

The Government of Japan's Position for the 57th Annual Meeting of the International Whaling Commission.

General Overview

The IWC Scientific Committee's reports have clearly shown that many species of whales have recovered – others are recovering. It also shows that science allows sustainable harvest of abundant species of whales without depleting their stocks. Modern enforcement and monitoring measures will prevent the repetition of the past over-harvesting.

However, the IWC has, since the adoption of the moratorium in 1982, failed to meet its objective as provided by the International Convention for the Regulation of Whaling (ICRW); that is, **“to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry”**.

Japan's primary interest is to bring the work of the International Whaling Commission back to the task mandated by its parent treaty, the ICRW.

As required by Article V.2. of the ICRW, regulations with respect to the conservation and utilization of whale resources **must be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization of the whale resources and be based on scientific findings.**

Continuation of the moratorium on commercial whaling, particularly in light of the adoption of the Revised Management Procedure (RMP)¹ and the robust status of some whale stocks, is contrary to the objective, purpose and rules of the ICRW. The legal integrity of the IWC and its credibility as a resource management body must be reinstated by observing the letter and spirit of the Convention. Mutual respect for cultural differences must also be properly taken into account.

Extreme Anti-Whaling Position Prevents the Completion of RMS²

Completion of RMS has been delayed for more than a decade by anti-whaling members' insistence that the RMS include a number of duplicative and expensive measures to monitor catches as well as a number of requirements that are outside the scope of the ICRW such as the collection of animal welfare data. Furthermore, extreme anti-whaling members maintain that they are against whaling even if the RMS is completed.

At the 56th Annual Meeting the Chair put forward a proposal for adoption of an RMS based on the work of a small group (Denmark, Iceland, Japan, Netherlands, Spain, Sweden and US) during the interval between the 55th and 56th meetings. In presenting this “Chair's package”³, the chair expressed the view that **“I fear that failure to put an RMS in place may not only jeopardize the future of the IWC, but perhaps more importantly serve neither the interests of whale**

¹ RMP is a risk-averse method of calculating quotas for abundant stocks of baleen whales developed by the IWC Scientific Committee and adopted by the Commission in 1994. The RMP would only be used for abundant stocks, has been tested with thousands of simulation trials over a period of 100 years, has built in safety factors to take account of uncertainty (including the impacts of possible environmental changes) and is a feedback system requiring new abundance estimates every 5 years. The RMP is the most conservative and robust system ever developed for the management of any wildlife species.

² RMS includes the RMP, an inspection and observation scheme, guidelines for surveys used to estimate abundance and specification of minimum data requirements.

³ The “chair's package” included: the RMP, catch verification through national inspectors and international observers, additional catch verification to combat IUU whaling and/or unreported bycatches using DNA registers and market sampling and a catch document system, a compliance review committee, a voluntary code of conduct for research whaling, a mechanism to apportion RMS costs, measures for the lifting of the moratorium and explicit recognition of animal welfare considerations in the IWC regulations.

conservation nor management – the dual mandates of our Convention.”

Japan supported the “Chair’s package” as a compromise solution however it was not adopted. Instead, a resolution aimed at trying to have a draft RMS package ready for consideration and possible adoption at the 57th meeting and/or to identify any outstanding policy and technical issues was adopted by consensus. Because “to identify any outstanding policy and technical issues“ means that anti-whaling countries can reopen any issues, this resolution seriously damaged the chair’s package proposal.

In addition, the Government of New Zealand and others are now demanding that the Convention itself be fundamentally changed (amended) by a Protocol as a prerequisite to any RMS. The U.S. is also demanding a legally binding phase-out of research whaling before they will agree to any RMS.

Japan is strongly opposed to these 2 initiatives. We have been negotiating in good faith to complete the RMS and have made substantial compromises towards this end. The IWC does not have the power or authority to amend the Convention and it is preposterous that anti-whaling countries are demanding that Japan formally relinquish its rights under the Convention in order to resume commercial whaling which is intended by the same Convention.

The general public as well as **parliamentarians in Japan have come to the end of their patience on this matter and have demanded that the Japanese Government consider all options, including withdrawal from IWC and/or equally drastic measures if the IWC has not implemented a reasonable Revised Management Scheme (RMS) by the 57th Annual Meeting.** Japan may therefore propose a reasonable and cost effective RMS that reflects the reality of whaling operations and is practical to implement, paid for by all members of the Commission and limited in scope to the mandate of the Commission as defined by the terms of the ICRW.

Japan believes that it is now time for IWC members with extreme anti-whaling positions to also make compromise in order to complete and implement the RMS. **Completion of the RMS must be based on the understanding that lifting the moratorium is an integral part of implementation of the RMS.** The total protection of all whales – irrespective of their stock status – is contradictory to the ICRW and to the cultural values of people of Japan and other countries that view whales as a valuable food resource.

