

Pew Statement to the 61st Annual Meeting of the International Whaling Commission, Madeira, Portugal, June 2009

“The national interest is not served by losing friends needlessly as a result of stubbornly insisting on fighting an unwinnable war.”

Tomohiko Taniguchi, former spokesperson of Japan’s Foreign Affairs Ministry,
on Japan’s whaling policy, February 2009

Introduction

*“Given the complexity and the sensitivity of the issues involved, it should not come as a surprise that it has thus far not been possible to secure agreement on key specifics.”*¹

After two years of quiet dialogue and negotiation within the International Whaling Commission (IWC) to break the impasse that has impeded implementation of the IWC’s international whale conservation regime, the negotiators have confessed in their report to the IWC plenary, slated for June 22-26, 2009, in Madeira, Portugal, that they see no end to the stalemate.

Unlike other NGOs with a long-term involvement in the debate over whaling policy, the involvement of the Pew Environment Group is recent. After consulting with a wide range of expert stakeholders, we determined that a fresh voice could perhaps open doors for constructive dialogue where participants with a longer term engagement might find it difficult. Thus a Pew representative attended an IWC meeting for the first

¹ <http://www.iwcoffice.org/documents/commission/IWC61docs/61-6.pdf>

time in June 2006, in St. Kitts & Nevis and a series of Pew-organized symposia, listed further below, were organized in the intervening years to afford chances for dialogue that had not previously been possible.

We have been deeply concerned by the misperception promoted by pro-whaling interests portraying all advocates of the moratorium as “intransigent”, and “irresponsible” and our involvement in part has been aimed at laying that misperception to rest. We have sought to shore up what is positive in the work of the IWC and to avoid that blame for any possible failures, including a hypothetical irreversible meltdown of the whale conservation regime, be placed on the people and countries who – in good faith and quite legitimately – advocate the continuation of the moratorium on commercial whaling. Whatever happens to the IWC in the future after this year’s Madeira meeting, with the open and transparent dialogue engaged by Pew we believe that we have helped to avoid the prevalence of this misperception.

In contrast, Japan’s reported offer at the meeting of the IWC’s small drafting group in April 2009 to catch only 29 minke whales fewer than its fleet took in last year’s “scientific whaling” program in the Antarctic, was a disappointment.² If this is Japan’s “final offer,” it casts doubt on Japan’s real intentions for having over the last two years joined the dialogue on the future of the IWC.

As a non-State actor, we should also note the sharp contrast between Pew’s inclusive initiatives that invited the participation of pro-whaling advocates, and the *closed door approach* led by Japan’s Institute of Cetacean Research (ICR). Pew believes that unpublicized and restricted symposia such as those organized by the ICR in February

² <http://news.bbc.co.uk/2/hi/science/nature/8042713.stm>

and April this year,³ where only pro-whaling advocates were invited to consider the text of a new convention,⁴ are at odds with Japan's pledge to work in good faith on the future of the IWC. If this dialogue is to continue, Japan must be prepared to be open to all parties.

The role of Pew – Present and Future

The Pew Environment Group is pleased to have had the opportunity to observe and engage with the IWC for two years during the dialogue on the future of the whale conservation regime. Our public involvement in the whaling issue began in 2007 with the Pew Symposium on Whale Conservation in the twenty-first Century that was held at U.N. Headquarters in New York.⁵ It continued with the Pew Symposium, "A Change in Climate for Whales – Is There a Common Way Forward?" held at U.N. University Headquarters in Tokyo in January 2008.⁶ The Pew Whales Commission met a year later in February 2009 under the auspices of the Luso-American Foundation in Lisbon.⁷ In addition, with local partners and the Lenfest Ocean Program, Pew organized workshops and dialogues in the Caribbean and West Africa,⁸ and addressed the issue of the interaction of fisheries and great whales at the World Conservation Congress held in Barcelona, Spain, in October 2008.⁹ We are grateful to all the IWC Commissioners, scientists, NGO representatives, other government representatives and independent experts who have taken part in these meetings and discussions.

