



Whale Symposium Bulletin

A report of the Second Pew Whale Symposium: A change in climate for whales

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SECOND PEW WHALE SYMPOSIUM: A CHANGE IN CLIMATE FOR WHALES: 30-31 JANUARY 2008

The Second Pew Whale Symposium, entitled “A change in climate for whales,” took place at UN University Headquarters in Tokyo, Japan, on 30-31 January 2008.

This symposium, organized by the Pew Environment Group, followed the first Pew Whale Symposium, held in New York in April 2007. It preceded an Intersessional Meeting of the International Whaling Commission (IWC) on the future of the whale conservation regime, in March 2008. The Pew Symposia seek to identify a common way forward to address the current stalemate between proponents of a resumption of commercial whaling and advocates of the continuation of the current moratorium.

The New York Symposium brought together the conservation community, scientists, policy experts, and others from inside the “IWC community” and beyond. The Tokyo Symposium continued this approach by stimulating open dialogue in the heart of the main pro-whaling country. The meeting brought together around 100 participants of 28 nationalities. Discussions focused on: views from Japan; conflict management and biodiversity; finding a way forward; and the IWC process and its future.

The meeting was characterized by a remarkably cordial atmosphere, which many participants praised as a welcome change from many other meetings addressing whales. Participants particularly appreciated the significant Japanese representation and the reflection of a wide range of views from Japan. The meeting agreed on a few key principles, such as the need to protect endangered whales, but also identified areas of continuing disagreement. Several recommendations were made to help move the debate forward. These, together with an overview of the meeting’s discussions, will be presented as a Chair’s summary – not a consensus document – to the upcoming IWC Intersessional Meeting.

A BRIEF HISTORY OF WHALE CONSERVATION IN THE IWC CONTEXT

Several populations of great whales are highly endangered and number 500 or fewer individuals; many others are also at a fraction of their original population levels. The primary cause of this situation is commercial whaling, which started in the early Middle Ages and officially ended in 1986, when the moratorium

on commercial whaling, adopted in 1982 by the IWC, entered into force. The intense whaling efforts in the 1960s, when around 70,000 whales were caught annually, are thought to have been particularly critical for many species. Whaling is still taking place today, either as aboriginal subsistence whaling, scientific whaling, or under official objection to the 1982 moratorium.

The 1946 International Convention for the Regulation of Whaling (ICRW) currently regulates whaling. Its purpose is to “provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry.” In 1949, upon its entry into force, the Convention established the IWC. The main duty of the IWC is to keep under review and revise as necessary the Schedule to the Convention, which specifies measures to regulate whaling. These measures, among others: provide for the complete protection of certain species or stocks; designate specified areas as whale sanctuaries; set limits on the numbers and size of whales which may be taken; prescribe open and closed seasons and areas for whaling; and prohibit the capture of suckling calves and female whales

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accompanied by calves. Since 1946, the Convention itself has not been revised, except for an amending protocol in 1956 that incorporated regulations on methods of inspection and extended the definition of “whale catchers” to include aircraft.

Membership in the IWC is open to any country that formally adheres to the ICRW, and currently stands at 78. Each member country is represented by a Commissioner, who is assisted by experts and advisers. The IWC meets annually; the 2008 annual meeting is scheduled to take place in May in Santiago, Chile, preceded by an intersessional on the future of the Commission in March in Heathrow, UK.

Since its inception, the IWC has had three main committees: Scientific, Technical, and Finance and Administration.

The Technical Committee has fallen out of use, but a new Conservation Committee first met in 2004. There are also sub-committees dealing with aboriginal subsistence whaling and infractions (breaking of regulations), and *ad hoc* Working Groups to deal with a wide range of issues.

The Convention requires that amendments to the Schedule “shall be based on scientific findings.” To this end, the Commission established the Scientific Committee, which comprises up to 200 of the world’s leading whale biologists, many of whom are nominated by member governments. The Committee meets in the two weeks immediately before IWC annual meetings, and may also hold intersessional meetings.

The information and advice of the Scientific Committee form the basis on which the Commission develops the whaling regulations in the Schedule. Schedule amendments require a three-quarters majority vote. The regulations adopted by the Commission are implemented through the national legislation of the member states.

In recent years, the Scientific Committee has been concentrating on a Comprehensive Assessment of whale stocks, which led to the development of the Revised Management Procedure (RMP), to be used in setting catch limits for different whale populations. The RMP was accepted and endorsed by the IWC in 1994, but it has yet to be implemented, pending the negotiation of a Revised Management Scheme (RMS), under discussion since 1996, which would set out a framework for inspection and observation to ensure compliance with the RMP.

The IWC decided at its meeting in 1982 that there should be a moratorium on commercial whaling of all whale stocks from 1985/1986. Japan, Peru, Norway and the USSR lodged objections to the moratorium rendering it not binding on them. Japan later withdrew its objection. Iceland did not lodge an objection, but withdrew from the IWC in 1992. It rejoined in 2002, with a retroactive objection to the moratorium, and resumed its whaling programme in 2006, although in August 2007 the hunt was suspended due to the lack of demand for whale meat. Today, only Norway, Iceland and Japan are considered whaling nations, with Norway and Iceland referring to their respective objections, and Japan describing its whaling efforts as scientific whaling. In addition, some aboriginal communities in Denmark (Greenland), Russia, Saint Vincent and the Grenadines, and the US (Alaska) engage in subsistence whaling.

In addition to the moratorium, two whale sanctuaries have been created: in the Indian Ocean (1979) and in the Southern Ocean (1994).

Discussions in the IWC are highly polarized. A key question raised in the whaling debate is whether it is acceptable to consider that, as predators, whales should be “culled” for fisheries management purposes. In addition, pro-whaling nations propose to lift the moratorium and abolish the current sanctuaries, arguing that these restrictions represent a breach with the ICRW objective to provide, *inter alia*, for “the optimum utilization of the whale resources.” Anti-whaling nations, however, express concern that despite the moratorium, catches have gradually increased over recent years – particularly through the use of special permits to allow killing of whales for scientific purposes. According to IWC data, of the 1826 whales reported caught in 2006-2007, 926 were caught by Japan and Iceland under scientific whaling. Japan reported taking 705 minke whales, 3 fin whales, 6 sperm whales, 101 sei whales and 51 Bryde’s whales, and Iceland reported catching 60 minke whales. In 2006-2007, under their objection to the moratorium, Norway caught 545 minke whales and Iceland 7 fin whales and one minke whale. Aboriginal subsistence whalers caught 374 whales in 2006, primarily minke whales (West Greenland) and grey whales (Chukchi, Russia).