In this regard, we reiterate Japan’s view that continuation of the moratorium under **Paragraph 10(e) of the Schedule is contrary to the spirit and the purpose of the ICRW** due to its actual wording (“...and by 1990 at the latest...”) and procrastination in completing and implementing the RMS for the resumption of commercial whaling on a sustainable basis. Scientific findings that show many whale stocks are abundant together with respect for cultural differences must be the basis for the work of this Commission.

The early completion of the RMS is a very important matter which will determine the future of the IWC. All of the contracting parties have an obligation to comply with the provisions of the ICRW, which provides for the sustainable utilization of abundant whale stocks based upon scientific findings.

Japan’s whale research programs

Japan has two whale research programs, one in the Antarctic (JARPA) that began in 1987 in response to claims by a number of members of the IWC that the scientific information was insufficient to properly manage whale stocks. This, and the IWC’s Southern Ocean Whale and Ecosystem Research (SOWER) are the only long-term research programs on whales in the Antarctic that are providing valuable information related to whales and the Antarctic ecosystem.

In its 1997 review of this research program, the Scientific Committee reported **“The information produced by JARPA has set the stage for answering many questions about long term**

population changes regarding minke whales in Antarctic Areas IV and V.”, and that **“...JARPA has already made a major contribution to the understanding of certain biological parameters”** The Scientific Committee also **“noted that JARPA is at the half-way point and has provided substantial improvement in the understanding of stock structure.”** and, **“...there was general agreement that the stock structure data were of value to management”**.

It is also important to note that **“...the meeting noted that there were non-lethal methods available...but that logistics and the abundance of minke whales in the relevant Area probably precluded their successful application.”**⁴

In March of this year the 18 year research program in the Antarctic (JARPA) was completed. The program has provided a wide variety of important information on biological characteristics, such as natural mortality and changes in the age of maturity of minke whales, and other relevant factors such as stock structure necessary for sustainable management under a commercial whaling regime.

Data from the research program has also shown that there is a major shift occurring among baleen whale species where we are witnessing a surprisingly rapid growth in the abundance of fin and humpback whales in the Antarctic and a possible slowing in the increased abundance of minke whales. **Understanding this major shift as well as the effects of worldwide climate changes, including global warming, is required as the basis for ensuring sustainable use of these abundant resources.**

For these reasons Japan will initiate a new research program in the Antarctic beginning in 2005. Details of this new program (JARPA II) have been submitted to the Scientific Committee for review before the IWC Plenary session. Results of the research will form the basis for the establishment of a new and improved management system for whales, based on the ecosystem approach which would allow for conservation, recovery of depleted species and sustainable use.

Japan’s other research program is carried out in the western North Pacific (JARPN). This program which began in 1994 was also reviewed by the Scientific Committee which **“noted that...information obtained during JARPN had been and will continue to be used in the refinement of Implementation Simulation Trials for the North Pacific minke whales, and consequently were relevant to their management.”**⁵

Phase II of this program (JARPN II) began in August 2000. The main objective of this research is to determine what whales are eating, how much and where. Data from these studies will be used as input to ecosystem models to improve the management of all marine living resources in the western north Pacific.

This research is consistent with the unanimous decision of the IWC in 2001 to make the study of interactions between whales and fisheries a priority. It is also consistent with the commitments of the FAO’s Committee on Fisheries and the Johannesburg Plan adopted at the 2002 World Summit on Sustainable Development to the development and implementation of ecosystem approaches to fisheries management. The research involves both lethal and non-lethal methods. Studies of prey consumption by whales cannot be done using only non-lethal means.

JARPA included the sampling up to 440 minke whales in the Antarctic each year. The Antarctic minke whale is one of the most abundant stocks in the world. JARPN II includes sampling of 220 minke whales, 50 Bryde’s whales, 10 sperm whales and 100 sei whales each year. These species were chosen because they are abundant in the north Pacific. They have a large biomass which means

⁴ The above 5 quotes are taken from IWC document 49/4 Report of the Scientific Committee, 1997.

⁵ IWC document: Report of the Workshop to Review the Japanese Whale Research Programme under Special Permit for North Pacific Minke Whales (JARPN), Tokyo, 7-10 February 2000.

that they consume huge amounts of marine living resources. **The effects of the research catches on the stocks will be negligible.**

Both the research programs involve non-lethal research including sighting surveys and biopsy sampling as well as the killing of a small number of whales for **research that can not be done by non-lethal means.** This includes examination of ear plugs for age determination studies, examination of reproductive organs to determine maturation, reproductive cycles and reproductive rates, examination of stomachs for analysis of diet consumption and measurement of blubber thickness as an indication of body condition and food availability.

