

# Greenpeace briefing for the 2014 IWC

July, 2014

The International Court of Justice ruled that although Japan's Antarctic whaling program could be broadly considered 'scientific', it was not being conducted for purposes of scientific research and ordered Japan to end it. But the IWC has begun a process that would undermine the ICJ decision and lead to legitimising future 'scientific whaling'.

We understand that a consensus resolution is being considered that would add some of the language from the ICJ decision to Annex P, the procedure currently used by the Commission's Scientific Committee for evaluating such procedures. A consensus resolution passed by the Commission at its September 2014 meeting would be interpreted as meaning that any lethal research proposal that seemed to comply with the provisions of a modified Annex P would be considered to be in accord with the ICJ judgment.

"Annex P" refers to the IWC Scientific Committee's flawed internal procedure, in use since 2009, for providing advice to the Commission on Special Permits. Annex P delineates a process for the Committee to comment on the scientific aspects of a Special Permit proposal, but contains no provision for the Committee to "accept" or "reject" a lethal research proposal, or to send it back to the drawing board. The only specific requirement stipulated by Annex P is that a Special Permit proposal be submitted at least 6 months prior to the Annual Meeting of the Committee prior to the start of the proposed Special Permit whaling.

Provided that a proposal is submitted before the end of 2014, for review by the Scientific Committee at its 2015 annual meeting, a resumption of Antarctic whaling in the 2015/16 season would be compliant with Annex P as currently drafted, regardless of the nature of the comments (supportive or otherwise) provided by the Committee. There is currently no provision for the Commission to consider or react to the advice of the Committee before the whaling resumes. The Scientific Committee can only make recommendations to the Commission not directly to member governments (Commission Rule of Procedure M).

This would be incompatible with the spirit of the Court's judgment, and we oppose a draft resolution which does not contain at least the following elements since it would undermine the ICJ decision and effectively legitimize scientific whaling.:

An **acknowledgment** of the need for a procedure to replace or supplement Annex P, to ensure that any future special permits for the take of whales can only be issued legally for the purposes of scientific research in accordance with the reasoning specified in the ICJ judgment;

An **instruction** to the Scientific Committee to provide advice on whether any new or existing Special Permit proposal that it has received has demonstrated that the proposed takes are necessary and proportionate and that the objectives could not be met by non-lethal means;

A **recommendation** (under Article VI of the Convention) that no further permits for lethal takes of whales under existing or new scientific whaling programmes be issued before the Commission has considered the advice of the Scientific Committee on the programme in question and determined whether the proposal is for purposes of scientific research as specified by the judgment.

## Other issues at the 2014 meeting of the IWC

### 1. Scientific Committee Budget reform

Reform the Scientific Committee budget, by majority vote if consensus is not available, to remove funding for work intended to facilitate the resumption of commercial whaling, until such time as it is agreed to end the moratorium, and reallocate that money to projects aimed at the conservation and recovery of endangered species and populations of whales. This could be in form of removing some specific items now and instructing the Scientific Committee to phase out, over a short time period, all funding for work intended to facilitate the resumption of commercial whaling. This is intended to move the IWC in a pro conservation direction and assist in transforming the Commission into a body relevant to conservation in the 21<sup>st</sup> century.

We are well aware that the idea of modifying the SC budget may be very controversial, and may lead to threats by some members to leave the IWC, but drastic action is needed to end the business-as-usual scenario. The precedent for conducting such a vote was set at the 2004 meeting in Sorrento with an attempt by pro whaling nations to cut funding for DNA work on bycatch. Countries voting in favour then included China, Iceland, Japan, Korea and Norway.

### 2. Greenland catch limits

At the 2012 meeting of the IWC Greenland deliberately conducted a vote it knew it would lose in order to leave the meeting without a quota instead of accepting the slightly lower quota on offer. They wish to set their own quotas based directly on information from the Scientific Committee and bypass the Commission.

Denmark is now proposing both a new catch limit and a change in the principles governing aboriginal subsistence catch limits. The change is very unwise and should be rejected. Denmark is proposing to add to Schedule paragraph 13 A, as 4 bis, the wording:

‘Catch limits for aboriginal subsistence whaling shall be at levels recognized by the IWC as sustainable and not harming the stocks.’

If agreed, this addition would be used to call for catch limits to be set at the highest level recognized by the IWC as sustainable without any demonstration of need. It should be rejected outright. If it cannot be rejected then it **MUST** be amended to read:

‘Catch limits for aboriginal subsistence whaling shall be at **OR BELOW** levels recognized by the IWC as sustainable and not harming the stocks.’

### 3. South Atlantic Whale Sanctuary

This proposal by Brazil and Argentina has been considered at numerous IWC meetings and has gained increasing support. Because Japan commands a blocking minority, composed mostly of developing countries recruited to join the IWC, a vote on the SAWS, which requires a  $\frac{3}{4}$  majority, is likely to fail. But any proposal for a SAWS should be strongly supported. Some of the recruited countries are coming under pressure from within to support

whale conservation and a voting record means they must account for why they opposed a whale sanctuary when it had no effect on them.

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