CMS COP-7: The seventh Conference of the Parties (COP-7) to the Convention on the Conservation of Migratory Species of Wild Animals (CMS) was held in September 2002, in Bonn, Germany. COP-7 decided to list fin, sei and sperm whales in CMS Appendices I and II, and Antarctic minke, Bryde’s and pygmy right whales in Appendix II.

CITES COP-12: COP-12 of the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) was held in November 2002, in Santiago, Chile. Delegates, *inter alia*, rejected proposals to downlist populations of minke and Bryde’s whales from CITES Appendix I to Appendix II.

IWC-56: The 56th Annual Meeting of the IWC (IWC-56) took place in Sorrento, Italy, in July 2004. Proposals for sanctuaries in the South Pacific and South Atlantic failed to gain the necessary three-quarters majorities to be adopted. Other rejected proposals, all from Japan, included the abolishment of the Southern Ocean Sanctuary, a quota for Antarctic minke whales; and quotas for coastal community-based whaling.

CITES COP-13: CITES COP-13 convened in October 2004, in Bangkok, Thailand. Japan’s draft resolution urging the completion and implementation of the RMS and its proposal to downlist three stocks of minke whale from Appendix I to Appendix II were rejected by secret ballot.

IWC-57: IWC-57 took place in Ulsan, Republic of Korea, in June 2005. The IWC rejected proposals by Japan to: broaden the option of voting by secret ballot; revise the RMS so as to, *inter alia*, lift the moratorium; remove the existing Southern Ocean Sanctuary; and allow the yearly taking of 150 minke whales by coastal communities. A proposal by Brazil and Argentina for a South Atlantic Sanctuary did not obtain the required three-quarters majority. A resolution was passed that strongly urged the Government of Japan to withdraw or revise its proposal on catches for scientific purposes in the Antarctic.

CMS COP-8: CMS COP-8 met in November 2005, in Nairobi, Kenya, and adopted resolution 8.22 on cetacean conservation. The resolution, *inter alia*, urges the integration of cetacean conservation into all relevant sectors and encourages cooperation between the CMS Secretariat and Scientific Council and the IWC and other international bodies.

IWC-58: IWC-58 took place in Frigate Bay, Saint Kitts and Nevis, in June 2006. Delegates agreed that the issue of advancing the RMS had reached an impasse. A proposal by Brazil and Argentina for a South Atlantic Sanctuary was not put to a vote. Japan's proposals to allow the yearly taking of 150 minke whales by coastal communities and to abolish the Southern Ocean Sanctuary were again defeated. No agreement was reached on special permit whaling. The Commission adopted the St Kitts and Nevis Declaration, proposed by Japan and several other countries, which declared a commitment to "normalizing the functions of the IWC." Several of the countries voting against the declaration formally disassociated themselves from it after the result was declared.

NORMALIZATION MEETING: The Conference for the Normalization of the IWC, held in Tokyo, Japan, from 12-16 February 2007, aimed to "put forward specific measures to resume the function of the IWC as a resource management organization." Although Japan had invited all IWC member countries, only 35 countries attended the meeting, which was not officially sanctioned by the IWC. Twenty-six IWC member countries decided not to attend the meeting. The meeting resulted in a series of recommendations to be presented to the IWC at its 2007 meeting, including a request for secret ballots and Japan's proposal to expand coastal takes of minke whales.

PEW WHALE SYMPOSIUM: The first Pew-sponsored Whale Symposium took place on 12-13 April 2007 in New York, US, bringing together the conservation community, scientists, policy experts and others from both inside and outside the "IWC world." Some thought that current arrangements, contentious as they are, might be the best available means of conserving whales. Many suggestions were made on how to improve the situation, including to: modify the Convention in order to remove or restrict the use of scientific whaling; eliminate provisions for making reservations to (or opting out of) new rules; and settle disputes through a "higher" authority such as an independent world commission, a ministerial summit, or a mutually agreed binding mediation or arbitration procedure. It was also suggested that research be conducted into the economics of whaling, including the question of government subsidies for whaling, and that another Pew symposium be held in Japan.

IWC-59: IWC-59 took place in Anchorage, Alaska, from 28-31 May 2007. The proposal by Brazil and Argentina for a South Atlantic Sanctuary was again put to a vote, but failed to obtain the required three-quarters majority. An aboriginal subsistence quota of 280 bowhead whales for Alaskan Inuit in the period 2008-2012 was allowed. The Commission passed a resolution asking Japan to refrain from issuing a permit for continuation of its scientific whaling programme, and resolutions on the non-lethal use of whales, the relationship with CITES, and small cetaceans. Consensus was not reached on Japan's coastal taking of minke whales.



L-R: Joshua S. Reichert, Managing Director, Pew Environment Group; Judge Neroni Slade, Chair of the Tokyo Whale Symposium; Dr. Srikantha Herath, Senior Academic Programme Officer and Officer-in-Charge of UNU's Environment and Sustainable Development Programme; and Rémi Parmentier, Senior Policy Consultant, the Pew Environment Group

REPORT OF THE MEETING

OPENING SESSION

On Wednesday 30 January, Joshua Reichert, Managing Director, Pew Environment Group, welcomed participants to the Symposium, emphasizing the value of the significant Japanese representation. He said the meeting's discussions would be subject to the Chatham House Rule, whereby statements are not attributed to individual speakers, to allow for candid dialogue. He also stressed that representatives would be offering their personal views, and not necessarily those of their governments and organizations. He called on participants to avoid repeating differences and instead to focus on finding solutions that are acceptable to all.

A welcome address was delivered by Srikantha Herath, UN University (UNU) Environment and Sustainable Development Programme, on behalf of UNU Rector Konrad Osterwalder. Herath said this meeting illustrates Japan's commitment to finding a way forward, and demonstrates the diversity of views represented within Japan.

