



Learning for the Future

Lessons Learned and Documentation of the Process of Independent Scientific Review Panel for Western Gray Whales in Sakhalin

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Contents

1. Executive Summary	2
2. Summary of the Lessons Learned	4
3. Lessons Learned and Documentation of the ISRP Process	9
4. Annexes	26

1 Executive Summary

The demand on IUCN to conduct independent scientific reviews of controversial development projects that affect conservation continues to grow. IUCN's extensive scientific networks, the clear values set out in its mission statement, its moderation and disinclination to engage in active advocacy, its broad membership and democratic governance, and its non-profit status combine to make IUCN nearly unique as a neutral forum for objectively-based consensus-seeking. As IUCN gains experience in conducting such processes, it is important to document what approaches lead to success and what cause problems; to draw out the lessons from each experience and to meld them into a more established methodology and to map the various pitfalls and danger zones that inevitably characterize such endeavours.

The Independent Scientific Review Panel for the Western Gray Whales in Sakhalin in many ways represented the perfect example from which to learn. The situation under review – the threat to the critically endangered whales from an oil and gas development project led by Shell – laid out the challenge to this sort of process in stark relief. Indeed, it dealt at the same time with an extraordinarily sensitive and emotional environmental challenge – the survival of the whales – but also with a valuable energy resource in high demand on world markets. Further, it was also clear that even if Shell was induced to withdraw from the project, others – with fewer environmental scruples – would quickly and enthusiastically take their place.

The challenge, then, was to determine whether the measures that Sakhalin Energy had taken or proposed to take were sufficient to reduce to acceptable levels the risk of further endangering the whales. Understanding those risks, and providing the basis for more qualified decisions on determining the level of risk that would be adopted was at the heart of the Panel's mission.

IUCN not only accepted to lead the process of working out the ISRP's TOR and recruiting the Panel itself, it served throughout the Panel's term as a guarantor of its independence, ensuring that the ISRP report would not be invalidated on the grounds that the Panel's work was unduly influenced by one group of stakeholders or another. IUCN also managed the roll-out of the ISRP report and the interim process that led, in 2006, to the establishment of a longer-term Western Gray Whale Advisory Panel (WGWAP).

This report examines IUCN's handling of the process from the first contact with Sakhalin Energy Investment Company (Sakhalin Energy) – the company set up to implement the Shell-led consortium – on this matter in May 2004, through the work of the ISRP (August 2004 – February 2005) and the Interim Independent Scientist Group until the first meeting of the WGWAP in October 2006. It seeks to draw out the lessons from IUCN's experience so as to inform future practice, as

and when IUCN is invited to convene and manage such independent scientific review processes in future. It seeks to identify both what IUCN did well and issues on which, with hindsight, it might today do things differently. Naturally the latter offer the more important lessons and the report devotes more time and more specific analysis to these. Whereas this may lead to the impression that IUCN's performance in the ISRP process was fraught with problems this is not our conclusion.

Indeed, we believe that IUCN's handling of the ISRP process was very professional and well thought through, and that it navigated the many shoals with skill, maturity and sound political judgment. Its handling was not perfect, and where there are lessons to be learned we seek to draw these out. Its handling of the interim phase between the publication of the ISRP report and the establishment of WGWAP was more uneven. IUCN seemed inadequately prepared for the intensity of the debate following publication of the ISRP report, and its handling of the stakeholder participation in the debate was awkward, at least in the early part of this delicate stage. It appeared to regain control after a short period of uncertainty and the formation of WGWAP is a clear demonstration that many of the lessons to be derived from the ISRP experience have indeed already been learned and are being applied.

The report is largely organized chronologically around the different decisions IUCN was obliged to make, running from the decision to accept the role proposed to it by Shell, and ending with the constitution of WGWAP. Most of these, in turn, focus on setting up the ISRP and on negotiating the conditions under which it would work. These include the Terms of Reference, the constitution of the Panel, dealing with the issues of confidentiality and timely delivery of documents through to the measures IUCN took to protect the Panel from outside influence. Others deal with the roll-out of the report and the handling of the debate that it generated – whether between Panel members and the company, between both of these and the lenders, or with the wider stakeholder group of concerned NGOs, many with an advocacy agenda and a history of hostility towards Shell, Sakhalin Energy and the project.

Each of these phases involved IUCN choosing from among a range of options, but also often justifying its choices to those who might have chosen differently. The basis for the choices, the considerations included in making the choices, and IUCN's aptitude at articulating these decisions are examined and, at times, found wanting. Interestingly, it is more often the articulation of the choices made and the basis for them that might have been improved; it was rarely the decisions themselves.

It is clear from the ISRP experience that IUCN was right to accept the challenge handed to it by Sakhalin Energy. The

importance of such independent reviews is very high in seeking to resolve controversies where scientific uncertainty prevails, and IUCN is uniquely positioned to serve as a broker. There can be no doubt that the ISRP report led to improvements in the project aimed at reducing the risk to the whales from project operations. There can be no doubt that the experience of dealing with a high-level group of independent scientists had a beneficial effect on Shell and Sakhalin Energy. In the words of one company official, it forced them to “up their game”. And there is reason to believe that, in the absence of such a process, no other outside factor would have been sufficient to induce the company to make the positive changes that have now been made, nor to support the ongoing process of research and monitoring embodied in WGWAP. At the same time, it is clearly too early to say that augmented risk to the whales has been averted and that their future is now more secure.

No process like ISRP can be expected to lead to full consensus among all stakeholders on the correct course of action. In this case, opinions on the correct course of action ranged over the entire spectrum. Several NGOs felt that the risk to the whales should dictate a decision not to exploit the energy resource, no matter how valuable. This opinion is worthy of respect but incompatible with the ISRP process which operated on the assumption that oil and gas extraction would almost certainly proceed, whether or not with Shell’s participation, and that the challenge was to determine whether that could be made compatible with the survival of the whales. And while Shell and Sakhalin Energy are on record as saying they would not proceed with the project unless the risk to the whales could be maintained at acceptable levels, it is very likely that their withdrawal would have led to a less fastidious energy company taking their place.

Thus ISRP was based on the need to come closer to a consensus on the risk to the whales of different scenarios, to identify ways in which that risk could reasonably be lowered as far as possible, and to provide a sounder basis for determining what level of risk was acceptable. To do that, it was vital that the process be genuinely independent and that it be protected from influence – whether that influence came from the company, from advocacy NGOs or from other sources.

Having established acceptable conditions under which the Panel could work and having composed a very well-qualified Panel, IUCN’s principal task was to act as a switchboard and firewall. It performed both tasks very well, applying pressure where needed but principally focusing on offering the best possible conditions for the Panel to complete its work on time. The Panel report could not help exciting the controversy if only temporarily. The project opponents found in the report ammunition with which to step up their campaigning against the project. The company also found in the report justification

for some of its decisions, validation of some of its science, and acceptable options for improving the project. However, the report could never be the definitive source of science that ended each contested issue with a final judgment. Instead it pointed out where the science did not indicate clear conclusions and where further investigation was necessary. Some of its conclusions were vague for no other reason than the fact that the data does not permit clear and unambiguous conclusions to be drawn.

So the publication of the Panel report gave a fillip to the debate and to the controversy and led to the crystallization of a further process – initially interim and later formed into the WGWAP that sought to clarify the areas left vague, to organize a work programme where further investigation was warranted, and to seek convergence between the independent science and the science funded by the oil companies.

Throughout the process transparency was a key issue – including transparency on why some matters could not be fully transparent. IUCN ran a very transparent process, posting all relevant information on a website available to anybody. With hindsight there are two ways in which it might have handled transparency better. The first, referred to above, concerns explaining the reasons why it chose a particular course of action from among the options available. The second concerns the handling of interested NGOs in the post-ISRP phase. In our opinion, IUCN carried over into the post-Panel phase some of the protective instincts that served it well while the Panel was at work, overly limiting the opportunity for interested NGOs to engage directly in the debate with the company, former Panel members, lenders and others.

Nevertheless the ideas for how future processes might be improved and implied criticism of the way this process was, in some respects, managed should not mask the fact that IUCN handled a sensitive, emotional and critically important process with great success and emerged from the process with its reputation and profile enhanced among most of the stakeholders to the controversy.

The clash of cultures involved as IUCN, its NGO partners, Shell and Sakhalin Energy came together was probably inevitable, but it was a positive learning experience nevertheless. The outright rejection of the project by some advocacy NGOs was not something that a Panel of this sort could ever solve. However, IUCN clearly demonstrated its unique value as a convener, a broker and as a platform for the sort of independent scientific reviews that – without a doubt – will be found ever more important and ever more necessary as the environmental community works with the private sector to ensure that both advance sustainable development.

2 Summary of the Lessons Learned

2.1 Introduction

Lessons Learned and Documentation of the Process of Independent Scientific Review Panel for Western Gray Whales in Sakhalin – is an attempt to understand how IUCN analyzed and dealt with the issues that arose from the time it was first approached to establish and manage the Panel until the successor Panel was formally established. The purpose is to identify lessons from the experience – positive and negative – that might inform IUCN's handling of future independent review processes as and when IUCN is faced with the opportunity to run them.

The lessons drawn from this experience relate to the very particular situation of Western Gray Whales in the context of existing and planned oil and gas development in and near their habitat. The situation examined by the ISRP was in many ways unique and some of the lessons are specific to this particular project and this particular whale population. Others are the sort that will arise in one form or another in connection with any independent scientific review process.

Understanding the lessons from the Sakhalin ISRP process requires an understanding of the context and of the circumstances in which it was conducted. Thus the description of the context contained in the report and the assessment of IUCN's experience in the various stages of the process are central to identifying and understanding the lessons to be learned.

Nevertheless, as a contribution to IUCN's ongoing process of documenting its experience with independent scientific review processes, this annex extracts, organizes and presents some of the more generic lessons to be learned, leaving behind others that were more specific to the Sakhalin ISRP process. It is also intended to inform the sort of checklist of questions that IUCN may wish to use as it considers taking on other, similar processes, or as it embarks on organizing the ones it has accepted to manage. These are loosely grouped under categories that represent a generic sequence of decisions that IUCN is likely to have to take over the course of any review panel cycle.

2.2 Accepting the Challenge

- IUCN will generally be approached by a company operating or proposing to develop a controversial project to which there is a concerted opposition on environmental grounds, or by a parent company concerned with the exposure it is risking from the operations of a subsidiary. Should IUCN not already have a relationship of trust with the company or its parent, it should consider how it might rapidly develop one. IUCN's relationship with Shell – at that time the parent company of Sakhalin Energy proved to be a considerable strength in dealing with the issues that inevitably arose in the course of that process. In considering future panels, IUCN should examine the strength and nature of its relationship with the parent company since it is primarily this relationship that will offer it leverage in dealing with site-level controversy. Where the links with the parent company are weak, serious consideration should be given to how they might be strengthened, if necessary in parallel with the conduct of a panel's work.
- Before giving serious consideration to establishing and managing an independent scientific review, IUCN should articulate and weigh up the alternative options available to it in respect of the controversy, e.g.:
 - taking a public position on the issue based on the conservation case and insisting on the application of the precautionary position to the maximum extent;
 - offering IUCN as a neutral platform for a stakeholder discussion of the issues;
 - recommending independent scientists to the parties to the controversy;
 - or indeed declining any involvement whatsoever in the controversy.

In reviewing each of the alternative courses of action, IUCN must ask which of them would maximize its comparative advantages.
- IUCN should draw up a series of clear criteria that will allow it to pick and choose the invitations that it accepts and those that it declines. These criteria should include:
 - the importance of the conservation issue and its relevance to the IUCN mission;
 - the availability in IUCN and its Commissions of relevant professional skills on the topic;
 - conformity with IUCN policy as reflected in the Private Sector Strategy and Congress resolutions;
 - the absence of a significant and persistent opposition from a substantial section of the IUCN membership (and working with those members to seek to address their concerns);
 - and, of course, availability of the human and financial resources to ensure that the job can be done at an acceptable level of quality and professionalism.
- As soon as IUCN accepts in principle to lead an independent scientific review process, and before it comes to an agreement on the details of the contract with the company in question, it should establish a core group to deal with the relations between the company and IUCN on the process.
- In its initial contact with the different stakeholders who will be given some kind of standing in the ISR process, IUCN should consider asking each stakeholder to articulate

its interest in and motives for collaborating with an independent process such as the one under consideration and to articulate the sort of outcome that it would consider satisfactory.

- In undertaking an ISR process, while it is essential to articulate what IUCN is seeking to achieve, it is equally important to set out what it is explicitly not seeking to achieve. The choices made on the process, its scope and timing, the composition of the panel, access to information, treatment of confidentiality and so on imply other, alternate options have been discarded. In order to ensure that unrealistic expectations are not raised it is important to articulate clearly what has been taken on and what has not.