Japan's whale research programs are perfectly legal. Article VIII of the International Convention for the Regulation of Whaling (ICRW) specifically provides for members of the IWC to issue permits for the killing of whales for research purposes. This Article also requires that byproducts from the research (whalemeat) be processed.⁶ This means that whalemeat from whales caught for scientific purposes is sold on the market because it is an obligation under the Convention. It is not "commercial whaling in disguise" as labeled by anti-whaling members of the IWC and some NGOs.

Sustainable use and proper management of all marine living resources should be based on scientific findings. Indeed, Article V of the International Convention for the Regulation of Whaling requires that its regulations be "based on scientific findings".

Further, it has been clearly established that increasing whale populations are consuming huge quantities of marine living resources and that in some areas whales are consuming fish that are also the direct target of fisheries. For example, in the Northwestern Pacific, whales are increasing and consume at least 10 species of commercially important fish species while fisheries landings in Japan have been reduced from approximately 12 million tons in the late 1980s to less than half of that today. This "coincidence" cannot be ignored in the management and recovery of the fisheries resources in the area. The consumption of fish by whales must therefore be considered in the development of ecosystem or multi-species approaches which will improve the management of all marine living resources.

Criticism of Japan's whale research program based on emotional reasons ignores both science and international law and is a rejection of the basic principle that resources should be managed on a scientific basis. Sustainable use and proper management of all marine resources should be based on scientific findings.

Small scale coastal whaling

Since 1986, Japan has presented documentation on the localized and small-scale nature of community-based whaling in Japan, and the socio-economic importance of whalemeat production, distribution and consumption in four small coastal whaling communities.

The IWC has specifically recognized the socio-economic and cultural needs of these communities and the distress to these communities which resulted from the cessation of minke

⁶ Article VIII

1. Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.

2. Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.

whaling and in 1993 resolved to work expeditiously to alleviate this distress.⁷ This commitment was reaffirmed by resolutions adopted at the 52nd and 53rd Annual Meetings. However, the IWC has been denying Japan's request to allocate an interim quota to alleviate the distress for the last sixteen years.

At the 56th Annual Meeting, the IWC adopted a resolution by consensus recognizing the continuing difficulties of Japan's small-type whaling communities and, encouraging IWC members to co-operate towards a resolution of this matter.⁸

Japan will therefore propose the immediate resumption of community based whaling with quotas of up to 150 minke whales and 150 Bryde's whales as a tentative measure before implementation of the RMS. Whaling under these quotas will provide a demonstration of Japan's ability to strictly regulate whaling and to implement inspection and observation measures in a transparent manner similar to that envisioned under an RMS.

Sanctuaries without a scientific basis are contrary to the Convention

Japan is opposed to continuation of the Southern Ocean Sanctuary and the establishment of new sanctuaries because they are without scientific justification and apply "irrespective of the conservation status of whale stocks", contrary to Article V of the ICRW and to the principle of sustainable use of resources that is the world standard.

Article V of the ICRW which sets out the requirements for the Commission's regulations states that these "shall be based on scientific findings". The Southern Ocean Sanctuary was adopted by the Commission in 1994 without advice from the Scientific Committee that such measure was required for conservation purposes.

It must also be noted that outside experts invited to the IWC56 in Sorrento to participate in the work of the Scientific Committee to review the Southern Ocean Sanctuary (SOS) in the context of Marine Protected Areas (MPAs) last year said that **"Overall, the Southern Ocean Sanctuary (SOS) – and IWC sanctuaries in general – are not ecologically justified" and that "... the SOS is more prohibitive than precautionary."**

As is the case for the Southern Ocean Sanctuary, sanctuaries proposed for the South Pacific and the South Atlantic do not conform to the established principles of Marine Protected Areas (MPAs) or reserve design. A fundamental change in the IWC's concept of sanctuaries is therefore required in order to justify the establishment of sanctuaries as MPAs.

Japan considers that the RMP developed by the Scientific Committee fully addresses the precautionary aspects of MPA theory. For these reasons, IWC Sanctuaries should be abolished.

Since the SOS is contrary to that part of Article V of the ICRW which requires that regulations "shall be based on scientific finding" **Japan intends to propose an amendment to the Schedule, the effect of which would be that the Southern Ocean Sanctuary apply only in accordance with Article V** in order to correct this situation.

