the Convention and Schedule, or aligning the Commission's operations with the International Court of Justice's judgement in the case concerning Whaling in the Antarctic.

As part of the review effort, a questionnaire was prepared and sent broadly to IWC stakeholders, by July 4<sup>th</sup>, 2017, with a deadline set as **August 4<sup>th</sup>, 2017, which was later postponed to August 21<sup>st</sup>. This report summarizes the main findings of the collected responses.** Despite the questionnaire was sent, by e-mail, to about 600 stakeholders, including all commissioners, Contracting Governments, SC members, NGOs and IGOs, only 38 of them responded (around 6.5%), indicating a very low rate of responsiveness, either because the stakeholders were not interested in the survey itself, or because they judged the survey not relevant to the process. Most of the responses (8) were sent in the same day the survey was distributed, with a second peak (6) being recorded on the first deadline set (Fig. 1). The categories for the respondents were: a) Contracting government representative; b) Intergovernmental Organization observer; c) Non-Member Country observer; d) Non-Governmental Organization observer; e) Secretariat staff; f) Committee/sub-committee/working group chair; and g) Other. The answers should be rated according to a satisfaction scale from 5 to 1: 5) Very Satisfied; 4) Satisfied; 3) Moderately satisfied. 2) Unsatisfied. 1) Very unsatisfied. Specific views and comments to each question, including suggestions for improvements, could also be provided, as a free text, in additional comments. Most of the respondents were from representatives from contracting Governments (41%), followed by non-governmental organizations (16%). Together, these two categories accounted for the majority (57%) of the responses received (Fig. 2). There was no response from a non-member country observer.

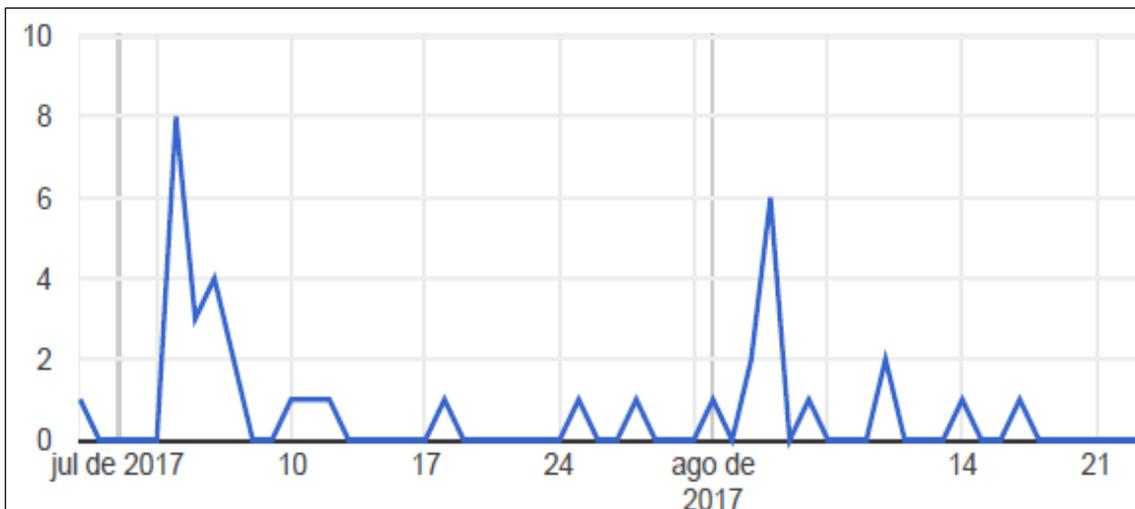


Figure 1- Distribution of responses to the survey distributed to IWC stakeholders, as part of the independent review of the Commission’s institutional and governance arrangements, by submission date.

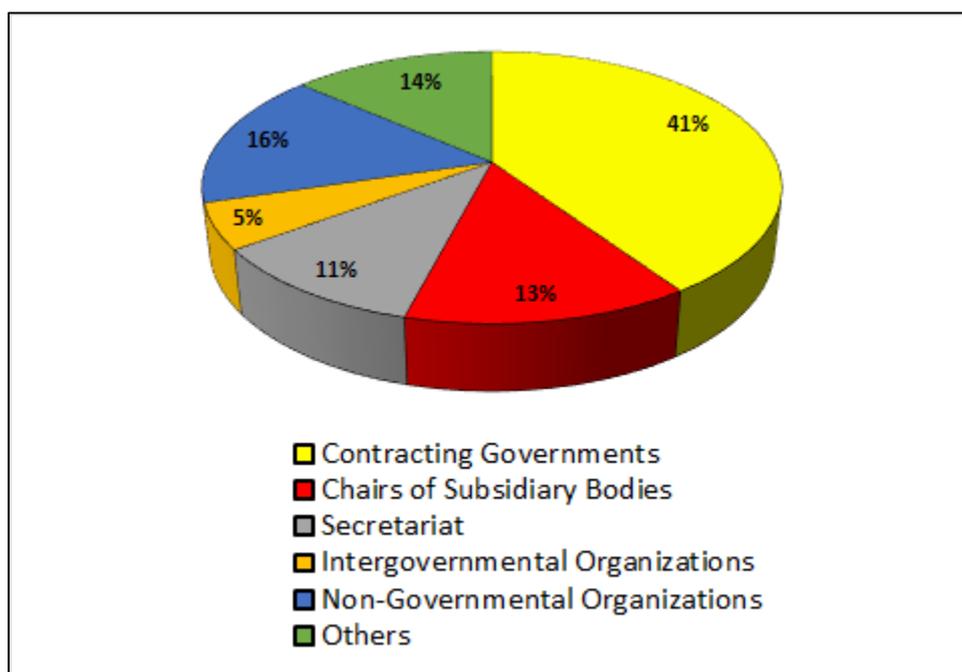


Figure 2- Distribution of responses to the survey according to the different categories.

The responses were analyzed first in a general manner and then by different subgroups, since in many cases the grouping of responses from different subgroups diluted the signal given by them. For the same reason, the responses from the Governments that are known to be more pro-conservation were analyzed separately from those known to be more pro-sustainable-use. Almost all responses showed a normal and unimodal distribution.

## 2. Overall analysis of the responses.

The effectiveness of the decision-making process of the Commission (for adopting resolutions, work programs, strategic directions, establishment of new subsidiary bodies etc.), was, in general, considered to be satisfactory, with the mode placed on rate 4 (37.8%) (Fig. 3). The Secretariat (3.7), followed by NGOs (3.6), Others (3.4) and pro-conservation Governments (3.3) considered the decision-making process more effective than the Chairs of subsidiary bodies (2.4) and the pro-sustainable-use Governments (2.2), clearly showing a higher degree of frustration in these last two subgroups. Efficiency was rated lower than effectiveness, with a mode on 3 (Fig. 4), with the Chairs of subsidiary bodies (3.2) and the pro-sustainable-use Governments (2.2) again presenting the lowest rates. Likewise, the Secretariat (3.5) and the pro-conservation Governments (3.4) were once more among the most optimistic about the efficiency of the decision-making process, but not the NGOS (3.2). The main problems related to the decision-making process identified by the respondents were:

- a) the lack of capacity by the Commission to define priorities and consequently to set the strategic directions for future work of the organization and its subsidiary bodies, which presently are quite autonomous;
- b) the disconnection between the negotiation/ agreement of Resolutions and the work programme of the Commission; i.e. the resolutions very often do not stem from the work done by the Commission subsidiary bodies, its subcommittees and working groups, but from the political agenda of the parties;
- c) the lack of appropriate time to discuss matters before decisions are made;
- d) the lack of clarity for quorum requirements, vis-à-vis the rules of procedure, and on the nature of decisions made (e.g. administrative issues x policy advice);
- e) the lack of capacity by the Commission to enforce compliance to its decisions and resolutions;
- f) the deficient communication with the Scientific Committee, making it difficult to track the implementation of decisions and to determine work programmes, including the assessment of their progress or even if they have already been completed;
- g) the lack of clear rules for establishing new subsidiary bodies and the consequent proliferation of new subgroups, slowing down the decision-making process and making it more complex. New subgroups, therefore, should have a clear focus and a time limit on their existence so that they could support rather than delay the decision-making process;
- h) the too frequent voting for non-binding and less important decisions, not allowing enough time for the discussion needed on the more important and fundamental decisions;
- i) the severely polarized views of IWC members, combined to the need of a 3/4 majority for making a decision, rendering the Commission incapable of deciding on issues of strategic importance.

Despite these problems, a significant progress in recent years was recognized by many subgroups, including the change in the schedule for biennial meetings, considered to be quite positive financially, without having a negative impact on the Commission's ability to make decisions. Nevertheless, some respondents did identify the new periodicity of meetings as

potentially slowing down the decision-making process, and raising the need to find an alternative method for agreeing on interim decisions when they are required.

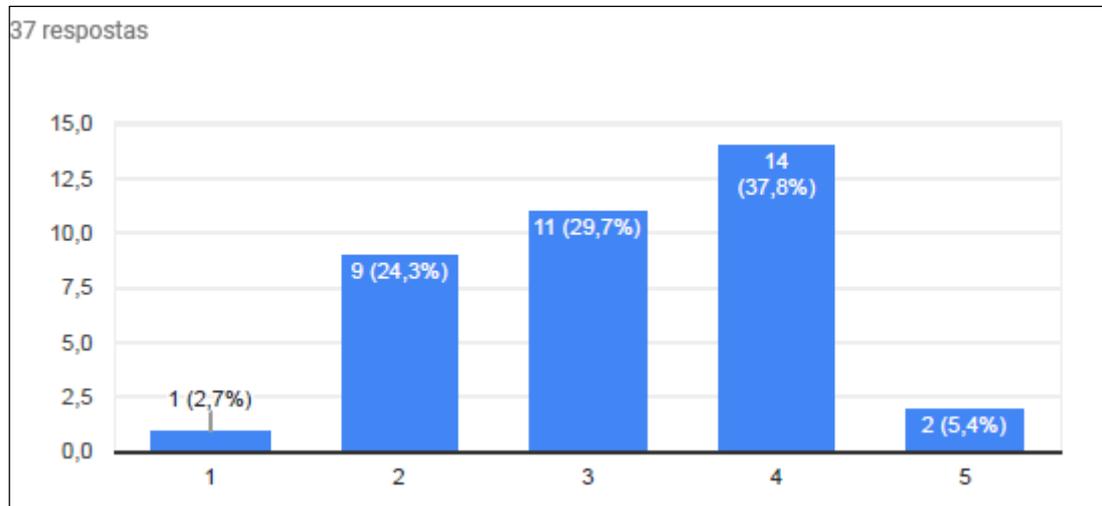


Figure 3- How do you rate: The effectiveness of the decision-making process of the Commission (for adopting resolutions, work programs, strategic directions, establishment of new subsidiary bodies etc.)?

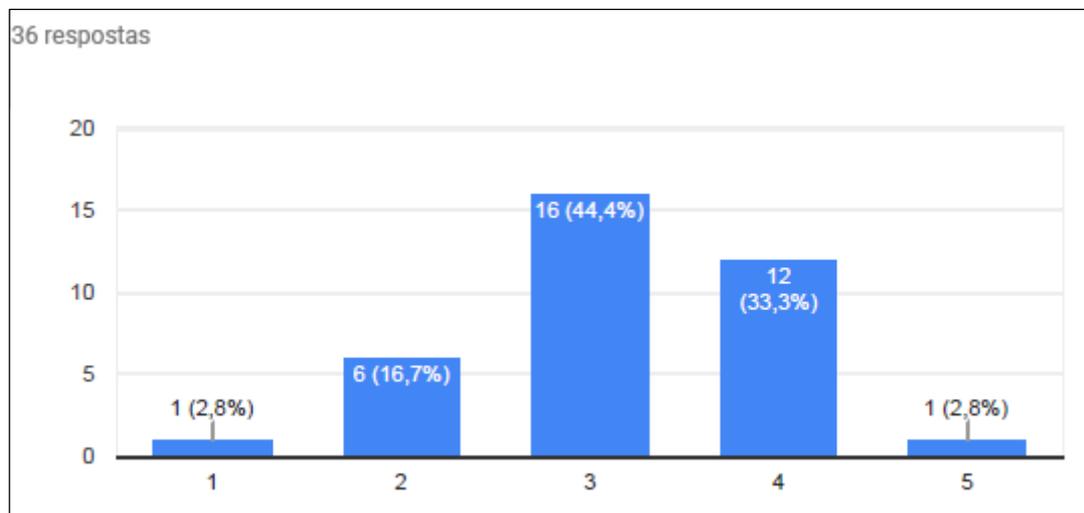


Figure 4- How do you rate: The efficiency of the decision-making process of the Commission (for adopting resolutions, work programs, strategic directions, establishment of new subsidiary bodies, etc.)?

The role of observers was considered generally satisfactory, with almost 60% of the respondents giving it a rate of 4. The mean rate was relatively high for the Chairs of Subsidiary Bodies (3.7), the Secretariat (3.7), pro-conservation Governments (3.6), IGOs (3.5) and Others (3.6), with an overall recognition of a significant improvement in recent times. Even the NGOs

gave it a rather positive rate (3.4), while recognizing, at the same time, the need for a broader participation of observers in discussions previous to the submission of resolutions to the plenary. The pro-sustainable-use Governments, on the other hand, gave it one of the lowest rate of all (1.7), because of the excessive participation, in their view, of NGO observers in the discussions, not contributing to a constructive and fundamental debate, and, therefore, decreasing the effectiveness of the Commission. This should be naturally expected, since the vast majority of the NGOs participating in IWC meetings are pro-conservation.

In line with the ratings given by the different subgroups, except for the pro-sustainable-use Governments, most of the respondents were of the view that the participation of observers in the work of the Commission should be strengthened, to make the organization more open to civil society, particularly in the intersessional work of the Commission. In this regard, however, a significant improvement in recent years was again noted by many. The need for further improvement was, nevertheless, highlighted, possibly by amending the rules of procedure, to further clarify their role and the rules for their participation, (e.g. allowing their participation in drafting groups, which presently is left to the discretion of the chair; defining when and how long they could talk; providing them with a seat at the meeting table, name placards; etc.).

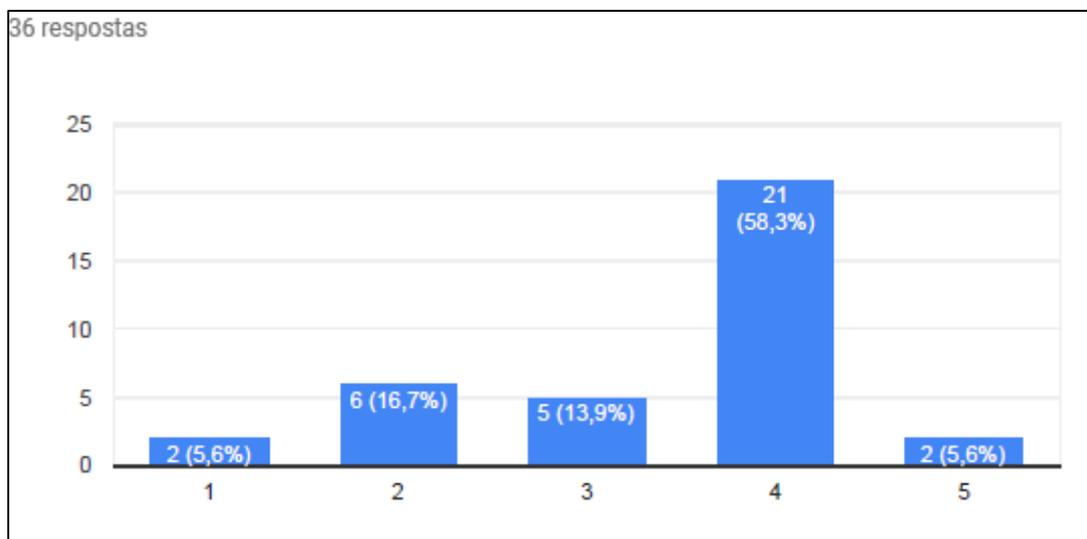


Figure 5- How do you rate: The role of observers in the Commission?

The interaction between the Commission and the Scientific Committee received a rather low rating, with almost half of the respondents giving it a score of 3 (42%) (Fig. 6). The mean rate ranged from 3.0 to 3.6 in all subgroups, except for the pro-sustainable-use Governments, which, on average, rated it 2.0, considering it, therefore, unsatisfactory. According to this subgroup, some instructions from the Commission are irrelevant or not important at best to the SC, therefore disturbing its genuine work, which should focus purely on scientific issues. Other problems identified by the respondents are indicated below, many of which were already pointed out in the topic related to the effectiveness and efficiency of the Commission decision-making process:

- a) poor communication between the Commission and the SC, resulting in lack of mutual understanding. Communication difficulties were noted not only between the SC and the Commission, but even within the SC itself, mainly because of the excessive control exerted by the Head of Science over the flow of information;

- b) lack of enough time to properly debate and discuss the Scientific Committee's work and recommendations;
- c) the vast amount of work done by the SC and the consequent difficulty to translate it in an understandable, user-friendly manner to the Commission. SC report and presentation were considered too technical for Commissioners and other delegation members to understand properly, in the short time available, making the identification of priorities particularly difficult;
- d) the lack of commitment from the Commission to follow the scientific advice, even when the message was properly conveyed by the SC;
- e) the relatively limited number of people involved in both bodies;
- f) lack of accountability and poorly defined expectations between the two bodies;
- g) little opportunity for the Commission to guide the work of the SC and to ensure its priorities are aligned with its own, partly because the SC work program and budget is presented at Commission meetings largely as a *fait accompli*. According to many respondents, the Scientific Committee is too independent from the Commission, self-determining its own agenda, which is generally over-sized.
- h) no system or process in place to ensure the follow-up and the monitoring of the implementation of decisions made.

The Commission should have a much clearer and stronger role in establishing the priorities, the working program and in allocating the budget of all subsidiary bodies, including the SC and the Secretariat.

The following measures were suggested as possible ways to improve this situation:

- a) a revision of the meeting schedule of these two bodies, with more opportunities and time for them to interact (e.g. holding specialist workshops and other preparatory activities during the intersessional period);
- b) making the SC report and its presentation to the Commission, including scientific advice and recommendations, more clear and concise;
- c) preparing a streamlined and well-focused work plan/ budget, with a clear definition of the priorities they will address, in conformity with the Commission's priorities;
- d) following-up and monitoring the implementation of previous recommendations and decisions tasked to the SC, by the Commission. According to some respondents, recent changes in the SC processes regarding prioritizing research needs have been a positive step forward, to ensure that the SC's work reflects the priorities established by the Commission.
- e) a system, such a regular audit, to ensure conformity of the agenda and work of the SC and other bodies with decisions and recommendations of the Commission.

Despite the several problems identified by the respondents, a significant progress in recent years was noted, with the Commission becoming more engaged and functional. The SC was recognized as the glue that has held the IWC together during difficult political times. The increased communication and collaboration between the SC and the CC was highlighted as a positive step that should be expanded to other subcommittees (such as ASW and SC).

36 respostas

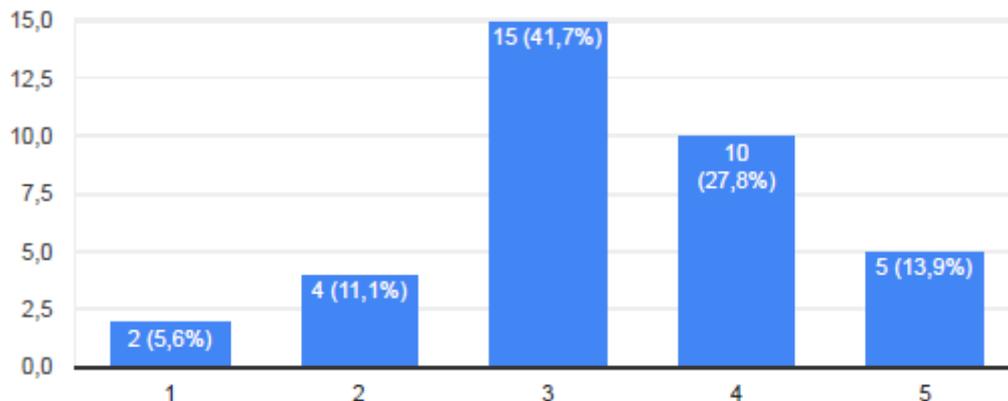


Figure 6- How do you rate: The interaction between the Commission and the Scientific Committee?

Despite the mode of the responses on the process for reflecting recommendations by the Scientific Committee into the Commission's decision was also placed on 3, the mean rates by subgroups were much lower, ranging from 1.0, given by the pro-sustainable-use Governments, to 3.5, given by the Secretariat. According to the pro-sustainable-use Governments, the Commission disregards the SC's advice in relation to setting catch limits, therefore, violating Article V 2 (b)<sup>1</sup>. On the other hand, some proposals for schedule amendment are also not based on scientific findings, thus again violating Article V 2 (b) and evidencing the absence of any process to check the compatibility of the proposals with the requirements prescribed by the Convention. Other problems identified by the respondents were:

- a) the budget/ funding needs for each of the stand-alone recommendations are not clearly specified and should, therefore, be included in future SC reports;
- b) the limited time available for the SC to present its report and recommendations to the Commission during the biennial plenary meetings prevents it from receiving the consideration by the Commission it deserves. Besides, despite some recent improvements, the way they are presented is still too complex and difficult to understand;
- c) decisions are based much more on politics than on science.

The need for the SC to augment its field of experts, since many of them are already nearing or even passing their retirement age, was also noted as an urgent measure to improve this situation. Notwithstanding, most of the respondents recognized a significant improvement in the way the Scientific Committee is now drafting its report and presenting its recommendations, which has become more direct and clearly organized, providing enough context for the Commission to understand their justification and the intended follow-up required, by which body. The new format of the SC presentation of recommendations to the Commission, therefore, has been noted as a good improvement, notwithstanding the need for a better way to establish the priorities.

On the interaction between the Commission and other Committees, sub-committees and working groups, despite the mode located in 4 (Fig. 8), the mean rate by subgroups ranged

<sup>1</sup> Article V. 2. These amendments of the Schedule (b) shall be based on scientific findings;

from 1.8 to 3.4. Again, the pro-sustainable-use Governments gave the lowest mean rate (1.8). The main problems identified by the respondents were:

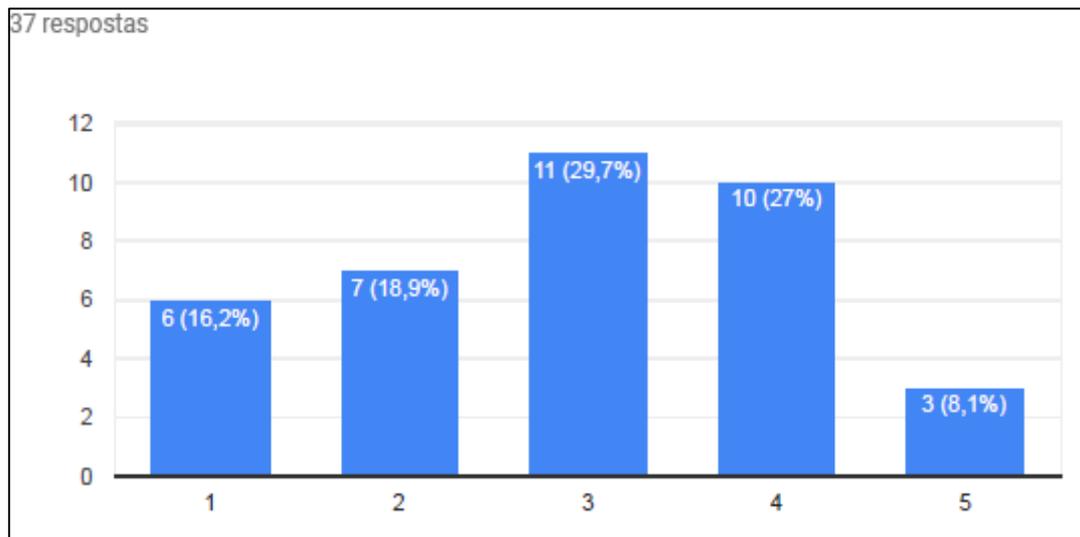


Figure 7- How do you rate: The process for reflecting recommendations by the Scientific Committee into the Commission's decision?