2.3 Contract vs TOR

- The “legal” basis for the review process is fundamental and it is set out in two key documents – the contract between IUCN and the body requesting it to run the review, and the Terms of Reference for the Panel itself. The content and quality of these two will in large part determine the quality of the outcome.
- IUCN must give careful consideration as to what should be contained in each. The first, generally-speaking, should describe the specific conditions under which IUCN is to work, and the undertakings of both parties in terms of timely provision of information, confidentiality, presumption of transparency, timing of delivery, financial provisions, etc. The latter should focus more centrally on the tasks that the Panel will undertake, the scope of its work, the nature of the outputs sought, and any other provisions concerning how the Panel should operate.
- The contract should also spell out the intent of each of the two parties in organizing the review; and it should ideally contain a commitment from the company or entity contracting IUCN to implement any reasonable recommendation stemming from the review.

2.4 Intra-IUCN Handling and Internal Firewall

- The tasks involved in servicing a Panel, guarding its independence, organizing Panel meetings and the whole effort of publication, roll-out and dialogue relating to Panel reports are very onerous and are usually incompatible with other full-time tasks. In most cases, it will make sense to assign staff specifically to the Panel. For the most complex of these processes, a full-time staff member for the duration of the process might be required.
- Those entrusted with staffing such Panel processes must have strong skills in relationship management across a

wide spectrum that spans both the quantitative, legal and engineering-based culture present in many corporations and the sometimes abrasive, perfection-seeking culture prevalent among the more activist NGOs.

- In view of the particular sensitivity of dealing with activist NGOs (some of them members) while maintaining its neutrality, IUCN should consider naming a member of staff to serve as a dedicated NGO liaison person or even of establishing a specific NGO reference group that acts as an intermediary between interested NGOs and IUCN for the duration of the process. Certainly experience shows that seeking to keep critical NGOs at a distance can be counterproductive.
- Given that IUCN is unlikely to take on an issue on which it has no professional competence, it is important from the start to cordon off areas of responsibility, and especially to separate those dealing with the process from those concerned with the substance of the controversy. This information should be set out clearly and publicly.
- In doing so, the role of the process handlers is clear. What is less clear and therefore important to clarify from the start and throughout the process is the role of those on the substance side of the firewall and more particularly the limits of that role.

2.5 Scope of the Review: Timing Issues

- One of the questions IUCN must carefully assess in advance is how much time the Panel realistically requires to complete its job successfully and, related to that, what is the optimal timing for submission of the Panel’s findings in terms of affecting the project under review in favour of conservation. The maximum flexibility must be built into the process so long as there is no compromising the wish to have the maximum positive impact on the project or activity under review.
- Generally-speaking, site visits to the project or activity under review should take place as early as possible in the Panel process. This permits a direct contact between the Panel and those whose work they are reviewing (and local stakeholders), and allows a greater appreciation of the context within which the latter are working.

2.6 Scope of the Review: Substantive Issues

- While the company or entity that requests IUCN’s services will often wish to participate in crafting the Panel’s Terms of Reference, IUCN must insist on driving the TOR process. This is essential to maintaining the perception of independence. Early involvement of the designated Panel

chair – and indeed the other members of the Panel – is highly desirable where timing allows it.

- In reaching agreement on the Terms of Reference, there must be a thorough debate on which issues will not be included in the review. Where the exclusion of such issues might be controversial, it is essential that the reasoning be articulated and made publicly available.
- Every effort should be made to avoid the sort of vague language that gives the different parties “wiggle room”, as well as outright limitations that could affect the Panel’s ability to make an optimal impact.
- Although trade-offs will inevitably be made in reaching final agreement on Terms of Reference, the basis for these trade-offs should be articulated and a clear strategy set out in terms of communicating the basis for controversial trade-offs with a wide range of stakeholders in the process.

As part of the TOR, the nature of the Panel’s findings must be clearly set out. In general, IUCN should resist attempts to water these findings down and should insist that the Panel be asked to formulate clear recommendations, and that these are either followed by the recipient or if not followed, the recipient is required to provide a clear explanation for this.

- As part of the contract between IUCN and the entity requesting its service, the latter should spell out what it will do with the recommendations from the Panel’s report, for example committing to implement any that are deemed reasonable and explaining why it cannot implement the others.
- The Terms of Reference should lay out as clearly as possible the principles on which the review is based and by which it will be guided, e.g. that its recommendations will focus on the implementation of “best practice” or aim for impacts “as low as reasonably possible”. It is essential that these principles be clearly understood by all parties involved.

2.7 Confidentiality

- Provisions relating to confidentiality should be included in both the contract and the Terms of Reference. IUCN should expect that approaches to confidentiality vary enormously between the different stakeholder groups. It is therefore essential that the approach to confidentiality be fully discussed, and reviewed in detail between IUCN, the contracting entity, and the Panel.

- Since openness is a key factor in building a sense of legitimacy around an independent Panel process designating information as confidential should be the exception rather than the rule, and should be accompanied by an adequate explanation of the reasons behind that designation.

2.8 Timeliness of Delivery

- Independent Panels can work successfully only if they have easy and unfettered access to the data relating to the activity under review. Strong and detailed guarantees on the timely delivery of information should be built into the contract with the entity commissioning the review and clear mechanisms put in place both for securing information needed for the review and for addressing the situation rapidly and efficiently when for whatever reason the flow is impeded.

2.9 Composition of Panels

- As with crafting the Terms of Reference, it is a precondition of independence that IUCN be responsible and clearly be seen to be responsible for selecting the members of the Panel. The criteria for such selection should be clearly agreed in advance between IUCN and the contracting entity (involving the designated Panel chair where one has been named) and either included in the contract or otherwise formally agreed.
- The legitimacy of the Panel is enhanced if it is perceived to have been chosen through a transparent and inclusive process. IUCN should send out an invitation to nominate to a very broad range of relevant players and advertise it on a website set up for the review so that NGOs, Commission specialist groups, private sector interests and other stakeholders have ample opportunity to feed in names and résumés.
- A variant to be considered is to select the Panel chair and entrust him or her with the composition of the Panel according to the agreed criteria and subject to final approval by IUCN.
- The optimum appears to be encountered by running an open process of recruitment while maintaining control of the process and giving the designated Chair considerable say in the composition of the Panel.
- One of the criteria that should be sought in prospective panelists is a capacity and track record for constructive exchanges. Those with a track record of immoderate public statements or confrontation should be avoided.

- Once established, the Panel should be allowed to establish its method of operation.
- Further, the Panel should be given the possibility to co-opt specific experts for specific tasks where needed.
- While it is generally true that Panel chairs will be most effective if they are eminent authorities on the matters under review, IUCN should ask itself whether the Panel chair should be a leading scientist or, instead, a non-scientist. The decision should revolve around an assessment of the fundamental nature – scientific or political – of the controversy under review.
- Careful thought should be given to remunerating Panel members. On the one hand, they are often asked to devote a considerable amount of personal time to the task. On the other, any remuneration must be handled in a way that doesn't appear to threaten the genuine or perceived independence of the Panel. In most cases, some level of remuneration will be appropriate in addition to full reimbursement of expenses. Whatever approach is chosen, the basis for the remuneration (not the details) and the source of the funding should be public.

2.10 Transparency

- Deciding on the level of transparency is an essential decision for IUCN. Without adequate transparency damage can be done to the perceptions of the panel's independence. However there is a point at which transparency crosses the line to become indiscretion. IUCN should determine where that point lies by identifying where more transparency will actually do the process more harm than good. Having determined that, IUCN should articulate the reasoning behind its decision and make it public.
- IUCN should operate independent scientific reviews under a presumption of transparency and stakeholder participation – the principle should be “maximum transparency and stakeholder participation in the process consistent with the achievement of an optimal outcome”.
- Transparency requires publishing the financial basis for the review – not the details but the basis on which IUCN has accepted to undertake the contract.
- IUCN should articulate and document the reasons for any constraint on full transparency.

2.11 Firewalling

- Once a Panel is established, it is essential that it be allowed to work in a space free from partisan pressure. IUCN must both serve as an effective firewall and as an efficient channel of communications between the Panel, the contracting entity and the other relevant stakeholders. The “exclusive channel” for communications through IUCN must never be a bottleneck for these communications and this requires that it be adequately and permanently resourced.
- The independence of Panel reports depend to a very large extent on being able to demonstrate that the Panel has worked in a manner that is entirely sheltered from partisan opinion on the issue under review, aside of course from the opinion that the Panel has deliberately sought.
- In interacting with the range of stakeholders IUCN must accept that perceptions are very easily established but difficult to change once they take root. Managing how perceptions develop and avoiding the more negative of these perceptions from establishing themselves is critical to the success of such Panels. This requires dealing with issues at the earliest possible point.
- One way to challenge false perceptions is to do a very thorough job of documenting the Panel process and to make as much of that record publicly available as is reasonably possible.

2.12 Pressure and Lines in the Sand

- The many steps required to ensure a successful Panel outcome suggest that the process must operate with adequate financial resources. IUCN must ensure that it has the budget to deal not only with the unfolding in full of the process but with enough flexibility to handle the inevitable unexpected contingencies that arise.
- Similarly, in considering future independent review processes, it will be important for IUCN not to underestimate the staff resources required adequately to manage the Panel process. In most cases, a full-time staffer coordinating the process may not be a luxury but close to a necessity.
- In many review processes, disagreements will arise. IUCN must have an established mechanism to decide on the relative merits of taking a tough line or of showing flexibility and understanding. Threatening to withdraw from the process or to make a public statement on non-cooperation can be important tools in the IUCN arsenal, but they must be used as a last resort, and only when IUCN formally determines that the conservation interests at play will be better served by pulling the plug. Such decisions should be taken in concert with the Director General.

2.13 The 24-hour preview

- In the case of ISRP, IUCN accorded Sakhalin Energy a 24-hour preview of the report before it became public. Since this sort of courtesy will always be seen as a bias in favour of the contracting entity, IUCN must seriously consider the pros and cons of straying in this way from the path of straight objectivity. In doing so it must weigh the pros of reinforcing the trust with the company and the recognition that the company is the actor most likely in the firing line with the risk of appearing not to be even-handed.

2.14 IUCN's Reaction to the Report

- In the lead-up to publication of the review report, IUCN must carefully anticipate the likely reactions and prepare for the range of possible contingencies. It is not enough to ensure the publication of the report; there must be a clear strategy for managing the reaction that inevitably derives from matching the report with the expectations built up for it. A set of scenarios, or options for IUCN's further role should always be developed well before the release of the Panel report.
- As part of this, IUCN should both prepare a clear statement of its own views on the Panel report and its implications, to remind the public of the role it has chosen to play (and why) and, where appropriate, articulate clearly what future role it has chosen to play and why.

2.15 Follow-up Consultations

- The point of independent scientific review panels is to shed light on the issues at hand, to identify options for dealing with these issues, and the recommendations that have been made to the entity that contracted the study. As such, it will generally be important to generate a wide debate on the review's findings.

- Different stakeholders will have different needs – some will want an opportunity to review and debate the technical content of the report, others to challenge the company based on the report's findings, and others still to engage in a broad debate on the issues. To the extent possible, IUCN should provide for as many of these needs as it can.
- Where it is important not to mix the technical discussion with the more general debate, IUCN might consider organizing open, public meetings back-to-back with the technical meetings.

2.16 IUCN and Panel Follow-up

- It is highly unlikely that the Panels will reach clarity on all issues under review and, even were that to happen, there would remain several options on how to take the matter forward. In the lead-up to the release of the Panel reports, IUCN should undertake careful contingency planning, drawing up scenarios for the range of possible reactions from the stakeholders.
- The scenarios should include a careful review of options for the forward process, ranging from no follow-up beyond publication of the report through to the option of a continuing process of research, review, dialogue and consensus-seeking. Very few processes will conclude with simple publication of a report without leaving loose ends to tie up.

3 Lessons Learned and Documentation of the ISRP Process

3.1 Introduction

In May 2004, IUCN was approached by Sakhalin Energy with the invitation to organize an independent, scientific review¹ of oil and gas developments in the Sea of Okhotsk off Sakhalin Island, and in particular the impact of existing and planned developments on the Western Gray Whale. After some discussion, IUCN accepted.

The Independent Scientific Review Panel (ISRP) began its work in August 2004, delivering its report in February 2005. There followed a series of meetings between the panel members, Shell, Sakhalin Energy Investment Company Ltd. (henceforth Sakhalin Energy) and other stakeholders during which the bulk of the former panel served as an Interim Independent Scientist Group. These discussions led to the establishment of the Western Gray Whale Advisory Panel (WGWAP).

This review covers the period from the first contact between Sakhalin Energy and IUCN in May 2004 through to the completion of the ISRP and its follow-up through to September 2006. The review is intended to identify the lessons to be drawn from the experience with a view to improving the handling of independent scientific review processes in future as and when IUCN is asked to organize or lead them. Both the positive and more critical lessons are catalogued since both are important if future practice is to be optimized. The Terms of Reference for this review are attached at Annex 1.

The focus of this report must be clearly understood. First, it is oriented to the process that began when IUCN was invited to consider playing a particular role and ended with the inauguration of the work programme of the panel designed to follow up on the two phases thereby completed – the specific review undertaken by ISRP and the interim phase of discussion and option evaluation that ended with WGWAP picking up the baton. It follows that the report does not seek to make any judgment on the value of the ISRP report, on Sakhalin Energy development project (Sakhalin II), nor on the situation of the Western Gray Whale. A chronology that sets out the principal steps in the process is included at Annex 2.