³ <http://news.theage.com.au/breaking-news-world/prowhaling-nations-ramp-up-stance-20090501-apxi.html>

⁴ <http://www.pewwhales.org/pewwhalescommission/submissions/ICT%20submission%20to%20Pew%20Whales%20Commission%20-%20Jan,%202009.pdf>

⁵ <http://www.pewwhales.org/whalesymposium/index.php>

⁶ <http://www.pewwhales.org/tokyosymposium/index.html>

⁷ <http://www.pewwhales.org/pewwhalescommission/index.html>

⁸ http://www.lenfestocean.org/whales_fisheries.html

⁹ <http://www.pewwhales.org/wcc2008/index.html>

Throughout this process we have made constructive recommendations to help the IWC move forward.¹⁰ We regret that some still argue that there is no need to modernize the IWC, ignoring changes in the world that have occurred in the last 60 years. Our experience in the last two years has confirmed our view that the IWC urgently needs to reflect the reality of contemporary multilateral environmental policy and law.¹¹

Perhaps more than any other non-governmental entity, the Pew Environment Group has strongly supported the *Future of the IWC* Process. We are disappointed that the Small Working Group has not made sufficient progress to bring a package forward for consideration at the 2009 IWC meeting in Madeira. We are convinced that the current *status quo* is neither stable nor acceptable. We are happy to have contributed to a new political climate within the IWC. But we are deeply concerned over the continued fragility of the IWC and its whale conservation regime. In the interim, we will keep our options open in the hope that we can continue to provide a supporting role during and after the Madeira meeting.

A way forward

Over the last two years there has been a recognition that “all sides” need to “*give and take*.” Japan’s reported final offer to take only 29 minke whales fewer than its fleet caught in last year’s “scientific whaling” program in the Southern Ocean is inconsistent with this approach.

¹⁰ <http://www.pewwhales.org/pewwhalescommission/policy%20guide%20-%20twelve%20elements.html> and <http://www.pewwhales.org/pewwhalescommission/policy%20guide%20-%20additional%20elements.html>

¹¹ <http://www.pewwhales.org/pewwhalescommission/context/introduction.html>

Whereas the hypothetical **acceptance of an exception to the moratorium to allow Japan to maintain its coastal whaling tradition** would be a very bold step for the supporters of the moratorium, the Government of Japan needs to realize that this step can be envisaged **only if it agrees to end scientific whaling and commits to respect internationally agreed whale sanctuaries.**

As Professor Tomohiko Taniguchi, former spokesperson of Japan's Ministry of Foreign Affairs wrote in a recent article, *"Japan should reconsider its overall national interest and bring an end to scientific whaling on the high seas [...] The solution is to end scientific whaling and ensure that coastal whalers can catch minke whales in waters near Japan. Small-scale whaling operators will only be able to survive once supply and demand have been tightened and they can begin catching profitable whale species. By doing this, Japan will be able to preserve both a culinary delicacy and traditional whaling culture. [...] It would be in Japan's overall national interest to end the scientific whaling program. It would also [...] contribute to the preservation of whaling traditions."*¹²

We urge the IWC Annual Meeting in Madeira to seek agreement to pursue negotiation on the basis of these considerations. The Small Working Group or its successor will have to address several complex details including the application of the Revised Management Scheme (RMS) and Revised Management Procedure (RMP) to Small-Type coastal whaling, the status of the endangered "J" stock of Minke whales in

¹² *Wedge Magazine*, Tokyo, February 2009: *The inside story of Japanese whaling not told by the media – losing friends using taxpayers' money* by Tomohiko Taniguchi, Special Guest Professor, Graduate School of System Design and Management, Keio University.

the Northwest Pacific, the implications of on-going whaling operations by other flag States (including what the IWC calls “aboriginal subsistence” whaling), the role of and respect for whale-watching and other non-lethal uses of whales, the status of international trade, etc. Unless agreement can be reached in Madeira to proceed on this basis, we see little point in pursuing a dialogue that works neither for whale conservation nor for whaling traditions.

