

## Commentary

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# Evolution of the IWC Scientific Committee

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## INTRODUCTION

The Scientific Committee is one of four Committees established by the International Whaling Commission (hereafter, the Commission), the others being the Finance and Administration Committee, the Technical Committee and the Conservation Committee. The Scientific Committee was established by the IWC in 1950. This in part is a reflection of Article IV of the International Convention for the Regulation of Whaling (hereafter, the Convention) that refers to scientific research and the publication of results, statistics and reports<sup>2</sup> and in part a reflection of Article V2 of the Convention that states inter alia that Schedule amendments ‘...shall be based on scientific findings...’<sup>3</sup>. The Scientific Committee has met each year since its establishment (Donovan and Hammond, 2017).

The Scientific Committee was established in accordance with the IWC’s Rules of Procedure M1 and its terms of reference are given in Rule M4. The duties of the Scientific Committee are further elaborated in the Rules of Procedure for the Scientific Committee which were significantly amended by the Commission at its meeting in 2016 (see details below). Scientific Committee priorities and the initial agenda for the next meeting together with

work plans for the intersessional period are approved at meetings of the Commission.

Just as the Commission has moved away from its core responsibilities related to the management of whaling in a manner prescribed by Article IV of the Convention (see footnote 2), the Scientific Committee has, to a significant degree evolved away from providing advice on sustainable catch levels for large whales to that of providing advice on non-direct catch related threats to all cetacean stocks. This paper describes some of the major factors and events related to or responsible for this evolution.

### The Committee of Three (Four)

Evolution of the Scientific Committee essentially began in 1961 with the establishment by the Commission of the Committee of Three, later Four, scientists who were experts in population dynamics. They were tasked with assessing the whale stocks, reporting on the sustainable yield of these stocks and advising on any conservation measures that would increase yield. This new focus which developed and extended the mathematical techniques as used in fisheries assessments to the science of managing whale stocks led to recommendations for reduced catches and that the regulation of catches should be on an

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<sup>2</sup> Article IV

The Commission may either in collaboration with or through independent agencies of the Contracting Governments or other public or private agencies, establishments, or organizations, or independently

(a) encourage, recommend, or if necessary, organize studies and investigations relating to whales and whaling;

(b) collect and analyze statistical information concerning the current condition and trend of the whale stocks and the effects of whaling activities thereon;

(c) study, appraise, and disseminate information concerning methods of maintaining and increasing the populations of whale stocks.

<sup>3</sup> Article V(2)

These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization of the whale resources; (b) shall be based on scientific findings; ...

individual species basis rather than in the combined Blue Whale Unit (BWU) system (Gambell, 1977; Allen, 1980).

### **The New Management Procedure (NMP)**

The next major development to impact the work of the Scientific Committee was the Commission's adoption of the New Management Procedure (NMP) in 1974. This followed: (i) the adoption of a resolution at the 1972 United Nations Conference on the Human Environment that called for a 10-year moratorium on all commercial whaling; a demand for greatly increased scientific research into the status of the world's whale stocks; and a call for the strengthening of the IWC secretariat and its capabilities (Gambell, 1977) and, (ii) the consensus agreement by the Scientific Committee that a blanket moratorium could not be scientifically justified (IWC, 1973). With the adoption of the NMP the focus of the Scientific Committee became classifying whale stocks into three categories according to their relative abundance (IWC, 2016a). Also in response to the 1972 United Nations Conference on the Human Environment resolution, the IWC Scientific Committee compiled a large-scale program for an International Decade of Cetacean Research (Gambell, 1977).

### **The Moratorium and the Revised Management Procedure (RMP)**

Between 1972 and 1982, a total of 29 proposals for a moratorium on commercial whaling were proposed. The Commission rejected all of them except 1 of the 5 proposals proposed in 1982.<sup>4</sup> The proposal that was adopted is paragraph 10(e) of the Schedule (IWC, 2016a)—commonly referred to as 'the Moratorium'. It was (at least on its face) intended as a temporary measure (Morishita, 2013) based on the view that there was too much uncertainty in the scientific knowledge to ensure safe harvest levels (Morishita and Goodman, 2005; IWC, 2017a). There was however, no advice from the Scientific Committee that such a measure was required for conservation (Morishita and Goodman, 2005).

Following the moratorium decision, the Commission asked the Scientific Committee to develop a new approach to providing advice on the setting of catch limits that was both safe and practical. This was a complex task and formed a major part of the work of the Scientific Committee during the eight years it took to complete.

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<sup>4</sup>Details of the proposals and the manner in which they were dealt with by the Commission are recorded in the Chair's reports of the Annual Meetings. Available at: <https://archive.iwc.int/pages/search.php?search=%21collection49&k=>

The new process was called the Revised Management Procedure (RMP). It was adopted by the Commission in 1994 and set a new standard in scientific management advice for marine and other living resources (IWC, 2017a).