Second, the central thread in the whole story is the performance of IUCN. There were many players involved in formulating opinions on the Sakhalin oil and gas project and the views of the different stakeholders cover a broad spectrum of opinion. Several stakeholder groups – the scientists, Shell and Sakhalin Energy, the non-governmental organizations, the lenders – played a critical role in the

process. Their role, however, was moderated by IUCN, and it is this that the report examines.

The author and his research assistant reviewed over two thousand pages of written documentation – reports, correspondence, statements, e-mail traffic, etc. They interviewed 30 individuals in sessions that averaged an hour each. We believe that, together, these afford us a solid insight into the process followed and into the decisions taken at various critical steps along the way. The list of the key documents consulted is attached at Annex 3 and the list of people interviewed at Annex 4.

It is, however, essential to note one important point in respect of the information on which this review is based: the findings in this report derive entirely from the documentation consulted and the people interviewed. The former was provided to us by IUCN; further, IUCN willingly complied when we requested additional information (largely other documents referred to in material under review). In respect of the latter, an initial list of proposed interviewees was drawn up by IUCN and supplemented by us. The final list was reviewed by both IUCN and by Sakhalin Energy. While this led to the addition of one or two names to the list, no attempt was made to discourage us from contacting any of the potential interviewees.

Our concern in conducting the interviews was to ensure that we were exposed to the full spectrum of opinion on the matter at hand, and that the totality of the interviews would represent a balance among the key stakeholder groups: IUCN, the scientists, the lenders, the NGOs, Shell and Sakhalin Energy. While further interviews would no doubt have offered additional insights, we believe that those conducted represent a reasonable depth and balance given the scope of the review decided by IUCN and Sakhalin Energy.

A total of 46 people were contacted for interviews. 30 replied positively and were interviewed. 1 declined to be interviewed and the remainder never responded, despite several reminders. That said everyone interviewed – some after considerable initial reluctance – was refreshingly open and forthright and none specifically urged us to include specific views in the report. Several of those with a direct role in handling the panel process were self-critical and suggested ways in which they might do things differently if given another chance. For this we are grateful.

From the moment that IUCN began to consider whether or not to accept Shell's invitation and, if so, under what conditions there began a series of decision points that ran right through the process until its conclusion. How IUCN considered the decisions to be taken, how they ended up

¹ Sakhalin Energy had in mind only one project (theirs) among several 'oil and gas developments in the Sea of Okhotsk off Sakhalin'. In fact, with the inevitable expansion of facilities and O&G activity north, south, and offshore of Sakhalin II, the ISRP's focus on 'just one' phase of one project is thrown into ever sharper relief.

choosing among the options available, and how well they documented the basis for those decisions constitutes the vein of ore that we, as consultants, set about to mine. It is in these decisions that the lessons to be learned may be located.

Consequently, our report is built around these “key decision points” and progresses chronologically through the process. A number of these – for example the treatment of transparency – of course apply to the entire process. We have included it among the decision points at that stage where it becomes a key consideration. These decision points make up the headings in Section 3.3 of this report. In the case of each decision point we review IUCN’s handling of the decision and seek to identify the lessons that might guide similar processes in the future. The application of hindsight to the recollection of the basis for the decisions offers the lessons we pull from the process.

There are few processes which, when examined in retrospect, cannot be found in some ways wanting or imperfect. While there is value in saluting what was well handled, there is more learning in examining what would today have been done differently. So if the report is in places critical, it is important to understand that this criticism concerns actions (or failures to act) that are at variance with the perfect trajectory; they are not a criticism of variance from a normal trajectory.

3.2 Reflections on the Nature of the Challenge

The need for independent scientific advice arises where there is uncertainty on the conclusions to be drawn from the evidence or doubts about its objectivity. Where science gives clear answers and is regarded as fully reliable, independent opinion is usually considered superfluous. The more important or controversial the decisions to be taken based on that science, the more need there is to ensure that the scientific basis for the decisions is robust. Where on top of that there is strong disagreement even on the basis for the decisions, or about key facts concerning those decisions, the opposing parties have few acceptable options other than to resort to neutral, independent assessment of the facts of the case.

The case of the Sakhalin whales is a museum specimen of this sort of controversy. The oil and gas reserves lying off the eastern shore of Sakhalin Island are considerable and their exploitation represents a major potential benefit to the Russian Federation and to the companies awarded concessions and their shareholders, especially at a time of growing demand for fossil fuels. So for the Russian Federation and the companies involved the option of not pursuing development of the resource is extremely unattractive.

At the same time, the project is located adjacent to an important feeding ground of a critically endangered population of whales. Any significant disturbance of the whales in the course of project operations (or indeed of other operations such as military activity or significant tourism development) could increase stress to the whales and bring them closer to the tipping point beyond which they might well slide into extinction.

Had the oil and gas reserves been minor or had there been a realistic option of delaying their exploitation, the precarious position of the whale population might well have been accepted as grounds not to proceed with the project. Indeed, among some of the stakeholders the situation of the whale suggested the clear conclusion that no energy development should take place at that location.

Similarly, had we been dealing with a healthy population of whales, or even one deemed threatened or at risk, it might have been acceptable to implement steps to ensure that the whales not be unduly stressed as a result of project operations.

In this case, we were dealing both with an important economic resource whose exploitation played into an exceptionally favourable market, and with a whale population at the highest possible level of endangerment. The question then arises whether it is at all possible to take advantage of the former while providing credible guarantees that the latter will not be negatively affected. If not, either the decision must be taken that the project cannot go forward, or that the whale will regrettably have to be a victim of economic imperative.

None of the players – Shell and Sakhalin Energy – was prepared to accept the latter option – the disappearance of the whales. And while some of the NGOs would have accepted – or even welcomed – the former, most stakeholders accepted that it was necessary first to test whether that stark choice between the two extremes was the only option available.

This, then, was the basis of the situation into which IUCN stepped: the stakeholders on the commercial side (principally Shell and Sakhalin Energy) believed not only that oil and gas could be extracted while offering reasonable assurances for the whales’ survival but that they had the science to demonstrate it. A number of the NGOs were less convinced. For one thing much of the science concerning the project’s impact derived from company employees or from consultants paid for by the company. This fed suspicions of a bias in favour of the company’s interests.

The scientific investigation of the whales off Sakhalin conducted under programmes independent of the energy

companies – for example in the context of scientific cooperation between Russia and the United States – underscored the precarious status of the whales. It did not, however, offer a comprehensive basis for assessing the impact of company operations, nor of course for assessing the robustness of the company’s own scientific work though external reviews of the company’s EIA found it to be lacking.

The challenge for the stakeholders, then, was to reduce the space for scientific uncertainty, and to agree how to act in the face of issues on which reasonable certainty was rendered impossible by the current state of science. Put another way, the first step was to achieve as accurate a fix as possible on the level of risk to the whales; the second was to decide what level of risk was acceptable and to see whether there was a level of risk that could come close to representing a consensus among the different stakeholders. And, while it is unlikely that there will ever be a full consensus on the appropriate level of risk, it was hoped that the review process would narrow the disagreement on the level of risk likely from planned project operations and offer the company the opportunity to articulate the reasons why a lower risk scenario cannot be adopted.

At the centre of the entire process, then, is the notion of risk, and the approach to handling risk is central to reviewing the process. It is important to accept that every significant stakeholder was juggling with a range of risk factors. IUCN, by accepting to play the role of neutral facilitator for an independent panel was taking very considerable risks, among them the following: removing itself from taking a clear and partisan position on the danger to the whales alongside some of its members and constituents; being criticized for exhibiting bias in favour of Sakhalin Energy, especially given its ongoing relationship with the company and thereby undermining its attempt to work more closely and positively with the private sector; and midwiving a report that satisfied no-one, exacerbating existing tensions within IUCN among members, Commissions and partners.

Sakhalin Energy ran the risk of its science being found to be biased or incomplete; of a public and independent panel concluding that their flagship project could not fail to send the whales to extinction unless radically altered; of endangering their fragile relationship with the Russian government or their consortium partners; and of undermining their carefully-crafted image as a responsible corporation with a commitment to sound environmental management.

The panel members ran a considerable risk to their reputations in a field where reputation is everything. The risk of undertaking a near-impossible task under strong time constraints and therefore rendering an unsatisfactory product was ever-present; the risk of being accused of bias in favour

of the company, or indeed bias against the company was very real. The risk was also great of their work being “misused”, or at least used in a way that they themselves would not sanction, since the panel’s report was not commissioned simply to clarify the science, but for example to support commercial decisions that played to a different logic.

Even the potential lenders and NGOs were exposed to risk and had to take consequent decisions. The lenders were exposed to considerable reputational risk if they decided to support the project and it turned into an environmental disaster. And although the panel was not set up to answer the potential lenders’ specific questions about the project, the lenders clearly saw the panel report as a key tool for reducing and managing that risk. And the NGOs had to take a decision on whether to support the panel process or to reject it along with the project on the grounds that any additional stress to the critically-endangered whales was unacceptable under any circumstances.

Dealing with risk involves making trade-offs and, throughout the process, from the first to the last step, IUCN made trade-offs. It is on the basis for making these trade-offs that we concentrate in this report.

One final word on perceptions: there is a saying in the world of public relations that “perception is reality”. When a perception takes root, the actual facts of the matter are often insufficient to uproot it. In IUCN’s strong science-based culture perceptions are often inadequately taken into account. They are nevertheless often also the reality. Managing how perceptions develop and avoiding the more negative of these perceptions from establishing themselves are very much part of handling this sort of process.

3.3 Steps in the Process

One interviewee reminded us of the classic response of the Irish farmer when a tourist stops to ask directions in a remote rural area: “Well, I wouldn’t start from here”! In the same vein, a very large number of those interviewed suggested as the first and key lesson from the experience that the Panel’s review should have been undertaken years before it actually was. An earlier start would have relieved the time pressures that plagued the Panel, would have delinked the Panel’s conclusions from immediate commercial decisions, given the lenders a better basis to appraise the project and afforded the time for more solid trust to be built among the parties.

In reality, however, there was no way to turn back the clock. It is questionable whether Sakhalin Energy would have brought the challenge to IUCN had the prospective lenders (EBRD, EXIM, ECGD and JBIC) been satisfied with the scientific evidence provided by Sakhalin Energy in support of its

claim to have taken all reasonable measures to avoid further endangering the whales. And it is doubtful that, without the assurance requirements of the lenders, Sakhalin Energy would have entertained a suggestion from IUCN that an independent review would prove useful.

This report then, documents the process of organizing the ISRP to provide learning about the design, architecture and management of the panel. These key decision points provide the headings in this section.

3.3.1 Accepting the Challenge

The decision by Sakhalin Energy that an independent scientific review panel offered the only reasonable way to deal with the ongoing controversy over the impact of the Sakhalin II project (for which it was the consortium leader, with a 55% stake) on the Western Gray whales predates the scope of this review. While many claim fatherhood of the idea, it resulted in the coming together of a variety of strands. The key motivation appears to have been the requirements of the prospective lenders, their rejection of the company's EIA as representing an acceptable basis for taking their lending decisions, their need for an independent review of the Comparative Environmental Assessment (CEA) then underway, recent bad news emanating from the company's own science (e.g. on noise disturbance), and the extreme delicacy of the whale's survival prospects. If the perception were to take hold that Sakhalin Energy had pushed a whale species over the brink to extinction, the impact on its reputation and on its attempt to build a track record for environmental responsibility could take a serious beating. At least one other consortium partner – Mitsubishi – was also sensitive to issues relating to the gray whales as a result of operations in an Eastern Gray whale habitat in Baja California.

In reviewing the options on whom to entrust with the task of forming and managing an independent panel two criteria were fundamental. Who could mobilize the best science; and who could generate the strongest respect for the independence of the panel's work. On the former, many options were available – including the lenders themselves. Indeed, the lenders had toyed with the idea of a panel and were prepared to move to establish one when Sakhalin Energy invited IUCN to do so. The lenders, under relentless pressure from a coalition of NGOs, were in no position to be flexible.

The latter is considerably trickier, since it was imperative not only that the panel be truly independent, but that it be widely perceived to be independent. And, finally, the company had to live with the notion of an independent group looking under its hood and kicking its tires, a notion that was sure to be questioned in some parts of the company and its board if only because it would take extensive time of employees away from their primary duties in the company.

IUCN offered access to scientific knowledge through its programmes and Commissions and it enjoys a worldwide reputation for moderation. Perhaps more important, it had over the previous years built a relationship of trust with Shell through specific projects undertaken periodically, exchange of staff and ongoing communication.

IUCN's relationship of trust with Shell – the parent company of Sakhalin Energy – proved to be a considerable strength in dealing with the issues that inevitably arise when dealing with sensitive issues such as this. Indeed, it considering future panels, IUCN should examine the strength and nature of its relationship with the parent company since it is primarily this relationship that will offer it leverage in dealing with site-level controversy. Where the links with the parent company are weak, serious consideration should be given to how they might be strengthened, if necessary in parallel with the conduct of a panel's work.

