

Minke Whale

Balaenoptera acutorostrata

CoP13 Prop. 4 (Japan) Transfer from Appendix I to Appendix II of the the Okhotsk Sea - West Pacific, Northeast Atlantic and North Atlantic Central stocks of the common minke whale (*Balaenoptera acutorostrata*)

SSN VIEW: OPPOSE ADOPTION OF PROPOSAL

- Japan cannot make binding undertakings on reservations and other matters on behalf of Norway and Iceland;
- The population information in the Proposal is misleading and inaccurate.
- Split-listing will create enforcement and implementation problems for these and other species and populations.
- The Proposal undermines the authority and credibility of the IWC regarding the management of whales, which has been recognized by CITES.

CITES RECOGNISES THE IWC MORATORIUM ON WHALING; JAPAN, ICELAND AND NORWAY DEFY IT

CITES Resolution Conf. 11.4, which consolidates a number of earlier resolutions, recognises the competence and responsibility of the IWC for the management of whales and whaling, and recommends that Parties prohibit trade in species protected from commercial whaling by the IWC. The IWC has responded with a series of resolutions (IWC 1979-9, 1994-7, 1995-6, 1996-3, 1997-2, 1998-8, 1999-6, 2001-5) calling for improved mechanisms to prevent illegal trade and thanking CITES for its co-operation.

The decimation of whale stocks by decades of unregulated and unsustainable commercial whaling reduced some whale species by over 90%. In 1986, the IWC implemented a moratorium (ban) on commercial whaling of all the "great whales". In support of that moratorium, CITES listed all remaining "great whale" species on Appendix I. The CITES Parties have refused, despite repeated efforts by Japan, to repeal resolutions confirming CITES' respect for the IWC moratorium. The bans on commercial whaling and trade must continue while the IWC examines the conservation status of whale stocks and develops a sound, enforceable management scheme for the future regulation of commercial whaling.

Japan, Iceland and Norway conduct commercial whaling in defiance of the IWC moratorium

Japan and Iceland exploit a provision in the International Convention for the Regulation of Whaling (ICRW) which permits limited whaling for scientific purposes. Under this provision, Japan conducts two "scientific whaling" programmes annually, hunting up to 440 minke whales in the Antarctic (in a whale sanctuary designated by the IWC in 1994) and 150 minke whales, ten sperm whales, 50 sei whales and 50 Bryde's whales in the North Pacific. All products from the hunts are sold onto Japan's domestic market for commercial consumption. Japan has increased its hunt several times in recent years and is expected to do so again.

Iceland hunted 38 minke whales for scientific purposes in the North Atlantic in 2003, out of a proposed 250 whales annually. It will hunt 25 minke whales in 2004. The IWC adopted a resolution in 2003 stating that scientific whaling operations "**represent an act contrary to the spirit of the moratorium on commercial whaling and to the will of the Commission**" and that the ICRW "**is not intended to be exploited in order to provide whale meat for commercial purposes and shall not be so used**".

Norway has lodged an objection to the moratorium decision and is, therefore, not bound by the ban. It conducts commercial whaling on Northeastern Atlantic and North Atlantic Central stocks of minke whale, and has killed over 5000 whales since 1991 (it allocated itself a quota of 670 in 2004). The IWC regularly criticises Norway for using a non-approved version of its draft quota-calculating mechanism and hunting minke whales outside of IWC control and oversight. In May 2004, the Norwegian Parliament recommended a "considerable increase" in minke whale quotas and a consideration of scientific whaling on other species.

Norway, Japan and Iceland have lodged reservations against the CITES Appendix I listing of minke whales. In 2001, the IWC (Resolution 2001-5) called on Norway to "halt all whaling activities under its jurisdiction" and refrain from issuing export permits for whale products. However, Norway exported two tonnes of minke whale products to Japan and up to 15 tonnes to Iceland in 2002. In 2003, Norway also exported over six tonnes of minke whale meat to the Faroe Islands, which does not hold a reservation to the Appendix I listing and remains subject to the CITES prohibitions, according to the CITES Secretariat.

JAPAN'S PROPOSAL UNDERMINES THE IWC

The Proposal by Japan will seriously undermine the authority of the IWC by pre-empting its adoption of a robust, transparent and enforceable "Revised Management Scheme" (RMS) to set catch quotas and supervise and control commercial whaling.