### **Scientific Committee membership and agenda**

Referencing IWC reports, Morishita and Goodman (2005) recorded that in 1976, 29 scientists representing eleven countries and one intergovernmental organization participated in the Annual Meeting of the Commission's Scientific Committee. They note that the agenda for this meeting consisted of 21 items primarily focused on the status of stocks and providing advice to the Commission on quotas for whaling. They further note that in contrast to this, the 2004 meeting of the Scientific Committee was attended by 202 scientists from 30 member countries and eight international organizations, and included 41 'invited participants' and one representative from a non-governmental organization and that the 26-item agenda included numerous items which are regarded by approximately half of the IWC member countries as outside of the Commission's mandate such as small cetaceans, DNA testing, environmental concerns, whalewatching, by-catch in fisheries and ship strikes.

This drastic change in the Scientific Committee took place over a number of years beginning in the late 1970's with the recruitment of additional Commission members with an anti-whaling position in order to obtain the 3/4 majority vote required to adopt the moratorium. Importantly, the additional membership also provided anti-whaling members with the means to change to focus of the Scientific Committee's work away from the provision of management advice for the regulation of commercial whaling through the adoption of resolutions and changes to the Rules of Procedure of the Scientific Committee that only require a simple majority for adoption. The following examples elaborate this point.

### **The Berlin Initiative**

At its 55th Annual Meeting the Commission adopted resolution 2003-1 titled 'The Berlin Initiative on Strengthening the Conservation Agenda of the International Whaling Commission'. This resolution references what are referred to as 'more than 100 conservation-oriented resolutions' and notes that 'the Commission has gradually developed an extensive conservation-oriented agenda'. The resolution established the 'Conservation Committee' and, inter alia 'requests the Scientific Committee to advise the Conservation Committee in the performance

of the tasks entrusted to it in this Resolution, and to ensure that the appropriate scientific research items, including inter alia, whalewatching, environmental issues and behavioural research, under the responsibility of the Scientific Committee, are incorporated in the Conservation Agenda' (IWC, 2004). This major shift in the focus of the Scientific Committee agenda has been enhanced by additional resolutions since 2003<sup>5</sup> and, approval of the Scientific Committee agenda is a specific agenda item at each meeting of the Commission.

#### **Resolution 2014-4: Resolution on the Scientific Committee**

Resolution 2014-4 that was adopted by consensus recalls 'more than 50 resolutions of the International Whaling Commission addressing the work of the Scientific Committee, particularly regarding the increase and evolving work over decades on conservation aspects, including small cetaceans'. Further, the resolution notes 'that the work of the Scientific Committee oriented towards issues related to other threats than direct takes, has increased over the last decades...', 'consolidates the mandate of the Small Cetaceans Standing Sub-Committee' and establishes 'a working group between the Conservation Committee and the Scientific Committee in order to propose a procedure to facilitate the implementation and follow-up of conservation recommendations'. Annex 1 of Resolution 2014-4 is a 'Compiled list of IWC resolutions addressing the work of the Scientific Committee 1976–2012' (IWC, 2016b).

As with the Berlin Initiative described above, this resolution adds emphasis to those aspects of the Scientific Committee's work that are unrelated to its core responsibility of providing advice on the regulation of commercial whaling as provided for by the Convention.

#### **Amendments to the Commission's Rules of Procedure and Financial Regulations and to the Rules of Procedure of the Scientific Committee.**

Resolution 2014-4 proposed a number of amendments to the Commission's Rules of Procedure and Financial Regulations and to the Rules of Procedure of the Scientific Committee. The Resolution including proposed amendments to the Commission's Rules of Procedure and Financial Regulations (Annex II of the Resolution) were adopted by consensus while, in accordance with

the Resolution, proposed amendments to the Rules of Procedure of the Scientific Committee (Annex III of the Resolution) were referred to the Scientific Committee for their advice.

Changes to the Commission's Rules of Procedure included references to 'cetaceans' rather than 'whales' and the addition of the words 'shall review current and potential threats and methods to mitigate them in order to maintain cetacean populations at viable levels...' to the duties of the Scientific Committee contained in Rule of Procedure M. 4 (a). Changes to the Financial Regulations established a Research Fund and prescribed that the Research Fund 'shall have a balanced distribution among activities ... including small cetaceans...'

Proposed amendments to the Rules of Procedure of the Scientific Committee also referred to 'cetaceans' and 'small cetaceans' rather than 'whales' and proposed significant changes to the items listed under the heading 'SPECIFIC TOPICS of current concern to the Commission' (IWC, 2016b).