But if IUCN was a logical place for Shell and Sakhalin Energy to turn, it was not obvious that IUCN should accept the invitation. To do so meant embarking on a process fraught with risks, the key ones being spelled out above. At the same time, there were reasons to conclude that, should it be possible to agree on the basis for the review, it was a risk worth taking. For one thing, IUCN and its Director General had recent positive experience with independent reviews. IUCN had successfully led the Forest Dialogue with the World Bank, a process which had a demonstrably positive impact on Bank policy. Further, the Director General at the time, Achim Steiner, had also recently directed a two-and-a-half-year independent review of the impact of large dams – the World Commission on Dams. Hydro development is a topic every bit as controversial as oil and gas development, and yet the Commission had adopted its comprehensive final report by consensus.

In reaching the decision to accept Sakhalin Energy's invitation, IUCN consulted relevant members, Commissions and staff. This consultation was based on the knowledge that there were several alternative routes open to IUCN:

- taking a strong conservation-based position that applied the precautionary position to the maximum extent;
- offering a forum for the discussion of the issues; recommending independent scientists to the lenders, to Shell or to others;
- or indeed declining to take any position whatsoever.

The role of convener or broker of an independent process emerged as the front-runner for several reasons. These included deepening its experience in engaging the private sector on key conservation issues, its recent success in

brokering other independent processes, and the knowledge that this role maximized IUCN's comparative advantages. The overwhelming majority of those interviewed believe that this was the right decision, for three principal reasons:

- first, there were few credible alternatives to IUCN in terms of ensuring the independence of the process, and with privileged access to the science;
- second, because it is quite possible that Shell would not have considered other alternatives acceptable. IUCN, and especially Achim Steiner, were trusted by Shell. And IUCN's knowledge of Shell was also a clear advantage,
- and, finally, IUCN was convinced that an independent scientific review offered the best hope for the long-term future of the whales.

One of the successes was the early establishment of a core group to deal with the relations between Shell and IUCN on the process.

However, it was clear that once IUCN had agreed in principle to take on the challenge, the conditions under which the panel would work had to be acceptable. The individual issues at play in determining that the minimal conditions for a satisfactory process were in place are dealt with in the following sections. These relate to the timeframe and scope for the review, and accepting that it was still possible to make a useful contribution even if, to a large extent “the train had already left the station” and a good many options were closed or rapidly closing.

With hindsight it is possible to say that IUCN's decision process was made more difficult by the fact that its Private Sector Strategy had only recently been adopted and had not yet been put to the test. This lack of concrete experience in implementing the strategy naturally made the internal process more complicated and made it more difficult for IUCN to justify the decisions it took throughout the process as consistent with its established policy.

Two further lessons of this stage are worth noting:

- first, the Sakhalin-whale issue had and continues to have many stakeholders. Each is guided by its own complex set of motivations, some explicit, some murkier. It is valuable at the outset of controversial processes such as this one to ask each stakeholder to articulate its interest in and motives for collaborating with an independent process such as the one under consideration.
- second, in undertaking a process of this sort, while it is essential to lay out what IUCN is seeking to achieve, it is

also important to set out what it is explicitly not seeking to achieve. The choices made on the process, its scope and timing, the composition of the panel, access to information, treatment of confidentiality and so on imply other, alternate options have been discarded. In order to ensure that unrealistic expectations are not raised it is important to articulate clearly what has been taken on and what has not.

One such decision relates to the financial arrangements. IUCN had (at least in theory) the choice of covering the full cost of the exercise from its core funds, of seeking to recover direct costs only, of recovering the full cost of its handling of the process, or of entering into the venture on a commercial basis. While IUCN ended up with the sensible decision to recover costs but not to make a profit (indeed it returned money to Sakhalin Energy at the end of the ISRP process) the choice made and the basis for the choice were not clearly articulated nor easily available to those skeptical about IUCN's involvement.

3.3.2 Intra-IUCN Handling and the Internal Firewall

Running the Panel required IUCN to be scrupulously neutral. This is no easy task for an organization that is deeply involved in whale conservation, that runs its own cetacean specialist group, that participates actively in the International Whaling Commission and whose membership regularly adopts policy recommendation calling for the highest possible level of caution when dealing with developments that might have an impact on whale survival. Further, IUCN has considerable internal staff competence on marine conservation, on species science and on biodiversity more generally.

The first step was to cordon off areas of responsibility. The Business and Biodiversity Programme (BBP) was given the responsibility of handling the relations with Shell, with the Panel and with the stakeholders to this particular process; and the rest of IUCN was given responsibility for IUCN's outside profile, for substantive issues relating to the work of the Panel, and for formulating any IUCN position on the matters under review. Only the DG acted to some extent as a bridge between the two. Otherwise, a strong internal firewall was put in place.

The separation of process and substance worked but it was not perfect. Separating process and substance is not always ideal where the value of the process depends so centrally on the quality of the substance. It also leaves the process handlers (BBP) even more open than they would otherwise be to accusations of undue influence from Shell and Sakhalin Energy. This is especially so since there has for some time been a “revolving door” between BBP and Shell, with exchange of staff on both sides.

That said, there is little evidence that this led to genuine problems affecting the outcome of the panel process, but it made the perception problems more intractable and left BBP

staff somewhat exposed to pressure from Shell. Another lesson that might be learned is that, throughout the process, IUCN did not determine and set out clearly beforehand the appropriate role of the substance side of the firewall. It is important to note that the 'substance (content) side' was pretty silent throughout and after the ISRP process. In part, this may be due to the fact that an important chunk of the substantive capacity of 'IUCN' (in this case mostly the SSC) had been co-opted into the panel. But also there may be a tendency to overstate that capacity.

3.3.3 Scope of the Review: Timing Issues

One of the central issues surrounding the work of the panel was the time frame within which the panel was obliged to conduct its work. The terms of reference were agreed in August 2004 and the panel first met in September 2004 in Toronto. The initial contracted date to deliver the final report was 30 November 2004, though the delay incurred in Sakhalin Energy delivering the final CEA to the panel led to the report release date being pushed back to 16 February 2005. Given the risks involved on all sides, given the complexity and sensitivity of the issues under consideration, given the massive volume of information the Panel was obliged to review and absorb, and given the logistical challenges of convening an international panel and giving them the time to reach a consensus on a report, this was by any description a hellish time constraint.

The time frame was understood by IUCN to be a given and resisting it would in all likelihood have led to the mandate for the Panel not being agreed. Some believe that IUCN could have pushed harder for a deadline that would give the Panel a better chance of conducting an adequate review of the scientific issues involved and even less of building the trust needed to arrive at a genuine and freely-given consensus on all the issues under review. However, even if IUCN might have been successful in securing the time needed for the panel to operate under optimal conditions, taking that extra time would have to be matched with an assessment of when the panel's results would be optimally useful. Should Sakhalin Energy have already proceeded with its construction season before the panel results were available, their impact would have been considerably smaller. Shell and Sakhalin Energy insist that there was indeed no flexibility. Having missed the 2004 construction window, they needed the report in time to ensure that the 2005 construction season was not also missed. To miss it could have not only have been costly (many of the contracts for 2005 construction had already been signed) but it could land Shell in legal difficulties with its consortium partners, its shareholders and more especially with the Russian government, to the extent that its drilling rights might have been revoked.

The company also clearly hoped that the report would provide the potential lenders the basis they needed to proceed with funding decisions for the project. While the potential lenders insist that the timeline pressure did not come from them, it is quite credible that Shell and Sakhalin Energy could regard the need to satisfy the potential donors as an additional pressure factor.

Wherever the truth might lie IUCN – and subsequently the Panel – accepted the time constraint, judging it tight but minimally adequate to undertake a respectable review. They certainly saw acceptance of the time schedule as a "make-or-break" issue and felt that declining to engage over the time issue would leave the issue orphaned. Further, for IUCN, it would have meant losing a unique opportunity to advance delivery of its mission through private sector engagement.

While this was in all likelihood the right decision to take under the circumstances, and whereas the Panel members (whose reputations were more solidly on the line than IUCN's) also accepted it, the decision had consequences.

The first and principal consequence – as will be seen in the next section – was that it dictated the scope of the Panel's mandate and, consequently, the composition of the Panel itself. The Panel's near-exclusive focus on the whales, and the consequent construction of a Panel made up largely of whale scientists, was the only realistic option given the timing constraints.

The second consequence is that it significantly increased the risk to IUCN and to the Panel members, and to a lesser extent to Shell, by increasing the chance that the report would be unable to come to clear findings and that it would be obliged to leave essential elements vague or couched in multiple caveats. Indeed, the Panel concluded in its report that it had been "precluded from completing a reasoned and rigorous evaluation of some of the risks and mitigation strategies".

IUCN's acceptance of the tight time constraints was based on assurances that the Panel would have access to all of the information relevant to the issues they were reviewing. As will be seen below, this was not always the case.

Finally, in terms of the Panel's schedule, it would have been preferable to organize the visit to Sakhalin at the beginning of the process rather than, as happened, in the middle of it. This would have allowed early direct interaction between the Panel and Sakhalin Energy staff and scientists, and it would have generated a better appreciation of the constraints of working in that particular environment. Indeed, it probably would have been better if more than one visit to the site had been possible.

3.3.4 Scope of the Review: Substantive Issues

As noted in 3.3.3 above, the time constraints in part dictated the substantive scope of the review. Given the time limits imposed taking on a wider range of issues would have made it necessary to expand the Panel's skill-base thereby making it more difficult to agree on the optimal Panel membership, to build trust and good working relations and to reach consensus. It would also have increased the complexity of the transactions and the logistical difficulties. And, after all, it was the impact of project operations on the whales that lay at the heart of the controversy.

IUCN and the Panel agreed that it could go no further than to review issues directly relating to the whales and key elements of biodiversity immediately relating to the status of the whales. What constituted "key elements of biodiversity" was a matter of considerable debate. While Sakhalin Energy had internally sketched out a set of terms of reference that they felt would be appropriate, IUCN made it clear from the start that it would lead the process of drafting the TOR. IUCN did this through a broad process of consultation with its staff and commissions, with the group of international and Russian NGOs that had formed a coalition to address the environmental impacts of the Sakhalin oil and gas developments, and in a vigorous back-and-forth dialogue with Sakhalin Energy. When the Panel chair was selected, he weighed in on the TOR and exercised a great influence on them. When the Panel itself was created and began work, the TOR formed an important part of the first meeting.

Thus the TOR were the subject of a considerable debate, in terms of designing a job that was realistically doable within the time constraints, in agreeing on issues to be left aside, and in bringing Shell and Sakhalin Energy to the point where they were satisfied that the mandate of the Panel constituted, for them, an acceptable level of risk. Their nit-picking on these matters, while understandable when one considers Shell's legal and reputation exposure, left many on the Panel and elsewhere with a bad taste.

IUCN's insistence on driving the TOR process was clearly essential to maintaining the perception of independence, but Shell's acute sensitivity affected this perception negatively. The perception issue was made worse by IUCN's acceptance that certain issues – key to some stakeholders – would not be included in the review, and by their acceptance of vague language or outright limitations that affected the Panel's ability to make an optimal impact.

Addressing the former first, the decision to focus almost exclusively on the risk to the whales meant not addressing a series of wider environmental impacts linked to the project – the impact on salmon, on the Stellar's sea eagle, on the livelihood of indigenous peoples, etc. Given that the whales

were at the heart of the controversy over the project and give the time constraints, this was a perfectly reasonable decision.

The question of the location of the drilling platform and the timing of its deployment was more delicate. IUCN chose to leave the final decision to the Panel and its decision to accede to the company's wishes was the subject of some emotional dissent within the Panel. This decision may well have been realistic. The authors heard a range of views on whether or not the platform could at that point have been relocated and determining who is right is beyond the scope of this review. There can be no question, however, that the decision added fuel to those who believe IUCN was unduly influenced by Shell and cowed both by the existing partnership with Shell and the good relations between the IUCN Director General and the senior management of Shell International. This group includes more than one member of the Panel.

In retrospect, this sort of controversial trade-off merits special attention in communicating with the wide range of stakeholders in the process. IUCN fell short in not setting out the rationale for the Panel's decision on how it would deal with the location of the platform, and Sakhalin Energy clearly did a poor job in communicating the reasons both why there could be no calling into question of the platform location and why, aside from reasons of commercial convenience, the chosen location had been selected. As a result, controversy and bad feeling on this issue continued long after the ISRP had concluded its work.

Concerning the latter set of issues relating to the crafting of the Panel's mandate, one that merits reflection concerned the decision that the Panel would not formulate prescriptive conclusions. Instead, the nature of the review was to place the facts of the case before the stakeholders as objectively as possible and not to suggest the actions that should flow from a consideration of those facts. Not only would they not identify "no action options" – in other words areas where the concern for the survival of the whale might dictate the abandonment of project plans – they agreed not to formulate any specific recommendations. Instead, the Panel was to lay out findings and options that those with a stake in the future of the whales could deploy in support of their positions.