- a) a severe duplication of work between some committees and sub-committees, aggravated by the Commission's failure to streamline the inefficient allocation of tasks. Due to the unclear mandates of the Conservation Committee and the Scientific Committee, for instance, many issues are covered simultaneously by both of them;
- b) the lack of time for the Commission to consider the reports and recommendations stemming from those bodies, with very little room for questions/ clarification/ discussion;
- c) the lack of coordination, cooperation and synergy between them;

In order to overcome these difficulties, the following needs were then recognized:

- a) the need for the Commission to play a greater role in setting the work program and budgets of its subsidiary bodies;
- d) the need for a broader participation of all interested member governments in the work of the Commission, including in all Committees, Sub-committees and Working Groups (sub-groups);
- e) the need for a better mechanism for these subsidiary bodies to present their results and recommendations to the Commission.

If these needs were fulfilled, the effectiveness of the decisions taken by the Commission would also increase, since they would more easily stem directly from the work done by the subsidiary bodies. Besides, if the Resolutions adopted could be more linked to the work of sub-committees and their work programmes, then there could be more time for some substantive discussion of these work programmes by the Commission, beyond the more political issues that usually dominate present discussions, notwithstanding recent progress. To that aim, standardized terms of reference, work plans and clear reporting processes should be established

for all subsidiary bodies. The creation of the Bureau was seen as a useful reform in the right direction, but the need to clarify its role as a non-decision making body was also noted. The strong prominence given to the SC and on lethal research, in detriment of the other subsidiary bodies, such as the Conservation Committee, was seen by some as an imbalance that was not compatible with the present priorities of the Commission.

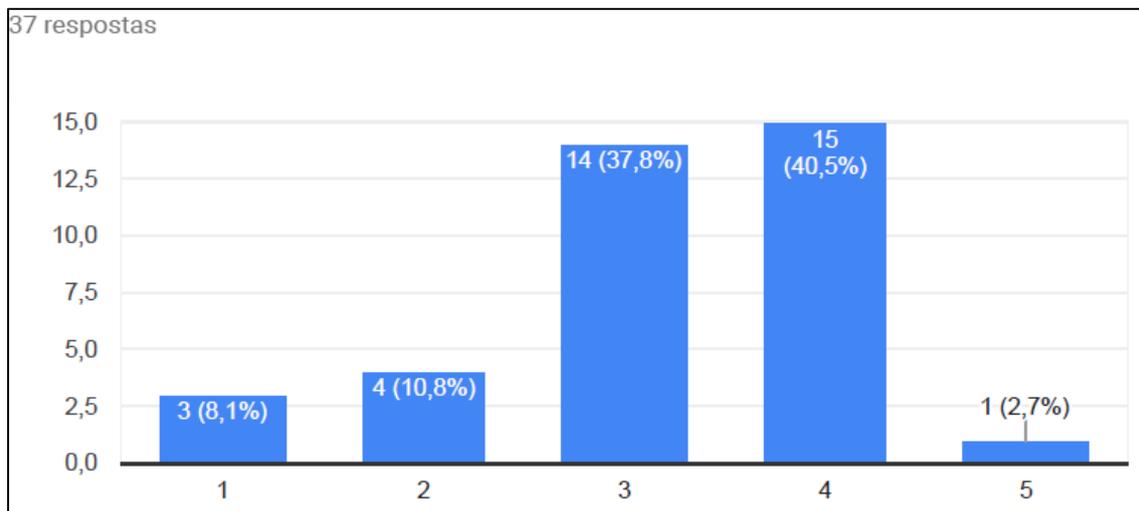


Figure 8- How do you rate: The interaction between the Commission and other Committees, sub-committees and working groups?

The process by which Commission decisions are transmitted to and implemented by committees and the Secretariat also had a mode on 4, with half of the respondents expressing satisfaction with it (50%) (Fig. 9). The mean rate by subgroups, however, were much lower, ranging from 2.7 to 3.6. The lowest mean rate was given by the Secretariat and by the pro-sustainable-use Governments. In the case of this last subgroup, mainly because, in their view, the instructions from the Commission are not compatible with the mandate of the committees. The other problems identified by the different subgroups were:

- a) the process by which Commission decisions are transmitted to and are implemented by committees and the Secretariat is largely dependent on the Chair of those subsidiary bodies. The Secretariat/ Chairs sometimes take decisions by themselves, prioritizing according to their personal criteria;
- b) the singular use of resolutions to transmit a range of instructions and advice does not lend itself to decisions being transmitted and implemented in an efficient manner. This could be overcome by separating out resolutions and decisions, as done in other organizations (e.g. CITES, CMS, etc.);
- c) the language used is, in some cases, unclear, making decisions open for interpretation. Legal counsel/advice (based on the Convention, RoP and/or international regulations) could be helpful to avoid this when the Commission takes its decisions;
- d) the lack of an established process to routinely monitor and review the progress in the implementation of the recommendations, noting that some Commission decisions/recommendations are for implementation by Member Governments (e.g. aboriginal catch limits, proposals for Sanctuaries/Marine Protected Areas, etc.), not by the committees or by the Secretariat themselves. There is no formal process for committees and the Secretariat to

report back on decisions which have tasked them with specific activities. Decisions should be explicit about this requirement.

Some suggested measures that could be taken by the Commission to address these problems were:

- a) as already proposed in the previous item, to develop standardized terms of reference, work plans and clear reporting processes for all subsidiary bodies, as a means to standardize procedures and ensure accountability, including a formal system to follow-up the progress in the implementation of resolutions, clarifying which of them are still applicable today;
- b) to publish the Commission Report in paper, giving it a higher status, not only as a record of the decisions taken, but also as a guide of the priorities and tasks given to the subsidiary bodies.

In this regard, the summary document/ table of decisions from the Commission meeting was considered a very helpful document, which, over the past few years, has been available at the conclusion of each Commission meeting, to guide its work. The working group to develop a draft structure and process for populating a web-accessible database for recommendations and outcomes established by the joint working group of the conservation and scientific committee was also seen as a positive step into the right direction.

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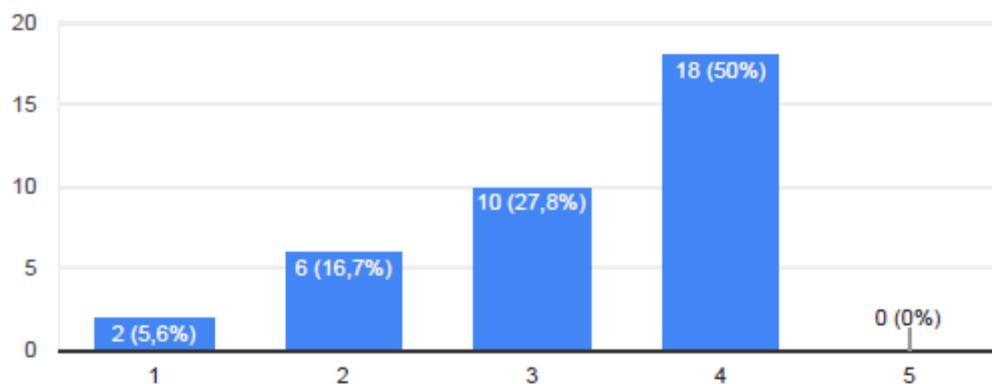


Figure 9- How do you rate: The process by which Commission decisions are transmitted to and implemented by committees and the Secretariat?

The process for allocation of the Commission’s resources to Committees, sub-Committees and working groups, with a mode on 3 (Fig. 10), was considered as not sufficiently democratic, unclear, unbalanced, not transparent and not aligned with the present priorities of IWC, by most of the subgroups, with different combinations of these adjectives. The lowest rate (2.7) was given by the NGOs, who complained of too many resources, including both money and staff, being allocated to lethal research on whales, and, therefore, to the Scientific Committee, in detriment of the Conservation Committee and other bodies, which have to depend heavily on extra-budgetary, voluntary funds. Similar positions were also expressed by the pro-conservation Governments, the Chairs of subsidiary bodies, the Secretariat, IGOs and others.

The pro-sustainable-use Governments, however, with a mean rate of 3, had an opposite view. They criticized the process for already putting too much money in work streams that were not relevant to the IWC original objectives, i.e. the sustainable use of whales. Many of the subgroups suggested the Commission should have a greater role in setting the budgets of its subsidiary bodies, with a better setting of priorities and focused agendas, structured in a pragmatic workplan.

Half of the respondents gave a rate of either 4 or 5 to IWC cooperation and communication with other international and regional institutions, indicating a good level of satisfaction (Fig. 11). Most of them noted a significant improvement in recent years, recognizing the commitment and efforts done by the Secretariat in this regard. As a result, a much better cooperation has been established with several international bodies (e.g. the Indian Ocean Rim Association; the Pacific Regional Environment Programme, IOTC, CCAMLR, IMO, CBD, CMS, including ASCOBANS and ACCOBAMS, FAO/ COFI, etc.). The participation of the Executive Secretary in meetings of the Biodiversity Liaison Group (the heads of biodiversity convention secretariats) was also welcomed and encouraged to continue. The continuation and strengthening of these efforts were considered critical, requiring an increasing level of support from the Commission and within the Secretariat. The hiring of a professional to solely liaise with other institutions was, thus, suggested.

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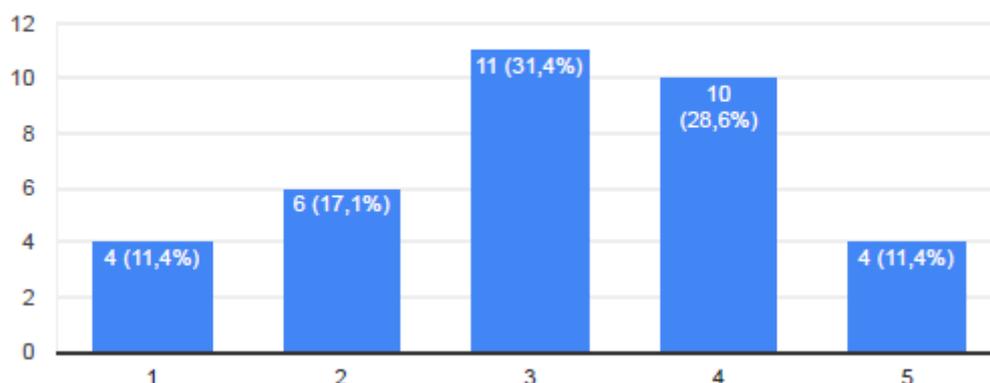


Figure 10- How do you rate: The process for allocation of the Commission’s resources to Committees, sub-Committees and working groups?

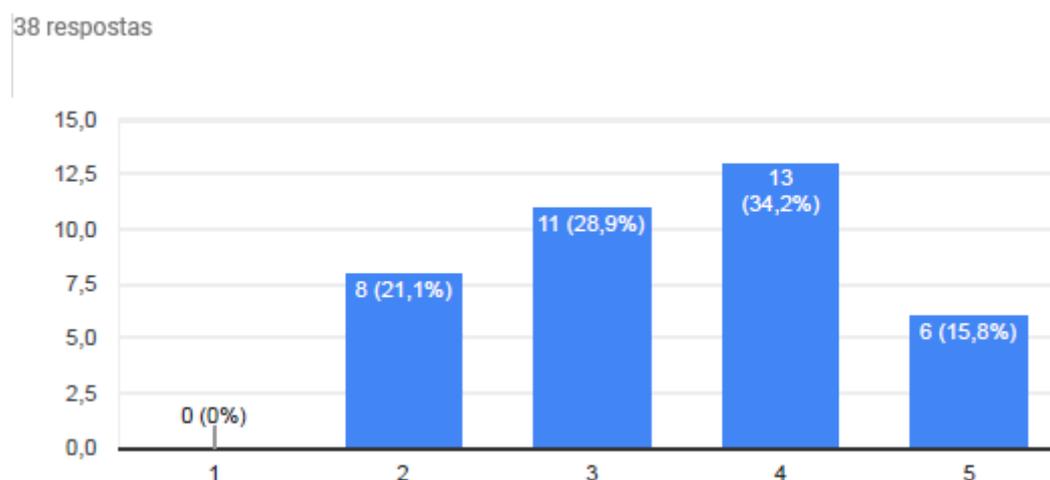


Figure 11- How do you rate: IWC cooperation and communication with other international and regional institutions?

The IWC effectiveness in reviewing arrangements of other institutions in order to learn lessons, adopt best practices and align governance arrangements, despite also having the mode on 4, received a less favorable rating than the previous topic, with the majority of the respondents giving it a score equal to 3 or lower (64%) (Fig. 12). The polarized condition faced by IWC, differently from other international institutions, was noted as adding further difficulty in this regard. A significant improvement in recent years, however, was again recognized by most of the subgroups, including a number of important reforms resulting from IWC initiatives. The examples given included moving to biennial meetings; establishing a Bureau to oversee the Commission's work in the intersessional period; developing means of supporting governments of limited resources to participate in the work of the Commission; and strengthening the role of the Finance and Administration Committee (FAC). The ongoing performance and governance review was also recognized as another initiative resulting from that effort. Most of the respondents, nevertheless, noted that much more can and should still be learned by IWC from other organizations.

Almost half of the respondents (44%) gave the strategic approach of the Commission, including the process for determining priorities, a score of 2, the lowest of all items related to it, indicating an overall dissatisfaction by the respondents (Fig. 13). The main reason for that was again the polarized positions of the parties, with very little room for compromise, rendering the development of an overarching strategy virtually impossible. According to the respondents, the only attempt to develop a strategic approach was the "future process", which failed. Because of that, strategic planning in the Commission presently seems to be confined to subcommittees and working groups, in a rather independent and disconnected manner. The need for the Commission to play a much greater role in determining its strategic priorities, including for its subsidiary bodies, by means of a strategic plan or, at least, a biennial programme of work, and allocating its resources accordingly was, therefore, emphasized. As noted by some, an important positive side effect of such strategic planning would be the strengthening of the link between the established priorities and the budget/ fund allocation.

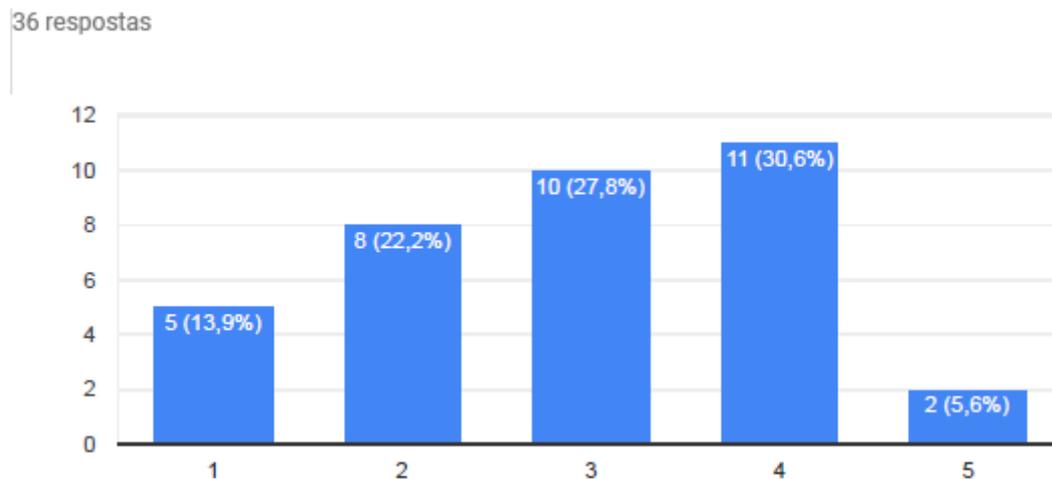


Figure 12- How do you rate: IWC effectiveness in reviewing arrangements of other institutions in order to learn lessons, adopt best practices and align governance arrangements?

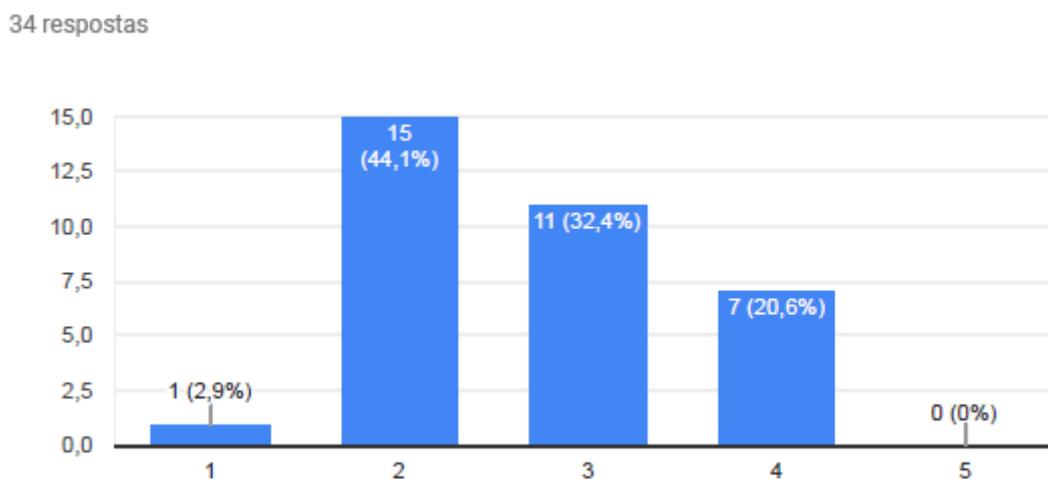


Figure 13- How do you rate: The strategic approach of the Commission including the process for determining priorities?

The opportunities for developing countries to participate in the work of the Commission was rated reasonably satisfactory with one third of the respondents giving it a rate of 3 and another third a rate of 4 (Fig. 14). In the pro-conservation subgroup of countries, the rate given by developed and developing countries, respectively, 3.6 and 3.7, was about the same, and reflected this division between the scores of 3 and 4. As in many other topics, a significant improvement in recent years was again recognized by most of the respondents, particularly the establishment of a voluntary Assistance Fund at IWC 66 to strengthen the capacity of governments of limited means to participate fully in the Commission's work. Most of the respondents, nevertheless, also emphasized the need to advance much further, since the participation of developing countries in the Commission so far has been mostly restricted to plenary meetings. Besides, many recognized the need for the Commission to invest in a much broader capacity-building effort, not only by facilitating the participation of developing countries in meetings, but to allow a much more substantive participation by them in all the work done by the Commission and its subsidiary bodies. A clear need for a better regional

balance in the work of IWC and, therefore, a more structured policy for capacity building in the Commission, was also noted in this regard.

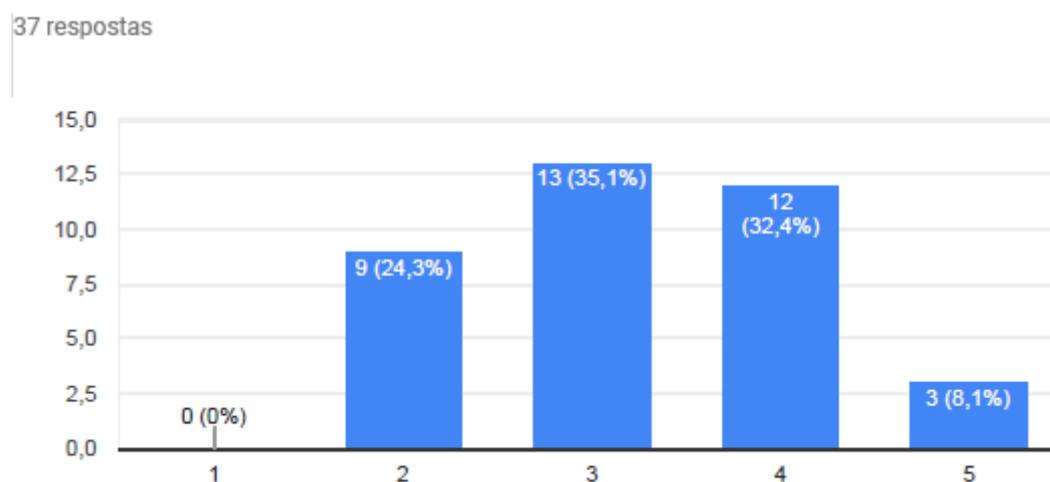


Figure 14- How do you rate: Developing countries' opportunities to participate in the Commission?

The arrangements for reporting on meetings received the highest score among all the items directly related to the Commission, with more than 60% of the respondents considering them to be either satisfactory (4: 48.6%) or very satisfactory (5: 13.5%) (Fig. 15). Most of them welcomed the IISD/ENB reporting at Commission meetings, but pondered that it would be more useful if detailed daily reports, including the “in the corridors” coverage, could also be provided, while recognizing that more funding would be required for that. Others, however, found it ambiguous and duplicating the work of rapporteurs, noting that the official record should remain the Commission's meeting report. In this context, the Chair's summary was considered a useful record of biennial Commission meetings. The SC report, on the other hand, prepared by its Chair and presented during the closing session of the SC meeting, was deemed inappropriate by some, because of the very limited time for participants to agree on all the details of the recommendations. The several language subtleties, particularly for those who are not native speakers of any of the official languages, make it very difficult to properly grasp its contents in the short time available. Other criticisms were the need to better reflect the opinion of participants in relation to more controversial topics and the lateness for the distribution of the final record, typically released more than a month after the conclusion of the plenary meeting. According to others, however, the Secretariat consistently provides balanced and comprehensive reports of all sub-committees' meetings, as well as of the plenary meeting, in a timely fashion. The Secretariat was also praised for always circulating the draft reports for comments and review, before publication.

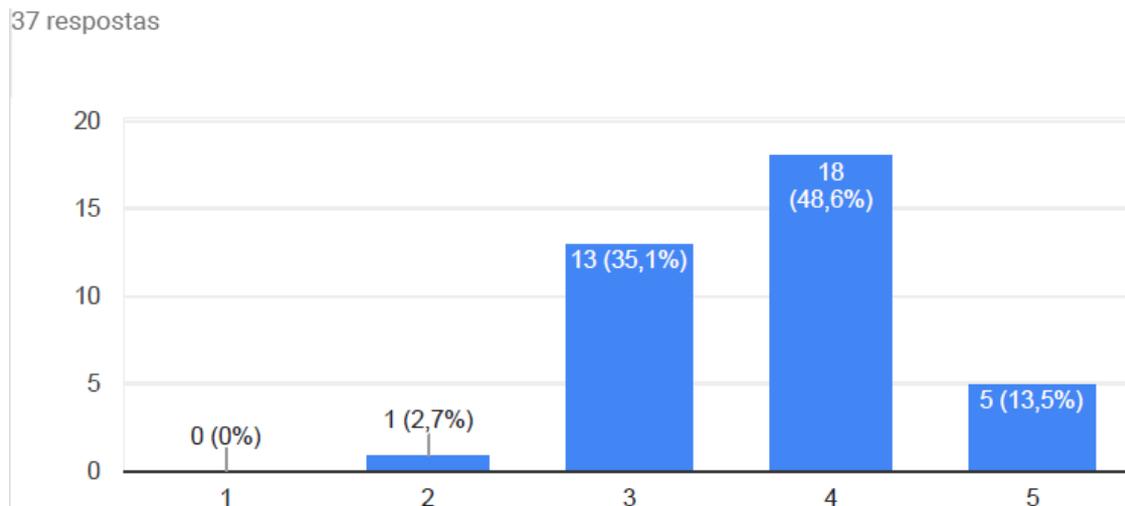


Figure 15- How do you rate: Arrangements for reporting on meetings (e.g. IISD/ENB)?

The scores for the organization and performance of the Scientific Committee was almost evenly distributed among the scores of 3 (29.7%), 4 (29.7%) and 5 (27.0%), indicating an overall approval by the respondents of the work done by the SC, with more than half (56.7%) of them considering it to be either satisfactory or very satisfactory (Fig. 16). According to several of the respondents, the SC gathers some of the greatest experts on cetacean biology in the World, being, therefore, “the jewel in the crown” of the IWC. The amount of work of the SC was considered “phenomenal” and its quality outstanding, being highly regarded. Differently from all other subgroups of respondents, however, the pro-sustainable-use governments gave it a mean score of 2.3, expressing their dissatisfaction with the work of the SC. The main reason for that was the perceived loss of focus by the SC, which is spending less and less time and resources to management matters, and more and more to the conservation agenda. Other problems faced by the SC, according to the respondents, irrespective of their subgroups, were:

- a) excessive independency, with the SC operating without an appropriate interaction with and direction from the Commission. In most cases, it sets its own agenda and priorities, including too much discretion for the chair, vice-chair, IWC head of science and conveners, reflecting, in some instances, the personal interests of the scientists involved and not those of the Commission;
- b) lack of accountability, monitoring or following-up of tasks undertaken;
- c) too much politicization, with regard to a few specific items;
- d) excessive interference from long-time members, including the Head of Science;
- e) overburden agenda, with an excessive amount of information being provided annually to the SC by some sub-committees for evaluation and discussion. Therefore, the annual scope of work and materials to be reviewed need to be refined to keep the SC meetings manageable.