He commented that, although the International Whaling Commission (IWC) is not part of the UN, there are many UN conventions that have direct bearing on whale-related issues, including the UN Convention on the Law of the Sea (UNCLOS), the Convention on Biodiversity (CBD), the Convention on the International Trade in Endangered Species (CITES), and the Convention on Migratory Species (CMS). He said cetaceans are facing multiple threats, many of which could not be foreseen in 1946 when the International Convention on the Regulation of Whaling (ICRW) was created, and stressed that this underlines the need for precaution.

Symposium Chair Tuiloma Neroni Slade, former judge at the International Criminal Court, noted the polarization over the moratorium and other issues, and highlighted the legal, political, economic and social implications of these debates. He said the



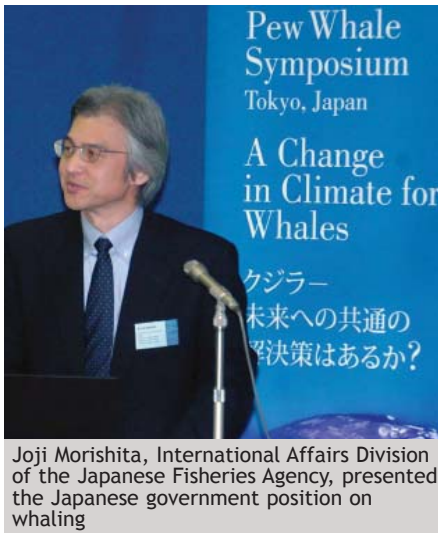
Srikantha Herath, UNU Environment and Sustainable Development Programme

main pro-whaling arguments include claims of: a disrespect for cultural diversity; lack of good faith in negotiation; a disregard of scientific principles; and emotionalism. Among areas of contention, he noted scientific whaling, the compatibility of the moratorium with the ICRW, and the establishment of and infringement on sanctuaries. Chair Slade charged participants to be constructive and creative, and to engage in discussions unburdened by official lines. He called for emphasis on whether or not the ICRW should be modified, and, if so, how. Noting that discussions at recent whale-related meetings provided a hopeful background, he said the current meeting will focus on Japanese perspectives and the underlying causes of divides.

THE CURRENT STATE OF THE WHALING DEBATE: VIEWS FROM JAPAN

Joji Morishita, Japanese Fisheries Agency, said Japan supports a balance between sustainable utilization of abundant species and protection of depleted or endangered species.

He specified that sustainable use implies that whaling operates under strict harvest quotas calculated by scientifically established methods and supported by monitoring and compliance measures. Arguing that many species and stocks are abundant, increasing and recovering, he said the IWC Scientific Committee has



Joji Morishita, International Affairs Division of the Japanese Fisheries Agency, presented the Japanese government position on whaling

developed a risk-averse method of calculating catch quotas in its Revised Management Procedure (RMP). He also noted that whaling is now mainly for food provision, with limited markets. He highlighted that the Schedule to the ICRW stipulates that the moratorium will be kept under review based upon the best scientific advice.

Morishita argued the legality of and justification for scientific whaling and noted that a large proportion of the whales taken are killed instantly. He underlined that abandoning whaling would entail: selective application of the sustainable use principle; ignorance of science and international law; imposition of certain values on others; and policy-making based on emotion and public opinion. Lamenting the lack of a comprehensive management regime, he outlined three options: calm and rational discussion to realize sustainable and regulated whaling within the IWC; the formation of a new organization that will manage whaling in a sustainable, science-based manner; or maintaining the *status quo*.

Toshio Kasuya, independent cetacean scientist, Japan, outlined Japan's history relating to whaling, noting that the current stalemate illustrates that the ICRW is outdated, albeit the only system available. He underlined the dubious scientific value of Japan's scientific whaling and questioned the ethics of annually killing around 1000 large whales with slow growth and reproduction rates. He said most Japanese are tolerant of using loopholes in the ICRW, and find scientific whaling acceptable



Toshio Kasuya, independent cetacean scientist, Japan

for that reason. However, he claimed that Japan does not need commercial whaling.

Kasuya argued that small cetaceans fisheries should be abandoned, since: current management lacks transparency; inspection and statistics are insufficient; fisheries methods harm the social structure and cultural diversity of whales; and there is no safe management system

for toothed whales. He suggested that the Japanese scientific whaling be ended, noting that it misuses the ICRW and exposes scientists, the government, and the whaling industry to corruption. He proposed that scientists currently employed by the Japanese Institute of Cetacean Research be offered alternative employment options and given open access to information and research opportunities.

Jun Hoshikawa, Executive Director, Greenpeace Japan, argued that the current Japanese whaling policy, particularly in the area of scientific whaling, is not serving national interests. He showed a Greenpeace video clip and the results from a public opinion survey to illustrate the Japanese public's lack of awareness of and support for whaling issues. He called for increased public questioning about the legitimacy of whaling in the Southern Ocean. He noted that this is a question of domestic policy responsibility, and suggested that the alleged vote-buying in the IWC represents both an unethical and wasteful use of taxpayers' money. He also noted that it is not in Japan's interest to portray whaling as an issue of nationalism, and alluded to a parallel between the withdrawal of Japan from the League of Nations and its unwillingness to negotiate in the IWC.

Hoshikawa said moving forward requires both sides in the debate to admit mistakes and end the pattern of blame assignment. Emphasizing the need for balanced reporting domestically and internationally, and for informed decision making by the Japanese public, he suggested that Japanese democracy is at stake.

In the ensuing debate, participants noted that the language used in whaling discussions is a sensitive issue, and that careful phrasing is needed if the debates are to move forward.

An issue of debate was the cultural background of whaling. A participant said research indicates that whaling has only recently become a cultural issue in Japan. Noting that cultural and ethical differences will always exist, one participant suggested focusing on arguments of sustainability.

One participant raised concerns about the potential expansion of pelagic whaling. This was broadened to reflect more general concerns about resource over-use. Another suggested that whaling questions should be seen as a resource management issue, and that the resumption of commercial whaling does not imply the acceptance of unlimited whaling. Lethal and non-lethal uses of whales were presented as potentially compatible.