While the Panel accepted these guidelines and whereas it does not take much effort to read between the lines of the ISRP report to find "de facto" conclusions and recommendations, this decision was controversial among some Panel members, some lenders and the NGO community. Given that the Panel was to be made up of scientists of impeccable repute, there appears to have been

no valid reason why the Panel should not have been invited to advise the company more directly on key issues relating to the whales.

At the same time, there was resistance from the company to anything that might resemble a prescriptive conclusion coming from the Panel. That would put the company in a position of rejecting or not going along with the advice of a highly-regarded Panel. Even if they had objective reasons for doing so, this would not be favourable to their public image as a responsible company.

Some feel that this matter could well have become a “make or break” issue: had IUCN insisted on the Panel formulating clear recommendations, it is possible that no agreement would ever have been reached and the Panel would not have been constituted. Since as it turned out the Panel’s views on certain matters are perfectly evident from their report, it would appear that IUCN was right not to take a stand on this matter. Nevertheless, the company’s fastidiousness on this point may have had a “chilling effect” on the Panel, inducing them to formulate some of their statements in vaguer terms than they might otherwise have done.

Other issues are evident, with hindsight, in reviewing the process of constructing the TOR. Clearly IUCN was right to resist the wish of Sakhalin Energy to preview and edit the ISRP report (with the exception of the 24-hour preview advantage, discussed in Section 3.3.11 below). However, the TOR remained vague in setting out the company’s responsibility in dealing with the report. The importance of principles that risks be set at levels “as low as reasonably practicable” or that “best available practice” be applied, or that the precautionary principle be followed, were never adequately defined. As a result, members of the Panel and the company ended up with very different interpretations of what the Panel was saying and what the company’s obligations really were.

3.3.5 Confidentiality

One of the issues that arose in the ISRP process was the question of confidentiality of the data that the Panel was to review. In most such processes, there is a presumption of openness and transparency such that all the material reviewed by the Panel would be considered public unless specifically designated as confidential. When such a designation is made, it should be accompanied by an explanation why confidentiality is required in the particular case. The burden of the proof should lie clearly with the party designating material as confidential. In the ISRP TOR there was no such presumption of openness, and Sakhalin Energy, bound by a tight agreement with the Russian Party, took a restrictive view of what was appropriate to release beyond the Panel.

Two things should be noted here. First, the confidentiality issue was not seen by anyone associated with the process to have been a serious issue in practice. It was more a perception issue relating to the suspicion with which the company sometimes regarded the Panel. In future (as is already the case with WGWAP), the presumption of openness should be chosen.

Second, the confidentiality issue related to the reality of contrasting cultures. Shell and Sakhalin Energy are more accustomed to a competitive and secretive corporate culture where access to information often spells corporate advantage. IUCN is steeped instead in the culture of transparency characteristic of the NGO world. As trust was built between IUCN and the company, the issue of confidentiality was gradually relaxed.

The lesson from this is that openness is an important factor in building a sense of legitimacy around an independent process such as ISRP. Labeling information confidential should be the exception rather than the rule, and should be accompanied by a convincing explanation of the reasons behind that designation.

3.3.6 Timeliness of Delivery

Another – this time serious – issue that should have been better addressed in the TOR concerns timely delivery of the information requested by the Panel. By failing to reach a clear and enforceable agreement with the company that it would provide all information reasonably requested by the Panel in a timely fashion led to very considerable dissatisfaction and to one of the greatest sources of frustration felt by the Panel during the period of its work. Information had to be requested repeatedly and often came at the last possible moment before a Panel meeting, making it hard to absorb and digest it properly. The ISRP report speaks of “important information gaps” and individual Panel members complained bitterly about the difficulties caused by the stilted information flow. Indeed, when the Panel’s mandate was extended in November 2004 to allow time for a review of the CEA, the notion of timely delivery was included in the amended TOR.

There are, of course, objective reasons that can explain some of the delays: some of the information was jointly owned by Sakhalin Energy and Exxon and the latter’s permission was sometimes required. Nor was it always clear what exactly the Panel wanted, and some of its requests were vaguely worded. One company official complained of having to play on a field where the goal posts were constantly moving.

But beyond the need to establish clearly with the entities commissioning independent scientific reviews that timely delivery of information is of the essence, there needs to be much more attention to the mechanisms for securing

information needed for the review. The procedures established by IUCN, which required all requests for information to transit through it undoubtedly slowed things down, and it is not clear that the trade-off of maintaining a watertight airlock between the company and the panel was the better choice. Nevertheless, this issue led to a considerable pressure being put on Shell by IUCN, and on Sakhalin Energy by Shell, and it remained one of the most fraught issues until the end.

The company also freely admits that there were problems in this area, including internal obstacles – both personal and bureaucratic. The “single point of entry” for the ISRP in Sakhalin Energy was one of Sakhalin Energy skeptics, unconvinced of the need for an independent review. The company also underestimated the work needed to gather, collate and transmit the information and accept in retrospect that this set of functions was badly under-resourced, especially since those involved had heavy work-loads in their normal jobs, with obligations to the Panel coming on top of that.

The delay in providing the CEA to the Panel was clearly the most serious of the timeliness issues. It led to a delay in delivery of the ISRP report from late November 2004 to mid-February 2005, but this delay seems to have been caused by the late delivery of the final CEA to the company by the consultants and not to any problem internal to the company.

The overwhelming impression left with the Panel, with IUCN and even with some in Shell was that there was an element of passive resistance, of foot-dragging, on the part of Sakhalin Energy. There is also a widespread feeling that IUCN might have been stronger both in pressuring Sakhalin Energy and in being prepared to pull the plug unless matters improved. This issue is dealt with at 3.3.10 below.

3.3.7 Composition of the Panel

In establishing the ISRP, two issues were primordial. First, the Panel needed to attract scientists of the first rank, whose experience and qualifications would make it impossible to discredit the report on the grounds that Panel members lacked the necessary eminence. A substantial number needed experience with the Western Gray whale so as to challenge company scientists and consultants who had been working on the species, sometimes for many years.

The second and equally important need was to select Panel members that would reinforce the ISRP’s goal of remaining fully independent. This meant eliminating those that had links with Shell or Sakhalin Energy, but also those who had a well-known and established position on the project.

This was not an easy set of criteria to apply since the group of scientists dealing with Western Gray whales is restricted, tend to know one another and, since much of the research on the species has been funded in connection with planned or existing oil and gas development, many had links of one sort or another with Shell or its rivals, considerably limiting the pool of potential members.

The forming of the Panel was largely the responsibility of IUCN (like the crafting of the TOR, this was a precondition of independence) but it had to insist on this before it was finally accepted. Having selected the Panel chair, IUCN then gave him broad scope to select the other Panel members based on selection criteria worked out between the chair and IUCN-BBP. These focused in particular on the disciplines needed on the Panel and on the level of scientific prowess and experience, though those who felt that the Panel should review a wider array of issues inevitably felt that the Panel should include more members expert in these issues. Other criteria concerned the need for gender and geographical diversity, both of which were difficult to meet and both of which were, rightly, considered secondary to scientific specialty and level. While a special effort was made to locate Russian scientists with a level of English sufficient to allow them to participate, inevitably much of the Panel was from North America.

The invitation to nominate went out to a very broad range of players and was advertised on the website set up for the review, so NGOs, Commission specialist groups, private sector interests and other stakeholders had ample opportunity to feed in names and résumés. An alternative would have been to select the panel chair and to allow him or her to compose the panel, according to give criteria and subject to final approval by IUCN. By running an open process of recruitment while maintaining control of the process and giving the designated Chair considerable say in the composition of the panel, IUCN seems to have hit on the optimal solutions. The transparency of the process contributed substantially to the high regard in which the ISRP was held. The final selection was made with inputs from various parts of IUCN (SSC, the Marine Programme) thus strengthening IUCN-wide buy-in to the process about which some had shown early skepticism.

In the end the composition of the Panel, given the constraints on it, was not a matter of undue controversy although it has been suggested that, in future, an important criterion for selection could be the capacity and track record for constructive exchanges. IUCN also accepted two features that contributed to the Panel’s work and which suggest a methodology for the future. First, it allowed the Panel to establish its method of operation; and, second, it gave the Panel the possibility to co-opt specific experts for specific tasks where needed.

Two final points are worth recording. First, at an early stage consideration was given to whether the Panel chair should be a leading scientist or instead a non-scientist – for example a government or NGO person. The former option recognizes the eminently scientific nature of the enterprise and links the success of the Panel to the scientific credentials of the chair. The latter option recognizes that the scientific issues play out in a political context, and a good deal of the impact of any review of this kind depends on skillful management of the relationships involved. IUCN hewed towards the former in this case – a decision that seems to have proved correct under the circumstances, since the issues at stake were eminently technical. However, it is not clear that this is always the preferred solution and IUCN should examine long and hard whether the most intractable problems under review are technical or political.

Finally, despite the considerable time invested in the process by Panel members, they mostly received token remuneration for their efforts. None asked to be compensated at normal commercial rates. Some declined even the token payments because their time was largely covered by their parent organizations. This undoubtedly helped reinforce the perception of independence that the Panel enjoyed (especially given that the direct costs of the process were being covered by the company) but IUCN should consider the wisdom of this in future. For one thing, it depends on Panel members either volunteering their time or on their having an institution willing to pay for it. This will inevitably constrict the pool of experts from which IUCN will in future wish to choose panelists. Nor is it particularly fair on the panelists themselves. While it is clear that it was undesirable to ask Shell or Sakhalin Energy to remunerate the panelists it might have been desirable – or it might be in future panels – to remunerate them fully and properly from IUCN's own resources or from resources raised by IUCN for this purpose.

3.3.8 Transparency

It is no secret that confidence relates closely to transparency. In designing and running an independent process aimed at reaching consensus around a particularly controversial issue, the obligation to act as transparently as reasonably possible is absolute if confidence is to be built in the independence of the process and the merit of its conclusions. The issue is always “what is reasonably possible”? At what point does transparency cross the line into indiscretion? At what point does it actually do the process more harm than good? And how should each case be decided and how explained?

While IUCN made a heroic effort to run as transparent a process as possible, sometimes leaning over backwards to make information publicly available, it nevertheless tripped over many issues relating to the questions formulated in the paragraph above. There was, for example, no presumption

of transparency (see discussion of confidentiality, above) – in which every aspect of the Panel's work would be deemed available for public scrutiny unless specifically designated confidential, and in those cases the decision not to allow full transparency would be explained.

Instead, IUCN appeared to be operating on the principle of maximum transparency, and optimal participation in the process consistent with the efficient work of the Panel. Too much transparency could interfere with the work of the Panel, just as too much direct participation of stakeholders could threaten its independence.

There are two distinct levels at which transparency is important: between Shell and Sakhalin Energy on the one hand and IUCN on the other; and between IUCN, interested stakeholders and the public at large.

On the first, the most controversial issue related to publishing the financial basis for the relationship between IUCN and Shell generally, and the August 2004 agreement between IUCN and Sakhalin Energy in particular. While it is not usual for organizations to publish the details of contractual arrangements, and in particular those relating to financing, the Sakhalin review was no ordinary situation. Indeed, several of the stakeholders – and especially the NGOs – clearly suspected IUCN of being unduly influenced by its relationship with Shell, and some felt that IUCN did not have the experience to detect and resist all the “tricks” that a sophisticated multinational company would inevitably play. So was transparency not the answer?

In our view, IUCN was justified in declining to reveal the financial details of its arrangements with Shell and Sakhalin Energy. At the same time it could clearly have done a better job both in making the key substantive elements of these relationships public and of explaining why it would not reveal the rest. In particular with respect to the ISRP, a better job could have been done to explain in as great detail as possible the understanding between IUCN and Sakhalin Energy on the Panel, and the fact that it was based on the notion of cost recovery and not a commercial arrangement.

In terms of transparency to other stakeholders and the public IUCN did a commendable job. The website for the ISRP carried the Panel's TOR, information on the Panel members and its work schedule, reports of their meetings and, of course, the final report. A massive amount of information on the Panel and its work was made available on the website throughout the ISRP process and subsequently. Thus in terms of a proactive approach to transparency, IUCN's performance was nearly beyond reproach.

If there is room for improvement it is in the need to articulate and document the reasons for any constraint on full transparency. In examining complaints from particular individuals that stemmed from IUCN restricting access to information, the authors found that IUCN had in almost every case examined the options attentively and taken a fully justifiable decision – decisions based more than anything else on the need to provide optimal conditions for the Panel's work. However, it did not do a very good job at articulating the assumptions on which it was working, or the rationale for the decisions they took. Having done so would have saved IUCN many problems and a lot of heartache.

3.3.9 Firewalling

IUCN, as the only point of contact between the public and the Panel, successfully defended the latter from any attempt to influence its work or its findings, whether from the company, the lenders or the NGOs. In this it displayed an even-handedness that is in large part responsible for reinforcing the perception of independence that accompanied the Panel's work.

As noted above, the BBP served as the secretariat for the Panel and because of this lodged themselves behind an internal firewall that protected the Panel also from any attempt by IUCN itself to shape the Panel's conclusions. IUCN also provided the platform for other stakeholders to express their views and to participate – to the extent this was possible – in the process though, to a large extent the, Panel worked in a bubble from the time it first met until the ISRP report was published. IUCN served very effectively as a clearinghouse for information relating to the project, to the issues, and to the views of the various stakeholders.