The RMS being negotiated by the IWC to manage future commercial whaling includes a mathematical model called the Revised Management Procedure (RMP), which processes population estimates and historical catch data to calculate catch limits. It is widely recognized that, to be effective, the RMP must be buttressed by robust and transparent reporting and enforcement mechanisms that ensure compliance. Japan and Norway continue to oppose such mechanisms, despite their necessity to an effective, sustainable whaling system. As IWC records show, a majority of Parties have been prepared to offer compromises in the negotiation of the RMS, even sacrificing mechanisms that are commonplace in other international agreements. However, Japan and Norway have rejected most of the compromises tabled and offered few of their own. Accordingly, no final agreement has yet been reached on the RMS. Norway uses a version of the RMP that has not been accepted by the IWC.

No whaling or trade should take place before the whole RMS (including the RMP) is agreed to and adopted by the IWC or while the moratorium is still in effect.

JAPAN'S GUARANTEES ARE NOT BINDING ON OTHER WHALING NATIONS

It is unclear whether Japan's proposed 'waiver' of its rights under Article XIV paragraphs 4 and 5 (which exempt CITES Parties from requirements for Appendix II marine species taken in accordance with another treaty) will be enforceable. Norway and Iceland are not co-sponsors of this Proposal and Japan's commitment on their behalf cannot bind them. Indeed, at CoP12, a delegate from Norway stated in response to Japan's Proposal, "We see no reason why we should give up rights that we have in terms of international conventions and or customary international law". Similarly, Iceland refused to be bound by the trade restrictions proposed by Japan in 2002.

Resolution Conf. 9.24 requires that, before downlisting can occur, Japan must agree to withdraw its reservation to the Appendix I listing of the "species in question". However, Japan only commits to withdraw its reservation with respect to the stocks proposed. Norway and Iceland (because they are not proponents) are not obliged to withdraw their reservations. Accordingly, even if the Proposal is adopted, Norway, Japan and Iceland could continue to trade without restriction under their reservations.

THE PROPOSAL'S POPULATION DATA ARE MISLEADING

The Proposal over-simplifies the complicated biology of the minke whale "species complex" and the IWC's understanding of its sub-populations. Specifically,

- The IWC has not accepted Japan's claim that there are more than one million minke whales. The IWC and CITES have recognized two separate species—the northern hemisphere, *Balaenoptera acutorostrata*, and the southern hemisphere, *B. bonaerensis*. The IWC's Scientific Committee concluded in 2000 that the abundance estimate for the southern Hemisphere species was "no longer valid". There are indications that the actual figure may be as low as 40% of the previous estimate.
- *B. acutorostrata* is regarded as consisting of two, and possibly three subspecies: the North Atlantic population (*B.a. acutorostrata*); the North Pacific population (*B.a. scammoni (=davidsoni)*); and the "dwarf" minke whale (*B. a. subsp.*) which is found in parts of the Southern Ocean.
- In addition to the three minke whale stocks addressed in the Proposal, there are several other poorly known populations of common minke whale, including populations in the western North Atlantic, North Pacific and Northern Indian Oceans.
- Japan claims that the IWC's Scientific Committee has endorsed a population estimate of 25,000 for the Okhotsk Sea – West Pacific Stock. However, despite recent reviews of abundance estimates for this stock, its structure remains unresolved. The Scientific Committee has not yet reached agreement on whether there are two, three or even four populations involved.
- The endangered J stock of minke whale (which numbers approximately 900 animals and is intended to remain on Appendix I) mixes seasonally with the Okhotsk Sea - West Pacific stock (O stock). Market surveys show that significant numbers of J stock whales are hunted in Japan's "scientific whaling" programme and caught in fishing operations. Trade will cause significant enforcement problems for the visually indistinguishable J stock and may cause its extinction.
- The Northeast Atlantic stock, classified by IWC as a "Protection Stock", has been reduced to an estimated 45 - 70% of pre-exploitation abundance. The Scientific Committee has not endorsed Japan's claim of a 2% annual population increase since 1989, nor has it formally accepted an abundance estimate of 107,000 as the Proposal states. In fact, the latest abundance estimates by Norway are lower, albeit within margins of statistical error, than corresponding estimates from 1995 and the IWC continues to examine the issue.
- The Proposal overstates population estimates by as much as 160%. The IWC accepted 28,000 as the best estimate of the North Atlantic Central Stock in 1990 and has not revised this since. Japan refers to an estimate of 72,100 calculated from surveys in 1995, which has not been approved by the IWC.