Proposed amendments to the Rules of Procedure for the Scientific Committee included in resolution 2014-4 were considered by the Scientific Committee at its meeting in 2015. Their recommendations together with some additional proposed amendments were incorporated in its Annex R (IWC, 2016c). These additional proposed amendments included deletion of the section titled 'Specific Topics of current concern to the Commission'. The Scientific Committee proposed that this section would be more effectively located in the introduction to its work plan'. Annex R of the 2015 Scientific Committee report was then considered by the Finance and Administration Committee and adopted by the Commission at its 2016 meeting (IWC, 2016d).

In summary, amendments to the Commission's Rules of Procedure and Financial Regulations and to the Rules of Procedure of the Scientific Committee that resulted from the adoption of Resolution 2014-4 provide strong support for the view of anti-whaling Commission members that the Scientific Committee and the Commission that approves the work plan and agenda of its Scientific Committee have a mandate concerning the management of small cetaceans as well as a broad mandate related to threats to cetacean populations.

#### **Whalewatching**

The IWC adopted its first resolution on whalewatching in 1993 at IWC45, and the following year, at IWC46, a further resolution requested advice from the Scientific Committee on whalewatching and established what has

<sup>5</sup>See for example Resolution 2009-1, 2012-1, 2016-3, and 2016-4. Available at: <https://archive.iwc.int/pages/search.php?search=%21collection72&k=>

in practice now become an ongoing program of work. In 1998, a standing Whale Watching Sub-Committee was set up under the Scientific Committee (IWC, 2011).

### Others

Other records that document or demonstrate the shift in the activities of the Commission and its Scientific Committee away from their core responsibilities provided by the Convention to a focus on threats to cetaceans from issues other than direct takes include:

- (i) The list of issues on the IWC website under the tab titled 'Conservation and Management'. Items on this list include 3 items related to whaling and 11 non-whaling issues including animal welfare issue, bycatch, entanglement of large whales, strandings, ship strikes, environmental concerns, conservation management plans, sanctuaries and MPAs and, whalewatching (IWC, 2017b).
- (ii) The 60 correspondence groups established by the Scientific Committee (IWC, 2017c) of which almost one half are not related to Commission's primary responsibility.
- (iii) The agenda for the 2017 meeting of the Scientific Committee that includes: cooperation with other organizations, bycatch, ship strikes, environmental concerns, small cetaceans, whalewatching and whale sanctuaries (IWC, 2017d). At the meeting, a number of Sub-committees and Working Groups were established to address some of these issues even though many members of the Commission view these as outside of the Commission's mandate.

### CONCLUSIONS

While the above has clearly documented the increase in the work of the Scientific Committee oriented towards issues related to other threats than direct takes, it should be noted that the Scientific Committee has continued work related to the management of whale stocks. In this regard, the agenda for the 2017 meeting of the Scientific Committee includes: General assessment issues related to the Revised Management Procedure (RMP); RMP implementation matters related to North Atlantic common minke whales, Western North Pacific common minke whales; Aboriginal Subsistence whaling; In-depth assessments of whale stocks not subject to directed takes; and, cetacean abundance estimates and stock status (IWC, 2017d). However, three aspects of the context of this continuing work need emphasis:

- (i) Changes to the Financial Regulations adopted as part of Resolution 2014-4 added the following:

'The Research Fund shall have a balanced distribution among activities, defined according to conservation priorities and the work of the Commission, including small cetaceans (IWC, 2016b)'<sup>6</sup>.

- (ii) Resolution 1997-5 that 'Instructs the Scientific Committee not to consider Southern Hemisphere minke whales in the context of implementation of the RMP unless advised to do so by the Commission' remains in effect (IWC, 1998).
- (iii) The current politicized nature of the Scientific Committee means that it is highly unlikely that its work on RMP related matters would result in recommendations to the Commission for the setting of quotas for the resumption of commercial whaling (Morishita and Goodman, 2005).

These aspects of the context of the Scientific Committee's work lend strong support for the following conclusions reached by Morishita and Goodman (2005).

- (i) 'The deep philosophical and political divisions between the International Whaling Commission (IWC) member countries that support managed whaling activities and those opposed to any harvesting of whales has caused a seriously dysfunctional situation in the IWC'.
- (ii) 'Strong personal positions on the issues related to whaling, the influence of national government positions on scientists and advocacy have polarized the debates within the Scientific Committee'.
- (iii) 'Unless the Commission and its member governments change their institutionalized discourse and procedures, it is naïve to expect outputs from the Scientific Committee that are useful for the sustainable use and management of whale resources in accordance with the objectives of the ICRW'.

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<sup>6</sup>This is a not so subtle attempt to reduce funding for the Commission and Scientific Committee work related to the provision of management advice.

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