The initiative by the SC to reform itself, by major reworking the structure and scope of work for many of its sub-committees, was welcomed by the respondents, since several of the changes instituted have the potential of providing a more robust evaluation of data (e.g. survey designs, abundance estimates, etc.) critical to the overarching objectives of the SC.

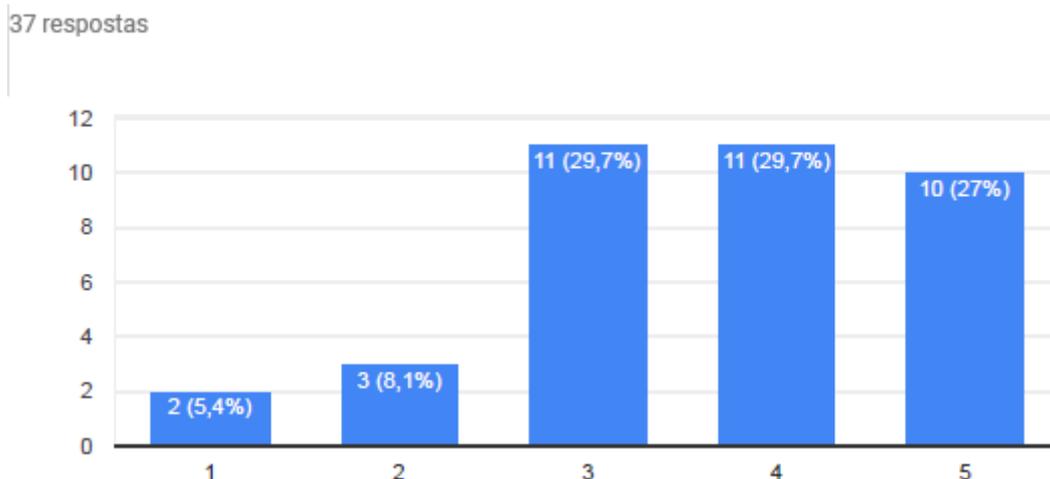


Figure 16- How do you rate: The organization and performance of the Scientific Committee?

The next topic, on the scientific credibility of the Scientific Committee deliverables, reached one of the highest scores in the survey, with almost 80% of the respondents attributing to it the rates of 4 (43.2%) or 5 (35.1%) (Fig. 17). According to the views expressed, the scientific competence, expertise and working capacity of the SC, has turned it into the worldwide authority on the conservation and management of whales, dolphins and porpoises, with the scientific advice provided being informed by the best available science, well-reviewed and authoritative to the fullest extent possible. The only threat to the credibility of the SC, as noted by the respondents, was the political bias in some of the activities performed by it.

The inability of the SC to deliver clear recommendations on contested issues was also considered to hamper its credibility. At least part of the problem stems from the confusing, and many times conflicting, rules of procedure of the organization. SC RoP E (3), for instance, allows the Scientific Committee to make recommendations on any topics under its consideration, while IWC RoP M (4) suggests that the Scientific Committee may consider only topics referred to it by the IWC or the Commission Chair and that any reports and recommendations must derive only from its prescribed course of work. A thorough revision and consequent harmonization of the rules of procedure of all IWC bodies, including those related to the SC, is, therefore, much warranted.

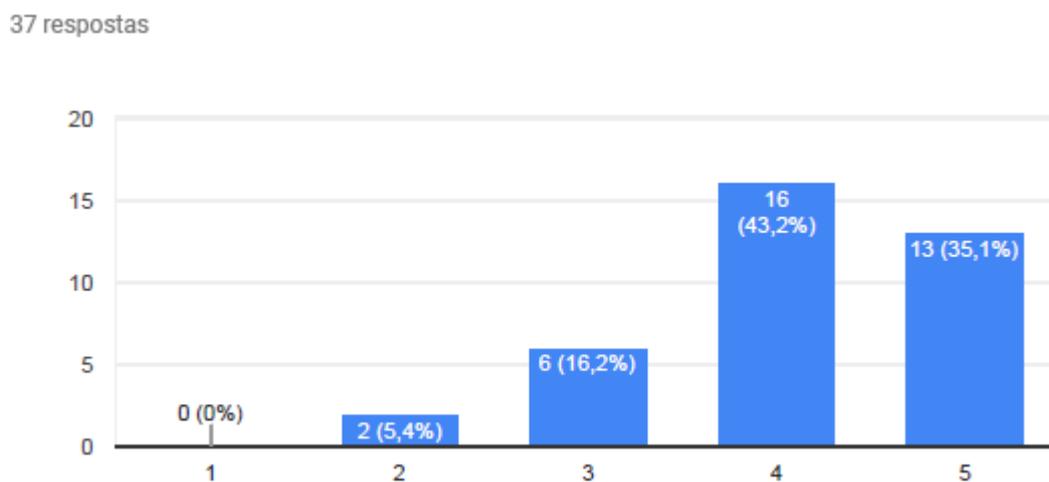


Figure 17- How do you rate: The scientific credibility of the Scientific Committee deliverables?

The procedures for scientific data archiving and access were also highly praised, with a mode on 4, and 60% of the rates received being either 4 or 5 (Fig. 18). The process set up by the SC for ensuring that data are properly archived and readily accessible was considered to be well-thought, time-tested, very transparent and credible, despite being a bit burdensome. Although there is a data access group in the SC to facilitate agreements between data holders and scientists requesting access to them, the process was considered to still be too cumbersome, slow and with very uncertain outcomes. Notwithstanding a significant improvement in recent years, noted by some of the respondents, the Secretariat recognized that the system could perform much better if the resources requested by them had been provided. One of the most urgent needs is the hiring of an archivist to sort out the IWC huge archive, which is not as yet fully accessible on the web, to make all those valuable data more available online and to update the databases.

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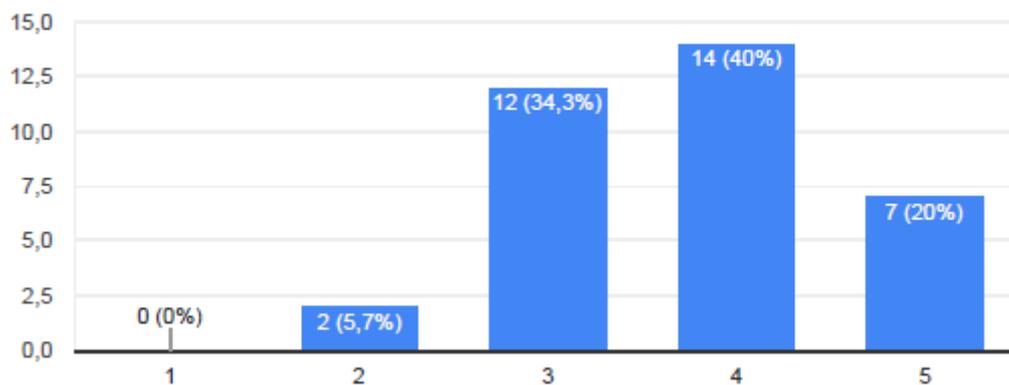


Figure 18- How do you rate: Procedures for scientific data access, archiving and data?

Most of the respondents gave the relationship between the Scientific Committee and other committees and working groups rates of 3 (36.1%) or 4 (41.7%), indicating they were reasonably satisfied (Fig. 19). The main criticism was related to the relative isolation they tend to work sometimes, with a lack of communication and cooperation, particularly during intersessional periods, as already highlighted in several of the previous topics. The Scientific Committee and other committees and working groups, therefore, should have a better coordination and clearer mandates. One of the negative consequences of this is the overlapping and duplication of work. Besides, in the absence of formal Terms of Reference and guidance from the Commission, some subsidiary bodies tend to self-determine their mandate, resulting in duplication of work and waste of valuable resources. The establishment of a Joint Working Group of the CC and the SC was welcomed as a step in the right direction, but was considered to be less effective than it could be, mainly because of the short time available to it and its inappropriate timing, since it is held immediately after the Scientific Committee. The holding of concurrent sessions of the Scientific Committee and Conservation Committee during the normal course of Scientific Committee meetings was suggested as a possibly more effective way to ensure better coordination between them.

Almost half of the respondents (44.4%) were satisfied with the organization and performance of the Conservation Committee (Fig. 20), which was, in general, considered to be

very successful and influential, playing an important role in advancing international cooperation on whale conservation. The adoption of its Strategic Plan was particularly welcomed since it has helped focus the Committee’s attention on addressing the greatest threats to whale conservation. According to the respondents, however, the CC still faces many difficulties, including:

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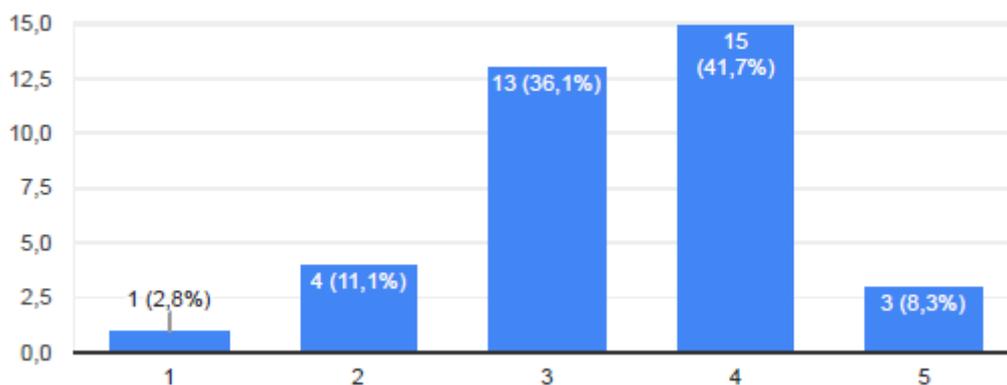


Figure 19- How do you rate: The relationship between the Scientific Committee and other committees and working groups?

- a) the still limited attendance to its meetings;
- b) the lack of clarity on the mandates of the CC and SC, resulting in overlapping and confusion of roles. A better coordination and synergy between the CC and the SC, as well as with other subsidiary bodies, in particular with the Working Group on Whale Killing Methods and Welfare Issues, is therefore much needed.
- c) the lack of a proper budget to carry out its work, since its activities are funded exclusively through voluntary contributions, limiting its performance and effectiveness. According to some, this reflects the much higher priority (and thus more time and financial resources) being placed in whaling related items, such as RMP and special permits, than in conservation;
- d) lack of time for the CC to work efficiently;
- e) Inadequacy of meeting frequency. Since it holds only one meeting every two years, back to back with the Commission meeting, it means that important decisions have to be deferred for two extra years as the CC can't submit them to the adjacent IWC-meeting because by then the deadlines for proposals have already past.

Possible ways to overcome such difficulties could be to increase the number of dedicated staff to support the CC, including a dedicated Head of Conservation to mirror the Head of Science, and to enhance the time and funds available, from the core budget, for it to undertake its work.

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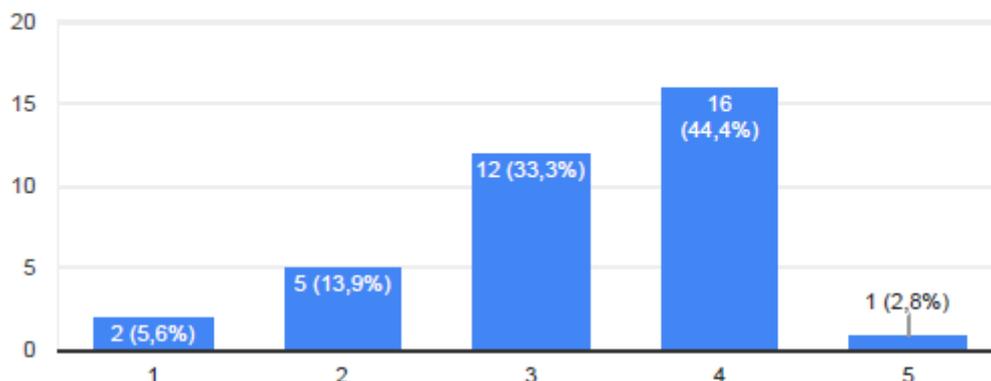


Figure 20- How do you rate: The organization and performance of the Conservation Committee?

The organization and performance of the Finance and Administration Committee (Fig. 21), with a mode on 4 (46.9%), was favorably rated, with no rates of 1 or 2 being recorded. The important reforms introduced by the FAC over the last ten years, including accounting transparency, civil society engagement, and external communication were particularly praised. Nevertheless, intersessional coordination within the FAC was considered deficient, with most decisions being left to its chair. The establishment of a subset of the Commission to serve on the FAC to conduct intersessional work was proposed as a possible solution to this problem. Likewise, a better intersessional coordination of the Budgetary sub-committee, made up of representatives from each of the different “capacity to pay” groups, was also recommended. Given the number of potential budget requests from the various sub-committees, the Budgetary Sub-committee could review these requests to prioritize them and to provide advice to the FAC on how and when to fund these proposed projects. The need to formally review the effect that the move to biennial Commission meetings has had on budgeting and yearly financial statements was also noted.

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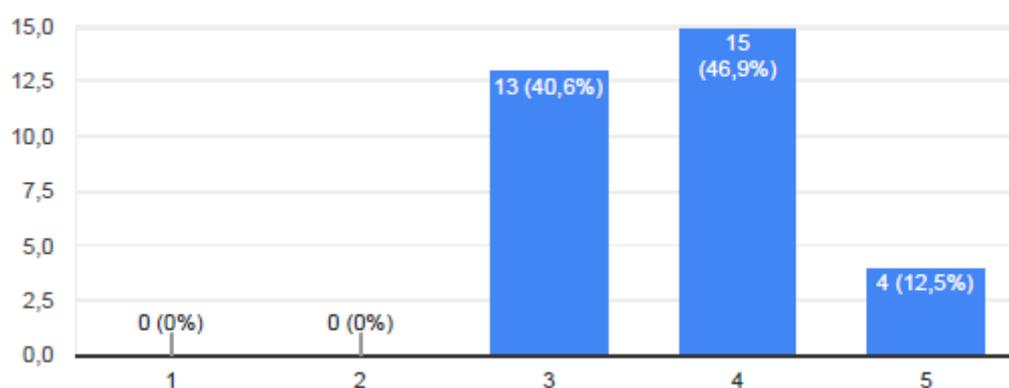


Figure 21- How do you rate: The organization and performance of the Finance and Administration Committee?

The organization and performance of the Aboriginal Subsistence Whaling Sub-Committee were considered satisfactory or very satisfactory by the majority of the respondents (45.5% and 15.2%, respectively) (Fig. 22). It was considered to work well and efficiently, with

a high scientific standard, being well supported by Contracting Governments. Some respondents considered it to be particularly significant since subsistence catches are the only ones presently set by the Commission. Important progress in the work of the subcommittee in more recent years was recognized, together with a more active participation of observers. The establishment of an ASW Working Group (ASWWG) within the ASW Sub-Committee was considered a very positive development, helping the subcommittee to tackle many relevant issues related to ASW, particularly by enabling key intersessional work to be completed, which can be unwieldy to complete at the full subcommittee level. On the downside, some considered it to be overly politicized, with only few members being actually able to understand the science behind its work.

The organization and performance of the Infractions Subcommittee, rated either 3 or 4 by almost 72% of the respondents, was considered reasonably satisfactory (Fig. 23). While some considered it to work well and gather information efficiently, others deemed it incapable to do anything about the infractions it detects. The NGOs were the only subgroup that elaborated further on this topic. With a mean rate of 2.2, they considered the work of the Infractions Subcommittee unsatisfactory, mainly because their inability, due to political difficulties, to adopt stringent measures against the infractions detected. They also considered its legal framework quite confusing, not allowing a clear characterization of what constitutes an infraction and not providing any mechanism to ensure implementation and compliance with the measures adopted.

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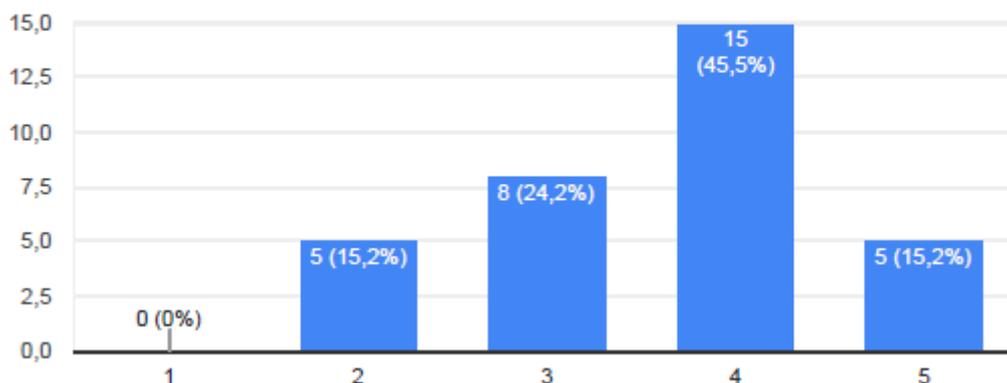


Figure 22- How do you rate: The organization and performance of the Aboriginal Subsistence Whaling Sub-Committee?

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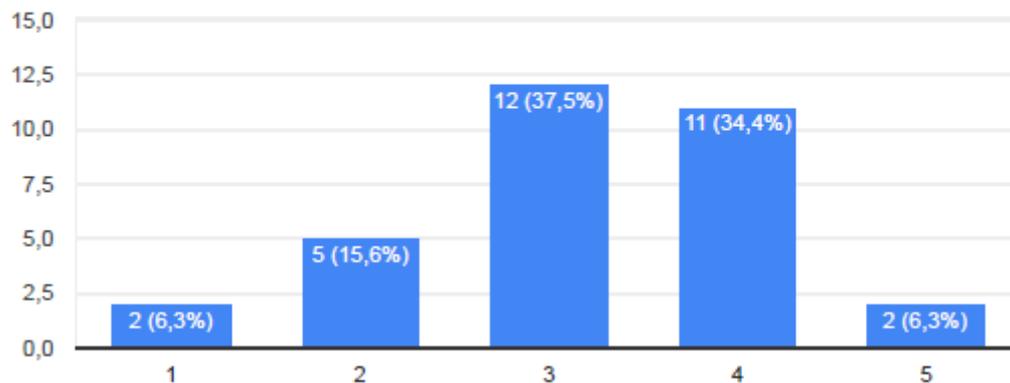


Figure 23- How do you rate: The organization and performance of the Infractions Sub-Committee?

The organization and performance of the Working Group on Whale Killing Methods and Welfare Issues received the same number of ratings 3 and 4 (38.9%), accounting together for almost 80% of the responses (Fig. 24). It was considered to have improved recently, with the expansion of its work programme to cover a number of "non-hunting" threats to welfare, besides hunting issues, and finding common ground between member States, and, therefore, successfully improving killing methods and welfare outcomes for cetaceans, despite the controversial nature of the matter. Some polarized views were, however, expressed on this topic. Some respondents noted a lack of opportunity to discuss how to improve killing methods, an important issue for both the whaling industry and for whale welfare, because almost all of the discussion taking place in that working group presumes total protection of whales. Others, on the contrary, considered the discussion to be dominated by whaling interests. The lack of reporting by some members was recognized by many as one of the main hindrances this subcommittee still faces, undermining its performance, in spite of the good work accomplished by the welfare working group on non-hunting related threats, such as entanglements. The need to improve coordination with other bodies (e.g. the SC, and Conservation Committee) on topics of mutual interest was also highlighted, although some considered the present interaction to be very good.

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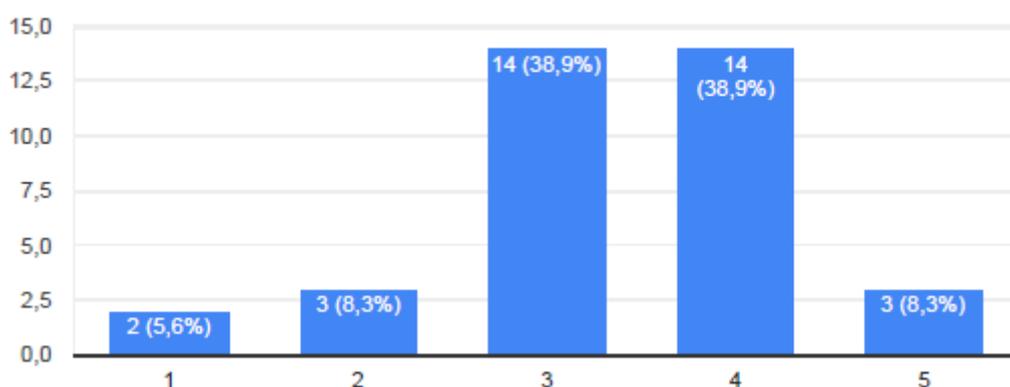


Figure 24- How do you rate: The organization and performance of the Working Group on Whale Killing Methods and Welfare Issues?

Half of the respondents gave the relationship between committees and working groups other than the Scientific Committee a rate of 3, indicating a rather reduced level of satisfaction (Fig. 25). The relationship was considered to be unclear, particularly to people who are not intimately involved in the Commission’s work, and should, therefore, be clarified, requiring also more collaboration, coordination and communication on issues of mutual interest. A similar comment was made with regard to the role of the Bureau and its relationship to other bodies. In this context, the Joint CC-SC meeting was highlighted as a possible model that could be replicated to other subsidiary bodies, notwithstanding the limitations related to the availability of financial resources to do it.

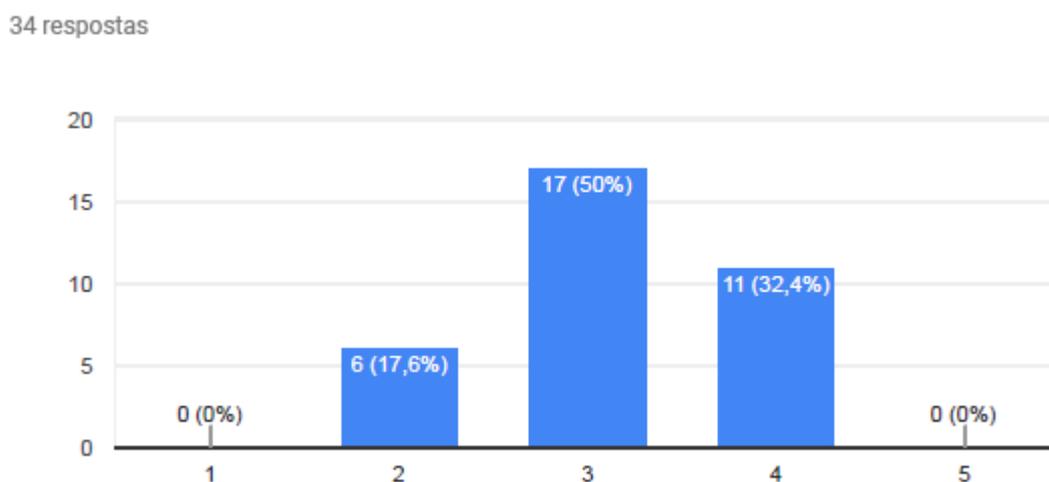


Figure 25- How do you rate: Relationship between committees and working groups other than the Scientific Committee?

With a clear mode on 4, with almost 50% of the responses (44.4%), the number and coverage of committees and working groups was considered to be excessive by some and satisfactory by others (Fig. 26). Those who criticized it alleged that many of them lacked relevance to the Convention’s original objectives, while their excessive number reduced the efficiency of their work, with many overlapping along species, geography and disciplines. Besides, the high number of concurrent meetings was also highlighted as a great difficulty for delegations to follow their work, preventing participants, especially from small delegations, to contribute to multiple areas of expertise, notwithstanding a much better information availability in recent years. According to the comments provided, a possible way to minimize this problem would be to conduct more intersessional work and to make better use of technological tools. The continuity of existing committees and working groups, therefore, should be evaluated, particularly those that do not meet nor conduct work intersessionally, since some may have already finalized their mandates, while others could be possibly merged. The need for more interaction and better coordination between them was again highlighted. Finally, the SC broad authority and autonomy to create these subsidiary bodies was criticized.