Several participants stressed the need for a clear, agreed definition of "scientific whaling," including numerical targets. On the scientific relevance of whaling, many noted that none of

the primary objectives are being met. A participant enquired after the existence of an ethical review process in Japan, noting that in other countries lethal research is subject to rigorous review and independent oversight. It was argued that the IWC sufficiently provides for this.

One participant called for agreement on acceptable levels of cruelty. Another pointed out that the explosive harpoon is generally accepted as the best killing method, and that it is difficult to establish the degree of humaneness. He suggested that time to death is a good measure, noting that this has improved significantly and that only the negative exceptions receive attention.

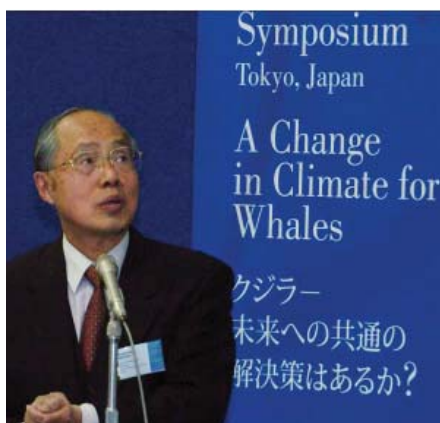
There was substantial discussion on the economic value of whaling and government subsidies. Some argued that subsidies are merely in use to sustain an industry that would otherwise not be viable. One participant, however, said economic scale should not be an issue as long as the industry serves a purpose and is environmentally sustainable. Another wondered why, in light of the current trend of privatization, the Japanese whaling industry is still exclusively state-regulated. He noted that: 70% of the whaling budget is spent on propaganda; the Ministry of Environment is excluded from decision-making; and the Japanese scientists have little freedom in their work.

On the potential for change within the IWC, participants discussed the possible formation of an organization that would replace or operate parallel to the IWC. Some were worried by this proposal, but others defended it as a safety net in case progress remains impossible within the IWC.

Some participants stressed that public opinion cannot be ignored by politicians, with one noting that Japanese public opinion on whaling tends to be in line with international public opinion, despite one-sided information from the government. He added that many Japanese people want whales to be protected, with 69% opposing high seas whaling, but at the same time do not want to be told what to do. There was a call for an assessment of factors that shape public opinion in Japan. A participant underscored that public opinion is not always a proper reflection of culture, and noted that the whaling debate seems to be an issue of the Japanese public versus the Japanese state.

CONFLICT MANAGEMENT AND BIODIVERSITY: INTERACTIONS BETWEEN GOVERNMENTS, NGOS AND THE PRIVATE SECTOR

Akio Morishima, Chairman of the Board of Directors, Japan Climate Policy Centre, suggested that conflict management involves two parts: understanding the basic issues and interests at stake, and identifying the tools available for addressing conflict. He identified the ICRW and the CBD as the tools available for addressing

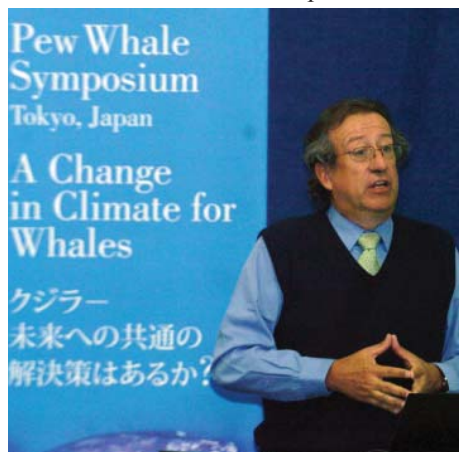


Akio Morishima, Chairman of the Board of Directors, Japan Climate Policy Centre

the debate, and outlined three main issues they would need to deal with: sustainable use, scientific research, and the role of non-state parties.

Morishima also noted that the focus should not be exclusively on legal tools, and that policy dialogues and persuasion are necessary for finding common ground. He stressed the importance of science for providing the basis of this dialogue.

Juan Mayr, Former Environment Minister of Colombia, offered an account of his experiences as the Chair of the



Juan Mayr, Former Environment Minister of Colombia

Biosafety Protocol negotiations. Noting that distrust between different delegations posed a challenge to negotiation, he highlighted eight key lessons learned from the biosafety negotiations that could be applied to other difficult negotiations, namely the need to: create confidence and listen carefully to

all parties; avoid special positions, such as Friends of the Chair; encourage transparency; change the atmosphere of the negotiation setting; think outside of the box in terms of communication strategies and discussion format; ensure high-level participation; have a strong team behind the Chair; and remind participants of the road map of the negotiation.

He also noted the value of: smaller-group negotiations for difficult issues; media involvement and public pressure; and cultural understanding built through first-hand experience.

Olivier Deleuze, UN Environment Programme, described several steps involved in solving complex issues in international negotiation. He said the first step is to establish the facts, including seeking common understanding on the problem and areas of agreement, disagreement and uncertainty. He noted that the next step entails identifying possible solutions, noting that these should be: environmentally sound; socially acceptable; economically feasible; culturally viable; and respectful of alternative viewpoints. Noting that value judgments and emotional aspects cannot be ignored, he said the third stage, the struggle for success, ideally includes testing different formulas and implementing innovative solutions.

On behalf of A.H. Zakri, Director of the UNU Institute of Advanced Studies (IAS) and former Vice-President of the UN Millennium Ecosystem Assessment (MA), Sam Johnston, UNU IAS, addressed effective participatory techniques promoting science-based policy, following the example of the MA. He said the MA: is the first global effort to examine the state of the earth's ecosystems and ecosystem services; provides authoritative information; clarifies where there is broad consensus within the scientific community and where issues remain unresolved; and serves as a benchmark for determining future ecosystem change.



L-R: Sam Johnston, UNU; Olivier Deleuze, UNEP; Juan Mayr and Professor Akio Morishima

Addressing lessons to be learned from the MA, Johnston said it was a remarkable endeavor conducted by 1360 experts from 95 countries, supervised by an independent board, and peer-reviewed by 860 experts and governments. He said the MA's most significant achievement was finding common ground among a diverse group of experts, noting the following ingredients for effective participation: an enabling environment; support for developing country activities; openness and willingness to listen; an active steering committee; commitment to finding common ground; and willingness to disagree harmoniously.

