

English Summary of Appeal against Information Non-Disclosure Decision by the Fisheries Agency of Japan

1. Appeal lodged by Aileen Mioko Smith, the Board Chair of Greenpeace Japan, and co-signed by Shokichi Kina, an Upper House Diet member from the Democratic Party of Japan, against the decision of the Fisheries Agency of Japan (“FAJ”) to withhold information.

Reasons for Non-Disclosure by FAJ:

2. The FAJ provided the following reasons for not disclosing the information requested:
 - a. If the names of the companies and contractors on the Institute of Cetacean Research (“ICR”) sales consignment contracts were to become public knowledge, there is potential for unjustifiable harassment of such companies and obstruction of sales activities.
 - b. Disclosing the sales consignment contracts and by-product sales records risks not being able to secure a fair and equitable system of by-product sales.

Summary of Reasons for Appeal against Information Non- Disclosure

3. The information not disclosed relates to research whaling which is a matter of significant public interest. Research whaling operates under the authority of the FAJ and is funded with subsidies. Accordingly, the sales activities of the FAJ and the ICR should be transparent.
4. The whale meat obtained in the research whaling is not for commercial purposes, has limited volume, and is required to be sold fairly and equitably. An ICR policy document (dated 12 Jan 2002) provides that the sale of whale meat by-products should be transparent and that whale meat should be fairly distributed and available to as many consumers as possible. The ICR document also provides that because this is scientific research supported by the Government and not a commercial enterprise, public demand is the priority. In relation to the sale of whale meat categorised as being “for the general public,” in order to ensure fairness the allocation of whale meat is to be published annually.
5. In relation to the embezzlement of whale meat by whaling ship crew members as demonstrated by Greenpeace in Japan, the explanation provided by the ICR jointly with Kyodo Senpaku to the FAJ Chief in the “Report on Whale Meat Issues” notes that while allocation of whale meat to crew and price determination is being conducted fairly and appropriately in view of ensuring transparency, the methods and conditions shall be made public.

Particulars of Reasons for Appeal



6. Some of the information not disclosed is believed to be the names of municipalities, corporations and organizations from the Southern Ocean research whaling by-product sales chart for 2006/2007. However, what was initially established by the ICR in “Research Whaling Operation By-product Sales Standards” in relation to whale meat allocated “for the general public,” the allocation (volume and sales figures) was to be collated and made public annually. Accordingly, the ICR is working under standards of requiring more detailed information disclosure than what is being withheld by the Non-Disclosure Decision.
7. In order to ensure a fair and equitable system of sales for by-products, it is necessary, as acknowledged by the FAJ and the ICR, to increase the level of transparency of its sales system.

“By-Product Sales Consignment Contract”

8. This document was almost entirely withheld, yet should be disclosed in its entirety. As there are only two companies (although Kyodo Senpaku in reality dominates sales of most whale meat) which are permitted to sell whale meat, the transparency of the sales system requires that the contractual details are made public. The non-disclosure of contractual details between an entity subsidized with public money and a private company dominating the sale of a whale meat (a good in itself which has a public character) is minimal, compared to the public interest in knowing the detail of whale meat distribution by making the agreement details public.

“2005/2006 Southern Ocean Research Whaling Sales Figures By-Product and Sales Type”

9. This document was almost completely withheld. It should also be made public to provide transparency within the whale meat sales system. It is more difficult to assess whether the whale meat sales are fair and equitable without disclosing this information. The sections withheld in these documents are sales volume and sales according to the product. This information could be indicated by figures without mentioning specific corporate names.
10. Further, the ICR’s established standards for sale of by-products of research whaling requires that the distribution volume and price for whale meat sales categorised as general market should be publicized by year of operation, i.e. the sales activities take place under standards requiring the public release of more detailed information than that sought in the request for information.

Dated 19 March 2009