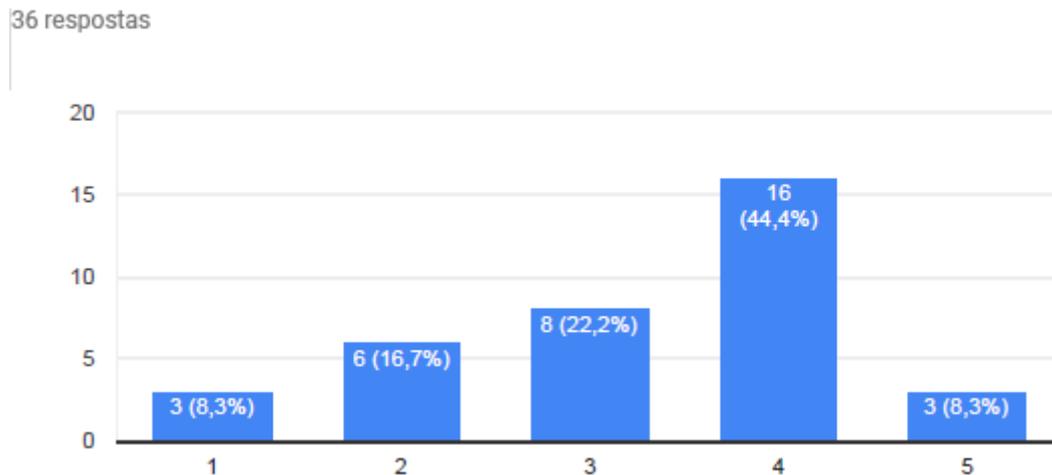


Figure 26- How do you rate: The number and coverage of committees and working groups?

The majority of the respondents (52.6%) considered the effectiveness and efficiency of the Secretariat, in general, highly satisfactory (5) (Fig. 27). There was a clear recognition of a great improvement in recent years, despite the growing workload and the very limited financial and human resources available, already overstretched. The Secretariat was considered to be always very responsive to the needs of the Commission and its member governments, supporting them in an effective and efficient manner, as well as the work of the Bureau, to advance the Commission's administrative business in the intersessional period. The staff was considered to be incredibly knowledgeable, efficient and hard-working, doing a fantastic job, given their number, workload and dwindling level of funding available. Despite the very positive appraisal of the work done by Secretariat, the need for it to better align its resources with Commission business and priorities and international best practice for secretariats was noted. The same criticism with regard to the SC being too independent was also directed to the Secretariat and its chair, who, sometimes, according to some of the views presented, tended to take decisions prioritizing their own agenda. The unbalanced influence of the Head of Science in the Secretariat was also criticized, as well as the burdensome editorial process for publication of the Journal of Cetacean Research and Management. Other problems identified by the respondents were:

- a) lack of prioritization of internal issues, resulting in the lack of important aspects of good organizational management, including the absence of staff appraisal system or internal performance review, staff training or team-building, etc.;
- b) discrepancy of views between long-standing members of the Secretariat and newer members who are "used to" more modern procedures and working practices (e.g. staff appraisal system, improved financial procedures), resulting in a high degree of resistance to change; and
- c) lack of a proper work planning, despite some recent initiatives towards this aim.

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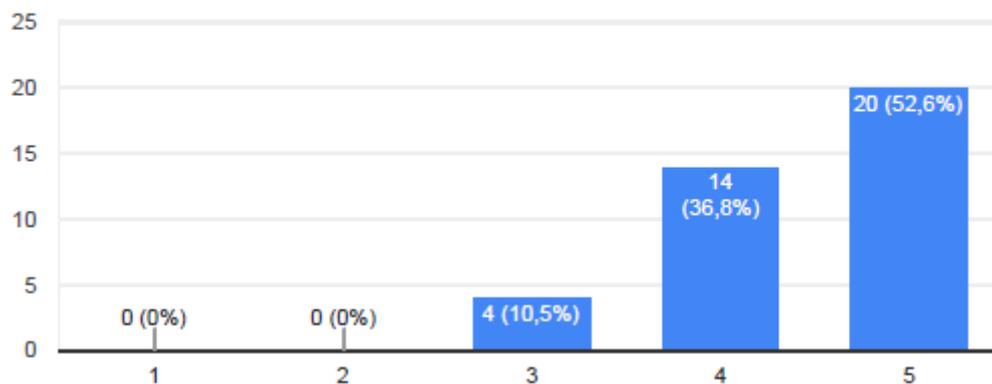


Figure 27- How do you rate: The effectiveness and efficiency of the Secretariat in general?

The number of Secretariat staff was considered adequate by the majority of the respondents, with two thirds considering it either satisfactory or very satisfactory (Fig. 28). Despite of that, the need to increase the number of people to meet the growing demands, particularly as the IWC has been expanding its work to carry out its full mandate (e.g. conservation and management), was emphasized by many. The need of additional personnel was considered particularly acute in the IT, finance and human resource areas; including, *inter alia*:

- a) an archivist “to sort out the electronic archiving, moving the publications to interactive, hyperlinked documents rather than plain PDF files, to organize the database, etc.;
- b) a professional for the IWC Journal;
- c) a professional to liaise with other organizations, to strengthen IWC cooperation and communication with other international and regional institutions;
- d) a Deputy Head of Science;
- e) a Head of Conservation;
- f) a legal expert.

The need for a Deputy Head of Science was justified because of the concentration of knowledge/ expertise in only one person, without any planning for succession or emergency back-up on some critical areas, in case, for instance, someone falls ill during a meeting or retires, with several Secretariat members already approaching retirement age within few years.

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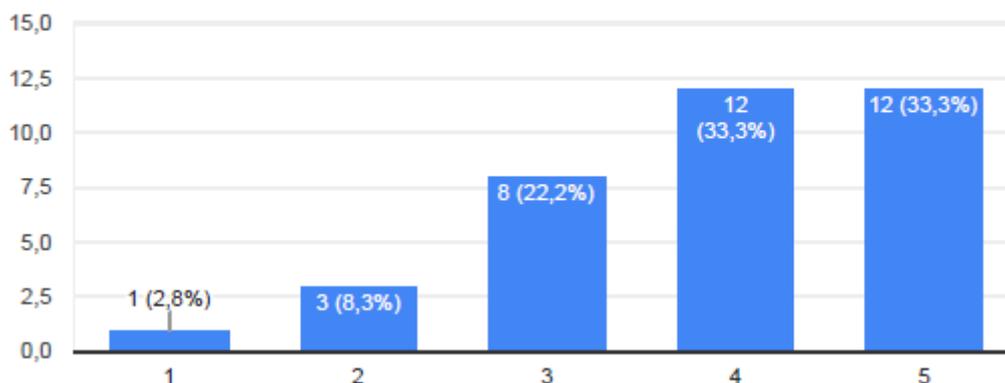


Figure 28- How do you rate: The adequacy of the number of Secretariat staff?

All but one of the respondents considered the professional skills of the Secretariat to be either satisfactory (42.1%) or very satisfactory (55.3%) (Fig. 29). According to some of the respondents, the Secretariat ability to engage in a range of issues was enhanced by the appointment of Project Development Officers. The work of the technical advisor to the Secretariat on human impact reduction was also considered very successful. On the other hand, the need to develop clear Terms of Reference setting out the several posts and functions in the Secretariat, and defining their roles, including the application of term limits to key roles, considered standard across other multilateral agreements, was highlighted. The lack of any training-plan or long-term professional development strategy for IWC staff was also noted as deficiencies that need to be rectified. A relative unbalance in the distribution of work in the Secretariat, with some members of the staff being underutilized and others, like the Head of Science, being overloaded, was also pointed out. In this context, the outstanding scientific capacity of the Head of Science in IWC was recognized, but with the caveat that he should not participate as a convener of any group, not only to ensure impartiality, but also to allow him to be available for all discussions and subsidiary bodies during the meetings. Finally, the hiring of professionals that do not have English as their native language was recommended in the future to broaden the Secretariat capacity to engage more efficiently with a wider range of parties.

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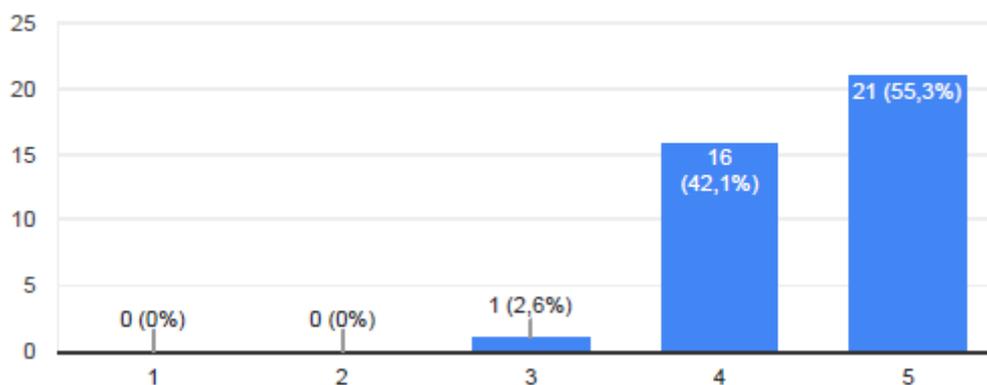


Figure 29- How do you rate: The adequacy of the professional skills of the Secretariat?

The balance in the Secretariat between scientific and policy development support, with a mode on 4 (51.4%), was considered satisfactory by the majority of the respondents (Fig. 30). Nevertheless, the views on this topic were again polarized. Some considered that recently policy development has been overplayed, being necessary to strengthen science and to better distribute the excessive responsibility and influence that presently rests with the Head of Science (e.g. a "co" or "vice" head of science). Others, on the contrary, considered that the relative allocation of staff to science is presently much greater than to conservation work, an imbalance that should be rectified, including by appointing a Head of Conservation, to mirror the role presently played by the Head of Science. The need for more support for policy side, particularly on conservation and management, as the IWC expands its work to more fully address its mandate, was highlighted.

The balance in the Secretariat between professional and administrative staff was rated 4 by almost half of the respondents (48.6%) (Fig. 31). The need to increase the staff, particularly in IT/ archiving, HR, and finance, as well as to strengthen positions in areas of work other than science and statistics (e.g. policy development and conservation) was again reiterated by several respondents (see comments on the adequacy of the number of Secretariat staff, above; Fig. 28).

35 respostas

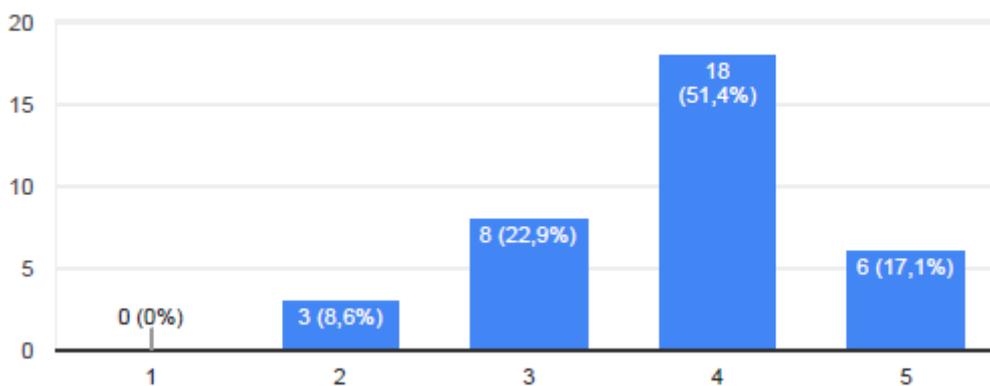


Figure 30- How do you rate: The balance in the Secretariat between scientific and policy development support?

35 respostas

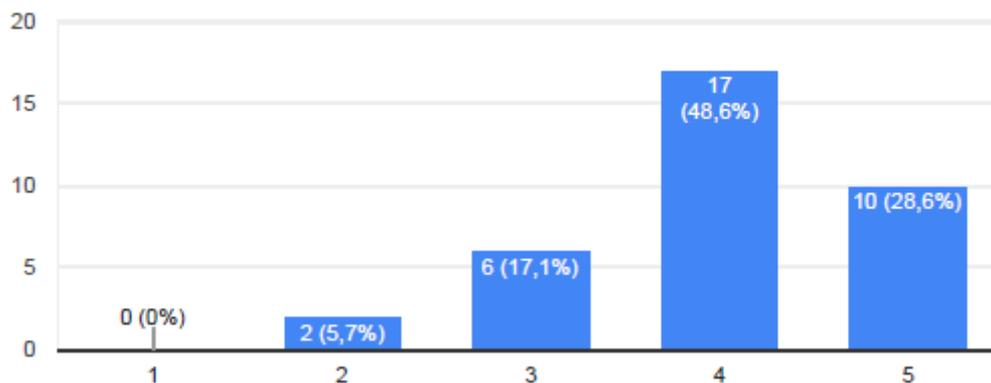


Figure 31- How do you rate: The balance in the Secretariat between professional and administrative staff?

More than 80% of the respondents considered the work of the Secretariat on communication and outreach either satisfactory or very satisfactory (Fig. 32). Several respondents noted a significant improvement in recent years, including cooperation and communication with other international and regional institutions (e.g. with IMO, FAO, IOTC, CMS, etc.), particularly after the addition of a communications officer, despite some internal resistance. According to some of the additional comments, the Secretariat provides Commission members and observers with timely and relevant updates, and is responsive to requests for information, communicating with Contracting Governments, as well as with the public, in an objective, balanced, and professional way. Notwithstanding, some NGOs considered that the work of the Secretariat on communication and outreach to the general public could still be enhanced, by being more active, for instance, in social media (e.g. twitter, Facebook, etc.).

The work of the Secretariat in servicing and supporting IWC meetings received the highest ranking of all items (only 4 and 5), by all subgroups, with two thirds (66.7%) of the respondents considering it very satisfactory (Fig. 33). According to the Contracting Governments, the Secretariat works effectively with host countries to organize the Commission’s biennial meetings and annual Scientific Committee meetings.

The Secretariat staff was considered to be exceptionally efficient and hard-working, having gone above and beyond to ensure that meetings run smoothly, from internet access to badging, quickly addressing any issue that might develop in a very professional manner. According to the Secretariat, the meetings give them the opportunity to come together as a strong team with a shared and common goal. The only suggestions were the hiring of a legal counselor that could advise parties on the interpretation of different rules, resolutions, the convention, etc., helping them to draft decisions by the commission, with clarity and precision. Some of the respondents considered that the provision of internet services at the meetings could also be improved. Finally, one of the respondents advised that religious holidays should be taken into account when scheduling plenary meetings, since otherwise some delegations might have their participation limited.

38 respuestas

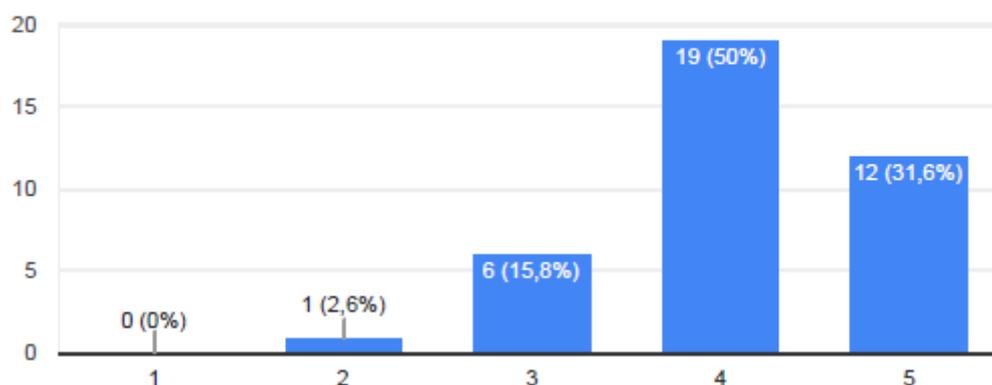


Figure 32- How do you rate: The work of the Secretariat on communication and outreach? (with the Commission as well as externally)?

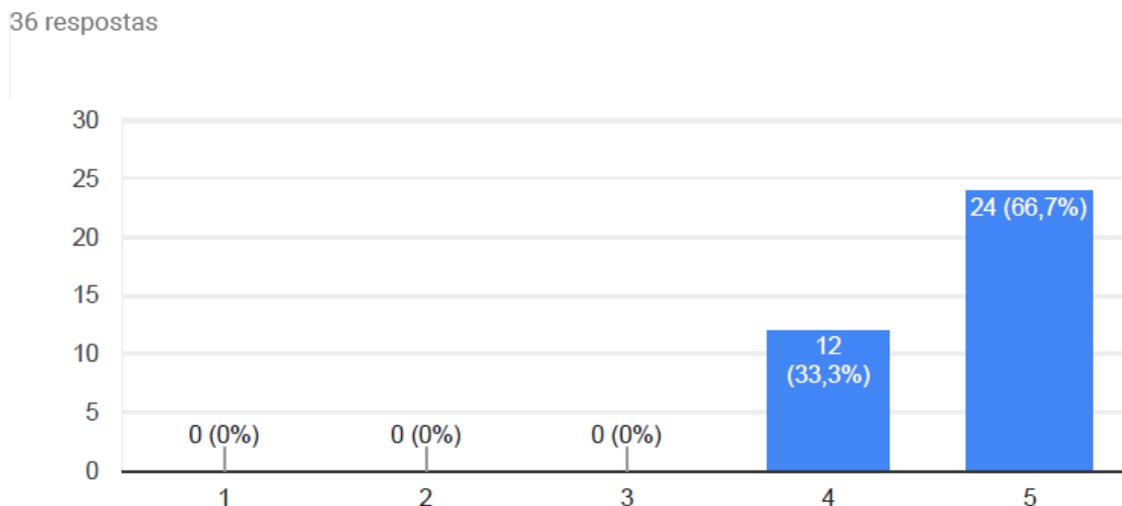


Figure 33- How do you rate: The work of the Secretariat in servicing and supporting IWC meetings?

Internet services, archives and web presence were also rated quite favorably by the respondents, with a strong mode on 4 (63.2%) (Fig. 34). The introduction of paperless meetings and the inclusion of the organizational structure on the IWC website were some of the significant progress achieved in recent years, according to the comments. The archives webpage has also been updated and now offers clear presentation of information on whales. Despite this vast improvement, however, which rendered the current website much better than the previous version, they could still be significantly improved, particularly with regard to the accessibility of documents on the website and internet services during the meetings. Although the website does contain a lot of very useful information, it was also considered still rather difficult to navigate and to find document, papers and articles related to meetings. Besides, according to one of the respondents, historic documents and particularly documents from the Scientific Committee still require a user account for access, when they should be made freely available. The small number of people involved with IT (only two) and the lack of resources were pointed out as some of the difficulties that have hindered the progress still needed, particularly on web servicing and archiving. Specifically, the following items were noted by Contracting Governments as potential areas for further improvement:

- a) Improving the search function, to make it more intuitive and to facilitate the understanding of organization/categorization of documents from old meetings. Alternatively, a handbook of resolutions by topics could be created. Data held by contracting governments that have been used in the Scientific Committee, including data collected under special permit programs, should also be listed along with procedures for obtaining access to them;
- b) Circulating primary papers in a more timely manner in advance of meetings. Late submission of primary papers increases the already heavy workload and reduces the quality of discussion at Commission meetings. Hard deadlines should be set for the submission of papers in advance of meetings.
- c) Making all Scientific Committee meeting papers available online. Many papers, even for recent meetings, have disappeared from the online archive. If authors withdraw a paper, the

reasons for withdrawal should be recorded on the archive. If a paper was used in the development of management advice or related to the review of special permits it should not be taken off the online archive. If an error is found in such a paper, the authors should add a revision to the archive with the necessary corrections.

38 respostas

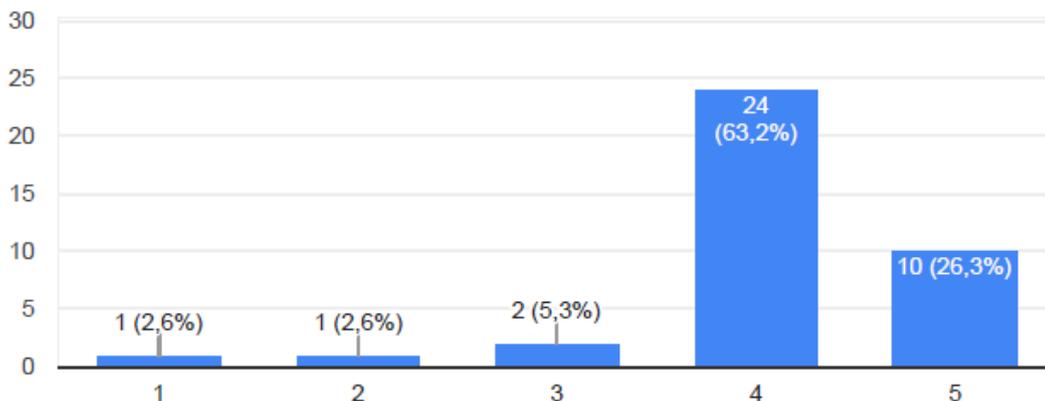


Figure 34- How do you rate: Internet services, archives and web presence?

The facilities of the Secretariat, also with a mode on 4, were considered generally satisfactory and, again, much improved in recent years (fig. 35). Nevertheless, according to one of the respondents, a lot of work is still required to bring the Red House to modern standards, while another one suggested the Commission would benefit from the Secretariat having the capability to host small meetings in its premises.

31 respostas

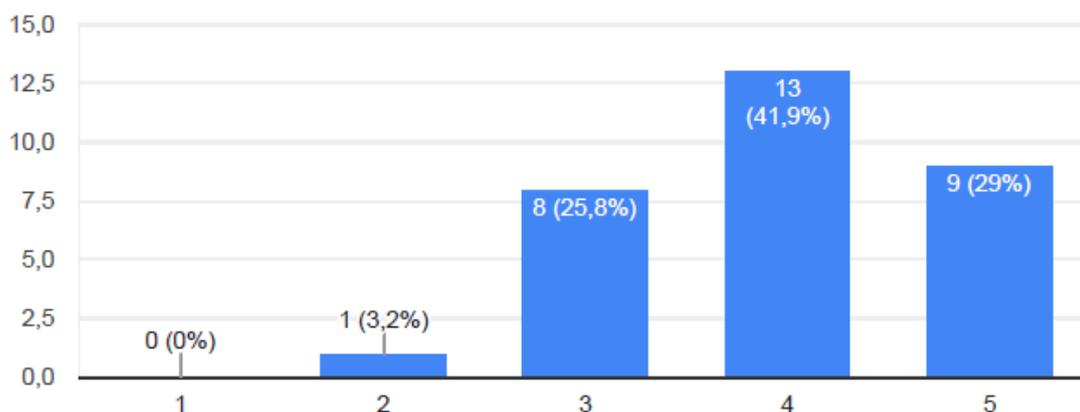


Fig. 35- How do you rate: The facilities of the Secretariat?

The adequacy of financial resources in general, with a mode on 3 (48.6%) (Fig. 36) was considered only moderately satisfactory, mainly because of a lack of a proper prioritization. In this regard, however, a polarization of views was again noticeable. Some respondents

considered that too many resources are being allocated to issues of low relevancy to the objectives of the Convention, while not enough financial resources are being used in recruiting modelers and/or statisticians who can do RMP and other management related matters. On the other hand, other respondents, despite agreeing that an inadequate prioritization resulted in an unbalanced distribution of resources among different committees, considered that too big a priority was being given to the SC, in detriment of other subsidiary bodies. Many, however, agreed that an important consequence of the inadequate prioritization strategy was the excessive amount of voluntary funding, with the amount of financial resources available for the Commission to carry out its activities being, at the same time, too low and incompatible with the workload it has to face. According to the Secretariat, whenever more work is requested to them, the correspondent financial resources should be assigned to do it, but usually that has not been the case. Despite some increase in the available resources has been made possible by voluntary contributions, according to the Secretariat, this is not the best way, since it makes planning more difficult. The Commission, therefore, should not expect ambitious work-plans to continue expanding without an increase in funding. On this regard, while some considered that the Commission will need to increase its member dues, others pondered that increasing annual contributions significantly is unlikely to be palatable to most Commission members. Therefore, a better process for prioritization was considered to be of vital importance to ensure the Commission is more involved in making decisions on how funding is allocated. This could include: a) ensuring the scope of work of committees, subcommittees and working groups is well defined; b) linking their work programs to the Commission’s recommendations and priorities; and/or c) reducing the number of meetings of committees, subcommittees and working groups during the intersessional period.

