



## Six Fundamental Elements for the Proposed IWC Consensus Decision

### **Introduction:**

We, the undersigned organizations, note that the **Proposed Consensus Decision to Improve the Conservation of Whales from the Chair and Vice-Chair of the International Whaling Commission (IWC)** <sup>1</sup> has been tabled to “stimulate the necessary intense discussion and negotiations prior to [the IWC annual meeting in] Agadir” <sup>2</sup> (in the Chair’s and Vice-Chair’s own words.)

We agree with the Chair and Vice-Chair that “clearly a great deal more work is required” and that “the text in the present document [...] represent[s] a starting point for further discussions and negotiations rather than a firm proposal.” <sup>3</sup>

We note the proposal in the Chair’s and Vice-Chair’s package that the moratorium on commercial whaling be retained (page 5, bullet point 1). But we share concerns expressed about exemptions to the moratorium contained in the proposal.

With this in mind, we have identified a list of **six fundamental elements** that are essential for inclusion in the final decision if the outcome of the Future of the IWC process <sup>4</sup> is to be successful at the IWC annual meeting in Agadir.

**With only five weeks remaining before the annual meeting of the International Whaling Commission (IWC)**, we urge all IWC contracting governments to increase their efforts to ensure a successful outcome.

### **Six fundamental elements:**

#### **1 End all whaling in the Southern Ocean Whale Sanctuary.**

The proposal in Table 4 includes 400 Antarctic minke whales to be killed per year from 2010/11-2014/15, reducing to 200 thereafter, 10 fin whales to be taken per year from 2010/2011- 2012/13, reducing to 5 thereafter, and lists humpback whales suggesting quotas might also be considered for this species. This is in contravention of the ICRW Schedule: “[...] commercial whaling, whether by pelagic operations or from land stations, is prohibited in [...] the Southern Ocean Sanctuary” <sup>5</sup>. In order to prevent inconsistencies in the IWC Schedule, to prevent the reversal of important management decisions that have already been taken by the IWC, and to ensure whales are protected in this crucial feeding area, it is vital that whaling be ended in the Southern Ocean

<sup>1</sup> Document IWC 62/7 at <http://www.iwcoffice.org/documents/commission/IWC62docs/62-7.pdf>

<sup>2</sup> Page 3 of Document IWC 62/7.

<sup>3</sup> Ibid.

<sup>4</sup> <http://www.iwcoffice.org/commission/future.htm>

<sup>5</sup> Abstract from Article 7(b) of ICRW Schedule. Revised 2009. Available at: [www.iwcoffice.org/documents/commission/schedule.htm](http://www.iwcoffice.org/documents/commission/schedule.htm)

where catch limits should all be brought to zero. It is important to recall that when the Southern Ocean Sanctuary was agreed in 1994, the Government of Japan objected only to the protection of the minke whales within the sanctuary; therefore Japan is legally bound by the prohibition on catching any whale other than minke whales within the Sanctuary. Thus the proposed catch limit in Table 4 of 10 to 5 endangered fin whales per year in the Southern Ocean should be eliminated in the first instance (see also paragraph 4, below), and the reference to Southern hemisphere fin whales and humpbacks should be deleted from Table 4.

**2 If any whaling is authorized the whale products must be for domestic consumption only:**

We commend the proposed text of Paragraph 38 in Appendix A (page 12) which states that “*use of any meat or products derived from any whale taken in accordance with Table 4, or taken under any other circumstances, shall be limited to domestic use in the country or territory that authorised such take, and/or under whose jurisdiction such take occurred.*” This vital paragraph falls perfectly within the mandate of the IWC, and its inclusion is essential.

**3 Role and use of the Scientific Committee and Revised Management Procedure (RMP):**

In line with the IWC’s science-based approach, any agreed catch limits must be calculated by the IWC Scientific Committee using the published version of the RMP, as contained in the IWC’s *Journal of Cetacean Research and Management* (Suppl.) 1:251-254 and relevant footnote, with a tuning level of 0.72. We are concerned that the wording in the Chair’s proposal does not specify this action and would allow use of an untested, weaker version of the RMP that would provide much larger catches than the published version. To this end the agreed version of the RMP should be incorporated into the Schedule.<sup>6</sup> The need for downward adjustment for bycatch and other human-caused mortalities as specified by the Scientific Committee should be addressed. As already determined by the Commission, no catch limits should be calculated or set in IWC established sanctuaries.

**4 No takes of threatened species and populations:**

Also in line with the IWC’s science-based approach, no commercial take of species or populations classified as threatened (i.e. critically endangered, endangered or vulnerable) in the Red List of the International Union for the Conservation of Nature (IUCN) should be allowed. Commercial catch limits for fin and sei whales should be removed from Table 4. In the IUCN Red List, the fin whale (*Balaenoptera physalus*) and sei whale (*Balaenoptera borealis*) are endangered species.<sup>7</sup> Fin and sei whales are already protected by a number of IWC decisions, all of which would have to be overridden for catches to be allowed.<sup>8</sup>

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<sup>6</sup> Appendix A of the proposed decision should specify that paragraphs 10(a) through 10(c) of the Schedule will be replaced with: “10(a) Whaling is only permitted for those species, areas and seasons for which catch limits are in force and listed in this Schedule. With the exception of catch limits for indigenous subsistence whaling set in accordance with paragraph 13, these catch limits shall have been calculated by the Scientific Committee in accordance with the Revised Management Procedure published in the *Journal of Cetacean Research and Management* (Suppl.) 1:251-254, using tuning level 0.72, and adjusted downwards to account for other human-induced mortalities as estimated by the Scientific Committee. Catch limits for all species in all other areas and seasons are zero.”

<sup>7</sup> <http://www.iucnredlist.org/apps/redlist/details/2478/0>

<sup>8</sup> These include the so-called “pelagic moratorium” IWC Schedule paragraph 10(d) and the Protection Stock classification found in the current Schedule Table 1, in addition to the commercial whaling moratorium and the Southern Ocean Whale Sanctuary.

**5 Status of Article VIII (scientific whaling):**

We welcome the proposed adoption of Appendix A, Paragraph 34 (page 11), whereby “*each Contracting Government agrees that it will not authorise, whether pursuant to Article VIII or otherwise, any whaling in excess of the limits set forth in Table 4 or outside the provisions of this Chapter*”. Given difficulties experienced in recent years with unilateral assignment of quotas under the cover of Article VIII, we request that at the start of the IWC annual meeting the Commission adopts a confidence-building measure consisting in adopting at the start of the annual meeting a separate decision to operationalize the sentiment reflected in Paragraph 34.

**6 Objections:**

Finally, in order for this package to go ahead, with the above fundamental elements, it is also essential that at the outset all contracting governments confirm their willingness and commitment to refrain, as suggested on page 6 of the Chair/Vice-Chair proposal, from exercising their right under Article V to object to this decision or parts thereof.

**Conclusion:**

We, the undersigned believe that any final decision adopted by the IWC must include the aforementioned six fundamental elements.