

Minke Whale and Bryde's Whale

Balaenoptera acutorostrata and B. edeni

Prop. 12.4 and 12.5 (Japan) Transfer from Appendix I to Appendix II of the northern hemisphere populations of minke whale (*Balaenoptera acutorostrata*) (except the Yellow Sea, East China Sea and Sea of Japan populations) (Prop. 12.4) and of the western North Pacific stock of Bryde's whale (*B. edeni*) (Prop. 12.5), annotated as follows:

For the exclusive purpose of allowing trade between Parties that are also signatories to the International Convention for the Regulation of Whaling and which have an effective DNA register system to monitor catches, introductions from the sea and imports from other States. To ensure that trade does not result in removals in excess of catch limits, the following additional measures shall be implemented:

- a) notwithstanding the provisions of CITES Article XIV, paragraphs 4 and 5, any trade shall be subject to the provisions of Article IV;
- b) calculation of a safe catch level using the IWC's Revised Management Procedure (RMP);
- c) establishment of export quotas that shall ensure that trade does not result in removals in excess of catch limits;
- d) indication on the trade documents of the number of animals involved when shipment of products are only parts of animals, and tracking of this number through DNA monitoring of imports;
- e) implementation of domestic legislation to ensure imports are from animals taken legally; and
- f) DNA registers to monitor catches, introductions from the sea and imports and a requirement that all imports be accompanied by certified DNA profiles.

SSN VIEW: Oppose Adoption of Proposals

- Japan and Norway continue to defy the IWC.
- The "guarantees" in the proposed annotation are neither reliable nor enforceable, and undermine the IWC's development of an internationally-approved management system for commercial whaling.
- The population information in the proposals is misleading and inaccurate.
- Split-listing of minke and Bryde's whales will create enforcement and implementation problems for these and other species.

CITES RECOGNISES THE IWC MORATORIUM ON WHALING; JAPAN AND NORWAY CONTINUE TO DEFY IT

CITES Resolution Conf. 11.4, which consolidates a number of earlier resolutions, recognises the competence and responsibility of the International Whaling Commission (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 moratorium on commercial whaling is to 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 and Norway have continued commercial whaling in defiance of the IWC moratorium. Japan exploits a provision in the International Convention for the Regulation of Whaling (ICRW), which permits limited whaling for scientific purposes. Under cover of this provision, Japan conducts two so-called "scientific whaling" programmes annually, hunting 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.

Norway has lodged an objection to the moratorium decision and is, therefore, not bound by the ban. It conducts commercial whaling on two stocks of minke whale in the North Atlantic, hunting over 500 whales a year (674 in 2002). It has no domestic market for blubber, but holds over 1000 tonnes in stockpiles. Norway, Japan and Iceland (which joined CITES in 2000, but has not been able to rejoin the IWC after quitting in protest at the moratorium) have lodged reservations against the Appendix I listing of minke whales. Norway exported the first two tonnes of a planned annual shipment of 100 tonnes of minke meat to Japan in March 2002, and began exporting meat and blubber to Iceland in July 2002.

JAPAN'S PROPOSALS UNDERMINE THE IWC

The proposals 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.

Since 1995, the IWC has spent 25 working days at 12 meetings at 11 different venues negotiating a management scheme that conforms to current international best practice. The RMS will include the Revised Management Procedure (RMP), a mathematical model which processes population estimates and historical catch data to calculate catch limits. The RMP must, however, operate in conjunction with robust and transparent reporting and enforcement mechanisms to ensure compliance. 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 agreement has yet been reached on the RMS, although two versions (proposed by Japan and Sweden) were put to the vote, and rejected, at the 54th IWC meeting in 2002.

No whaling or trade should take place until the whole RMS (including the RMP that will set catch quotas) is agreed to and adopted, and the moratorium lifted. Japan's proposal to "use" the RMP unilaterally, without international supervision, directly contradicts the IWC's efforts. Moreover, the IWC regularly criticises Norway for using a biased version of the RMP to hunt over 500 whales a year outside the Commission's control and oversight.

JAPAN'S "GUARANTEES" ARE NOT RELIABLE

The proposals do not explain how the national databases and domestic legislation proposed will prevent products from Appendix I species and stocks caught in scientific whaling, whaling under objection, or as bycatch from fishing operations, from entering international trade.

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 does not offer any such waiver and its exports may not be subject to any of the proposed restrictions on trade.