IUCN served also as the single channel for two-way communication between the Panel and Sakhalin Energy so that any communication between these two had to pass through IUCN. Some of those interviewed felt that the rigidity with which IUCN applied this rule was exaggerated and had the effect of slowing communications even on matters of little controversy. This may be true, but it is also clear that the independence of the Panel's report depended to a very large extent on being able to demonstrate that ISRP had worked in a manner that was entirely sheltered from company opinion.

This firewall may, however, have had the unintended effect of leaving IUCN-BBP fully exposed to Shell and Sakhalin Energy. A number of the NGOs felt that, while it was fine and justified to protect the Panel from direct exposure to the company, it left the Panel secretariat – BBP – somewhat "defenseless" in its dealings with the company.

In reality, there is little evidence that IUCN was unduly influenced by Shell or Sakhalin Energy, certainly in any way

that affected the outcome of the Panel's work (though see the next section). On the contrary, the relationship of trust that existed with Shell at the outset and that grew stronger during the Panel process in large part as a result of IUCN's skillful and even-handed management of the process was one of the key factors in ensuring a successful outcome. IUCN also did a very thorough job of documenting the process and the multiple interactions it required, providing a solid base for deflecting the many kinds of criticism of which it was inevitably the object.

Characteristic of the sort of issue that arose is the handling of the CEA. The final CEA was delivered to the Panel on 30 November 2004. The late delivery caused a delay in the publication of the ISRP report until 16 February 2005, much of the delay due to the time necessary for the Panel thoroughly to review the CEA. The issue arose, however, of the public release of the CEA. The Terms of Reference specified that Sakhalin Energy would not release any major report or document relating to the matters under consideration by ISRP so close to its report release date that it could take the air out of the ISRP report.

IUCN felt that, with the ISRP report delayed for over two months, public release of the CEA was not only consistent with the dictates of transparency, it would play an important role in preparing the ground for the ISRP report, adding an important element to the body of company-generated science on which ISRP's report would offer a professional opinion. The company, however, insisted that the CEA be released in concert with the ISRP report. Since neither the arguments on both sides, nor the justification for accepting the decision by Sakhalin Energy was made public, the perception took root in some quarters that the CEA was being withheld at IUCN's request and that it had acted to limit transparency, whereas the opposite is the case.

3.3.10 Pressure and Lines in the Sand

In light of the controversial nature of the issues examined by the Panel and the strong emotions on all sides of the issue, it is not surprising that the Panel process was conducted under considerable pressure. This pressure stemmed in large part from the very tight time frame within which the Panel worked, and from the difficulty in securing the information it needed. It also resulted from the challenge to manage a wide variety of expectations and the friction caused by rubbing together two very different cultures.

On the plus side, everyone seems to agree that, in financial terms, the process was adequately resourced. Had it not been, it is likely that the combination of pressures would have proved too high and it is a clear lesson for the future that provision of adequate financial resources is fundamental to the success of this sort of process. At the same time, in

terms of personnel, the process was under-resourced both in IUCN and in Sakhalin Energy. The three individuals in the BBP had demanding day jobs on top of which serving as secretariat for the Panel came as a heavy overlay. A similar situation obtained in Sakhalin Energy, no doubt contributing to the information flow problems noted at 3.3.6 above. In considering future independent review processes, it will be important for IUCN not to underestimate the staff resources required to manage a process of this sort adequately. In most cases, a full-time staffer coordinating the process may not be too much of a luxury.

More delicate is the handling of matters that threaten the integrity of the Panel or risk undermining its output. In accepting to head up the independent process it became IUCN's responsibility to ensure that the minimal conditions were in place – and remained in place – to allow the process to move forward on a smooth path towards a successful conclusion. It follows that it was also IUCN's responsibility to pull the plug when those minimal conditions were no longer present, or to threaten to do so when the line in the sand was approached.

The transactions between IUCN and Shell, and between Shell and Sakhalin Energy in this respect are difficult to determine as the bulk of the more delicate ones were conducted orally. There is evidence from the e-mail traffic that, on more than one occasion, IUCN was prepared to call the future of the process into question and to threaten to pull the plug, and it is important to understand that, in many respects, this would have been the easy solution for IUCN; the fact that it never came to that is evidence of IUCN's skillful handling of the matter.

Clearly one of the issues that IUCN had to deal with was the perception that developed among Panel members and others that Sakhalin Energy was a reluctant partner in the enterprise, that it had submitted to it only as a result of pressure from the consortium leader Shell, and that some within Sakhalin Energy continued for a long time – some possibly throughout the process – to believe that commissioning the Panel had been a mistake. This perception of negativism on the part of the company – that the company was, in the opinion of some Panel members, “gaming” the process – came close to stalling the Panel at times.

There is nothing surprising in the sort of glitches the Panel or IUCN encountered, but resolving them may have been IUCN's greatest challenge. It was able to do so in large part because of the relationship of trust that existed with Shell and that grew stronger as a result of the ISRP experience. Indeed, in some cases there appeared to be an alliance between IUCN and Shell to ensure compliance on the part of Sakhalin Energy in the undertakings it had made.

So IUCN appears to have weathered the problems that arose in a manner that, in the end, proved acceptable both to it and to the Panel. It avoided being forced to any real breaking point or to crossing any of the magic lines in the sand, and that fact is very much to IUCN's credit. The extent to which IUCN did in fact, on occasion, threaten to bring down the Panel process and to denounce the company for inadequate cooperation is hard to gauge since such threats would have taken place largely in oral communications, but it is clear from the record that this tool was used more than once. By and large, IUCN chose not to advertise the ongoing problems it faced. To do so would have been another, strong form of pressure on the company to comply but would have threatened the trust that reigned between it and Shell.

IUCN clearly felt that a Panel report would serve the cause of the whales better than a public failure which would, in all likelihood, have led to lender withdrawal and possibly to Shell being placed in a difficult situation with the Russian government and with consortium partners. It therefore bent over backwards to avoid provoking any “make-or-break” situation. In doing so, IUCN may have left in the arsenal a range of weapons they could have used to secure more and more timely transmission of information and thereby give the Panel a more solid basis for its report.

Inevitably, some NGOs and Panel members read into IUCN's reluctance openly to confront the company or to acknowledge the difficulties publicly a further sign of its pro-Shell bias. However, in the end, it is the result that counts.

3.3.11 The 24-hour Preview

Another derogation made by IUCN from the principle of complete even-handedness was to give Sakhalin Energy a 24-hour preview period before the ISRP report was published. This decision proved controversial among some stakeholders. Those who supported it pointed out a number of factors to be considered: the subject of the review was, after all, the company's project and it was the company that was the most exposed. Allowing them the chance to preview the report and prepare their response was considered an acceptable courtesy. Indeed, it can be argued that not allowing the company a chance to preview the report would have put it at a serious disadvantage since any precipitate statement or reaction made by the company could affect relations within the consortium, with the Russian government, and with investors. Sakhalin Energy's reaction had to be prepared with care as anything it said carried legal implications. The NGOs were under no such constraints.

Those who criticized the decision deplored the opportunity it gave Shell to “spin” the message and to present the Panel's conclusions in the best light. It was taken by them to offer evidence that IUCN was prepared to do favours for Shell that were not available to other stakeholders.

It should nevertheless be recalled that Sakhalin Energy started out by asking for editorial control over the report but, in the end, settled for an approach where they had no opportunity whatever to amend the report's contents. Under the circumstances allowing this courtesy seems a small concession and there is little evidence that it gave the company a material advantage in the debate that followed the report's publication.

3.3.12 IUCN's Reaction to the Report

The publication of the ISRP report on 16 February 2005 marked a watershed for IUCN. Not only was the report now public, the firewall now removed, and the Panel no longer needing protection, but the obligation for IUCN to remain studiously neutral on the issue also instantly disappeared. IUCN, whose decision to adopt the role of broker lifted it largely out of the substance of the controversy, suddenly lost its cover.

The immediate aftermath of the publication proved to be somewhat messy. It led, at least momentarily, to a flare-up in the controversy over the project, in that the company's response – and in particular their decision to stick with the 2005 construction schedule – disappointed those that felt the implications of the report carried a strong obligation to review the project fundamentally, if not to abandon it. It also gave the NGOs that opposed the project fresh material grounds to attack the project, Sakhalin Energy and Shell.

Perhaps most striking of all, though not surprising in retrospect, the report did not settle the various controversies surrounding the project's impact on the whales once and for all. Some of the Panel's conclusions were tentative and vague, and the report points to multiple gaps in our understanding of the issues or in the data concerning them. The Panel report could never be more than a "state of knowledge" assessment. It should have been clear that some follow up would be required.

In the immediate backwash of the report's publication, IUCN appeared ill-prepared; although it did ask the Chair of the panel to serve as the public face of ISRP in terms of discussing the report and its conclusion, IUCN itself appeared to some observers to be "flying by the seat of its pants". So intensely had it focused on the completion of the ISRP process that it seemed to have no clear strategy for managing the roll-out of the report; the internal set of Q&A it prepared is remarkably cautious and defensive, and appears designed to preserve IUCN's position above the fray. This is one of the clear lessons from the ISRP process: it is not enough to ensure the publication of the report; there must be a clear strategy for managing the reaction that inevitably derives from matching the report with the expectations built up for it. A set of scenarios, or options for IUCN's further

role should always be developed well before the release of the Panel report. In this case, it was not until July that a first options paper (Options Paper on ISRP Sakhalin: Where do we go from here?) was produced, and not until October that it was properly discussed.

IUCN has come in for criticism in this phase of the process for failing to take a clear public position on the report. While it was clear that IUCN had to remain neutral as long as the Panel was doing its work, once the Panel report emerged into the public domain, IUCN recovered its freedom to take a position on the issues. Several of the NGOs, in fact, expected IUCN to rally to their cause given the critical findings of the ISRP. They expected IUCN to join those urging Sakhalin Energy clearly to commit to implementing the report's implicit recommendations. So much focus had been invested in the process that consideration of the substance, to some extent, fell by the wayside. The IUCN position statement issued on 9 March 2005 is an exceptionally limp document, focused on process rather than substance and on ongoing research needs rather than on what can be concluded about the project from a reading of the ISRP. It certainly makes no demands of Shell or Sakhalin Energy.

In reality, the publication of the report placed IUCN back in the position it found itself in when it was first contacted by Shell – all options were again open. IUCN, instead of working through these options systematically, stumbled and lurched into a role that led once again to brokerage emerging as the preferred solution. While this was a reasonable conclusion to reach, IUCN would have done much better both to have made a clear statement on the Panel's report and its implications, and to articulate clearly what role it had chosen to play and why.

3.3.13 Follow-up Consultations

Publication of the long-awaited report – especially since it was delayed by over two months – elicited a great deal of interest. Some events were organized to present and explain the report. Others were organized to allow the Panel and Sakhalin Energy to interact directly, with the Panel explaining the basis for what they had written and the company probing for further detail or justifying its actions. Other meetings were organized to allow the lenders to seek from the Panel the clear answers they needed to complete their funding decisions. Thus, if there was no longer a need for a firewall, there was a continuing need for a broker and facilitator, and IUCN was the obvious candidate.

The first category excited little controversy. The meeting organized in Moscow on 24 February 2005 – immediately following the release of the report – was open to all interested participants and was of undoubted benefit to the Russian environmental community and to the government. However,

the Moscow location was not favourable for a large number of interested stakeholders and the meeting was perhaps organized too soon to have an optimal impact. More serious, it was not followed by similar open forums in Europe or North America where the bulk of the concern for the project was grounded.

Even if IUCN had organized a full round of public meetings in places where concentrations of interested stakeholders were located, it is not sure that they would have avoided the criticism that followed the May '05 workshop in Gland. This was the key meeting of the second category. It was designed to be a technical meeting at which the Panel and Sakhalin Energy could exchange views both on the ISRP report and on Sakhalin Energy's response and thereby help the lenders come closer to a definitive determination on whether or not the amended project met their environmental standards.

On the positive side, the Gland workshop provided a platform for Sakhalin Energy and its critics on the Panel to confront one another in the presence of the lenders. Further, it was at that meeting that the idea for WGWAP was born.

However, there is a widely-held view that IUCN handled the meeting poorly, that the facilitator was out of synch with what was happening and that the report was inadequate. The more critical felt the meeting represented a step backwards. Two aspects of the workshop stand out in particular:

- first, IUCN decided that NGO observers would be limited to four and that these four would be chosen on the basis of their scientific credentials in keeping with the technical nature of the meeting. Given that the NGOs were observers it is not clear why their number should have been so radically limited. Further, many aspects of the Sakhalin project are of public interest, and not simply the scientific details contained in the ISRP report. And IUCN was clumsy in picking the representatives from specific NGOs, rejecting for example one with a significant knowledge of the history of oil and gas development and its impact on the environment.

In retrospect it is hard not to conclude that IUCN inadequately appreciated the considerable difference between protecting the independence of a scientific review and the need to generate a wide debate on the review's findings. In terms of NGO presence, it might have been wiser to allow a greater number into the room, and to ensure that the technical nature of the meeting was respected through the rules of the game and through professional facilitation. It should not then have been necessary to insist that the NGO representatives possess the sort of technical skills to be found on the Panel.