Johnston also stressed the need to link science to policy, noting that this requires: an enabling environment; robust data; a peer review process; policy-relevant rather than prescriptive research; effective communication of the results; and an open, transparent and modern receiving environment or policy-making forum. Stressing that there is no static standard for whaling or any other issue, he stressed the need for constant evaluation, and said issues more complicated than whaling have been resolved with faith and cooperation.

In the ensuing discussion, it was noted that the contracting parties to the ICRW are the same parties involved in negotiations of standards and norms in other areas, which establishes a potential basis for moving forward. Some participants attributed stalled negotiations on whaling to the deep engagement of only a few parties in the whaling debates, while others saw it as the result of a lack of a shared perception of a direct and significant threat.

Debate also centered on the applicability of different negotiation experiences on whaling. Several participants highlighted additional cases that could inform whaling, including African elephant management, while some questioned the parallels between issue areas. A remark was made on the fact that the results from non-lethal research often differ from those from lethal research and that the most informative peer-reviewed articles come from non-lethal research.

One question raised was why the international community has not bypassed the IWC. However, it was noted that attempts at a new regime had been made, but had failed. One participant suggested that the negotiations on whaling be furthered by promoting positive relations between opposing countries on other issues, such as technology, which could then be extended to the whaling debate.

Two strategies were proposed to change the polarized atmosphere in the IWC: immediately seeking high-level participation in IWC meetings, as opposed to first creating greater scientific clarity. Some claimed that, while science can provide the basis for sound management, many of the decisions are political. Participants stressed the need to: create confidence in the negotiations; work with commonalities rather than differences

as a starting point; allow room for innovative ideas; explore different alternatives with diplomacy and the best available knowledge; and create a sense of shared responsibility. One participant suggested "turning frustration into desire."

Conflicting views on the role of non-state actors were highlighted. One participant noted that although efforts by non-governmental organizations (NGOs) and media to engage public interest and politicians can be helpful, emotional approaches might hinder resolution of problems within the IWC. One option presented was a mechanism allowing non-state actors to brief key decision-makers on substantive issues. One participant noted with concern the lack of NGO involvement on the issue in Japan. Another agreed that the Japanese government should not be the only party blamed for inaction.

A participant cautioned that maintaining the *status quo* could mean that the situation continues to deteriorate. Another said the international community cannot expect Japan to fully abandon whaling, and stressed that Japan should not be the only party to make concessions.

One participant noted that the UN Conference on the Human Environment, held in Stockholm in 1972, called for a moratorium on commercial whaling. Noting that this had symbolic significance, he said it would be a severe blow to the environmental movement if the moratorium were to be lifted.

One participant announced that the tenth Conference of the Parties (COP-10) to the CBD may be held in Japan in 2010, and suggested that it include a joint session with the IWC.

HOW CAN A WAY FORWARD BE FOUND?

Chair Slade introduced this session on Thursday 31 January, extending a special welcome to Wakako Hironaka, member of the Japanese House of Councillors, and Kiyoshi Kurokawa, Special Science Advisor to Japan's Prime Minister.

Eduardo Iglesias, IWC Commissioner for Argentina, underscored the sensitive nature of the whaling debate and the difficulties faced by the IWC in solving the impasse. He presented the Buenos Aires Declaration, which, *inter alia*, condemns scientific whaling and which was put forward by Argentina, Brazil, Chile and Mexico in 2005. Reflecting on the importance of more diverse views being heard in the IWC, Iglesias called for high-level negotiation, and suggested several options: fostering confidence through contact between different blocks; establishing working groups within the IWC to deal with controversial items; promoting civil society participation; and encouraging debate within the IWC.

Iglesias suggested that, if no solution is found at the 60th Annual Meeting of the IWC (IWC-60) in Chile in June 2008, parties should question their confidence in the IWC and consider shifting the responsibility for these negotiations to diplomatic settings. He also suggested the International Court of Justice as a potential forum for judging state behavior within treaties, and questioned the value of non-binding instruments.

Richard Cowan, IWC Commissioner for the United Kingdom (UK), said sentiments of the IWC being "dysfunctional and moribund" ignore the IWC's achievements and deny the realities of international negotiations. As an example, he underlined the positive effects of the 1982 moratorium, which he said constitutes the boldest step taken to date in any environmental forum.

Cowan argued that occupation of common ground is possible without having to sacrifice key principles. He said while some anti-whaling parties see no price at which they would endorse the resumption of commercial whaling, others may be less immovable. He suggested the latter would demand at least the adoption of a very precautionary approach, total cessation of lethal operations in the name of science, and adoption by all parties of a set of transparent and credible rules for the conduct of commercial whaling, based on best practices in modern fisheries agreements and with full international oversight. He said it has been argued that the costs of such regulation should be borne by the whaling industry or by the governments of whaling countries.

Cowan said elements of a compromise should also include: recognizing existing sanctuaries and establishing new ones; improving research and monitoring and possibly amending the RMP in line with the results; collecting welfare data on whales struck or killed; minimizing stress and suffering by setting clear standards on lethal operations; and setting quotas substantially lower than the current scientific takes.

Underscoring that current whaling operations are legal under the ICRW, Cowan said “if you see you cannot win, then playing for a draw is the honorable and courageous thing to do.” He concluded that if both sides were to recognize this, some of the tension would disappear, and the IWC could afford to meet less often and in a more amicable mode.

Tetsu Sato, Nagano University, Japan, argued that, despite international propaganda and public perception, the positions of both sides in the whaling debate are reasonable. He stated that the Japanese are not cruel barbarians looking for unlimited whaling, and anti-whaling nations are not entirely emotional and devoid of scientific understanding. He suggested: establishing mutual trust by discussing common objectives, including the conservation of endangered species; and acknowledging that whaling of relatively abundant species is not an important conservation issue. Stating that the values attributed to particular species depend on cultural background, Sato urged respect for diversity. He said if some parties support consumption of a species, there is no reason to oppose this if hunting is done in a sustainable, ethical and humane manner. He also said lethal and non-lethal resource use can coexist.