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". In its proposal, however, Japan has committed only to withdraw its reservation with respect to the stocks proposed. Norway (because it is not a proponent) is not obliged to withdraw its reservations. Accordingly, even if the proposals are adopted, Norway, Japan and Iceland could continue to trade without restriction under their reservations.

THE PROPOSAL'S POPULATION DATA ARE MISLEADING

Proposals 12.4 and 12.5 over-simplify the complicated biology of the Bryde's whale and the minke whale "species complex" and the IWC's understanding of the subpopulations in this complex. Specifically,

With respect to Northern Hemisphere stocks of minke whale:

- The IWC has not accepted Japan's claim that there are more than 1 million minke whales. Japan's figure actually covers two species, the northern hemisphere *Balaenoptera acutorostrata* and the southern hemisphere, *B. bonaerensis*. Though the IWC Scientific Committee once accepted a population estimate of 760,000 for the southern species, it concluded in 2000 that the estimate was "no longer valid" and the real population may be "appreciably lower". There are indications that the actual figure may be as low as 40% of the previous estimate. There is no accepted population figure for the northern species.
- In addition to the three minke whale stocks addressed in detail (and the three excluded) by the proposal, the proposed downlisting would also transfer other populations of minke whale in the Northern Hemisphere to Appendix II, including those in the Western Atlantic, North Pacific and Northern Indian Oceans. The proposal, however, provides no information on the biological status of these populations.
- Japan claims that the Scientific Committee of the IWC endorsed a population estimate of 25,000 for the Okhotsk Sea – West Pacific Stock. However, recent reviews of abundance estimates for this stock have revealed that its structure remains unresolved. In fact, the Scientific Committee has not yet reached agreement on whether there are two, three or even four populations involved. This issue is to be addressed at future intercessional and annual meetings of the Scientific Committee.
- 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 North Pacific "scientific whaling" programme and caught in fishing operations. Continued hunting and trade in visually indistinguishable O stock whales will cause significant enforcement problems for the J stock and may cause its extinction.
- The Northeast Atlantic stock is classified as a "protection stock" by the IWC, affording it the highest level of protection. The most recent population estimate for this stock was agreed by the IWC in 1995 at 112,000. The Scientific Committee has not endorsed Japan's claim of a 2% annual population increase since 1989.
- 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, but this has not been approved by the Scientific Committee.

Regarding the Western North Pacific stock of Bryde's whale:

- New information reported to the IWC in 2001 and 2002 reveals significant falsification of catch data by Japan, including of Bryde's whales, in the 1960s and 70s. This casts serious doubt on the veracity of the historical catch data needed for the calculation of catch quotas under the RMP. This problem will be addressed at future intercessional and annual meetings of the Scientific Committee.
- Although Japan refers to a population estimate for this stock, the IWC has not completed its assessment of Bryde's whales and more surveys and trials are needed.

OTHER CONCERNS

Japan's claim that "there are no serious threats to the survival of whales in the world's oceans" ignores increasing environmental threats to whales and their habitat. The ongoing and accelerating loss of polar sea ice due to global climate change threatens dramatic reductions in important whale feeding grounds, and in critical, ice-dependent food sources such as krill. In its Third Assessment Report, adopted in 2001, the Intergovernmental Panel on Climate Change predicted the virtual disappearance of polar sea ice from the Northern Hemisphere as early as 2080. Recent and dramatic ice shelf collapses in the Antarctic demonstrate that the Southern Hemisphere faces similar threats.

Moreover, a growing body of evidence demonstrates that minke and other whale stocks accumulate very high levels of heavy metals and PCBs and other persistent organic toxins in their milk, body fat and other tissues. Many of these toxins have known effects on the health and reproductive capacity of humans and other mammals. The IWC has initiated a long-term study to assess the effects of these chemical burdens on individual whales and populations. The impact on consumers of eating contaminated whale tissue is also of concern. Japan has refused imports of whale blubber from Norway on public health grounds, banned the sale of sperm whale products and initiated a study of health effects on whale consumers.

Split listing—the transfer of some populations of minke and Bryde's whales to Appendix II, while visually indistinguishable stocks and species remain on Appendix I—will cause serious enforcement and conservation problems. The proposals do not explain how the national databases and domestic legislation proposed will prevent meat from Appendix I species and stocks caught in scientific whaling, whaling under objection, and as by-catch from fishing operations, from entering international trade. This absence is particularly troubling given recent incidents in which meat from protected whale stocks has been discovered in commercial circulation.