- second, it might have been better to organize an open, public meeting back-to-back with the technical meeting. This would have allowed concerned NGOs or even individual citizens to interact with both the Panel and Sakhalin Energy in the presence of the lenders and would have been a significant act in favour of transparency.

The handling of the Gland workshop offered yet another opportunity for IUCN's critics to accuse it of bias in favour of Shell, especially in that IUCN tolerated the presence of a delegation from Sakhalin Energy that was substantially larger than had been agreed and that contained non-technical participants. While the meeting was intended to allow Sakhalin Energy and the Panel to dialogue, so that in some ways the more Sakhalin Energy people were there, the better, the whole matter was poorly handled and left IUCN with a substantial amount of egg on its face. IUCN's own review of the workshop – recorded in a note of July 2005, recognizes the mistakes made and sets out a series of very valuable lessons to be learned from the experience.

With publication of the ISRP report, the lenders also moved into high gear. While the report gave them a considerable amount to chew on, it did not give them the definitive answers to their precise questions that they felt they needed to support the pending funding decisions. The lenders expressed a strong need for further interaction with the Panel, and met with members of the Panel in Washington soon after the report's release. A further meeting convened and funded by the lenders took place in Vancouver in September 2005 at which IUCN attended as an observer. This led in turn to a request that the Panel – and additional experts drafted to join them – should form an Interim Independent Scientist Group (IISG) and to a number of meetings between IISG and the lenders, with IUCN back in the saddle as convener.

The lender, for example, wished to have the IISG's views on Sakhalin Energy's reaction to the report and to the validity of some of the latter's proposals or counter-arguments. More than anything they wanted the IISG's help in setting out the sort of conditions that might be attached to the loans that were being sought.

While the lenders funded the first two meetings in 2005 (in Washington and Vancouver) it soon became clear that there was an ongoing need for IUCN's facilitation and brokerage and Sakhalin Energy agreed to fund this through a new contract that replaced the one established for the ISRP.

3.3.14 IUCN in the ISRP Follow-up Process

As noted above, IUCN appeared ill-prepared for the phase that would follow publication of the ISRP report, both in terms of managing the reactions to it and in tying up the various

loose ends that the process would inevitably leave. IUCN was not, in the aftermath of a tough and wearing ISRP process, looking to continue; it certainly didn't want to be left as the custodian of the problem.

IUCN played a useful role in defending the Panel from attempts – especially on the part of the lenders – to use its members as lender consultants, but they appeared to lose control of the process and faded into the background in what became, for a while, a debate between the scientists and the company, often at the behest of the lenders. While the report of the May workshop contains a first and very useful assessment of the lessons learned from the ISRP process, it was not until July 2005 that IUCN undertook a reasoned assessment of the possible roles it might play in the follow-up.

The transition from ISRP to WGWAP took an inordinately long time. Part of this had to do with the ongoing dialogue between the lenders and the company and part had to do with IUCN's handling of the NGO reaction to the report. It is fair to say that this reaction was mixed. Many of the NGOs welcomed the report as an important contribution to the debate and as giving them important new material with which to pursue their advocacy agenda. Others – and in particular those who felt the fragility of the whales dictated that no oil extraction should take place in the area – took the report as proof that their assessment of the project was correct and could not understand why IUCN continued to take a nuanced position. They placed strong pressure on IUCN to end its relationship with Shell and, since this resonated with a segment of IUCN's own membership, IUCN had no choice but to continue the dialogue and handle it carefully.

The NGO pressure put IUCN in a difficult position in the follow-up process. Sakhalin Energy was insistent on keeping the debate strictly focused on the options set out in the ISRP report, whereas the NGOs wanted to cast the debate much wider. Indeed, Shell and Sakhalin Energy's insistence on an exclusive focus on the technical and a near-refusal to deal with the wider issues led to both the Gland workshop and the subsequent, IISG Vancouver meetings (April and September 2006) being exceptionally tough.

Nevertheless, as the interim period proceeded, IUCN and the IISG began slowly to shift from being reactive to being proactive, once again taking over the design and set-up of what became WGWAP.

3.3.15 Emergence of WGWAP

The terms of reference for WGWAP demonstrate that IUCN had learned and was prepared to apply the key lessons from

the ISRP/IISG process and spelled out in the report of the Gland workshop.

The need for unimpeded access to data is spelled out, as is a far more reasonable approach to confidentiality that assumes all information is public unless specifically labeled confidential and accompanied by an explanation of the need for such labeling. The new panel is not confined to laying out options but can make recommendations (provided these are not prescriptive). Further it is noted that Sakhalin Energy will implement any reasonable recommendation of WGWAP, though it is presumably left to the company to decide what is reasonable.

The April 2006 meeting of IISG indicates that some of the lessons on stakeholder handling have also been learned, and the role of IUCN is far better laid out than was the case in the ISRP process.

3.3.16 Final Lessons

Each of the above sections focuses on key steps in the process and reflects on the strategic and tactical choices made by IUCN at each stage, drawing out lessons for future practice where appropriate. This section pulls together some of the main lessons to be taken into account when IUCN is faced with similar invitations to manage independent review processes in future.

Given that IUCN is now regularly approached to lead independent review processes, it should draw up a series of clear criteria that will allow it to pick and choose those that it takes on and those invitations that it declines. These criteria should include:

- the importance of the conservation issue and its relevance to the IUCN mission;
- the availability in IUCN and its Commissions of the professional skills on the topic;
- conformity with IUCN policy as reflected in the Private Sector Strategy and relevant Congress resolutions;
- the absence of a significant and persistent opposition from a substantial section of the IUCN membership (working with those members to seek to address their concerns);
- and, of course, the human and financial resources to ensure that the job can be done at an acceptable level of quality and professionalism.

It seems clear that a process of the magnitude of the ISRP/IISG requires dedicated capacity and in some cases a

full-time manager. The burden on BBP and, indeed, on their counterparts in Sakhalin Energy, all of whom were juggling demanding full-time jobs and seeking to support the process on the side was the cause of serious stress, overload, and many of the handling problems signaled above. And, while this was not an issue in the case of ISRP/IISG, the processes must be adequately resourced in financial terms.

While it is probably utopian to expect that the time frame will in future be adequate for the process to unfold optimally, it is clear that at least some flexibility must be built into such processes. Not everything is predictable (e.g. the late delivery of the final CEA), and some delays are inevitable. This flexibility should be built into the design of such processes where humanly possible.

The experience with the ISRP/IISG makes it clear that the principal skill required in such processes is the skill of relationship management across a wide spectrum that spans both the quantitative, engineering-based culture present in many corporations and the sometimes abrasive, perfection-seeking culture prevalent among the more activist NGOs. Indeed, it might be wise in the case of the more controversial processes to appoint a specific NGO liaison person or to make space for a specific NGO reference group that acts as an intermediary between interested NGOs and IUCN for the duration of the process. This would force NGOs to consolidate their views and to filter the many messages, expectations and demands that flow IUCN's way. It is in any event a clear lesson from ISRP/IISG that any attempt to keep NGOs at a distance is counterproductive; the resentment caused translates into real problems for the process over the longer run.

IUCN should work to obtain from the companies involved a much clearer statement of intent relating to the basis on which they will accept and implement the results of such independent reviews. In processes similar to this one, there are advantages to these review reports including clear recommendations (whether prescriptive or not). The fact that the Terms of Reference for ISRP precluded it from formulating recommendations was an over-cautious and in any case ineffective limitation on its work. Indeed, any reader can read clearly between the lines what the report is recommending.

In the case of ISRP, there was no commitment from Sakhalin Energy beyond the promise to review the report seriously and to consider the options it laid out. Already WGWAP has taken a step in the right direction, by obtaining from the company a commitment to implement any reasonable recommendation. Without such guarantees, there is a real chance that the Panels will conclude that they have wasted their time.

Finally, the Terms of Reference for future Panels and the undertakings made by the companies in terms of implementing the results should be much clearer on the principles that apply. There was much discussion in the ISRP report of principles such as ALARP (as low as reasonably practicable – to be contrasted with the ALAP principle – as low as possible) as a tool for managing risk, or of BAT (best available technology) or indeed of how the Precautionary Principle should be applied. Both IUCN and the company should agree in advance on what principles should apply and how.

3.4 Conclusion

In entering into the ISRP process, all parties were knowingly accepting a series of risks to their reputation, to their standing within their communities, or even to the future of their endeavours. If they accepted these risks it was, in each case, because they had confidence that the process would yield a result whose importance made the risk worth taking.

It is certainly too early to tell whether the Western Gray whales will escape extinction. There can be no doubt, however, that the future of the whales is better now than it would have been under a business-as-usual scenario. Steps designed to reduce the risk to the whales have been taken as a direct result of the ISRP process – the change in the pipeline route being the most prominent. ISRP led to the design and implementation of a more comprehensive scientific programme relating to the whales, and to a convergence between the company's scientific efforts and the wider international ones. WGWAP continues to provide independent monitoring and coordination for this wider programme and ensures that the operations of Sakhalin Energy are conducted with greater transparency.

IUCN emerged from the process with its reputation strengthened. Nobody – not even IUCN itself – believes that it did a perfect job, but most acknowledge that the process and IUCN's handling of it have led to a positive outcome for everyone involved and most probably for the whales that provided the motivation for the process in the first place. It is probable that IUCN operated with a reasonable balance between moderation and firmness; any more moderation and accusations that the process was unduly influenced by one party or the other would have stuck. Any more firmness and there was a real risk that the plug could be pulled on the process and the result would have been decidedly more negative.

It is indicative that the ISRP report was turned, in the subsequent process, into a work programme with 137 questions and issues, and that no significant new questions or issues have emerged since that time.

Shell speaks of the process shifting its way of doing business. Sakhalin Energy talks of the process forcing it to “up its game”, if only because its science was confronted with the best available science worldwide. Indeed the process seems to have forced every one of the stakeholders up the learning curve, both in terms of the positive shifts in culture and appreciation of the situation, and in terms of a new consciousness of how not to do things.

The question of whether or not the ISRP process had a satisfactory result inevitably boils down to the assumptions and expectations vested in the process. For those who believe that the precarious situation of the whales clearly dictated that no extractive project was justified the process

could only be deemed successful if the project were definitively abandoned not only by Shell and its partners but by all possible players. In the situation that prevailed in 2004–06, the chances of that happening were to all intents and purposes zero.

The challenge therefore boiled down to effecting a reduction in the risk of worsening the situation of the Western Gray whale commensurate with the effort put into it. A massive effort leading to a marginal reduction of risk would disappoint most of those involved. A significant reduction of risk would be deemed a success.

While each party will judge for itself where along that continuum ISRP left off, it is evident that virtually all of the stakeholders deem the outcome to be positive, especially when considered together with the ongoing process vested in WGWAP. That, in itself, justifies the risk that IUCN knowingly took.

4 Annexes

Annex 1

Terms of Reference

1. Introduction

In 2004, at the request of Sakhalin Investment Company (Sakhalin Energy), the International Union for Conservation of Nature (IUCN) convened an independent scientific review panel (ISRP) to evaluate the science around the conservation of Western Gray Whales in the context of Sakhalin Energy's Sakhalin II oil and gas development project. IUCN wishes to document the process of the review. This note provides the Terms of Reference for the process review.

2. Objectives and Scope

The overall purpose is to strengthen the knowledge base with respect to the conceptualization, architecture and management of independent scientific reviews that are periodically undertaken in and outside IUCN. The specific objective is to document the process of organizing the ISRP to provide learning about the design, architecture and management of the project. The outcomes of this work will guide similar projects in the future. The process review will also analyze and document key success factors for an ISRP as well as the challenges and limitations of an ISRP and recommendations for overcoming them.

The process review will cover the period from the first contact between Sakhalin Energy and IUCN in May 2004 through to the completion of the ISRP and its follow up through to September 2006. The process review will endeavour to be as comprehensive as possible covering at least:

- the origin of the idea for the ISRP (driving needs and motivations);
- the design, architecture and management of the ISRP process as well as the follow up meetings with the stakeholders, the lenders workshop, and the workshop of the Interim Independent Scientific Review Group;
- the governance structures for the ISRP and follow-up work; and
- the interaction between all stakeholders including IUCN, Sakhalin Energy, the lenders, key stakeholders, and panel members.

3. Audience

The review is intended to be used as a public document and guide to any person or party considering establishing an independent scientific review panel.