Sato identified adaptive management as the most powerful tool for coping with scientific uncertainty. He underlined the value of long-term monitoring through state-supported research, noting such monitoring: provides a basis for adaptive management; accumulates knowledge; and provides a baseline for unpredictable change of the system. He suggested re-designing scientific whaling, pointing out that this would minimize the conflict with non-whaling countries, and noting the need to: make it sustainable; minimize the number of whales hunted; and follow an adaptive management protocol such as the RMP.

Heather Sohl, World Wide Fund for Nature (WWF) UK, on behalf of Susan Lieberman, WWF International, presented four main recommendations to the IWC: adoption of an ecosystem-based management approach, modernization of governance, conservation of small cetaceans, and agreement on common objectives.

Sohl noted that ecosystem-based management allows for the integration of local livelihoods, viable extractive industry and



Heather Sohl, World Wide Fund for Nature (WWF) UK

species conservation, and underscored that the IWC stands out for not having adopted this approach. Offering governance recommendations, including the creation of dispute settlement provisions, she suggested the IWC adopt procedures similar to those of UNCLOS. She also noted the importance of sustainability, the precautionary approach, prior environmental impact assessments, greater transparency, access to information, and public participation. Highlighting the

need to extend protection to small cetaceans, she underscored the importance of coordinated conservation and management.

Sohl described what a reformed IWC would look like, suggesting it would include: a greater focus on new issues in the Scientific Committee; plenary discussion of the Scientific Committee findings, concrete advances on mitigation of threats by the Conservation Committee; and improved functioning of the plenary. She stressed that without these changes, the potential for success in conservation is bleak.

During the ensuing discussion, delegates debated the pros and cons of “managing the impasse” versus “looking for a way forward,” with one participant noting that “forward” can be interpreted in different ways. Several participants challenged the position of parties in the IWC, suggesting that there was too much comfort with the *status quo*.

Addressing the anti-whaling position, a participant noted that many more whales are killed annually by anti-whaling countries due to ship strikes, entanglement in fishing gear and by-catch than are caught by whaling countries, and that foreign aid often supports over-exploitation of fisheries by developing countries.

There was some discussion about the management of small cetaceans. One participant argued that they are sufficiently covered by regional agreements and national measures, while others felt they should be addressed in the IWC context. It was noted that the current RMP is not applicable to the management of small cetaceans and toothed whales.

On the question of whether Japan’s small-scale coastal whaling qualifies as aboriginal subsistence whaling, it was pointed out that the Japanese government itself has not formally recognized coastal communities as aboriginal.

One participant rejected the notion that minke whales should be culled because they hamper the recovery of blue whales. He also drew attention to research showing that marine mammals have no significant impact on fisheries, and said “blaming whales for the decline in fisheries is like blaming woodpeckers for deforestation.”

A participant asked whether it is possible to separate the issue of total denial or total acceptance of whaling from the issue of sustainable use and management. One suggestion was that the

question of whaling is not a numbers game of population sizes, but a deeper issue of the equitable appropriation of resources and the right of establishing management regimes for sharing biodiversity.

Regarding ways of moving away from a position of mutual distrust, one proposal was the creation of a publicly visible cooperative research project. However, another countered that negotiation does not require trust, but merely a willingness to sit down and discuss. Participants drew attention to the value systems underlying whaling questions and underscored the need to consider cultural diversity and mutual respect. Collaborative research was further discussed in light of who has access to and controls the products of research, and the accessibility of scientific knowledge to non-scientists was stressed as important.

One participant presented a view from West Africa, noting a lack of access to data and poor NGO involvement in the region.

Discussion arose on the issue of the ecosystem-based management approach, where one participant suggested the RMP follows these principles, while another opposed this, explaining that the RMP leaves little space for multiple ecosystem goals.

Participants offered several specific options for future paths. One suggested that Japan cease whaling entirely for a set period of time, and focus all of its energy on addressing climate change; another suggested that the only way forward would be to open the IWC to new, non-state participants, although this was countered with the observation that NGOs are already involved in the IWC. Participants diverged on the value of involving high-level participants. One suggestion was for the IWC Chair to convene, immediately preceding IWC-60, a lower-level forum of NGOs with opposing perspectives, to specify both common ground and differences.

Regarding the background document prepared for the current Symposium by the Pew Environment Group, one participant criticized the categorization of countries into “pro-whaling” on one side and “pro-conservation” on the other side, noting that conservation and whaling are not mutually exclusive. He opined that a more objective background document would have been more useful in bringing both sides together.

ROUND ROBIN SESSION: THE IWC PROCESS ON ITS FUTURE

On Thursday, Richard Black, British Broadcasting Corporation, moderated a round robin session entitled “The IWC process on its future: recommendations to the IWC Intersessional Meeting, March 2008, London Heathrow, UK.”



L-R: Symposium Chair Neroni Slade; Richard Black, British Broadcasting Corporation; and Rémi Parmentier, the Varda Group. Black moderated the roundtable discussion entitled “The IWC process on its future: recommendations to the IWC Intersessional Meeting in March 2008”.

Fundamental concerns: Participants identified several potential motivations for the continuation of whaling, namely: maintaining long-term national food security; defending a sovereign right to determine how to feed a population; protecting local or national pride; and preserving the principle of sustainable use. Regarding the latter, one participant noted that banning whaling on anything other than the basis of sustainability would raise concerns that other marine resources could be limited in the future. Another participant suggested that this fear could be mediated by emphasizing that whales are not fish, and thus stopping lethal uses of whales would not be used as a motive for restricting fish catches.

The role of science: There was a broad sense that the whaling debate would strongly benefit from improved scientific knowledge, including on ecological relationships. One participant noted that: discussions among whale scientists seem to have moved away from the IWC setting; cetacean research worldwide is increasingly fragmented; in earlier years the IWC invited input from scientists from other bodies; and both scientists and commissioners should voice their needs more clearly.