35 respostas

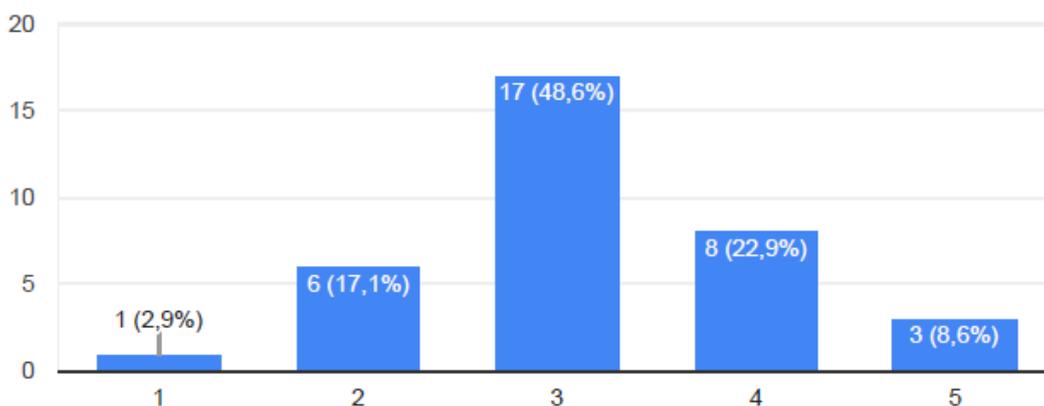


Figure 36- How do you rate: The adequacy of financial resources in general?

The financial resources to the Scientific Committee was also considered only moderately adequate, with a mode on 3 (41.7%) (Fig. 37). Nevertheless, some considered them to be not only adequate, but well aligned with the priorities of the Commission, largely because it has received most support, as the preeminent subcommittee of the IWC, and it has been, therefore, always funded through core contributions. This is a situation much different from the other bodies, which do not receive core contributions and have, therefore, to rely entirely on voluntary contributions, thus reducing their effectiveness. One respondent stated that the SC needed much more financial support for key research on questions of the highest priority to the SC and IWC, while another one pondered that the problem was not that the SC did not

get enough money, but the inadequate allocation of the money it gets. Agreeing with that, the Secretariat considered that, more than an increased budget, a better prioritization should be sought for by the SC, in response to the needs of the Commission, reiterating the point made in the previous question.

36 respostas

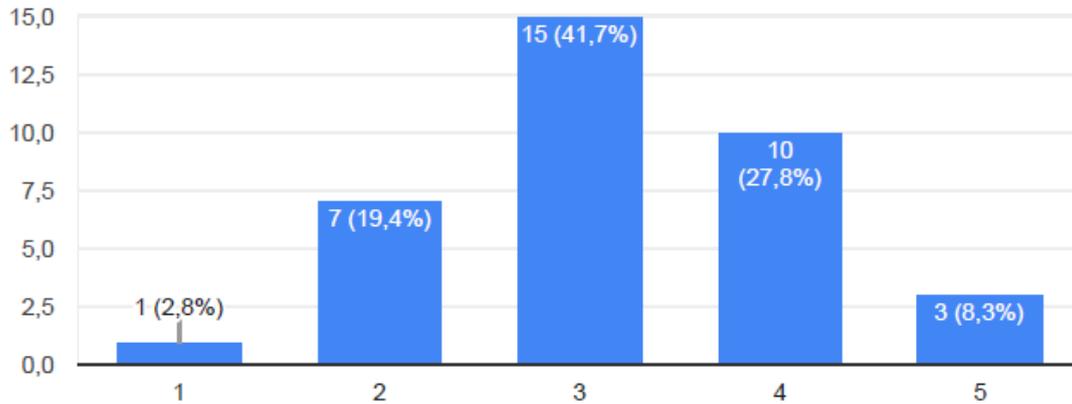


Figure 37- How do you rate: The adequacy of financial resources to the Scientific Committee?

The financial resources allocated to other committees and working groups received almost the same number of ratings 2, 3 and 4, suggesting a rather low degree of satisfaction, lower than the previous topic (Fig. 38). This was mainly because of the very inequitable distribution of core funds, which go almost entirely to the SC, forcing the other bodies to depend heavily on voluntary donations, a situation seen as unsustainable in the long-term.

31 respostas

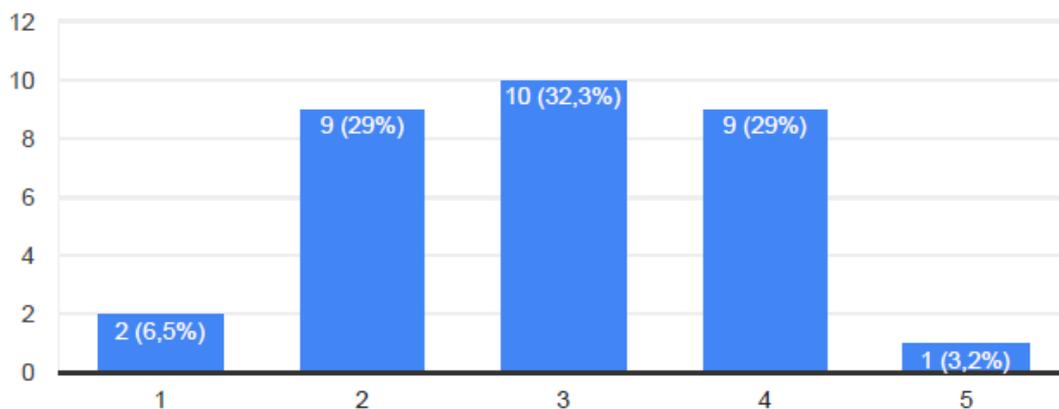


Figure 38- How do you rate: The financial resources allocated to other committees and working groups?

The process of preparing and adopting the budget of the Commission (including the budget of the Scientific Committee) was considered reasonably satisfactory, with almost the same proportion of ratings 3 (39.4%) and 4 (36.4%) (Fig. 39). According to many of the respondents, despite this is a process that has also improved significantly over the last several years, many problems remain and, therefore, opportunities for improvement, such as:

- a) **Prioritization.** The process of preparing and adopting the budget should be closely linked to the work programmes of the Commission and its subsidiary bodies. The budget should be more a result of the needs stemming from the work being done and the new work planned, with scope for contingencies, than of a mere updating of the budget from the previous period, as it has usually been the case, with no real increase for many years. The Commission, therefore, should set the strategic direction of the organization and its subsidiary bodies and prepare the budgets in line with those priorities. This would likely entail a significant reform of Commission practice, which would require the support of the FAC to be achieved.
- b) **Transparency.** The process of preparing and adopting the budget should be more transparent, particularly with respect to core funding and voluntary contribution allocations. At present, the only committee that regularly receives core funding and consequently has a budgetary process well established is the SC, which has become more transparent over the past two years. Nevertheless, they have no strategy in place for dealing with potential conflicts of interest when assessing funding proposals, for instance, and proponents are often present during discussion of their own proposals, a situation that needs to be rectified. The NGOs complained that observers are not allowed to participate in the process, seen as strongly biased in favor of the SC, in detriment of the other bodies, particularly of the CC. Such imbalance was considered to be a distortion lingering from the past, when lethal scientific research used to be much more important than at present. Because of that distortion, the conservation-oriented work of the Commission has to rely almost entirely on voluntary funding. Besides, the decisions on budget in the Scientific Committee are sometimes driven by conveners who are often invited participants and not representatives of Contracting Parties, reiterating the need, as discussed above, for the work programs and budgets to be linked to the Commissions priorities. Differently from the SC, other committees do not receive core funds and do not have a similar process, but could benefit from one. With several voluntary funds and many committees that could utilize those funds or core funds, the Commission could link the work of these committees and sub-groups together. This would be appropriate, for example, for the Conservation Committee to determine how voluntary funds are allocated from the Voluntary Conservation Fund.
- c) **Timing.** Since the budget is allocated before the decisions of the Commission have been made, there is no flexibility to allocate money to new initiatives unless with voluntary funds (especially as parties do not accept budget increases). The lack of time to properly discuss the budget and the deficient communication within the SC, and the Chairs/ Conveners, particularly intersessionally, also lead to budgetary decisions that are not as thoughtful, unbiased, and judicious as they should be.

33 respostas

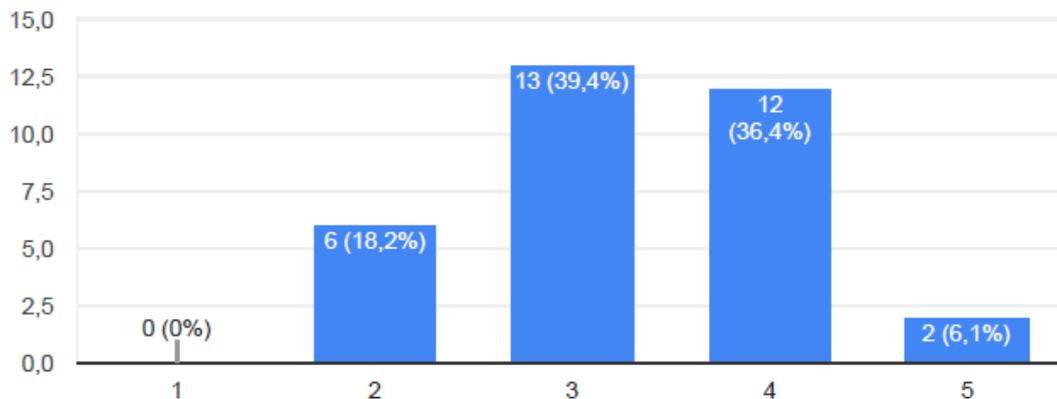


Figure 39- How do you rate: The process of preparing and adopting the budget of the Commission (including the budget of the Scientific Committee)?

The distribution of ratings on the balance between core and voluntary funding was very similar to the previous topic, with a mode also on 3 (36.4%) (Fig. 40). Expectedly, many of the responses were also similar. Many of the respondents highlighted:

- a) the need for the distribution of funds to better reflect the priorities established by the Commission;
- b) the unbalanced distribution of core funds, which are almost entirely allocated to the SC, forcing the other subsidiary bodies to rely on voluntary funds;

According to the views presented, however, voluntary contributions should only supplement core funds and should not support entire work streams. Such a balance was considered crucial to ensure that the priorities and the consequent work done by the Commission do reflect the will of all its members, not of just a subset of those members who can provide additional funds. Since voluntary contributions are naturally biased towards the interests of the donors, they tend to distort the priorities that should be set by the Commission. Consequently, voluntary funding ends up driving a significant part of the Commission's agenda and priorities. Nevertheless, unless parties are willing to increase their contributions and agree on a more equitable distribution of resources among subsidiary bodies, which is very unlikely at the present, this situation will probably continue for a while, with no foreseeable change in the near future. Besides, as pointed out by one of the respondents, despite voluntary funds may be useful for addressing specific topics, their proliferation with different purposes tend to overburden the Secretariat, by adding a lot of complexity to an already overstretched administration. One possible way to mitigate this burden would be to charge an overhead for the Secretariat to manage this kind of fund.

33 respostas

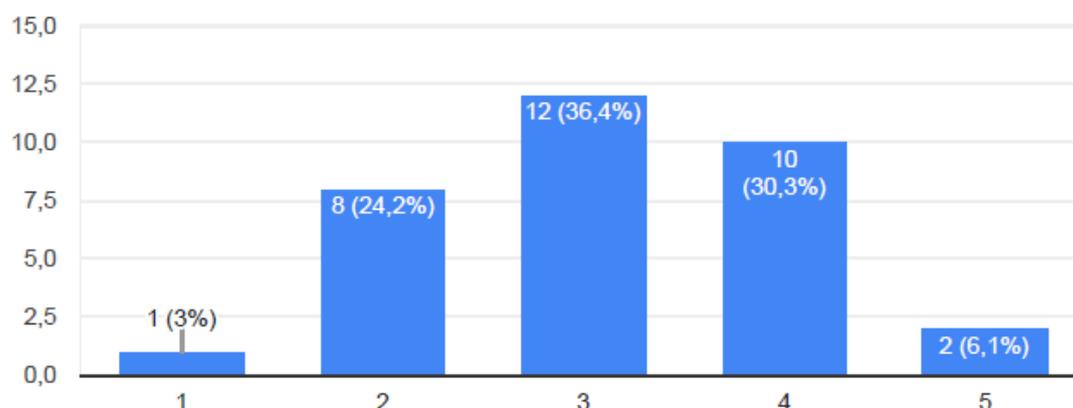


Figure 40- How do you rate: The balance between core and voluntary funding?

The future needs for extra-budgetary funding with a mode again on 3 (46.4%), also got a significant number of 4 ratings, indicating a higher degree of satisfaction by the respondents (Fig. 41). This question, however, received the lowest number of responses (28), indicating that many either did not understand its objective or did not care to elaborate on it, probably because a great part of it was already covered in the previous two questions. The need for IWC to grow its funding in order to cover its increasing workload, either through the budget or by extra-budgetary funds, was recognized. In the case of extra-budgetary funds, however, a careful and transparent allocation of funds would be required to ensure that the needs of donors could be met, while also ensuring the needed observance of Commission priorities. For that reason, one of the respondents opined that the Commission should strive to accomplish its work, to the extent possible, within the limited resources it receives from member governments, who, therefore, would have to decide either to increase their contributions or not to pursue those aims to which the funds were required. Besides, as already noted with regard to the previous question, another respondent cautioned that an increase in extra-budgetary funds would also increase the use of staff resources from the Secretariat.

The last question of the Survey, on the adequacy of the Rules of Procedure, received most 3 (46.4%) and 4 (39.3%) ratings, indicating a reasonable degree of satisfaction by the respondents (Fig. 42). Many respondents considered that the Rules of Procedure should be continuously checked for the existence of gaps, updated and revised, if necessary (e.g. the rules governing the submission of documents for meetings require a revision). According to the comments, it was particularly important to ensure consistency among the different bodies of the Commission, together with the need to draft the terms of reference for those bodies that still do not have them. According to one respondent, however, working together effectively and with respect, surpasses any written rules. Another respondent suggested that the RoP should be revised in order to address the severely polarized situation presently prevailing in IWC and to consequently restore its ability to make binding decisions. Some NGOs, on the other hand, recommended their revision to ensure more transparency, including a broader participation of observers. Some further suggestions for revision were:

- a) Rule of Procedure D permits a commissioner to issue credentials for his/her delegation. Although this is administratively convenient, standard practice is that a Head of State/ Government or Minister for Foreign Affairs issues credentials. Ensuring credentials are

signed at a very high level provides greater confidence that commissioners are acting in accordance with the instructions of their governments;

- b) The rules of procedure for some subsidiary bodies are not fit for the purpose. For example, there are only very limited rules of procedure for some subsidiary bodies (other than the Scientific Committee), and these are vague. ROP M2 should be amended to require Terms of Reference for all subsidiary bodies and working groups, which are presently lacking. There are also rules of procedure for defunct bodies, such as the Technical Committee, which has not met since 1999.

28 respostas

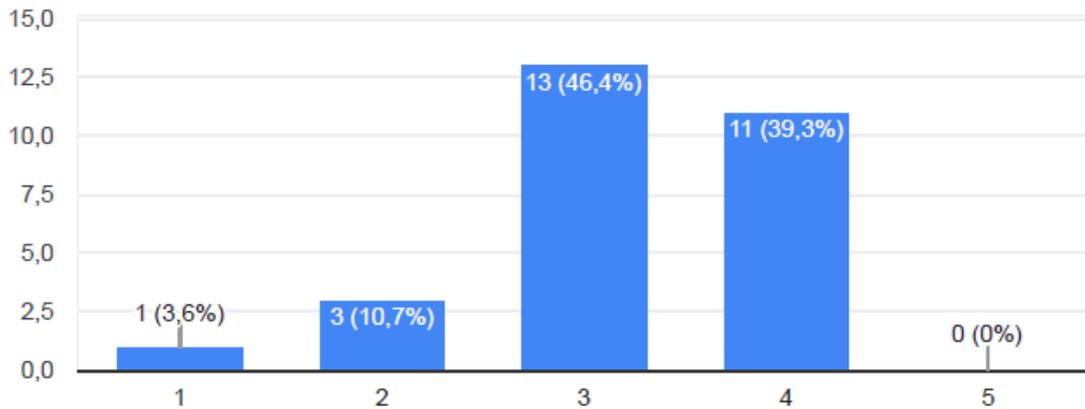


Figure 41- How do you rate: The future needs for extra-budgetary funding?

34 respostas

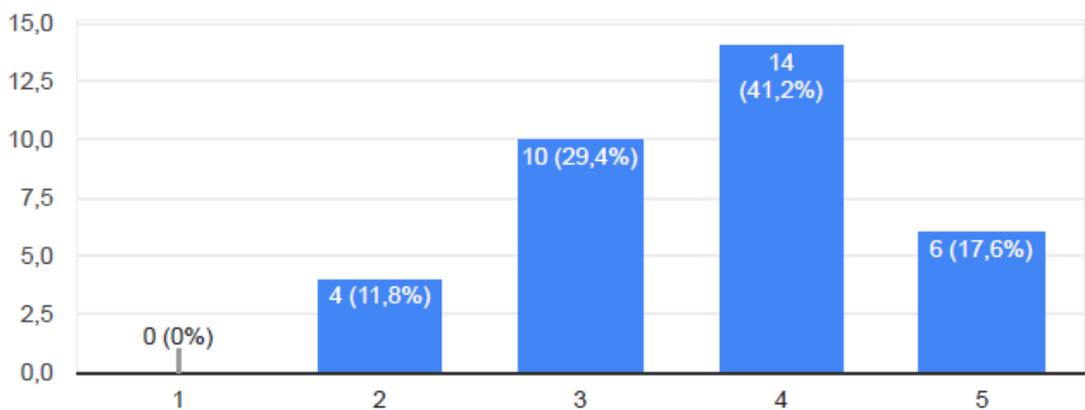


Figure 42- How do you rate: The adequacy of the Rules of Procedure?

### 1) Responses from pro-conservation Governments (9).

The pro-conservation governments were the most active in responding the survey, accounting for one fourth of the 36 responses. Three representatives from the same government presented different responses, which were then consolidated in one, as the mean of the three scores. Three representatives from another country presented responses in parallel to the official response from the Government and therefore were not considered under this block (contracting government representative), being analyzed together with the group “others”. Most of the additional comments were presented by only two delegations and, therefore, the summaries presented here reflect predominantly their views.

The scores given to the questions relating to the Commission itself ranged from 2.7, on the strategic approach of the Commission, to 4, on IWC cooperation and communication with other international and regional institutions. Ten out of the thirteen rates ranged from 3.3 to 3.6, evidencing a rather moderate satisfaction with the Commission.

The effectiveness of the decision-making process, rated 3.3, was considered satisfactory, at least for adopting resolutions, with the Commission being generally able to effectively make decisions on matters before it. According to the views presented, the process for decision-making, clearly laid out in the Convention and the Rules of Procedure, does allow the Commission to identify key and emerging issues relevant to the conservation and management of cetaceans and to act on them (e.g. resolution 2016-3 on the role of whales in supporting healthy ecosystems, asking the Scientific Committee to develop a plan for further research on the subject). Nevertheless, notwithstanding the Commission’s capacity to exert influence over the work program of its subsidiary bodies, it definitively needs to play a far greater role in defining priorities and consequently setting the strategic directions for future work of the organization and its subsidiary bodies, which presently are quite autonomous in doing that. The communication with the Scientific Committee is particularly deficient, making it difficult to track the implementation of decisions and to determine work programmes, including the assessment of their progress or even if they have already been completed. According to the respondents, often times it is hard to find out which resolutions are still applicable. To improve the monitoring on the implementation of resolutions and work programmes, therefore, it is vital to enhance the effectiveness of decision-making by the Commission, which is already jeopardized by the political polarization of the views of its members.

The decision-making process of the Commission, such as the process for presenting, discussing and adopting resolutions, rated 3.4, was considered reasonably efficient. The process to establish new subsidiary bodies, such as the Standing Working Group on Special Permit Programmes, was also considered efficient. According to one of the additional comments, the change in the schedule for biennial meetings was quite positive financially and did not have a negative impact on the Commission’s ability to make decisions. Again, like in the question related to the effectiveness of the decision-making process, the divergent political views of government members was seen as the main adverse influence on the efficiency of the process, delaying and sometimes halting decision-making.

On the role of observers, rated 3.6, the important participation of non-member countries and of the civil society in the discussions of the Commission and its subsidiary bodies was recognized and, according to most of the respondents, should be strengthened. To make the organization more open to civil society, the participation of observers should be enhanced, particularly in the intersessional work of the Commission, e.g. in the various working groups, sub-committees, etc. According to one of the respondents, however, the rules on when and how long a NGO's could talk should be more restrictive and clearly set in the Rules of Procedure.

The interaction between the Commission and the Scientific Committee, rated 3.6, was considered reasonably satisfactory. Despite of that, the respondents identified several problems in their interaction, including poor communication, lack of mutual understanding, unclear priorities and direction, lack of accountability and poorly defined expectations between the two bodies. Most of these problems were already pointed out in the item related to the effectiveness of the decision-making process, above. During the Commission meeting there is not enough time to properly debate and discuss the Scientific Committee's work and recommendations. Partly because of that, the SC work program and budget is presented at Commission meetings largely as a *fait accompli*, giving little opportunity for the Commission to guide the work of the SC and to ensure its priorities are aligned with its own. As a result, the Scientific Committee, to a large extent, self-determines its own agenda, which is generally over-sized. The lack of time during Commission meetings to examine the material presented by the SC is aggravated by the fact that it is often too technical for Commissioners and other delegation members to understand properly. Finally, there is no system in place to ensure the follow-up and the monitoring of the implementation of decisions made. Targeted reforms should, therefore, include: a) a revision of the meeting schedule of these two bodies, with more opportunities and time for them to interact (e.g. holding specialist workshops and other preparatory activities during the intersessional period); b) making the SC report and its presentation to the Commission, including scientific advice and recommendations, more clear and concise; c) preparing a streamlined and well-focused work plan/ budget, with a clear definition of the priorities they will address, in conformity with the Commission's priorities; d) following-up and monitoring the implementation of previous recommendations and decisions tasked to the SC, by the Commission. Recent changes in the SC processes regarding prioritizing research needs have been a positive step forward, to ensure that the SC's work reflects the priorities established by the Commission.

The process for reflecting recommendations by the Scientific Committee into the Commission's decision, rated 3.3, received a lower score than the interaction between the Commission and the Scientific Committee. Notwithstanding, the respondents recognized a significant improvement in the way the Scientific Committee is now drafting its report and presenting its recommendations, which are now more direct and clearly organized, providing enough context for the Commission to understand their justification and the intended follow-up required, by which body. The budget/ funding needs for each of these stand-alone recommendations, however, are not yet clearly specified and should, therefore, be included in future SC reports.

The interaction between the Commission and other committees, sub-committees and working groups was rated 3.4, again indicating a moderate satisfaction by the respondents. The need for the Commission to play a greater role in setting the work program and budgets of its subsidiary bodies, already noted above, was reiterated here, along with the suggestion for the Commission to develop standardized terms of reference, work plans and clear reporting processes for all subsidiary bodies. The need for a broader participation of all interested member governments in the work of the Commission, including in all Committees, Sub-committees and Working Groups (sub-groups) was emphasized as very important to facilitate and expedite the decision-making process. The creation of the Bureau was seen as a useful reform, but the need to clarify its role as a non-decision making body was also noted.

The process by which Commission decisions are transmitted to and are implemented by committees and the Secretariat, also rated 3.4, was considered to be largely dependent on the Chair of committees and other subsidiary groups. The suggestion for the Commission to develop standardized terms of reference, work plans and clear reporting processes for all subsidiary bodies was reiterated here as a means to standardize procedures and ensure

accountability. The summary document/ table of decisions from the Commission meeting was considered a very helpful document, which, over the past few years, has been available at the conclusion of each Commission meeting, to guide its work. The need for a better system to follow-up the progress in the implementation of resolutions was, however, emphasized, including the need to clarify which of them are still applicable today, given the sheer number of resolutions the IWC has passed in its long history. The working group to develop a draft structure and process for populating a web-accessible database for recommendations and outcomes, established by the joint working group of the conservation and scientific committee, was seen as a positive step into the right direction.

