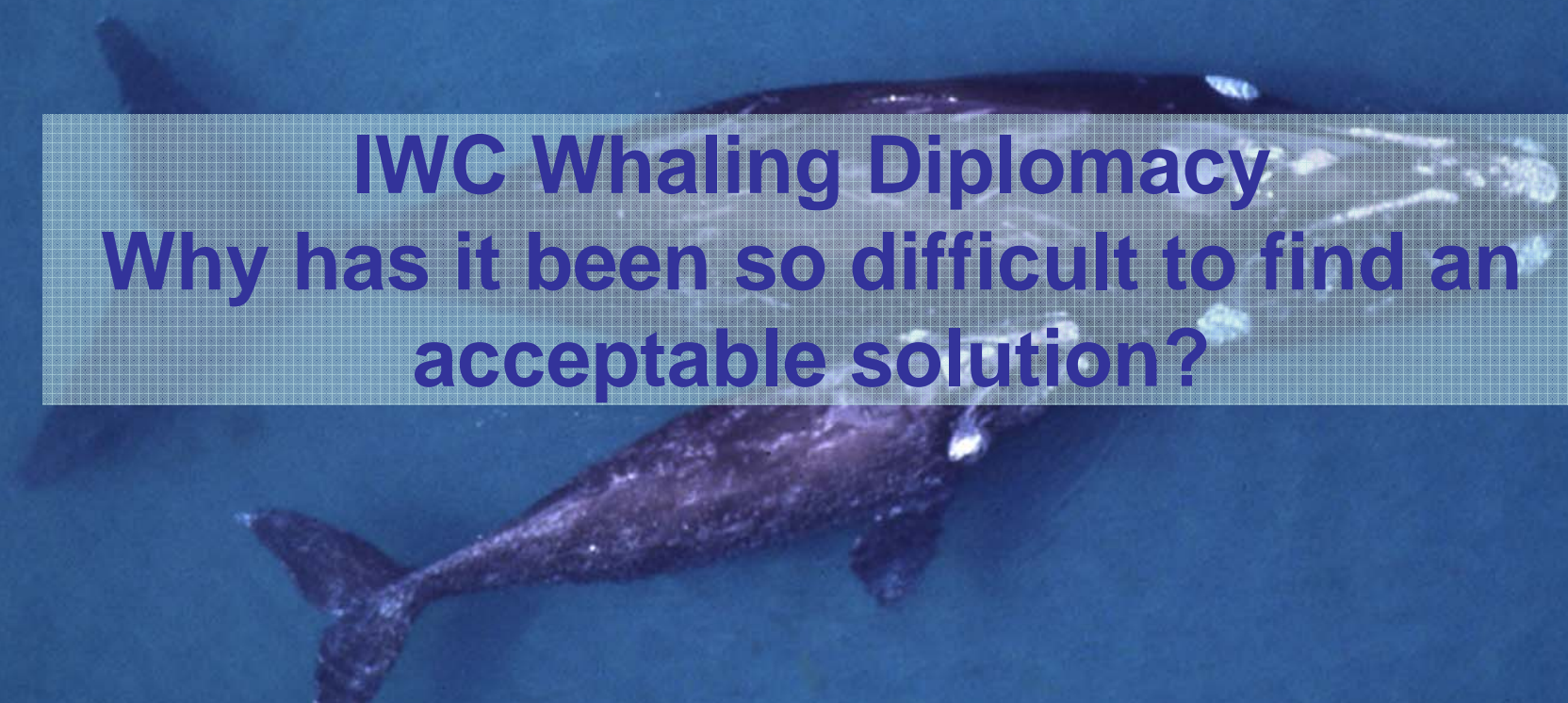


Symposium on the State of Conservation of Whales in the 21st Century

New York - 12 & 13 April, 2007



IWC Whaling Diplomacy
Why has it been so difficult to find an acceptable solution?

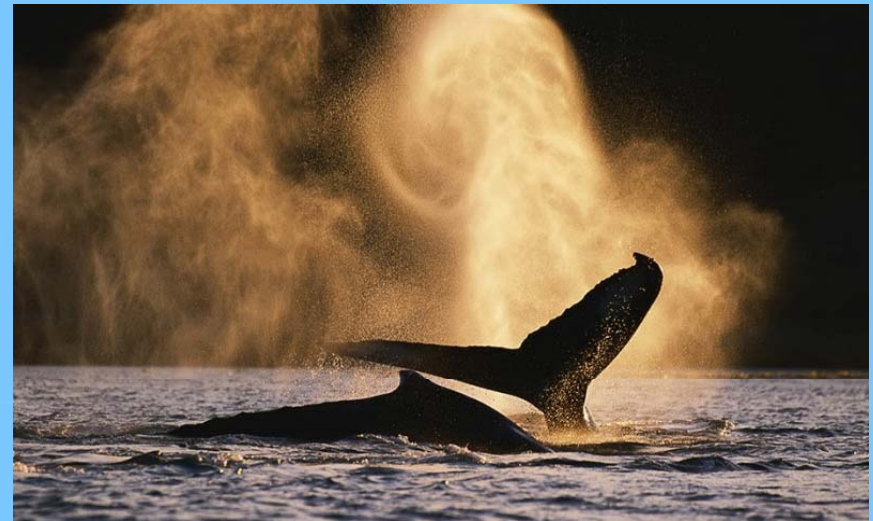
Rollie Schmitten
An IWC Perspective

Why has it been so difficult to find an acceptable solution?