Proposals for a South Pacific Sanctuary and South Atlantic Sanctuary

At the 51st Annual Meeting of the IWC, the Governments of Australia and New Zealand presented a proposal for the establishment of a South Pacific Whale Sanctuary. Similar to the Southern Ocean Sanctuary, the proposal is contrary to Article V (2) of the ICRW since it ignores the fact that the stock status of some of the large whale species is well above the exploitable level and since it would apply "irrespective of the conservation status of whale stocks". Further, the proposal ignores the fact that a sanctuary is unnecessary given the IWC's moratorium and the adoption of the risk averse RMP. The proposal also negates the principle of sustainable utilization of resources that has now become

⁷ IWC Resolution 45/51

⁸ IWC Resolution 2004-2.

broadly accepted as the world standard. The proposal was rejected by the Commission at its 51st meeting and again at the 53rd, 54th, 55th, and 56th Annual Meetings. **The Government of Japan will continue to strongly oppose the proposal for a South Pacific Sanctuary.**

For similar reasons, **Japan will also strongly oppose any proposal for a sanctuary in the South Atlantic.** A proposal for a South Atlantic Sanctuary was also defeated at the 53rd, 54th, 55th and 56th Annual Meetings. These proposed sanctuaries are an inappropriate management strategy since they do not provide additional or necessary protection to whales nor do they improve protection of whale habitat. Further, they do not address other anthropogenic or environmental factors. Sanctuaries in these areas would impede the conduct of scientific research and are inconsistent with the precautionary approach.

The Conservation Committee

It is the view of Japan that the so-called “Berlin Initiative” adopted at the 55th Annual Meeting which established the Conservation Committee was an inappropriate attempt to distort the fundamental purpose of an international treaty by simple majority vote. The purpose of the ICRW is clearly stated as “to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry”. Contrary to this, the “Berlin Initiative” is intended to make the works of the IWC to focus only on total protection for all whales irrespective of the conservation status thereby undermining commitments to complete the Revised Management Scheme (RMS) which has been the primary focus of IWC’s work for the past 10 years. This was clearly demonstrated during the 55th Annual Meeting when proponents of the “Berlin Initiative” refused to include the concept of “sustainable use” into the text of the resolution.

In addition to the problems mentioned above, the establishment of the Conservation Committee is contrary to the principle of sustainable use adopted at the 1992 Rio Summit and confirmed in other international Conventions and declarations subsequently, including at the WSSD in 2002, where the international community agreed to the principle of sustainable use and conservation of marine living resources.

Japan further believes that the outcome of the vote to adopt the “Berlin Initiative” (25 yes, 20 no, 1 abstention) demonstrates that the establishment of the Conservation Committee will only exacerbate the polarized situation that has made the IWC dysfunctional. **For these reasons, Japan is in no position to participate in the work of the Conservation Committee unless fundamental and visible changes are made to its structure.**

Secret Ballot

Since 1997, Japan has proposed that the IWC institute a provision for the use of secret ballots as part of its voting system. These proposals were made in an attempt to protect the rights of Contracting Parties to express their views freely and according to democratic procedures without fear of coercion or reprisals. Japan is of the view that current voting procedures within the Commission not only subjugate the rights of Contracting Parties to undue pressure from other member nations or NGOs but also unduly influence the Commission’s decisions on matters of fundamental importance.

For these same reasons, the use of secret ballots for deciding substantive matters is provided for in many international commissions and organizations including the Commission for the Conservation of Antarctic Marine Living Resources, the Convention on the Conservation of Migratory Species of Wild Animals, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the International Commission for the Conservation of Atlantic Tunas. The use of secret ballots does not conflict with the need for transparency. Transparency does not mean that the individual votes of all members must, on every occasion, be made public. A secret ballot would not prevent those members of the Commission who would wish to disclose how they voted on any issue from doing so.

New Contribution Formula

Japan has been a participant on the Contributions Task Force and is committed to the establishment of a membership fee structure for the IWC that is fair and equitable for developing countries. Japan will continue to support the maintenance of the interim fee structure adopted at the 54th Annual Meeting until a new fee structure is adopted.

Simultaneous Interpretation

Japan is also supportive of efforts by many members to have the IWC provide simultaneous interpretation. This has become a particularly important issue with the growing non-English speaking membership of the IWC.

IWC wasting time and resources

Japan is also concerned that the IWC is wasting time and valuable resources on non-essential items and even items outside the competency of the IWC. **Japan will therefore propose that the current agenda for the IWC meeting be revised by deleting a number of issues that are neither within the mandate of the Commission as provided by the ICRW nor essential for work of IWC.** These include: whale-watching, whale killing methods and associated welfare issues, health issues and small cetaceans.

For more information contact Japan Delegation Media Office in Ulsan

Glenn Inwood +82(0)18-696-2934
(018-696-2934)

邦人記者の方はこちらまでご連絡ください

大曲佳世 / ガブリエル ゴメス : 011-789-6286
(日本から呼び出す場合 : 010-82-11-789-6286)

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