The process for allocation of the Commission's resources to Committees, sub-committees and working groups, also rated 3.4, was considered not sufficiently transparent and democratic. The need for the Commission to have a greater role in setting the budgets of its subsidiary bodies was again reiterated. According to one of the respondents, the IWC resources should be more evenly distributed among its subsidiary bodies, since presently, other than the SC, all the work done by the Commission is supported by voluntary contributions. All activities the Commission takes on, therefore, should include the expected expenditures associated with them, to ensure that a similar process for receiving funds from the Commission's resources is set in place, to avoid relying solely on voluntary contributions. If funding requests are not completely met with the existing Commission resources, then there should be an "approved" list of which projects member governments or outside organizations could direct voluntary funds. In disbursing funds, on the other hand, the Commission would benefit from developing standardized contracts for donors making voluntary contributions and a process to ensure best practice contract management. These measures would counter the risk of fraud and non-delivery against contracts. Applying more rigorous processes to manage these risks could lead to increased voluntary contributions from large external funders (e.g. the World Bank) and Contracting Governments. It would also improve the overall integrity of the work funded by the Commission.

The IWC cooperation and communication with other international and regional institutions, rated 4.0, got the highest score among the questions related to the Commission itself, indicating that the respondents were satisfied with its performance in this regard. Despite the frustration of one of the respondents that did not feel that IWC interact much with other international bodies, most of the respondents noted a significant improvement in recent years, with the Commission increasingly engaging with other regional and international institutions (e.g. the Indian Ocean Rim Association; the Pacific Regional Environment Programme, CCAMLR, IMO, CBD, CMS, etc.). According to the respondents, these engagements have been useful, and contributed to support the conservation and management of cetaceans worldwide. However, cooperation should be targeted, with a clear focus on outcomes, rather than simply dialogue. The participation of the Executive Secretary in meetings of the Biodiversity Liaison Group (the heads of biodiversity convention secretariats) was welcomed and encouraged to continue. Additional cooperation could be gained from working more directly with other RFMOs, particularly in terms of relationship-building, and being able to address emerging concerns, like the bycatch issue, more comprehensively.

The IWC effectiveness in reviewing arrangements of other institutions in order to learn lessons, adopt best practices and align governance arrangements was rated 3.0. Despite the rather low score, indicating it was considered only moderately satisfactory, a number of important reforms resulting from IWC initiative in this regard in the past 15 years were highlighted, such as: moving to biennial meetings for the Commission; establishing a Bureau to oversee the Commission's work in the intersessional period; strengthening the role of the Finance and Administration Committee (FAC); etc. The Bureau has helped to improve

governance and decision making processes, whilst the reforms done in the FAC has improved Commission's accounting transparency, engagement with civil society, and external communication. Besides, the fact that IWC is currently undergoing its first independent review in its 70-year history is in itself a significant effort to align the Commission with best practice for multilateral treaty bodies. Nevertheless, much more can be learned from other organizations, since this is an ongoing and evolving effort/process.

The strategic approach of the Commission, including the process for determining priorities, received the lowest score in this section (2.7), indicating a dissatisfaction by the respondents. The main reason for that was the need for the Commission to play a greater role in determining its strategic priorities, including for its subsidiary bodies, and allocating its resources accordingly.

The opportunities developing countries have to participate in the Commission was rated 3.6 by the more developed countries (6) and 3.7 by developing ones, indicating a convergence of views in this regard and a reasonable satisfaction by the respondents. According to them, however, despite some significant progress in recent years, including the establishment of a voluntary Assistance Fund to strengthen the capacity of government of limited means to participate fully in the Commission's work, much remains to be done. Thus far, most of the participation of developing countries in the Commission has been restricted to plenary meetings. Therefore, a much broader capacity-building effort needs to be developed to allow a more substantive participation of developing countries at the subcommittee level.

The last question in this section related to the Commission itself, on the arrangements for reporting on meetings (e.g. IISD/ENB), with a score of 3.6, was considered reasonably satisfactory. The respondents welcomed the IISD/ENB reporting at Commission meetings as a positive development, but pondered that it would be much more useful if detailed daily reports could be provided to delegates, while recognizing that more funding would be required for that. The Chair's summary, in turn, was considered a useful record of biennial Commission meetings. On the final record, typically released more than a month after the conclusion of the plenary meeting, one respondent suggested that ideally it should be adopted at the conclusion of the meetings, or even during the meeting itself, as occurs in CITES. Other respondent, however, was of the view that the Secretariat consistently provides balanced and comprehensive reports of all Committee and Sub-committee meetings, as well as the Plenary meeting, in a timely fashion. They also praised the Secretariat for always circulating the drafts of the reports for comment and review, a practice considered to be very helpful.

The organization and performance of the Scientific Committee, also rated reasonably satisfactory, with a mean score of 3.6, were criticized for being too independent, with the SC operating without an appropriate interaction with and direction from the Commission. The initiative by the SC to reform itself, by major reworking the structure and scope of work for many of its sub-committees, was welcomed by the respondents, since several of the changes instituted have potential of providing a more robust evaluation of data (e.g. survey designs, abundance estimates, etc.), critical to the overarching objectives of the SC. On the other hand, the volume of information provided annually to the SC by some sub-committees for evaluation and discussion has become excessive. Therefore, the annual scope of work and materials to be reviewed need to be refined to keep the SC meetings manageable.

As for all other groups, the scientific credibility of the Scientific Committee deliverables was considered satisfactory by the respondents (4.0). According to the views expressed, the SC is recognized as the worldwide authority on the conservation and management of whales, dolphins and porpoises, with the scientific advice provided being informed by the best available science, well-reviewed and authoritative to the fullest extent

possible. The need to reduce the political bias in some of the activities performed by the SC, however, was noted as crucial to avoid its credibility from being compromised.

The procedures for scientific data access and archiving, with a mean score of 3.6, was also considered reasonably satisfactory, with the process set up by the SC for ensuring that data are available, archived and accessible being considered to be well-thought out, time-tested and credible. Nevertheless, according to one of the respondents, although there is a Scientific Committee data access group to facilitate agreements between data holders and scientists requesting access to them, the process is still cumbersome, slow and with very uncertain outcomes. The SC should, therefore, strive to make all the data provided by Contracting Governments freely available for analysis by accredited members of the Commission.

The relationship between the Scientific Committee and other committees and working groups, rated 3.5, according to the views expressed in additional comments, should have a better coordination, since links are not always clear and the communication and reporting processes between bodies are not strong. The establishment of a Joint Working Group of the CC and the SC was welcomed as a step in the right direction, but was considered to be less effective than it could be because it is held immediately after the Scientific Committee and only for a short time. The holding of concurrent sessions of the Scientific Committee and Conservation Committee during the normal course of Scientific Committee meetings was suggested as a possibly more effective way to ensure better coordination between them.

The Conservation Committee, despite the rather low score of 3.1 given to its organization and performance, was considered to be very successful and influential, playing an important role in advancing international cooperation on whale conservation. The adoption of a Strategic Plan in 2016 was particularly welcomed since it has helped focus the Committee's attention on addressing the greatest threats to whale conservation. Nevertheless, the still limited attendance to its meetings and the fact that its activities are funded exclusively through voluntary contributions have limited its performance and effectiveness. An increase in the number of dedicated staff to support this committee, including a dedicated Head of Conservation to mirror the Head of Science, was suggested as a possible way to strengthen its role, besides enhancing the time and fund available from the core budget for it to undertake its work.

The organization and performance of the Finance and Administration Committee (FAC), rated 3.8, was considered to be quite satisfactory. The important reforms introduced by the FAC over the last ten years, including accounting transparency, civil society engagement, and external communication, were particularly praised. Nevertheless, intersessional coordination within the FAC was considered deficient, with most decisions being left to its chair. A way to overcome such a difficulty could be to establish a subset of the Commission to serve on the FAC to conduct intersessional work. Likewise, the Budgetary sub-committee, made up of representatives from each of the different "capacity to pay" groups, should also have more interaction during the intersessional period. Given the number of potential budget requests from the various sub-committees, the Budgetary sub-committee could review these requests to prioritize them and to provide advice to the FAC on how and when to fund the proposed projects.

The organization and performance of the Aboriginal Subsistence Whaling Sub-Committee, rated 3.5, was considered to be of high scientific standard and well supported by Contracting Governments. The establishment of an ASW Working Group (ASWWG) within the ASW Sub-Committee was considered a very positive development, significantly helping the Sub-committee to tackle many relevant issues related to ASW, particularly by enabling key intersessional work to be completed, which can be unwieldy to complete at the full subcommittee level.

The organization and performance of the Infractions Sub-Committee got a score of 3.3, indicating a moderate satisfaction by respondents. No additional comments, however, were provided, preventing any further analysis of their views.

The organization and performance of the Working Group on Whale Killing Methods and Welfare Issues, in turn, rated 3.7, was judged as reasonably satisfactory. This working group was considered to successfully improve killing methods and welfare outcomes for cetaceans, despite the controversial nature of the matter. The need for additional data from all Contracting Governments was highlighted, in order to support the continued success and utility of this working group.

The relationship between committees and working groups other than the Scientific Committee, rated 3.2 (moderately satisfactory), was considered to be unclear, particularly to people who are not intimately involved in the Commission's work, and should, therefore, be clarified. The same applies to the Bureau's role and relationship to other bodies. According to the views presented in the additional comments, they could all benefit from broader coordination and communication between and amongst themselves. In this context, the Joint CC-SC meeting was highlighted as a positive move in this direction and a possible model that could be replicated to other subsidiary bodies, notwithstanding the limitations related to the availability of financial resources to do it.

The number and coverage of committees and working groups, rated 3.5, was considered to be a bit excessive. The Commission should, therefore, evaluate them, particularly those that do not meet nor conduct work intersessionally, to see if they and their terms of reference still meet the Commission's needs and whether and how to change, update, or merge some of these many subgroups.

With mean scores ranging from 3.9 to 4.7, the issues related to the Secretariat were all considered either satisfactory or very satisfactory, reflecting the same trend observed in all other groups. The effectiveness and efficiency of the Secretariat in general, rated 4.6, was considered very satisfactory. The Secretariat was considered to always be very responsive to the needs of the Commission and its member governments, supporting them in an effective and efficient manner, as well as the work of the Bureau, to advance the Commission's administrative business in the intersessional period. The need for the Secretariat to better align its resources with Commission business and priorities and international best practice for secretariats was noted, nevertheless.

With a score of 4.3, the number of Secretariat staff was considered to be adequate given the Commission's budget. However, according to the additional comments, there are limited staff to serve as back-ups or to support the Secretariat, who are taking on more responsibilities as additional working groups and efforts are included in the Commission's priorities.

The professional skills of the Secretariat, rated 4.5, were also considered adequate. A better definition of their roles and the application of term limits to key positions, considered standard across other multilateral agreements, were, however, deemed as a necessary improvement.

The balance in the Secretariat between scientific and policy development support, rated 3.9, was considered satisfactory. According to one of the respondents, however, the relative allocation of staff to science is much greater than to conservation work, an imbalance that should be rectified. One way to improve this situation would be to appoint a Head of Conservation, to mirror the role presently played by the Head of Science. The balance between professional and administrative staff, in turn, rated 4.1, was considered appropriate.

The work of the Secretariat on communication and outreach, with a score of 4.4, was considered very satisfactory. According to the additional comments, the Secretariat provides Commission members and observers with timely and relevant updates, and is responsive to

Contracting Governments' requests for information, communicating with them, as well as with the public, in an objective, balanced, and professional way.

The work of the Secretariat in servicing and supporting IWC meetings received the highest scores of all items (4.7). According to the views expressed, the Secretariat works effectively with host countries to organize the Commission's biennial meetings and annual Scientific Committee meetings. The Secretariat staff have gone above and beyond to ensure that meetings run smoothly, from internet access to badging, quickly addressing any issue that might develop in a professional manner. One of the respondents advised that religious holidays should be taken into account when scheduling plenary meetings, since otherwise some delegations might have their participation limited.

The internet services, archives and web presence were considered satisfactory as well, having received a grade of 4.1. The respondents recognized a number of significant improvements in recent years, such as the introduction of paperless meetings and the inclusion of the organizational structure on the IWC website. The archives webpage has also been updated and now offers clear presentation of information on whales.

Notwithstanding all the progress already achieved, the following items were noted as potential areas for further improvement:

- a) Improving the search function, to make it more intuitive and to facilitate the understanding of organization/ categorization of documents from old meetings. Alternatively, a handbook of resolutions by topics could be created. Data held by contracting governments that have been used in the Scientific Committee, including data collected under special permit programs, should also be listed along with procedures for obtaining access to them;
- b) Circulating primary papers in a more timely manner in advance of meetings. Late submission of primary papers increases the already high workload and reduces the quality of discussion at Commission meetings. Hard deadlines should be set for the submission of papers in advance of meetings.
- c) Making all Scientific Committee meeting papers available online. Many papers, even for recent meetings, have disappeared from the online archive. If authors withdraw a paper, the reasons for withdrawal should be recorded on the archive. If a paper was used in the development of management advice or related to the review of special permits it should not be taken off the online archive. If an error is found in such a paper, the authors should add a revision to the archive with the necessary corrections.

The facilities of the Secretariat, rated 4.0, were considered satisfactory. Nevertheless, according to one of the respondents, the Commission would benefit from the Secretariat having the capability to host small meetings in its premises.

On the financial arrangements, the financial resources in general, rated 3.6, were considered reasonably satisfactory. According to one of the respondents, however, in order for the Commission to complete the projects, programs, and efforts that it has set out to complete, particularly projects that are done outside of the SC funding process, it will need to increase its member dues. On the other hand, in the view of another respondent, while the Commission could no doubt do more, particularly to support the conservation and management of cetaceans, with more resources, increasing annual contributions significantly is unlikely to be palatable to most Commission members. In order to achieve that, member governments will need an adequate justification for the cost of these additional activities. Therefore, a better process for prioritization is vital to ensure the Commission is more involved in making decisions on how funding is allocated. As discussed above, this could include ensuring the scope of committees, subcommittees and working groups is well defined, ensuring work programs are linked to the

Commission's recommendations and priorities, and/or reducing the number of times committees meet in the intersessional period.

The financial resources allocated to the Scientific Committee, rated 3.5, were considered adequate and well aligned with the priorities of the Commission, largely because it has been always funded through core contributions. This evidently has an impact on other bodies that do not receive core contributions and have, therefore, to rely entirely on voluntary contributions, reducing their effectiveness. Despite of that, the adequacy of financial resources to other committees and working groups was still considered moderately satisfactory, with a score of 3.1.

The process of preparing and adopting the budget of the Commission was considered satisfactory (3.8), having improved significantly over the last several years, according to the respondents. The need for the Commission to set the strategic direction of the organization and its subsidiary bodies and to prepare the budgets in line with those priorities was, however, emphasized by one of them, who also recognized this would entail a significant reform of Commission practice, which would require the support of the FAC to be achieved. The need for transparency in budget-setting, particularly with respect to core funding allocation and voluntary contribution allocation, was also highlighted. At present, the only committee that regularly receives core funding and consequently has a budgetary process well established is the SC, which has become more transparent over the past two years. Nevertheless, according to the views presented in the additional comments, they have no strategy in place for dealing with potential conflicts of interest when assessing funding proposals and proponents are often present during discussion of their proposals, a situation that needs to be rectified. Besides, the decisions on budget in the Scientific Committee are driven by conveners who are often invited participants and not representatives of Contracting Parties, reiterating the need, as discussed above, for the work programs and budgets to be linked to the Commissions priorities. Differently from the SC, other committees do not receive core funds and do not have a similar process, but could benefit from one. With several voluntary funds and many committees that could utilize those funds or core funds, the Commission could link the work of these committees and sub-groups together. This would be appropriate, for example, for the Conservation Committee to determine how voluntary funds are allocated from the Voluntary Conservation Fund.

As already noted in several of the responses above discussed, the current distribution of funding does not necessarily reflect the Commission's priorities. Besides, while the Scientific Committee is funded largely through core contributions, other subsidiary bodies, such as the Conservation Committee, must rely on voluntary funds. Despite the balance between core and voluntary funding was considered satisfactory, with a score of 3.5, according to the respondents who presented additional comments, voluntary contributions should only supplement core contributions and should not support entire work streams. In their view, such a balance is crucial to ensure that the priorities and work of the Commission reflects the will of all its members, not just a subset of those members who can provide additional funds.

The future needs for extra-budgetary funding, rated 3.4., was considered an attractive prospect by one of the respondents, who, however, pondered that its management could potentially require significant staff resources from the Secretariat. Besides, it was cautioned that a careful and transparent allocation of funds would be required to meet the needs of donors, while ensuring Commission priorities are met. On the other hand, another respondent expressed the view that the Commission should strive to accomplish its work within the limited resources it receives from member governments, who, therefore, will need to decide either to increase their contributions or to not pursue all of these efforts.

On the last question of the survey, the Rules of Procedure were considered generally adequate, receiving a score of 3.7. Nevertheless, the following concrete suggestions for improvement were presented by the respondents:

- a) Rule of Procedure D permits a commissioner to issue credentials for his/ her delegation. Although this is administratively convenient, standard practice is that a Head of State/ Government or Minister for Foreign Affairs issues credentials. Ensuring credentials are signed at a very high level provides greater confidence that commissioners are acting in accordance with the instructions of their governments;
- b) The rules of procedure for some subsidiary bodies are not fit for the purpose. For example, there are only very limited rules of procedure for some subsidiary bodies (other than the Scientific Committee), and these are vague. There are also rules of procedure for defunct bodies, such as the Technical Committee, which has not met since 1999.

Finally, on other points, a general lack of social science integrated within the IWC process was highlighted, with its inclusion being suggested as a possible aid to facilitate the approximation of "opposing camps", by helping the development of more solution-focused processes to bridge the gaps between ideologies, cultures, languages, etc.

## **2) Responses from pro-sustainable-use Governments (3).**

With an average of 2.3, ranging from 1.0 to 3.3, the view of the pro-sustainable-use governments on the Commission itself shows a clear dissatisfaction with the IWC. This is also reflected in the overall lack of additional comments, which has been provided by only one government. Therefore, the views hereby expressed, except for a couple of items, are of only one country. Since two responses were presented in the name of a same Government, the scores for that country are the mean of the two responses presented. Except for the arrangements for reporting on meetings, which got 3.3, all other responses in this section were equal or less than 3.0, so were not considered to be satisfactory.

Both the effectiveness and the efficiency of the decision-making process of the Commission were considered unsatisfactory, being rated 2.2. Despite the voting process was deemed to be transparent, it was considered too frequent for non-binding and unimportant decisions, not allowing, on the other hand, the discussion needed for the more important and fundamental decisions, such as the Schedule amendment, due to the severely polarized situation of IWC. The lack of clear rules for establishing new subsidiary bodies, such as the Conservation Committee, was also called into question under this item.

The role of observers in the Commission, rated 1.7, the second lowest, was considered to be too large, with the NGOs just repeating their propaganda unilaterally and not contributing to a constructive and fundamental debate, and, therefore, decreasing the effectiveness of the Commission.

The interaction between the Commission and the Scientific Committee, rated 2.0, was judged deficient, since some instructions from the Commission were considered to be irrelevant or not important at best to the SC, therefore disturbing its genuine work, which should focus purely on scientific issues. The process for reflecting recommendations by the Scientific Committee into the Commission's decision, in turn, got the lowest score of all responses, with a unanimous 1.0. The main reason for that, according to additional comments, was the Commission's disregard of the SC's advice in relation to setting catch limits, therefore,

according to the view expressed, violating Article V 2 (b)<sup>2</sup>. On the other hand, some proposals for schedule amendment are also not based on scientific findings, thus again violating Article V 2 (b) and evidencing the absence of any process to check the compatibility of the proposals with the requirements prescribed by the Convention.

The interaction between the Commission and other Committees, sub-committees and working groups, rated 1.8, was considered unsatisfactory too, due to a severe duplication of work between some Committees and sub-committees, aggravated by the Commission's failure to streamline the inefficient allocation of tasks. Due to the unclear mandates of the Conservation Committee and the Scientific Committee, for instance, many issues are covered simultaneously by both of them.

The process by which Commission decisions are transmitted to and are implemented by committees and the Secretariat rated a bit better (2.7), but was also considered unsatisfactory, since in some cases the instruction from the Commission is not compatible with the mandate of the committee.

The process for allocation of the Commission's resources to Committees, sub-Committees and working groups, despite a mean score of 3.0 (moderately satisfactory), was also criticized for putting more emphasis on the voice of the majority over that of the minority, regardless of their relevance to the Convention. The same reason was presented to criticize the strategic approach of the Commission, including the process for determining priorities, rated 2.7. Besides, according to the view expressed by the same respondent, too much effort and resources have been allocated to non-relevant or non-important work, deviating from the original objectives of the International Convention for the Regulation of Whaling, which, according to its preamble, is to "make possible the orderly development of the whaling industry."

IWC cooperation and communication with other international and regional institutions (2.7) was considered superficial, despite the many initiatives with that purpose. Likewise, the IWC effectiveness in reviewing arrangements of other institutions in order to learn lessons, adopt best practices and align governance regimes, was considered insufficient, despite also of a mean score of 3.0. The main problem identified in this case was the polarization experienced by IWC, differently from other institutions. Consequently, just to improve governance arrangements might not be sufficient to address the most fundamental issues of IWC, according to the respondent.

On the opportunities of developing countries to participate in the Commission meetings, rated 2.3, the fund established at IWC 66 with this purpose was considered a significant step forward. However, it was recognized that much still needs to be done, in particular, to enhance the participation of developing countries in the SC, which may require a capacity-building program in this regard. The arrangements for reporting on meetings (e.g. IISD/ENB) got a reasonable degree of satisfaction (3.3), with no further comment.

Differently from all other groups of respondents, who unanimously praised the organization and performance of the Scientific Committee, the pro-sustainable-use Governments gave it a score of 2.3, expressing their dissatisfaction with the work of the SC. The reason for that again was the perceived loss of focus by the SC, which, according to the additional comment, has been spending less and less time and human resources to management matters (RMP, IA), and more and more to the conservation agenda (HIM, WW, SM, CMP, E, etc.). Even the scientific credibility of the Scientific Committee, despite a better score (3.7),

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<sup>2</sup> Article V. 2. These amendments of the Schedule (b) shall be based on scientific findings;

was not spared of criticism, being judged to be too politicized at times. The procedures for scientific data access and archiving got a similar rating (3.7), with no further comment.

The relationship between the Scientific Committee and other committees and working groups, rated 3.3, was criticized on the same grounds as the interaction between the Commission and other Committees, sub-committees and working groups, i.e. due to a severe duplication of work resulting from their unclear mandates. In the absence of formal Terms of Reference, in the view of the respondent, some subsidiary bodies, such as the CC, tend to self-determine their mandate, resulting in duplication of work and waste of valuable resources. Accordingly, the evaluation of the organization and performance of the Conservation Committee, rated 2.2, was deemed impossible in the additional comment, precisely because the lack of a formal ToR, established by the Commission. The organization and performance of the Finance and Administration Committee, the Aboriginal Subsistence Whaling Sub-Committee, and the Infractions Sub-Committee were rated, respectively, 3.5, 4.2 and 4.0, with no additional comment, indicating an overall satisfaction with their work.

The organization and performance of the Working Group on Whale Killing Methods and Welfare Issues, on the contrary, was considered rather unsatisfactory, scoring 2.8, mainly because the lack of opportunity to discuss how to improve killing methods, an important issue for both the whaling industry and for whale welfare. According to the view expressed, almost all of the discussion taking place in that Working group presumes total protection of whales.

The relationship between committees and working groups other than the Scientific Committee received a neutral assessment (3.0), with no further comment, while the number and coverage of committees and working groups, with a score of 1.3, was considered to be excessive, with many of them lacking relevance to the Convention's original objectives.

Ranging from 3.8 to 5.0, with a mean of 4.5, all items related to the performance of the Secretariat was considered to be very satisfactory, being extremely effective, with limited resources, which should, therefore, be increased. The only criticism was the lack of proactivity in external outreach, but even in that case it was so because of the ineffectiveness of the Commission, not of the Secretariat.