The short answer is that no one has the WILL to find one.

Whale Conservation is Suffering

- Number and species of whales being killed continue to increase.
- Stock composition of whales being killed not consistent with RMP.



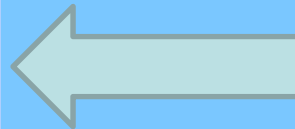
Where are we now? (i)

“Working the Gray Areas”

Traditional negotiation strategy of discovering parties' needs & attempting to meet those needs.

- Not applicable to IWC
- Either you are pro-whaling or pro-whale.

Why should these parties that are satisfied with the *Status Quo*, risk losing those advantages?



Pro-whaling sector has little reason to negotiate

Norway – Their commercial whaling is entirely LEGAL.

- Objection to whaling moratorium and CITES whale trade provisions.

Iceland – Their commercial whaling is also legal.

- Can only engage in international trade if the importing country has the necessary CITES objection.

Japan – Has parlayed Article VIII into a de-facto commercial whaling operation.



Where are we now? (ii)

IWC48 - Oman

US/Japanese Bilateral Meeting

Japan would never accept the Canny proposal as it was seen to lessen its status.

- E.g. Withdrawal of their objection to a whaling moratorium & creation of whale sanctuaries.
- These had worked against them and they would never go backwards again.
- Japan must have a certain level of whales to sustain countries needs.

Their current diplomatic approach is to recruit new members, to control running of the IWC by a simple majority. It is also employed by the pro-whale bloc.

Force the opposition into submission or leaving the IWC

Whaling Countries – Promote:

- Their view of sustainable use of marine resources.
- Whales eat fish argument.
- Ecosystem approach to management.
- Developing countries' rights.

Pro-whale Countries – Promote:

- Support for the moratorium.
- Disapproval of scientific whaling & whaling by objection.
- Need to expand portfolio of IWC to include other factors other than harvest in the management of whales.

What can be done (i)

Modernizing the Convention?

Advent of modern contemporary environmental governance.

- Law of the Sea, Rio Declaration, Convention on Biological Diversity, etc.

The treaty foundation was for “conservation & management” with a purpose of sustaining the whaling industry.

Pro-whaling forces point out IWC is not “just” a conservation organization, but was created for the management (sustainable harvest) of whales.

Using these more contemporary treaties as positive examples of change on their own will not compel the IWC to change, the problems are too complex.

The IWC cannot remain wedded to the current management regime

The fundamental question is whether the Convention should be dissolved and a new treaty called.

A ministerial level meeting might not lead to success:

1. Not all parties would/could participate.
2. New players with old philosophies are not likely to resolve long-standing differences.

A call for a new convention is not timely, as it would:

- Support view that IWC is irreparably broken.
- Provide impetus for a new “sustainable use” convention or establish multiple management organizations.

What can be done? (ii)

Short Term

Acknowledge that Whaling is not going to stop.

Certain countries have the legal right to whale and they are not going to stop.

The most probable solution remains completion of the RMS.

- Means of enforcing.
- Monitoring and ensuring compliance.

How to complete the RMS?

1. A relatively few number of countries need to reach agreement that results in a vote needed to change the Schedule language.
2. The US as IWC Chair must provide the leadership to get this process restarted.
3. Opt-out provisions need to be addressed.
 - Ensure no member country formally objects to key provisions of the agreed RMS.
 - Bilateral and multi-lateral meetings needed to address this impediment (binding side arrangements?).

What can be done? (iii)

RMS – Key Components

1. Phase-out of lethal scientific whaling. 2 possibilities:
 - Upon completion of RMP modeling and Commission action.
 - Retaining 10-E but adding subparagraph allowing catch limit at level set by commission after RMP modeling.
2. This would cause a corresponding phase-out of whaling in the sanctuaries.
 - There would be no future lethal whaling in the sanctuaries.
3. Lifting the commercial whaling moratorium (10-E).
 - This would occur on a stock basis.
4. Prohibiting international trade of whale meat.

The solution rests with a group dedicated to rationalizing the management of the IWC through schedule change and forming binding side arrangements to deal with seeming inconsistencies between the compromises and the provisions of the Convention.

A compromise would not only make the IWC functional, but would mean fewer whales are likely to be killed than are currently being killed through treaty loop holes.

Conclusions/Recommendations

- In the long term (possibly within one generation/20 years) commercial whaling will likely cease.
- Achieved gradually through environmental education.
 - National Geographic, the Discovery Channel, etc.,
 - Millions of people exposed to the benefits of non consumptive uses of whales; primarily whale watching.
 - Cultural Change.
- The world will recognize the overwhelming economic value of live whales.
- Environmental messages need to be delivered by nationals of the target countries speaking in their native language.

