

## Draft Resolution on Enhancing the Effectiveness of the International Whaling Commission

*Submitted by Australia, New Zealand and the United States of America*

**Noting** that 2016 is the 70<sup>th</sup> anniversary of agreement to the International Convention for the Regulation of Whaling;

**Aware** of the importance of ensuring the International Whaling Commission's institutional and governance arrangements are aligned with best practice for contemporary multilateral treaty bodies;

**Acknowledging** the progress the Commission has made in this respect, including through *inter alia*, strengthening the Finance and Administration Committee, moving to a biennial meeting pattern, establishing a Bureau to facilitate the work of the Commission during the intersessional period, enhancing the role of civil society in the Commission and creating an Operational Effectiveness Working Group;

**Recognising** that the Commission's continued effectiveness is contingent upon further reform;

**Noting** that a more comprehensive review of the Commission's institutional and governance arrangements will enable the efficient prioritisation of opportunities for reform;

**Further noting** that independent reviews are best practice in multilateral treaty bodies, and have been used to strengthen institutional and governance arrangements in a number of organisations;

### **NOW, THEREFORE THE COMMISSION:**

**Agrees** to a comprehensive, independent review of the Commission's institutional and governance arrangements, based on Terms of Reference contained in the annex to this resolution;

**Calls upon** Contracting Governments to make voluntary contributions to support this review;

**Agrees** to establish a Working Group of Contracting Governments to select a reviewer or review team in the intersessional period, in consultation with other Contracting Governments;

**Agrees** that the Working Group oversee the review, with the support of the Executive Secretary;

**Agrees** that the reviewer or review team submit a report to the Commission, in accordance with the Terms of Reference contained in the annex to this resolution, for discussion at the 67<sup>th</sup> meeting of the International Whaling Commission;

**Agrees** that the Working Group submit a proposal for implementing the recommendations of the review at least 60 days in advance of the 67<sup>th</sup> meeting of the International Whaling Commission.

## Annex

### Terms of Reference for an Independent Review of the International Whaling Commission

#### Objective:

The International Convention for the Regulation of Whaling was signed in 1946. Significant reform has been achieved over the past decade in particular; however, there is still much that needs to be done to bring the Commission into line with best practice for contemporary multilateral treaty bodies, including with regard to principles of transparency, accountability, credibility and effectiveness.

A review is proposed to identify opportunities to align the Commission's institutional and governance arrangements with best practice for multilateral treaty bodies, and enhance the Commission's effectiveness.

#### Qualifications:

The review may be carried out by a single reviewer or a review team. A proposal to use a review team should include a detailed breakdown about the roles and skills of each team member.

The reviewer or review team should have a demonstrated understanding of multilateral treaty bodies, and experience reviewing large international organisations and/or multilateral treaty bodies. The reviewer or review team will be required to demonstrate the absence of a conflict of interest.

#### Scope:

The reviewer or review team will undertake a comprehensive review of the Commission's institutional and governance arrangements. The review will assess *inter-alia*:

- i. The organisation of the Commission's work, including the role, functioning, effectiveness, and governance of subsidiary bodies;
- 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 allocation of the Commission's resources to subsidiary bodies;
- v. The role, functioning, effectiveness and governance of the Secretariat;
- vi. The Commission's rules of procedure

#### Out of scope:

The review will not take account of the Commission's objectives or mandate. The review will not specifically assess or provide recommendations on *inter alia*:

- 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;
- v. Aligning the Commission's operations with the International Court of Justice's judgment in the case concerning *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*.

#### Method:

The review will be conducted through a desktop review of relevant documents, including *inter alia* the Commission's rules of procedure, resolutions, official reports, and the work of its subsidiary bodies. The Secretariat will assist to ensure all required documents are available. The review will consider the findings of the reviews of multilateral treaty bodies and other intergovernmental organisations.

The reviewer or review team will also consult with representatives of Contracting Governments, through a dedicated Working Group, and accredited Observers to the Commission.

#### Work schedule:

The review will commence by 1 May 2017. The reviewer/review team will keep the Secretariat and Chair of the Working Group informed of its work, and present initial findings to the Executive Secretary by 30 October 2017. The reviewer/review team will submit a final report to the Executive Secretary by 1 March 2018.

The Working Group will consider the reviewer/review team's report and provide recommendations to the 67<sup>th</sup> meeting of the Commission.

**Deliverables:**

The reviewer or review team's final report to the Commission will include:

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

**Selection process:**

Interested parties should submit a brief proposal (maximum 10 pages) responding to these Terms of Reference by 1 March 2017. The proposal must include a detailed budget.