The financial arrangements, on the other hand, with scores ranging from 2.3 to 3.2, with a mean of 2.7, were considered generally not satisfactory, mainly because of a lack of a proper prioritization. Consequently, too many resources are being allocated to issues of low relevancy to the objectives of the Convention, while not enough financial resources, on the other hand, are being used in recruiting modelers and/or statisticians who can do RMP and other management related matters. Another consequence of that, as noted in an additional comment, is the excessive amount of voluntary funding.

Finally, with a score of 3.7, the present Rules of Procedure were, on average, judged to be satisfactory, but the views were polarized, ranging from 2 to 5. The Government that found the RoP to be unsatisfactory, rating them with a score of 2.0, suggested they might have to be revised in order to address the severely polarized situation presently prevailing in IWC and to consequently restore its ability to make binding decisions.

The last additional comment, presented in other points, just reiterated the view that the most fundamental problem of IWC is the fundamentally different position of the two blocks of countries, in favor and against whaling, making it impossible for IWC to make any binding decisions, since it requires a 3/4 majority. According to the respondent, this fundamental problem should be somehow addressed.

### **3) Responses from Chairs of subsidiary bodies (5).**

Five persons who identified themselves as Committee/ sub-committee/ working group chairs responded the questionnaire. The responses in this group was more homogeneous than in all others, except for the Secretariat, with almost half of the ratings having an amplitude of only one point (40%). The average rating for the questions related to the Commission itself was 3.2, showing a rather neutral degree of satisfaction. The highest score was obtained by the arrangements for reporting on meetings (4.2), followed by the role of observers in the commission (3.7) and the cooperation and communication with other regional and international institutions (3.6). In these last two items, a significant improvement in recent years was noted. In the case of relations with other IGOs, the commitment and effort by the Secretariat was recognized. With regard to the role of observers, the need for further improvement was highlighted, possibly by amending the rules of procedure, to further clarify their role and the rules for their participation (e.g. allowing their participation in drafting groups, which presently is left to the discretion of the chair).

The lowest rate was given to the strategic approach of the Commission (2.2), followed by the effectiveness of its decision-making process (2.4), both considered unsatisfactory. The low rates in both items seem to be correlated and directly linked to the divergent visions of the parties, with very little room for compromise, rendering the development of an overarching strategy impossible. Strategic planning in the Commission, therefore, seems to be confined to subcommittees and working groups, in a rather independent and disconnected manner.

The rate for the **efficiency** of the decision-making process was higher (3.2) than for the **effectiveness** (2.4), with the deficiencies in this regard being attributed to the lack of capacity by the Commission to enforce compliance to its decisions and resolutions, as well as to the polarized views.

The interaction between the Commission and the Scientific Committee was considered deficient, with a rather neutral rate (3.2). The main concern noted was the vast amount of work done by the SC and the consequent difficulty to translate it in an understandable, user-friendly manner to the Commission. The relatively limited number of people involved in both bodies was also pointed out as a further difficulty to an efficient interaction, while the increased communication and collaboration between the SC and the CC was recognized as a positive step that should be expanded to other subcommittees (such as ASW and SC). Probably because of that, the process for reflecting recommendations by the SC into Commission's decisions was judged unsatisfactory (2.8), notwithstanding the recognition of the recent progress achieved by streamlining the recommendations, using one general language and establishing a database for this specific purpose. Likewise, the interaction between the Commission and other Committees, sub-committees and working groups was also considered deficient (2.8), with very little room for questions/ clarification/ discussion.

On the other hand, the process by which Commission decisions are transmitted to and are implemented by committees and the Secretariat got a better rating (3.6). The main complaint about the process was the unclear language in which decisions are often times drafted, rendering them open for interpretation. A legal advice/ support when drafting decisions was suggested as a possible way to mitigate this problem.

The process for the allocation of the Commission resources to the subsidiary bodies, rated 3.4, was considered unclear, unbalanced and not transparent, with most of the available resources being given to the SC, in detriment of other bodies, such as the CC, which tasks have been increasing more and more.

Three of the five respondents were satisfied (rating 4) with IWC effectiveness in reviewing arrangements of other institutions in order to learn lessons, adopt best practices and align governance arrangements. The other two who expressed dissatisfaction (rating 2 and 3), stated that, despite its rather different nature, IWC still had a lot of lessons to learn from other

institutions, while the process of reviewing itself in light of the arrangements in place in other institutions was not clear.

The opportunities of developing countries to participate in the Commission were considered reasonably satisfactory (3.4), despite the recognition of obvious capacity difficulties.

The organization and performance of the Scientific Committee (rated 4.0), as well as its scientific credibility (4.4), were considered satisfactory. Despite its heavy agenda and possibly an overly conservative approach, the work of the SC was considered, in general, great, with a few downsides. Some of the criticisms included the lack of interaction with the Commission, with too much independency in setting their agenda and priorities, possibly reflecting, in some instances, even personal interests of the scientists involved. Too much politicization with regard to a few specific items; lack of accountability, monitoring or following-up of tasks undertaken; and too much interference from the Head of Science were also quoted as further deficiencies. Procedures for scientific data archiving and access was also considered very satisfactory (4.5). Despite being a bit burdensome, it was considered very transparent and a model to be followed by other institutions.

The relationship between the Scientific Committee and other committees and working groups achieved a reasonably good rating too (3.4), despite the relative isolation they tend to work sometimes. The same comment was also applied to the relationship between committees and working groups other than the Scientific Committee, rated 3.

The organization and performance of the Conservation Committee (CC) was rated much less favorably (2.8) than the SC. Besides the lack of a proper budget to carry out its work, other problems faced by the CC, according to the respondents, include a lack of clarity on the roles of the CC and SC and a lack of time for the CC to work efficiently. Besides, since it holds only one meeting every two years, back to back with the Commission meeting, it means that important decisions have to be deferred for two extra years as the CC can't submit them to the adjacent IWC-meeting because by then the deadlines for proposals have already past.

The organization and performance of the Finance and Administration Committee, of the Aboriginal Subsistence Whaling Sub-Committee and of the Working Group on Whale Killing Methods and Welfare Issues got all the same rather neutral rating of 3.2, with no further relevant comment. The Infractions subcommittee was rated a little less (2.7), according to the respondents, due to its incapacity to do anything about the infractions it detects. The number and coverage of committees and working groups, rated 3, was considered excessive for efficient work and their continuity should be therefore evaluated, since some may have already finalized their mandates, while others could be possibly merged. The need for more interaction between them was also highlighted.

With an average rating of 4.0, the Secretariat achieved the highest level of satisfaction among the chairs of committees/ sub-committees/ working groups. All of them were either satisfied or very satisfied with the effectiveness and efficiency of the Secretariat in general, as well as with the adequacy of its professional skills (respectively rated 4.4 and 4.6). Despite the number of secretariat staff got a rather neutral score (3.2), the need to increase the number of people was emphasized: “as demands for the secretariat are increasing, it becomes more and more difficult for them to meet these demands with the current number of staff members. They need more people to do all the work that is being asked of them”.

The rather neutral rating (3.0) for the balance in the Secretariat between scientific and policy development support indicates a divergence of views. One of the respondents considered that recently policy development has been overplayed, while another one expressed an opposite view, that policy development and implementation are as important as science and should therefore be strengthened, while also recognizing a recent shift in balance, in this regard.

The balance in the Secretariat between professional and administrative staff was considered satisfactory (4.0), except for one respondent (2.0), who highlighted the need of additional staff for the IWC journal, as well as the overburden on the shoulders of the Head of Science, who should be retiring soon, with no plan yet in place for his substitution. The Secretariat facilities (4) and the work of the Secretariat on communication and outreach (3.7) were also favorably rated, with no further comments on these items. The work of the Secretariat in servicing and supporting IWC meetings got the highest grade in the entire survey (4.8), evidencing a high degree of satisfaction. The only suggestion on this item was the possible hiring of a legal counselor that could advice parties on the interpretation of different rules, resolutions, the convention, etc. As pointed out in a previous section of the survey, such professional could also help the drafting of decisions by the commission, to ensure clarity and precision. On the internet services, archives and web presence, despite they were considered satisfactory (4.0) and containing a lot of information, it was also considered difficult to navigate in the website and to find documents.

About the financial arrangements, with an average rating of 3.5, they were considered relatively adequate, except for the unbalanced distribution of resources among different committees, with too big a priority being given to the SC, in detriment of other subsidiary bodies. With regard to the process of preparing and adopting the budget, there was a concern with the timing. Since it is allocated before the decisions of the Commission have been made, according to one of the respondents, there is no flexibility to allocate money to new initiatives unless with voluntary funds (especially as parties do not accept budget increases). On the balance between core and voluntary funding (3.4), one of the respondents expressed the view that too many activities, particularly those of subsidiary bodies other than the SC, have been largely financed by voluntary funding. This is not ideal, since voluntary contributions are naturally biased towards the interests of the donors, therefore, distorting the priorities that should be set by the Commission. Besides, as pointed out by one of the respondents, despite voluntary funds may be useful for addressing specific topics, their proliferation with different purposes tend to overburden the Secretariat, by adding a lot of complexity to an already overstretched administration. One possible way to at least help to mitigate this burden would be to charge an overhead for the Secretariat to manage this kind of fund. Although only two respondents rated the future needs for extra-budgetary funding (3 and 4), according to the complementary comment presented by one of them, they will only increase with time.

The adequacy of the Rules of Procedure was rated 3.8, meaning they were considered satisfactory. Notwithstanding, at least one of the respondents suggested that they should be checked for the existence of gaps, while some rules (e.g. submission of documents for meetings) should be revised.

#### **4) Responses from members of the Secretariat: 4**

Only four members of the Secretariat participated in the survey and, expectedly, their responses were the most homogeneous of all groups, with their amplitude being equal or less than one in 70% of the questions (28 out of 40). Their average rating for the questions related to the Commission itself was 3.3, indicating a rather low degree of satisfaction.

On the effectiveness of the decision-making process of the Commission, rated 3.7, a significant progress in recent years was recognized, particularly on conservation and welfare work streams, a development that would have not been possible just a few years ago. One of the main factors that compromises the effectiveness of the Commission, in the view of the Secretariat, is the disconnection between the negotiation/ agreement of Resolutions and the work programme of the Commission; i.e. the resolutions very often do not stem from the work

done by the Commission subsidiary bodies, its subcommittees and working groups, but from the political agenda of the parties.

On the efficiency of the decision-making process (3.5), the new periodicity of meetings, now every two years, was identified as potentially slowing it down, and raising the need to find an alternative method for agreeing on interim decisions when they are required. Despite a significant improvement was recognized in recent years, the proliferation of new subgroups, although positive for allowing the engagement of more individuals in the work of the Commission, was noted as having the downside of also slowing down the decision-making process and rendering it more complex. In this regard, it was highlighted that new subgroups should have a clear focus and a time limit on their existence so that they could support rather than delay the decision-making process.

Considered rather satisfactory (3.7), the role of observers in the Commission was seen as having significantly improved in recent years, notwithstanding a recognition of further room for improvement (e.g. by providing them a seat at the meeting table, name placards, etc.). Their contribution to the present work of the Commission was considered relevant and opportune, with their future role, however, depending much on how they are going to use the opportunity they are now getting.

The interaction between the Commission and the Scientific Committee was rated as reasonably satisfactory (3.5) as well. The challenge to convey to the Commission, in a friendly manner and limited time, the huge amount of information and recommendations generated by the Scientific Committee (contained in a 600-page report) was pointed out as one of the main difficulties of this interaction, particularly for defining priorities. On the other hand, the SC was recognized as the glue that has held the IWC together during difficult political times, although a significant progress in recent years has been noted, with the Commission becoming more engaged and functional. Nevertheless, despite communication and coherence between the SC and the Commission seem to have improved in recent years, this interaction can still become much more dynamic. Despite some criticism of the SC being too independent from the Commission, according to one of the respondents from the Secretariat, the work done by the Scientific Committee is all based on Commission requests, many dating back for decades, or even to the beginning of the Commission itself; meaning the SC does not have its own agenda.

The process for reflecting recommendations by the Scientific Committee into the Commission's decision, also rated 3.5, reflected much of the previous item. The new format of the SC presentation of recommendations to the Commission, however, was noted as a good improvement, notwithstanding the need for a better way to establish the priorities.

On the interaction between the Commission and other committees, sub-committees and working groups, the need for a better mechanism for them to present their results and recommendations to the Commission was emphasized as very relevant. As noted above, this would also increase the effectiveness of the decisions taken by the Commission, since they would more easily stem directly from the work done by the subsidiary bodies. Besides, if the Resolutions adopted could be more linked to the work of sub-committees and their work programmes then there might be more time for some substantive discussion of these work programmes by the Commission, beyond the more political issues that usually dominate present discussions, notwithstanding the recent progress.

The process by which Commission decisions are transmitted to and are implemented by committees and the Secretariat was considered unsatisfactory, being given the lowest rate under this item, together with the strategic approach of the Commission (2.7). According to one of the respondents, the Report of the Commission should be published in paper and receive a higher status, not only as a record of the decisions taken, but also as a guide of the priorities and tasks given to the subsidiary bodies. With this regard, the proposed database of

recommendations was seen as a good way forward to transmit them, but the lack of an established process to routinely monitor and review the progress in the implementation of the recommendations was highlighted as a matter of serious concern. It was noted that some Commission decisions/ recommendations are for implementation by Member Governments (e.g. aboriginal catch limits, proposals for Sanctuaries/ Marine Protected Areas etc.), not by the committees or by the Secretariat themselves.

The process for the allocation of the Commission's resources to Committees, sub-Committees and working groups was considered unbalanced as only the SC has core funds included in the budget, in detriment of the Conservation Committee and other bodies, such as the Whale Killing Methods and Welfare Issues Working Group, which have to depend on voluntary donations from governments. Despite the recognition of an overall shortage of resources to carry out the tasks the Commission faces, more than allocating more money, a better setting of priorities and focused agendas, structured in a pragmatic workplan, could provide a good way forward.

On cooperation and communication with other international and regional institutions, rated 3.2, according to the Secretariat, the IWC has been historically very isolated, but the situation has been improving significantly in recent years, despite a long way still to go. As a response to many recommendations for engagement with other IGOs from the Commission and its subsidiary bodies, the Secretariat has been given the mandate to actively work towards that aim. As a result, a much better cooperation has been established with several international bodies, such as IMO, CMS, including ASCOBANS and ACCOBAMS, FAO/ COFI, among others, as well the membership in the Biodiversity Liaison Group. Notwithstanding the significant progress in this front, the Secretariat has not been able to communicate this well enough, which might result in a lower scoring by IWC members.

On a related topic, related to how IWC has been able to learn lessons, adopt best practices and improve governance, by reviewing arrangements of other institutions, which got a similar rating (3.3), the respondents from the Secretariat also recognized an improvement in recent years. A good example cited was the development of means of supporting governments of limited means to participate in the work of the Commission, adopted by Resolution at the last meeting. A more systematic and formal process to do this, however, was recognized as necessary to foster progress in IWC governance.

The strategic approach of the Commission, including the process for determining priorities, as already noted above, got the lowest score (2.7) among the issues related to the Commission, together with the process by which Commission decisions are transmitted to and are implemented by committees and the Secretariat. Despite the recognition of some improvement in recent years, including the development of strategic plans by some subsidiary bodies (e.g. the Conservation Committee), much still need to be done, in particular the need for the Commission itself to develop a strategic plan or, at least, a biennial programme of work, notwithstanding the political challenges such a development might entail. An important side effect of such strategic planning would be the strengthening of the link between the established priorities and the budget/ fund allocation.

On the opportunities developing countries have to participate in IWC, which got a neutral score of 3, the recent achievement of establishing a fund to support governments of limited means in the work of the Commission was considered a significant progress. In the view of the Secretariat, however, much more still need to be done with this purpose, since participation of developing countries in the work of the Commission is still very unevenly spread (e.g. the participation of African countries, apart from South Africa, in IWC expert workshops is negligible), contributing to a reduced influx of information from developing regions. There is a clear need for a better regional balance in the work of IWC and, therefore,

a more structured policy for capacity building in the Commission (an area that is mainstreamed in many other IGOs).

There were mixed views from the Secretariat on the arrangements for reporting on meetings by IISD/ENB, rated 3.5. Some found it good to have the ENB at the last meeting, although the “in the corridors” coverage was missed, while others found it ambiguous and duplicating the work of rapporteurs, noting that the official record remains the Commission's meeting reports.

On the Committees and Working Groups, the Secretariat gave a very high score (4.7) for both the organization and performance of the Scientific Committee and its scientific credibility, named as “the jewel in the crown” of the IWC. The amount of work of the SC was considered “phenomenal” and its quality outstanding, being highly regarded in scientific circles. Nevertheless, there was also a view that they could have a better strategy to prioritize more their work and, with that, possibly even shorten their meetings and reduce costs.

The procedures for scientific data archiving and access was considered only moderately satisfactory (3.2), by the Secretariat, who stated they are usually able to provide the information they are asked for, but noting they could perform much better if the resources they had previously requested had been provided. Besides, the need for more expertise in the Secretariat was also emphasized, such as an archivist to sort out the IWC huge archive, which is not as yet fully accessible on the web, to make all those valuable data more available online and to update the databases.

The relationship between the Scientific Committee and other committees and working groups was considered reasonably satisfactory (3.7), although an overlapping between the Scientific Committee and other bodies, such as the Conservation Committee (e.g. both have a whale-watching working group) has been noted, requiring a better coordination and definition of roles.

The organization and performance of the Conservation Committee rated much less than the SC (3.5), but was considered to be improving. Besides being much younger than the SC, the fact that it does not have a budget of its own was pointed out as one of the main reasons for its deficiencies, in spite of its good organization and growing work programme. The overlapping and confusion of roles between the SC and the CC, noted in the previous item, was again reiterated here. The recent development of its strategic plan and work plan was recognized as very positive.

The Secretariat respondents did not comment much on the Finance and Administration Committee, rated 3.7, except for the need, in their view, to formally review the effect that the move to biennial Commission meetings has had on budgeting and yearly financial statements.

The Aboriginal Subsistence Whaling Sub-Committee, rated 3.5, was considered to work well and efficiently, being particularly significant since subsistence catches are the only ones presently set by the Commission.

The Infractions Sub-Committee was rated as quite satisfactory (4.5), working well and gathering information efficiently, but only two respondents expressed their view on it and did not elaborate any further.

In the view of the Secretariat, the organization and performance of the Working Group on Whale Killing Methods and Welfare Issues, rated 3.7, is rather satisfactory, having improved recently, with the expansion of its work programme to cover a number of “non-hunting” threats to welfare, besides hunting issues, and finding common ground between member States. Its full potential, however, is yet to be developed, and improving its links and coordination with other bodies (e.g. the SC, and Conservation Committee) on topics of mutual interest would help with this. The lack of reporting by some members, however, is still a challenge this subcommittee is still facing.

The relationship between committees and working groups other than the Scientific Committee was considered moderately satisfactory (3.0), requiring more collaboration on issues of mutual interest.

The number and coverage of committees and working groups was considered satisfactory (4.0), being presently at the right size for the IWC work programme and spectrum of interest, particularly since the Commission is expanding the conservation side of its mandate.

Naturally, the responses to the questions related to the Secretariat itself were the ones most elaborated and detailed by the members of the Secretariat who responded the survey. The effectiveness and efficiency of the Secretariat, in general, was considered to be satisfactory, with the staff judged to be incredibly knowledgeable, efficient and hard working, doing a fantastic job, given their number, workload and dwindling level of funding available. In their view, it is challenging for the Secretariat to fully support the Commission's growing work programme, but there is room for improvement. Three issues in particular were identified as preventing the Secretariat from being as effective as it could be:

- a) lack of prioritization of internal issues, resulting in the absence of important aspects of good organizational management, such as a staff appraisal system or internal performance review, staff training or team-building, etc.;
- b) discrepancy of views between long-standing members of the Secretariat and newer members who are "used to" more modern procedures and working practices (e.g. staff appraisal system, improved financial procedures), resulting in a high degree of resistance to change; and
- c) lack of a proper work planning, despite some recent initiatives towards this aim.

The number of Secretariat staff was considered inadequate (2.7) in light of the growing workload, particularly as the IWC has been expanding its work to carry out its full mandate (e.g. conservation and management). The need of personnel seems to be particularly acute in the IT, finance and human resource areas. The need for an archivist, already noted under the item on scientific data archiving and access, was again emphasized, since it is necessary to "to sort out the electronic archiving, moving the publications to interactive, hyperlinked documents rather than plain PDF files, to organize the database, etc". Another concern related to the staff was the concentration of knowledge/ expertise in only one person, without any planning for succession or emergency back-up on some critical areas, in case, for instance, someone falls ill during a meeting. This becomes particularly crucial when the fact that several Secretariat members will reach retirement age within the next 5 years is taken into account.

The professional skills of the Secretariat were considered quite satisfactory (4.5), despite the lack of any training plan or professional development strategy, already noted, and the underutilization of some members of the staff.

The balance between scientific and policy development was considered moderately satisfactory (3.2), with a need for more support for policy side, particularly on conservation and management, as the IWC expands its work to more fully address its mandate. Despite some recent progress (e.g. the temporary promotion of Project Officer to head of programme development), support for policy development and for the conservation, welfare and ASW committees requires a senior member of staff (IWC management team) position. Some capacity to help achieve this might be freed up by restructuring. On the other hand, the Head of Science also needs more support (e.g. a "co" or "vice" head of science).

The balance in the Secretariat between professional and administrative staff, also rated 3.2, was considered moderately satisfactory. The comments basically reiterated the previous ones, drawing attention to the need to increase the staff, particularly in IT/ archiving, HR, and

finance, as well as to strengthen positions in areas of work other than science and statistics (e.g. policy development and conservation).

The work of the Secretariat on communication and outreach (4.2) was considered satisfactory (4.2) and improving, with a lot more being done in this area of work recently, particularly after the addition of a communications officer, despite some internal resistance, already discussed above.

The work of the Secretariat in servicing and supporting IWC meetings received one of the highest scores (4.7), demonstrating that the Secretariat is very proud of the work they have been doing in this regard, considered to be exceptionally efficient and hard-working. The meetings give them the opportunity to come together as a strong team with a shared and common goal.

On the internet services, archives and web presence, despite a vast improvement in recent years, as already noted above, the small number of people involved with IT (only two) and the lack of resources have hindered the progress still needed, particularly on web servicing and archiving. The facilities, rated 3.2, were considered basically ok, and, again, much improved in recent years, but a lot of work is still required to bring the Red House to modern standards.

The financial resources were considered to be unsatisfactory (2.7) and incompatible with the growing workload. Whenever more work is requested, the correspondent financial resources should be assigned to do it, but usually that has not been the case. Despite some increase in the available resources has been made possible by means of voluntary contributions, this is not the best way, since it makes planning more difficult. The Commission should not expect ambitious workplans to continue expanding without an increase in funding.

The amount of resources allocated to the Scientific Committee was considered adequate (3.7), particularly because it has received most support, as the preeminent subcommittee of the IWC. According to the respondents from the Secretariat, maybe more than an increased budget, a better prioritization should be sought for by the SC, in response to the needs of the Commission.

With regard to the other committees and working groups, the allocation of financial resources was considered unsatisfactory (2.7), mainly because of the very inequitable distribution of core funds, making them to depend heavily on voluntary donations, a situation seen as unsustainable in the long-run.

Only two respondents scored (both with a 3.0) and commented on the process of preparing and adopting the budget of the Commission. According to them, the links between the work programmes and the preparation and adoption of the budget should be improved. The budget should be more a result of the needs stemming from the work being done and the new work planned, than of a mere updating of the budget from the previous period, as it has been always the case, with no real increase for many years. Besides, there should be scope in the budget for contingencies. The balance between core and voluntary funding was also considered inadequate (2.3), since the main funding should come from core funds. About future needs for extra-budgetary funding, rated 3.3, the main comment was on the need for IWC to grow its funding in order to cover its increasing workload, either through the budget or by extra-budgetary funds, with the caveat already noted in previous items. The need of a contingency fund was again highlighted.

The rules of procedure got a rather neutral score of 3.2. The only comment presented drew the attention to the need of their constant updating, although working together effectively and with respect surpasses written rules.

Finally, on other points, the respondents expressed their frustration with the lack of resources, which prevent them from achieving more, and with the negative impact of biennial

meetings on the decision-making process and achieving change. On the other hand, expressed their satisfaction to work there, in particular with the World class scientific work and the fact that, despite past political battles and cultural differences, the member countries may actually have much more in common than not. And so there is a significant common ground upon which to build and affect positive outcomes.