Participants underlined the need for a reliable and transparent long-term dataset, with one participant noting options for low-budget types of research. Highlighting successful examples of science as a driver for policy change, a participant called for: increased focus on research on environmental change; a voluntary fund to facilitate the participation of scientists in meetings on small cetaceans; and a multi-year, multidisciplinary research programme on whales and chemical pollution. There was also a call for capacity building in developing countries, whalewatching guidelines, and research on the impact of whalewatching.

NGO participation: There was a general call for transparency and public participation. Participants unanimously supported improved NGO participation at IWC meetings, with one participant noting this should be in plenary as well as in sub-committees and working groups. It was remarked that this should not be unconditional: NGOs should share the responsibility of reaching a positive outcome and accept losses and compromises. There was substantial debate about what this would mean. Some felt that NGOs should be willing to endorse, or in any case not condemn, outcomes that do not entirely represent their views. An NGO representative, however, reserved the right to oppose any take that threatens a population, but underlined NGOs’ willingness to work towards solutions. Another participant summarized that civil society has a right to hold opinions and express these freely, as long as this is done in a civilized way.

Cooperation with other organizations: Many participants stressed the need for improved cooperation between the IWC and other biodiversity-related bodies, although one participant cautioned against “contaminating” other processes with the whaling impasse. One participant stated that the IWC’s gradual isolation and institutional separation have stimulated the current stalemate. Noting that whales are “treated too much like fish” in international negotiations, he suggested that the IWC Secretariat: participate in meetings of the CBD, CITES, CMS, and other relevant fora; behave more like the Secretariat of a modern multilateral environmental agreement; join the Biodiversity Liaison Group; find a way for its scientists to take part in the scientific bodies of other instruments; and relate whales to World

Summit on Sustainable Development and CBD targets. He stressed that the biodiversity-related conventions have provisions for sustainable use and are not by definition against whaling.

Renovating the ICRW: There was a strong call for a substantial revision or “renovation” of the ICRW to provide for, *inter alia*, mechanisms for involving other actors and for dispute settlement. A participant called for a UN General Assembly resolution on this issue, sponsored by a wide range of countries, asking for an IWC meeting to review the ICRW. He said this meeting should be held under UN rules and be open to broad participation and suggested the revised ICRW should: embrace global goals on biodiversity conservation and sustainable use; cover all cetaceans; revamp the IWC; and address issues such as cruelty, ship strikes and whalewatching.

IWC meeting frequency: Several participants supported reducing the frequency of IWC meetings, noting that this would save resources and leave more time for intersessional consultation. It was noted, however, that the Scientific Committee needs to meet once a year to accomplish all the tasks placed upon it by both pro-whaling and anti-whaling nations. Separating the Scientific Committee meetings from the IWC plenary meetings was regarded as a viable option, with one participant noting that the Scientific Committee “is the shining jewel of the IWC” and should not be overloaded and therefore rendered inefficient.

Moving forward: A participant suggested that the IWC could identify issues that might allow for consensus, such as climate change and by-catch, and set up meetings to address only those issues. One recommendation was to avoid confrontation in the plenary by encouraging prior discussion by the parties. Concerns were raised that this might be interpreted by civil society as reducing transparency and allowing for back-door deals. One participant worried that additional meetings could create more exclusion, although another suggested that these discussions could be undertaken electronically.

Some participants highlighted the need to move away from the ritualized dimensions of interactions at the IWC, and one asked that the moral debates be abandoned. This was echoed in a suggestion that practical outcomes should be the focus of debate.

Several suggestions were made for altering participation in the IWC, including: that the individual negotiators themselves be replaced to allow for new dynamics; that inclusion and equity be evaluated; and that the IWC Chair take an active role in preventing and moderating tensions. Some identified the IWC pattern of voting on decisions as concerning, and it was suggested that a consensus-based approach, as used in other multilateral organizations, might be more effective.

Progress was seen by one participant to be necessary and possible in the area of by-catch. He said the current situation provides economic incentives for by-catch, as by-catch meat ends up on commercial markets. He suggested that this could be addressed under the RMP, but that in the absence of agreement on the RMP, another mechanism is needed.

One participant pointed to the role of the press in shaping the direction of public interest, and called on the press to take a more constructive role.

Some participants suggested that the Japanese government could create a major political breakthrough by voluntarily suspending scientific whaling, and by undertaking a full analysis

of the outcomes of its scientific whaling programme. One stressed that this was not a call for an indefinite rescinding of rights to whaling. Some feared that the Japanese public would see this as a unilateral compromise, but it was suggested that this would be regarded as a bilateral exchange.

OTHER MATTERS

On Thursday afternoon, Amb. Jan Henderson, Director, Environment Division, New Zealand Ministry of Foreign Affairs,



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reported on the activities of the Steering Group for the Intersessional Meeting on the Future of the IWC, to be held in London, UK, in March 2008. She said the Steering Group, which comprises US, Japan, Palau, Chile and New Zealand, agreed that the IWC would have to design its own process of moving forward, taking into account the ICRW and the IWC’s organizational culture and issues. She

underlined the need for a fresh, radical, and process-oriented approach.

Henderson said the Intersessional meeting will: draw on the experience of outside experts; aim to rebuild trust and improve approaches to discussions and negotiations; and focus on how to take forward the discussions to IWC-60.

CLOSING SESSION

Chair Slade presented a Chair’s summary of the meeting. He said the meeting had underscored the urgent need to resolve the current impasse on whaling and allow the resources and energy that have been devoted to this issue to be allocated to broader and potentially devastating threats to the planet as a whole. He highlighted the rich diversity of views among the Japanese participants.

Chair Slade said the discussions had shown some clear areas of agreement, including that: the ICRW and the IWC have produced significant benefits for whale conservation; endangered species deserve absolute protection; truly international solutions are preferable; sustainability is an important concept, but there are various definitions and criteria for defining it; and ultimately the solution to the whaling debate is political, not scientific. He noted that compared to other international conventions, the ICRW is outdated and lacks transparency, flexibility and responsiveness, as illustrated by the absence of many elements of more modern instruments, such as references to precautionary and ecosystem approaches or conflict resolution, and clear criteria and definitions.