4. Key Tasks

The process review team will undertake the following tasks as well others that may be necessary for the satisfactory completion of the process review:

- (a) A thorough briefing with the team of Business and Biodiversity Program (BBP) of IUCN to establish a clear understanding of these TOR and of the expectations;
- (b) Establish a list of files and documents (hard and electronic) that will need to be reviewed;
- (c) Establish a list of documents or files that Sakhalin Energy may like the review to consider;
- (d) Establish a list of organizations and individuals that will need to be consulted and interviewed;
- (e) Develop and agree with the BBP team a methodology for the review;
- (f) Develop a clear understanding (and listing) of the key aspects of the main project components and their parts that must be documented;

- (g) Develop and agree with BBP a table of contents for the review report;
- (h) Thoroughly review all the available documents and files, as mentioned at (b) and (c) above;
- (i) Interview the key individuals, as mentioned at (c) above, in IUCN, Sakhalin Energy, ISRP members as well as in other organizations who will have the institutional memory and other significant contributions to make to the process review;
- (j) Produce a draft report for consultation with the relevant people in IUCN, Sakhalin Energy, former ISRP members and others as appropriate;
- (k) Produce a final report based on the comments resulting from the consultation process, understanding that several iterations of the draft report may need to be provided; and
- (l) Undertake any other task necessary for a quality and timely delivery of the final report, and as agreed with the BBP team.

5. Output

The output of the process review will be a final report of not more than 50 pages of text, (excluding any pictures and diagrams) with an executive summary of no more than 5 pages. Any auxiliary material that is necessary for an intelligent reading of the report will either be annexed or referenced to relevant sources. The final report will be submitted to IUCN both in electronic and hard copy format such that it is ready for publishing should IUCN so chose.

6. Period

The process review will be completed over a period of three months from the date of its commencement.

7. Process Review Team

The process review team will comprise of a lead consultant who will have the principle and sole responsibility for designing and implementing the review and producing a high quality report.

The lead consultant will be assisted by a part time IUCN staff who will, for the purpose of the process review, report directly to the lead consultant, and will undertake the necessary research and other tasks entailed by the review as the lead consultant may require. The writing of the draft report as well as production of the final report shall be the responsibility of the lead consultant.

The lead consultant will report to the Business and Biodiversity Adviser of BBP.

8. Sakhalin Energy Role

Regardful of their other commitments, the project will not draw excessively on Sakhalin Energy staff resources. However, for ensuring quality of the process and its eventual product, Sakhalin Energy input will be inevitable. This will come in three ways. Establishing and making available the documents that Sakhalin Energy may like the review to consider (1 person day); participation in telephone interviews (2 person days) and review of the drafts of the report (2 person days). Thus a total Sakhalin Energy input of 5 person days is envisaged.

IUCN will consult with Sakhalin Energy about the final document to be put in a public domain or published as a joint publication.

Annex 2

Sequence of Events – ISRP

2003

- ⇒ Conclusions made by potential lenders' whale consultant Bruce Mate that Sakhalin Energy's WGW EIA and mitigation measures in WGW protection were not adequate.
- ⇒ Lenders request Sakhalin Energy to provide an options analysis of its offshore pipeline routing to demonstrate it has considered all potential avenues and could defend its position from a WGWs perspective.
- ⇒ Lenders being heavily criticized by NGOs for their engagement in Sakhalin Island with Sakhalin Energy.
- ⇒ Lenders request the convening of ISRP to resolve issues.

May 2004

- ⇒ Initial request made by Shell to IUCN for an independent scientific review.
- ⇒ First meeting held between Shell and IUCN to discuss the convening of an ISRP and possible ways forward.

June 2004

- ⇒ IUCN and Sakhalin Energy/Shell draw up a formal agreement for a panel to review the science around the WGWs.
- ⇒ IUCN BBP to manage the panel from IUCN's side.
- ⇒ Initial development of draft TOR starts to be undertaken by IUCN.
- ⇒ WWF express their support of IUCN convening the panel.

July 2004

- ⇒ Engagement of IUCN Russian office into ISRP process.
- ⇒ IUCN informal meeting in Sorrento with Randy and other Whale scientists to provide input into the TOR and suggested potential panel members.
- ⇒ Lenders specify that the report would need to be complete by November 2004 to fit into their financial timeframe for lending decisions. For this reason they suggest that the panel only concentrate on the WGWs.

August 2004

- ⇒ Randy Reeves selected to be chair of panel.
- ⇒ TOR finalized and prepared to be placed on web (16th).
- ⇒ Panel section confirmed (24th).

September 2004

- ⇒ Slow pace of receiving documents from Sakhalin Energy becoming a problem.
- ⇒ First panel meeting held in Toronto.

October 2004

- ⇒ Second panel meeting held on Sakhalin Island.
- ⇒ Sakhalin Energy inform panel that CEA cannot be delivered to panel until November 30th (original deadline for Panel report).
- ⇒ Sakhalin Energy proposes that the delivery of the panel's report be delayed to allow time for reviewing the CEA.

November 2004

- ⇒ Third panel meeting held in California.
- ⇒ SEIC accept the need to deliver the CEA by 30th Nov and accept the need of IUCN until 15th Feb to provide panels report.

January/February 2005

- ⇒ Panel report delivered to Sakhalin Energy on 15th February for review and then posted on IUCN website 16th February.
- ⇒ Moscow debrief with Sakhalin Energy and stakeholders.
- ⇒ Lenders meet with some panel members in Washington DC on 24th Feb. Sakhalin Energy not present.

May 2005

- ⇒ Gland workshop held at IUCN HQ with Sakhalin Energy, lenders and some NGO participants to discuss ISRP report.
- ⇒ Main recommendation of Gland workshop was the establishment of a long-term scientific advisory panel WGWAP.
- ⇒ WWF are very critical of outcome of workshop.

June 2005

- ⇒ Lenders not satisfied with outcome of workshop.
- ⇒ EBRD postponed Sakhalin Energy loan and suggest a separate follow-up meeting without IUCN.

August 2005

- ⇒ Rick Steiner announces his resignation from panel (even though panel had already dissolved).

September 2005

- ⇒ Lenders meeting held in Vancouver with Sakhalin Energy and scientists to discuss the feedback surrounding the ISRP.
- ⇒ IUCN attended meeting as an observer.
- ⇒ IUCN prepares draft TOR for WGWAP.

November 2005

- ⇒ WWF releases "Risky Business" report which criticizes Sakhalin Energy's operations and questions the placement of the platform.

April 2006

- ⇒ IISG to bridge the gap between ISRP and WGWAP
- ⇒ Interim Independent Scientists Group (IISG) workshop held in Vancouver to discuss the set up of WGWAP further and Sakhalin Energy's 2006 construction plans.
- ⇒ Several NGOs such as WWF, Pacific Environment and NRDC criticize IISG workshop in relation to NGO attendance.

October 2006

- ⇒ WGWAP established by IUCN on 2nd for a period of 5 years.
- ⇒ IUCN Marine Programme takes over from IUCN BBP and start to manage WGWAP.

2007

- ⇒ AEA Technology produces independent report for lenders.

Annex 3

List of the Principal Documents Consulted

IUCN

1. ISRP Report, IUCN, February 2005
2. TOR for ISRP
3. Communications Plan for ISRP on the Sakhalin Project – IUCN internal document
4. Process Related Questions and Answers on the Sakhalin Project, February 2005
5. IUCN Position Paper, March 2005
6. TOR Workshop, Gland, May 2005
7. Report of ISRP Follow-up Workshop, May 2005
8. ISRP Follow-up Workshop – NGO Involvement
9. Options paper on ISRP Sakhalin: Where do we go from here?, July 2005
10. Minutes from Meeting with DG – where to go from here?, October 2005
11. TOR for Resolution of Remaining Issues, 14 July 2005
12. Guiding Considerations for ISRP Follow-up Workshop
13. TOR Lenders Workshop, Vancouver, September 2006
14. IUCN Review of Sakhalin Energy – Western Gray Whale Workshop, Lessons learnt, May 2005
15. TOR for IISG Process and IISG Workshop, April 2006
16. Minutes IISG Workshop and List of Participants, April 2006
17. Report of the IISG on Mitigation Measures to protect Western Gray Whales during Sakhalin II Construction Operations in 20067, April 2006
18. TOR GWAP

Sakhalin Energy & Lenders

19. Sakhalin Energy Position paper May 2003
20. Sakhalin Energy International Gray Whale Research Programme – Consultation Close out Report, March 2004
21. Sakhalin Energy Response to ISRP Report, April 2005.
22. Minutes of Lenders Meeting, July 2004
23. Sakhalin Energy Comments on the Independent Scientists Report of the Western Gray Whale Workshop, Vancouver, 17 to 19 September 2005
24. Western Gray Whale Workshop Vancouver, 17–19 September 2005, Final report
25. Independent Environmental Consultant Final Report – Agency Lenders, September 2007 p 61-87

IUCN-Sakhalin Energy Joint Docs

26. Agreement between Sakhalin Energy and IUCN for ISRP
27. Call-off-agreement between Sakhalin Energy and IUCN
28. Amendment number one to Agreement between Sakhalin Energy and IUCN, August 2004
29. Western Gray Whale and Offshore Pipeline Options – Engagement Strategy
30. A co-operative framework for the GWAP (attached to letter from Ian Craig 22 Sep 2005)
31. Agreement for GWAP between IUCN and Sakhalin Energy

32. Letter from David Greer (Sakhalin Energy) to Achim Steiner re Comparative Environmental Assessment (CEA), 30th Nov 2004
33. Letter from Ian Craig to Achim Steiner re WGWAP, September 2005
34. Letter from Achim Steiner to Ian Craig (Sakhalin Energy) re IISG, 8th May 2006
35. Western Gray Whales Issues List

NGOs

36. Risky Business – the New Shell. WWF report, November 2005
37. Statement of Common Demand by Environmental NGOs 8th Jan 2003
38. WWF International response for Communicators to Shell Re-Routing Sakhalin Pipeline
39. Letter Pacific Environment Aug 30th 2004 to Rafiq re TOR ISRP
40. Letter from Pacific Environment re WGWAP, Feb 21, 2006 and IUCNs response to this letter, March 2006
41. WWF letter to Rafiq RE Gland Workshop, May 2005
42. Natural Resources Defense Council comments on TOR ISRP
43. WWF comments on WGWAP TOR
44. Squaring off on Sakhalin: A Global NGO Campaign Against Big Oil, August 2005
45. WWF position paper on Sakhalin, January 2004
46. Letter Bankwatch to IUCN, 26 January 2005
47. Letter Friends of the Earth Japan to EBRD, April 2006
48. Material Breach – Review of AEATs independent Consultant Final report, Pacific Environment, Sakhalin Energy Watch, WWF, November 2007

Panel

49. Relevant panel meeting documents that provide information on ISRP process (rather than content) e.g. minutes of panel meetings and email communication between panel members (mainly Randy Reeves and Tim Ragen) and IUCN BBP
50. Minutes of telephone conference calls between Shell (Alex Elson and Matt Bateson) and some panel members post ISRP (provided by Shell and to remain confidential)
51. Rick Steiner Comments on Sakhalin Energy response to ISRP Report, May 2005
52. Letter from Rick Steiner to Mr. Van der Veer (CEO Shell) re postponement of PA-B platform, July 14th 2005
53. Letter from Ian Craig (CEO Sakhalin Energy) to Rick Steiner, 15 July 2005
54. Rick Steiner's resignation email to panel, 29 August, 2005

Miscellaneous

55. Sakhalin Oil Doing it Right, 1999
56. Sakhalin II Phase 2 Project: Unanswered Questions, January 2004, Richard Fineberg.
57. Oil and gas pipelines: Social and environmental Impact assessment, Robert Goodland, May 2005
58. Status of Western Gray Whales off northeastern Sakhalin Island, Russia in 2003 – Weller et al. 2003
59. International Whaling Commission, 2004. The resolutions made at the IWC annual meeting in Sorrento, Italy, <http://www.iwcoffice.org/meetings/resolutions/resolution2004.htm>

Annex 4

List of People Interviewed

IUCN

1. Andrea Athanas
2. Sarah Gotheil
3. Bill Jackson
4. Vladimir Moshkalo
5. Deric Quaile (former Shell secondee to IUCN-BBP)
6. Mohammad Rafiq

SEIC

7. Ian Craig (CEO)
8. Andrew Pearce (Ex-Sakhalin Energy)
9. Jamie Walls (Shell liaison with IUCN)
10. Doug Bell (Sakhalin Energy)

Shell

11. Robin Aram (ex-Shell)
12. Matthew Bateson
13. Alexandra Elson
14. Richard Sykes (ex-Shell)

Lenders

15. Jeff Jeter (EBRD)
16. Bruce Mate (lenders whale consultant)
17. Martin McKee (Ex ECDG)
18. Rick Williamson (formerly with EXIM)

Panel Members

19. Bob Brownell
20. Alexander Burdin
21. Frances Gulland
22. Tim Ragen
23. Randy Reeves
24. Rick Steiner

NGOs

25. Naoko Funahashi (IFAW Japan)
26. Francis Grant-Suttie (WWF-US)
27. James Leaton (ex WWF-UK)
28. Claude Martin (ex WWF-International)
29. Doug Norlen (Pacific Environment)
30. Paul Steele (ex WWF-International)

About IUCN

Founded in 1948, IUCN (International Union for Conservation of Nature) brings together States, government agencies and a diverse range of non-governmental organizations in a unique world partnership: over 1000 members in all, spread across some 160 countries.

As a Union, IUCN seeks to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable.

IUCN builds on the strengths of its members, networks and partners to enhance their capacity and to support global alliances to safeguard natural resources at local, regional and global levels.



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