### **5) Responses from IGOs (2).**

Only two IGOs responded, and one of them graded only 8 out of the 40 questions, with no comments, except for a final one, where it stated that as a non-participant, distant observer, he could not comment on the majority of the questions. It noted, however, that from a Secretariat-to-Secretariat perspective, exchanges and information sharing have invariably been extremely professional. It also emphasized the need for both organizations to develop a far stronger and more collaborative relationship. Most of the views hereby summarized, therefore, are those of a single IGO.

On the Commission, the average grade was 3, although progress in the past 10 years has been noted. The participation of IGO observers was praised, while the interaction between the SC and the Commission was considered deficient. Allocation of Commission resources to committees, sub-committees and working groups was considered not very transparent. Cooperation and communication with other international and regional institutions was considered satisfactory, despite some room yet existing for improvement. The willingness to adopt best practices and align governance arrangements from other institutions was deemed as deficient. The strategic approach, including priority settings, was also considered deficient, mainly as a consequence of disagreements on interpretation of IWC convention. The participation from developing countries was considered unsatisfactory, with a clear domination of a few developed countries. Arrangements for reporting on meetings were considered highly satisfactory.

On the committees and working groups, the average grade was 3.9, meaning they were considered satisfactory. The only exceptions were the Working Group on Whale Killing Methods and Welfare Issues, which got 1. According to the respondent, it has lost the trust of the whaling countries, which are not reporting their data there anymore, afraid of an unfair treatment. The organization, performance and credibility of the scientific committee was highly praised, with a significant improvement in recent years being noted, reflecting a trend to do more science and less politics, with the exception of the Special Permit Committee. Procedures for data archiving and access were considered highly satisfactory as well.

With an average of 4.5, the work of the Secretariat was considered very satisfactory. The professionals were judged as effective, efficient, skilled, and friendly. Communication and outreach was considered satisfactory, as well, with a very good and much improved website, except for the process for downloading documents (since it does not allow the user to see the documents without downloading them). They did not comment on financial arrangements, except to note a dissatisfaction with the balance between core and voluntary funding, for lack of transparency. Rules of procedure were considered adequate.

### **6. Responses from NGOs (5).**

Five NGOs responded to the survey, with one of them having responded twice. In that case, therefore, their response was considered as one (the average between the two). On the Commission, the average grade was 3.2, which indicates a mild satisfaction. The highest grades

(3.6) were obtained for the effectiveness of decision-making process and for arrangements for reporting on meetings. Together with the **efficiency** of the decision-making process, the **effectiveness** of the decision-making process, rated 3.2, had the smallest amplitude, indicating a convergence of views of those who responded the survey and a rather neutral satisfaction with the decision-making process, by the Commission. The main deficiencies pointed out were the need for more time to discuss matters before decisions are made and for more clarity for quorum requirements, vis-à-vis the rules of procedure, and on the nature of decisions made (e.g. administrative issues x policy advice).

The need for a broader participation of observers in discussions previous to the submission of resolutions to the plenary was also highlighted, as well as the effectiveness of the voting process. Despite the relatively good rate obtained by the arrangements for reporting on meetings, and the recognition of improvement in recent years, according to the respondents, the opinion of participants in relation to hot topics still need to be better reflected in the report. The way the SC report is prepared by the Chair and presented during the closing session of the SC meeting was also deemed inappropriate, since it allows a very limited time for participants to agree on all the details of the recommendations, including several language subtleties, presenting a challenge particularly for those who are not native speakers of any of the official languages.

The lowest grade for the Commission's performance (2.7) was given to the process for allocation of resources to committees, sub-committees and working groups. Since all NGOs that responded were pro-conservation, the need for a higher priority to the Conservation Committee was naturally emphasized, together with the complaint of too many resources being still allocated to lethal research on whales. According to the NGOs, therefore, more transparency in the process of resource allocation, in conformity with the present priorities of the Commission, is urgently needed.

Expectedly, the strategic approach of the Commission, including the process for determining priorities, which impacts directly the distribution of resources to the subsidiary bodies, was the second lowest rate attributed to the Commission performance (2.8). The main reason for the Commission to fail in its strategic planning, according to the NGOs, was the polarization, the widely diverging views of parties, making it impossible to agree on a common strategy, as it is usually done by other IGOs.

Despite the level of cooperation and communication between IWC and other international and regional institutions was considered to be only moderately satisfactory (3.2), a great improvement in recent years was recognized. Important initiatives being developed were highlighted, such as those with IMO (on ship strikes and underwater noise), FAO (on cetacean bycatch), and, more recently, with the Indian Ocean Tuna Commission (IOTC) (also on cetacean bycatch), and with the CMS (on whale watching). The continuation and strengthening of these efforts were considered critical, requiring an increasing level of support from the Commission and within the Secretariat. Notwithstanding the recent progress noted, the NGOs considered that IWC still have a lot to learn with other institutions (2.8), on the way they manage their work, organize and oversee their subsidiary bodies, define and allocate budget and carry out other governance arrangements. The ongoing performance and governance review was seen by them as a good start in this front, nevertheless.

Due to the nature of the respondents, the most extensive responses were presented on the role of observers in the Commission, rated 3.4, indicating a relatively good level of satisfaction. The participation of observers in the work of the Commission was highly praised, despite the difficulties and limitations they feel they still have to participate fully in the discussions. Notwithstanding a recognition of recent improvements, the need for a broader participation of observers was noted, together with the need to clarify and reform the rules of

procedure of all bodies in the Commission, to ensure, among other things, they are more open to observer participation, including the submission of documents. Accordingly, organization of Commission meetings should, for instance, include a proper space for observers, microphones, name placards, etc. CITES was cited as a good role model that IWC could follow.

The process by which Commission decisions are transmitted and implemented by committees and by the Secretariat was considered only moderately satisfactory (3.0). The use of “resolutions” to transmit a range of instructions and advice was not considered to be appropriate, nor efficient/ effective. With regard to “implementation”, the main concern expressed by the NGOs was a lack of any established process to monitor and to report back on decisions which have tasked them with specific activities.

On the other way around, the level of Commission decisions reflecting the recommendations by the SC was rated a bit better (3.4), with a smaller amplitude, as well (2-5). The limited time available for the SC to present its report and recommendations to the Commission during the biennial plenary meetings, however, was considered to be highly inadequate, preventing them from receiving the consideration by the Commission they deserved. Besides, despite some recent improvements noted by NGOs, the way they are presented was considered still too complex and difficult to understand.

With regard to the participation of developing countries in the work of the Commission, rated just as moderately satisfactory (3.0), an important improvement in recent years was again recognized. Nevertheless, the opportunities for them to fully participate on an equal footing with the more developed nations were still considered fairly limited and not going much beyond the allocation of funds to facilitate their participation in the meetings of the Commission and its subsidiary bodies, such as the assistance fund established at IWC66, last year. .

The process for accessing, archiving and retrieving scientific data in IWC was considered rather satisfactory (3.5), again with a clear improvement in recent years. The credibility of the Scientific Committee (SC) was considered satisfactory, with a score greater than the Commission itself (3.8). The great scientific ability, working capacity and very high level of expertise of the SC were well recognized as being internationally renowned. The main downside of the SC was the relatively weak interaction with the Commission, rated 3.1, with the greatest amplitude of all (from 1 to 5), meaning it is a controversial subject among NGOs. According to the NGOs who responded the survey, the SC, to a large extent, establishes its own agenda and priorities, including too much discretion for the chair, vice-chair, IWC head of science and conveners. Consequently, it does not follow much the Commission guidance, even refusing to carry out tasks requested by the Commission, in some instances. Often times, the work of subcommittees and working groups does reflect the old priorities of particular individuals, following their own personal agendas. The same criticism with regard to the SC being too independent was also directed to the Secretariat and its chair, who sometimes, according to the NGOs, take decisions by themselves, prioritizing their personal agenda.

The Commission, therefore, should have a clearer and stronger role in establishing the priorities, the working program and in allocating the budget of all subsidiary bodies, including the SC and the Secretariat. Accordingly, a system, such a regular audit, to ensure conformity of the agenda and work of the SC and other bodies with decisions and recommendations of the Commission should be established. The inability of the SC to deliver clear recommendations on contested issues was also considered to hamper its credibility. According to the NGOs, at least part of the problem stems from the confusing, and many times conflicting, rules of procedure of the organization. SC RoP E (3), for instance, allows the Scientific Committee to make recommendations on any topic under its consideration, while IWC RoP M (4) suggests that the Scientific Committee may consider only topics referred to it by the IWC or the

Commission Chair and that any reports and recommendations must derive only from its prescribed course of work. A thorough revision and consequent harmonization of the rules of procedure of all IWC bodies is, therefore, much needed.

The interaction between the Commission and the committees, sub-committees and working groups other than the SC was rated a bit better than with the SC (3.4 x 3.1). The main complaints were the lack of time for the Commission to consider the reports and recommendations stemming from these bodies and the need for a better coordination, cooperation and synergy between them. Despite some improvement recognized in recent years, the strong prominence given to the SC and on lethal research, in detriment of the other subsidiary bodies, such as the Conservation Committee, was seen as an imbalance that was not compatible with present priorities of the Commission.

Despite the number and coverage of committees and working groups was considered rather satisfactory, with a rate of 3.8, the SC broad authority and autonomy to create subsidiary bodies was criticized. The high number of concurrent meetings was also highlighted as a great difficulty, since it prevents participants, especially from small delegations, to contribute to multiple areas of expertise, notwithstanding a much better information availability in the last years. A possible way to minimize this problem would be to conduct more intersessional work, and to make better use of technological tools. The relationship between the SC and other committees and working groups, rated 3.2, was described as not equitable, with the SC seeing itself as superior, despite the good crossover between the SC and the other bodies.

The performance of the Conservation Committee (CC) was considered satisfactory (3.8), showing the lowest variance of all items in the survey (all respondents gave it a 4, except for one who gave it a 3). As pro-conservation NGOs, they were unanimous in praising the very good work so far done by the CC, in emphasizing its vital importance and, consequently, in stressing the need to strengthen it, including by increasing the amount of time and financial resources, from core funding, allocated to its work. The need for a better coordination and synergy between the CC and the SC, as well as with other subsidiary bodies, in particular with the Working Group on Whale Killing Methods and Welfare Issues, was also pointed out, including the need to a more clear definition of roles. In the view of the NGOs who participated in the survey, despite the recognition of an increasing attention by the Commission to conservation-focused work in recent years, there is still a strong imbalance in the work undertaken by IWC, with a much higher priority (and thus more time and financial resources) being placed in whaling related items, such as RMP and special permits, than in conservation.

The Finance and Administration Committee (FAC) was considered to be rather satisfactory (rated 3.7), despite the recognition of a need for more transparency. Most NGOs, however, did not feel familiar enough to elaborate any further on the FAC.

The Subcommittee on the Aboriginal Subsistence Whaling, rated 3.4, was also considered reasonably satisfactory, with progress in recent years being recognized, particularly because of a more active participation of observers.

The Infractions Subcommittee (IS) got the lowest rating of all (2.2), ranging from 1 to 3, indicating an overall dissatisfaction of the respondents with its performance. According to the NGOs who answered the survey, the main reason for the IS to be dysfunctional and ineffective is the political difficulty to adopt stringent measures, together with a quite confusing legal framework, that does not characterizes clearly what constitutes an infraction, nor foresees any mechanism to ensure implementation and compliance with the measures adopted.

The organization and performance of the Working Group on Whale Killing Methods and Welfare Issues was rated as moderately satisfactory (3.1). The lack of data from parties that still hunt whales was identified as its main deficiency, which has been “thoroughly” undermining its performance, in spite of the good work accomplished by the welfare working

group on non-hunting related threats, such as entanglements. The cooperation between the Welfare Working Group on Non-hunting Related Threats and the Conservation Committee was recognized as one of the very few, if not the very only one, example with a good interaction between two different committees, since most of them work in much isolation and minimal synergy.

The average rate for the Secretariat, equal to 4.1, was the highest for all items in the survey, indicating a rather high level of satisfaction with its organization and work. Reflecting what had already been expressed in many of the precedent questions, there was a clear recognition of a great improvement in recent years, with the Secretariat being considered more effective and efficient (4.2), despite the impressive workload and the very limited financial and human resources they have, considered to be overstretched. The outstanding scientific capacity of the head of science in IWC was also recognized, but with the criticism that he should not participate as a convener of any group. This was seen as necessary not only to ensure impartiality, but also to allow him to be available for all discussions and subsidiary bodies during the meetings. The hiring of a legal expert was recommended. One of the suggestions from the NGOs to help the work of the Secretariat was to develop clear Terms of Reference setting out their several posts and functions.

The facilities of the Secretariat (4.5), as well as the adequacy of its professional skills, were considered much satisfactory (4.4), with its ability to engage in a range of issues being enhanced by the appointment of Project Development Officers. The work of the technical advisor to the Secretariat on human impact reduction was also deemed very successful. The hiring of professionals that do not have English as their native language was recommended in the future to broaden the Secretariat capacity to engage more efficiently with a wider range of parties. The balance between professional and administrative staff in the Secretariat was judged adequate (4.1). Like in many other issues, the work of the Secretariat on communication and outreach was considered satisfactory and much improved in the last years, particularly with regard to cooperation and communication with other international and regional institutions, as already commented above (e.g. with IMO, FAO, IOTC, CMS, etc.). Its communication and outreach to the public, however, according to the NGOs, could still be enhanced, particularly with regard to the accessibility of documents on the website and internet services (3.4) during the meetings, in spite of a significant improvement in recent years. Although the current website was considered much better than the previous one, historic documents and documents from the Scientific Committee still require a user account for access, when they should be made freely available. Except for the difficulties noted in the provision of internet services, the work of the Secretariat in servicing and supporting IWC meetings was considered very satisfactory (4.4) and professional.

Contrary to the rates given to the Secretariat, the grades attributed to the financial arrangements were the lowest, with an average of 2.7. The amount of financial resources available for the Commission to carry out its activities was considered to be woefully low and incompatible with the workload it has to face. The process of preparing and adopting the budget of the Commission, including the allocation of financial resources to the Scientific Committee and other bodies, was deemed as not transparent - observers are not allowed to participate - and strongly biased in favor of the SC, in detriment of the other bodies, particularly the CC. Such imbalance was considered to be a distortion lingering from the past, when lethal scientific research used to be much more important than at present. Because of that distortion, the conservation-oriented work of the Commission has to disproportionately rely on voluntary funding, despite the fact that the only whaling activities presently endorsed by the Commission are those for aboriginal subsistence. A negative consequence of that process is that voluntary funding ends up driving a significant part of the Commission's agenda and priorities.

Nevertheless, unless parties are willing to increase their contributions and agree on a more equitable distribution of resources among subsidiary bodies, which is very unlikely at the present moment, this situation will probably continue for a while, with no change foreseeable in the near future.

Although the Rules of Procedure were considered moderately satisfactory (3.2), the need for updating and revising them, particularly to ensure consistency among the different bodies of the Commission and more transparency, including a broader participation of observers, was highlighted, together with the need to draft the terms of reference for those bodies that still do not have them. To that aim, according to the NGOs, ROP M2 should be amended to require Terms of Reference for all subsidiary bodies and working groups, which are presently lacking. Other issues identified as requiring revision were: continued reference to the technical committee, despite it no longer exists; poor drafting suggesting that Commissioners can provide their own credentials (ROP D1a); ambiguity over what constitutes a quorum (ROP B); inter alia.

Finally, on other points, the need for a higher degree of impartiality from the Chair and the Secretariat was emphasized, together with the recognition that the IWC, on the contrary to what one might think at first, is an excellent international body. Despite the evidently irreconcilable differences of position on whaling, it has developed its work to tackle non-hunting threats to cetaceans and the marine environment and has become a global leader in much of this work.

## **7) Responses from “Others” (5)**

The group “Others”, made up by 5 respondents, two of which of the same nationality (their answers were, therefore, averaged, as in the other groups), was the most heterogeneous and discrepant among all, with an average amplitude close to 2.0. Because of that, it was more difficult to identify trends in this group.

With regard to the Commission, the assessment of the respondents was rather neutral, with a mean rate of 3.0. Both the effectiveness and the efficiency of the decision-making process were rated 3.4, ranging, respectively, from 2.5 to 5.0 and from 2.0 to 5.0. According to the respondents, the decision-making process was considered compromised mainly by the polarized views of members combined to the need of a 3/4 majority for making a decision, rendering the Commission incapable of deciding on issues of strategic importance. Even when a decision was possible, however, the time between an issue being discussed, a decision being made and the action actually happening on the ground was considered too extensive.

The role of observers, rated 3.6, was judged reasonably satisfactory, with a recognition that it has improved in the recent past.

The interaction between the Commission and the Scientific Committee, rated 3.3, reflected a rather neutral degree of satisfaction. According to the respondents, the main reasons for that were not only the lack of commitment from the Commission to follow the scientific advice, even when the message was properly conveyed by the SC, but also the inability of the SC to communicate properly. Communication difficulties were noted not only between the SC and the Commission, but even within the SC itself, mainly because of the excessive control exerted by the Head of Science over the flow of information. For the same reasons, the process for reflecting recommendations by the Scientific Committee into the Commission’s decision received the lowest rate of all (2.1), with decisions being based much more on politics than on science. The need for the SC to augment its field of experts, with many of them already nearing

or even passing their retirement age, was also noted as an urgent measure to improve this situation.

The interaction between the Commission and other Committees, sub-committees and working groups was also negatively assessed, with a rate of 2.6, mainly due to the isolation they tend to work and the lack of communication and interaction between them. The process by which Commission decisions are transmitted to and implemented by committees and the Secretariat got a better rate (3.6), but with no further comment.

The process for allocation of the Commission's resources to Committees, sub-Committees and working groups ranged from 1 to 5, resulting in a neutral mean rating of 3.0. The respondent who considered the process very unsatisfactory (1.0) considered that far too many resources, including both money and staff time, were allocated to whaling issues, in general, and very little to conservation, an issue much more important nowadays, particularly in a climate changing environment. The only additional comment from the respondents was the lack of a strategic component, likely due to the lack of mid- and long-term objectives. A similar response was also provided for the question related to the strategic approach, rated 2.8. The only attempt to develop a strategic approach, according to the same respondent, was the "future process", which failed.

IWC cooperation and communication with other international and regional institutions was rated rather poorly (2.9), with potential for improvement, despite the niche of the IWC being recognized as relatively narrow. The hiring of a professional to solely liaise with other institutions, such as the OIE, Wildlife Disease Association, the IUCN Wildlife Health Specialist Group, was even suggested as a possible way to overcome such a difficulty.

IWC effectiveness in reviewing arrangements of other institutions in order to learn lessons, adopt best practices and align governance arrangements got the second worst rating (2.2), which is surely linked to the previous item, related to the difficulty of IWC to cooperate and communicate with other international and regional institutions.

Opportunities for developing countries to participate in the Commission, rated rather neutrally (3.2) were considered limited and unfortunately tainted by political influence. The arrangements for reporting on meetings (e.g. IISD/ENB) got the best rate in this section (3.7), being considered rather satisfactory.

The organization and performance of the Scientific Committee was rated 3.6, and, therefore, reasonably satisfactory, but the rate ranged from 2 to 5, again reflecting opposing views of the respondents. Despite an overall recognition that the SC gathers some of the greatest experts on cetacean biology in the World, it was considered highly politicized and overly influenced by the long-time members. The complaints ranged from the issues discussed by the SC sometimes not being important for conservation, to the SC spending a great deal of time struggling to provide the Commission advice regarding scientific whaling, with only marginal effectiveness.

The scientific credibility of the Scientific Committee deliverables was considered satisfactory (3.9), despite the limited resources devoted for conservation and the rather skewed research priorities driven by particular interests of certain individual members, according to some of the additional comments provided.

The procedures for scientific data access and archiving, rated 3.6, was considered reasonably satisfactory, but, again, some of the respondents considered them to be too skewed towards the RMP, and also hard to access.

A similar rate (3.6) was given to the relationship between the Scientific Committee and other committees and working groups, with the deficiencies being directly linked to the lack of communication and cooperation, particularly during intersessional periods, as already highlighted in several of the previous topics.

With regard to the Conservation Committee, rated 3.2, the main difficulty faced by it, according to one respondent, was the lack of resources, with too much time and funds allocated to RMP and whaling issues, in detriment of conservation matters.

The Finance and Administration Committee was rated as satisfactory (4.2), with no further comments, except for the coverage of travel costs, which was considered excellent.

The organization and performance of the Aboriginal Subsistence Whaling Sub-Committee, also rated as satisfactory (4.0), received similar criticism as the SC, being considered overly politicized, with only few members being actually able to understand the science behind its work.

The organization and performance of the Infractions Sub-Committee was rated 3.2 with no further comment.

The organization and performance of the Working Group on Whale Killing Methods and Welfare Issues, rated 3.4, was considered dominated by whaling interests by one of the respondents, and also redundant to discussions held in other fora, with a limited participation of other experts (e.g. university faculty specialized in welfare assessment).

The Relationship between committees and working groups other than the Scientific Committee was judged rather neutrally (3.3), with no further comment. The lack of interaction and communication between them, highlighted in many other topics, curiously, was not mentioned here.

On the number and coverage of committees and working groups, the opinions again diverged significantly, with the ratings ranging from 2 to 5. While one of the respondents considered that divisions along species, geography and discipline overlapped, another considered their coverage appropriate.

As for all the other groups, the Secretariat was highly praised, with a mean rate of 4.1, ranging from 3.5 to 5.0, to all topics related to it. The effectiveness and efficiency of the Secretariat in general was considered satisfactory. The only criticisms were the unbalanced influence of the Head of Science and the editorial process of the Journal of Cetacean Research and Management. The number of Secretariat staff was considered adequate, with a rate of 4.0. The need of a professional to liaise with other organizations was, however, pointed out once more, as it had already been noted in the item regarding IWC cooperation and communication with other international and regional institutions. The need of a Deputy Head of Science was also noted. The professional skills of the Secretariat was considered very satisfactory (4.5), with no further comment. The balance in the Secretariat between scientific and policy development support received the lowest rank (3.5), with a view that it was necessary to strengthen science and to better distribute the excessive responsibility and influence that presently rests with the Head of Science. The balance between professional and administrative staff, in turn, was considered satisfactory (4.0), with no further comment. The work of the Secretariat on communication and outreach was also ranked as satisfactory (3.9), with a significant improvement in recent years being noted, despite the need for it to be more active in social media (e.g. twitter, Facebook, etc.). The work of the Secretariat in servicing and supporting IWC meetings got the highest rank of all: a unanimous 5.0. Internet services, archives and web presence were also considered satisfactory, despite being a little clunky to find papers and articles related to meetings. A significant progress in recent years, however, was again recognized. Finally, the facilities of the Secretariat were also considered satisfactory.

On the financial arrangements, the adequacy of financial resources in general received a rather neutral rating (3.4), ranging from 2.5 to 5.0, with no elaborated comment from the respondents. The adequacy of financial resources to the Scientific Committee received an even lower rating (3.1). One respondent opined that the SC needed much more financial support for key research on questions of the highest priority to the SC and IWC, while another one

pondered that the problem was not that the SC did not get enough money, but the inadequate allocation of the money it gets. Only three of the five respondents rated the adequacy of financial resources to other committees and working groups, with a mean of 3.5, and no comment. The process of preparing and adopting the budget of the Commission, rated 3.2, was considered inadequate mainly because of the lack of time to discuss it properly and the deficient communication within the SC, and the Chairs/ Conveners, particularly inter-sessionally, leading to budgetary decisions that are not as thoughtful, unbiased, and judicious as they should be. On the balance between core and voluntary funding, rated 3.2, one of the respondent stated that too much of the core funding was allocated to whaling related activities, forcing the actions related to conservation to rely almost entirely on voluntary funding. There were no further comments on the topic. On the future needs for extra-budgetary funding, the last item related to the financial arrangements, rated 3.1, the only comment presented pointed out the need for the IWC to seek more funding from sources other than the parties and observer NGOs.

Finally, on the adequacy of the rules of procedure, rated 3.5, there were no comments. On any other points, only one comment was presented, suggesting the scientific meetings could be shortened with more preparation of agendas, reading materials, and selection of papers, ahead of the meeting.