On the way forward, Chair Slade noted that since neither side of the debate is prepared to capitulate entirely, maintaining some degree of the *status quo* is the best that can be hoped for. He said the most promising compromise would be a combination of actions which would: recognize potentially legitimate claims by coastal whaling communities; suspend scientific whaling in its current form and respect sanctuaries; and define a finite number of whales that can be taken by all of the world’s nations. He noted

that the meeting had recognized other opportunities to change the climate for whales, including engaging new fora, new voices and new negotiators in the process and considering a renovation of the ICRW.

Chair Slade stressed the importance of focusing on practical and achievable solutions rather than advocating moral positions, and emphasized the need to avoid aggressive confrontations and to promote balanced reporting by the media. He also advocated experimenting with meeting settings and other creative techniques to stimulate agreement.

Chair Slade said an outcome document will be made available, stressing that it will be a Chair's summary rather than a consensus document. Thanking participants for their valuable contributions and for the cordial atmosphere, he closed the meeting at 6:10 pm.

UPCOMING MEETINGS

SECOND MEETING OF THE CBD *AD HOC* OPEN-ENDED WORKING GROUP ON PROTECTED

AREAS: This meeting of the Convention on Biological Diversity (CBD) will take place from 11-15 February 2008, in Rome, Italy. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@biodiv.org; internet: <http://www.biodiv.org/meetings/>

FOURTH MEETING OF THE ASCOBANS JASTARNIA

GROUP: A meeting on the Jastarnia Recovery Plan for the Baltic Harbour Porpoise, of the parties of the Convention on Migratory Species (CMS) Agreement on the Conservation of Small Cetaceans in the Baltic and North Seas (ASCOBANS), will take place from 25-27 February 2008, in Kolmården, Sweden. For more information, contact: ASCOBANS Secretariat; tel: +49-228-815-2416; fax: +49-228-815-2440; e-mail: ascobans@ascobans.org; internet: <http://www.ascobans.org>

IWC INTERSESSIONAL MEETING: An International Whaling Commission (IWC) Intersessional meeting on the Future of the IWC will be held from 6-8 March 2008, at London Heathrow, UK. For more information, contact: IWC Secretariat; tel: +44-1223-233-971; fax: +44-1223-232-876; e-mail: secretariat@iwcoffice.org; internet: <http://www.iwcoffice.org>

FOURTH GLOBAL CONFERENCE ON OCEANS, COASTS, AND ISLANDS: This meeting will be held from 7-11 April 2008, in Hanoi, Vietnam. For more information, contact: Miriam Balgos, University of Delaware; tel: +1-302-831-8086; fax: +1-302-831-3668; e-mail: mbalgos@udel.edu; internet: <http://www.globaloceans.org/globalconferences/2008/index.html>

23RD MEETING OF THE CITES ANIMALS COMMITTEE: The 23rd meeting of the Convention on the International Trade in Endangered Species (CITES) Animals Committee will be held from 21-24 April 2008, in Geneva, Switzerland. It will be preceded by a joint meeting of the Animals and Plants Committees, to be held on 19 April. For more information, contact: CITES Secretariat; tel: +41-22-917-8139/40; fax: +41-22-797-3417; e-mail: info@cites.org; internet: <http://www.cites.org/eng/news/calendar.shtml>

SECOND MEETING TO IDENTIFY AND ELABORATE AN OPTION FOR INTERNATIONAL COOPERATION ON MIGRATORY SHARKS UNDER THE CONVENTION ON MIGRATORY SPECIES (CMS): This meeting, organized by the CMS Secretariat, will take place mid-2008 in Bonn, Germany,

at a date to be announced. For more information, contact: CMS Secretariat; tel: +49-228-815-2401/02; fax: +49-228-815-2449; e-mail: secretariat@cms.int; internet: <http://www.cms.int>

CBD COP-9: The ninth Conference of the Parties (COP-9) to the CBD will take place from 19-30 May 2008, in Bonn, Germany. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@biodiv.org; internet: <http://www.biodiv.org/meetings/>

IWC-60: The 60th Annual Meeting of the IWC (IWC-60) will be held from 23-27 June 2008 in Santiago, Chile. The meeting will be preceded by meetings of the Scientific Committee and other committees and sub-committees, and by a workshop on welfare issues associated with entangled cetaceans. For more information, contact: IWC Secretariat, IWC Secretariat; tel: +44-1223-233-971; fax: +44-1223-232-876; e-mail: secretariat@iwcoffice.org; internet: <http://www.iwcoffice.org>

CMS COP-9: CMS COP-9 will take place from 1-5 December 2008 in Rome, Italy. For more information, contact: CMS Secretariat; tel: +49-228-815-2401/02; fax: +49-228-815-2449; e-mail: secretariat@cms.int; internet: <http://www.cms.int/>

WORLD OCEAN CONFERENCE: This meeting will be held from 11-15 May 2009, in Manado, Indonesia. For more information, contact: Conference Secretariat; tel: +62-431-861-152; fax: +62-431-861-394; e-mail: info@woc2009.org; internet: <http://www.woc2009-manado.net/?view=home&page=2>

IWC-61: IWC-61 and its associated meetings will take place in 2009 in Madeira, Portugal, with the date to be determined. For more information, contact: IWC Secretariat; tel: +44-1223-233-971; fax: +44-1223-232-876; e-mail: secretariat@iwcoffice.org; internet: <http://www.iwcoffice.org>

CITES COP-15: CITES COP-15 will take place in Doha, Qatar, with dates to be announced. For more information, contact: CITES Secretariat; tel: +41-22-917-8139/40; fax: +41-22-797-3417; e-mail: info@cites.org; internet: <http://www.cites.org>

GLOSSARY

CBD	Convention on Biological Diversity
CITES	Convention on the International Trade in Endangered Species of Wild Fauna and Flora
CMS	Convention on the Conservation of Migratory Species of Wild Animals
COP	Conference of the parties
ICRW	International Convention on the Regulation of Whaling
IWC	International Whaling Committee
MA	Millennium Ecosystem Assessment
NGO	Non-governmental organization
RMP	Revised Management Procedure
RMS	Revised Management Scheme
UK	United Kingdom
UNCLOS	UN Convention on the Law of the Sea
UNU	UN University
UNU IAS	UN University Institute of Advanced Studies
WWF	World Wide Fund for Nature