Whale policy tunnel

Although a moratorium on commercial whaling has been in force for 22 years and the majority of whaling countries have abandoned the practice of killing whales in that time, the effectiveness of the international whale conservation regime has been gradually compromised under the leadership of Japan’s Fisheries Agency (JFA). To circumvent the moratorium, the JFA promoted the creation of a Government-sponsored Institute of Cetacean Research (ICR) to conduct whaling under the guise of scientific research.

Japan has used a clause in the IWC governing treaty of 1946 that allows member States to catch individual whales regardless of IWC decisions if it is doing so for unilaterally determined scientific purposes. Permission from the IWC was not mandated in this situation, but the spirit of this exception was not meant to authorize long-term, open-ended scientific research programs on the scale of Japan’s.

Japan’s “scientific whaling” activities, formally known as “catches under special permits,” escalated steadily after 1987-88 when Japan launched its first program targeting 300 minke whales per year in the Southern Ocean. Today there are two programs, carried out in the North Pacific and the Antarctic, involving catches of five

species with combined limits of roughly 1,400 whales.¹³ The majority of IWC member countries have repeatedly protested through resolutions and other diplomatic means, but to no avail. In response, Japan, using funds from its Overseas Development Assistance (ODA) program as incentives, enrolled over 25 developing countries in the whaling debate to offset the overwhelming international condemnation.

A stated purpose of Japan's scientific whaling program is to study the interaction of fisheries and great whales in order to support Japan's contention that whales are a threat to commercially valuable fish resources. The notion that whales represent a threat to food security has been discredited many times over, recently by the World Conservation Congress of the International Union for the Conservation of Nature (IUCN) after a thorough debate,¹⁴ and in a study published in the journal *Science*.¹⁵ Nevertheless, photos of whale stomachs continue to be used by the JFA propaganda machine to scare and convince countries highly dependent on foreign aid to join their fight for the resumption of commercial whaling.¹⁶

Today, the balance between pro- and anti-whaling countries within the IWC is about even. Because binding decisions can only be taken by a three-quarters majority of the IWC, any significant progress in either direction has proven impossible for many years.

¹³ Actual catches have recently fallen short of these annual catch limits : in 2007/08, for example, the final total catch was of more than 900 whales. A highly controversial proposal to catch a sixth species, humpback whales, in the Antarctic was suspended in 2007 by decision of then Prime Minister Fukuda, following intensive diplomatic activity and high-level protests. Whether the planned catch will be allowed by the Japanese Government if the negotiations on the Future of the IWC fall apart is still to be seen.

¹⁴

http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008_WCC_4/English/RES/res_4_027_relationship_between_fisheries_and_great_whales.pdf

¹⁵

<http://www.sciencemag.org/cgi/content/full/323/5916/880?ijkey=4lv.foVMqYF/o&keytype=ref&siteid=sci>

¹⁶ See for example <http://www.icrwhale.org/08/s/08-A-02-15.htm>

The controversy is further heightened because one of Japan's scientific whaling programs takes place in the Southern Ocean, declared a whale sanctuary in 1994 by overwhelming vote of the IWC, notwithstanding Japan's opposition.

Light at the end of the tunnel

It would be wrong, however, to conclude that efforts to protect whales were useless. The international movement to protect whales began with a call for a moratorium on commercial whaling in 1972 by the first U.N. conference on the environment. It took 10 years for the IWC to agree in 1982 to the moratorium, effective in 1986. Several countries engaged in whaling at that time, such as Brazil, Chile, Russia/USSR and Spain, took the necessary and sometimes difficult step to abide by the IWC's decision. Only three (Iceland, Japan and Norway)¹⁷ have not done so. The few remaining whaling countries (Norway, Iceland and Japan)¹⁸ are not only a minority internationally, but, to varying degrees, whaling enjoys little domestic support in those countries.

With the exception of a few towns in Japan, with a long tradition of whaling, citizens acknowledge that they do not need whale meat and that they do not know why whaling continues in their country. There is no real demand anywhere for whale meat other than very limited traditional needs in a handful of communities.

Instead, whale hunts appear to be the result of populist sentiment exploited by public officials. In today's world, whaling represents a tiny portion of any country's GDP and is maintained by government subsidies. The former spokesman of the Japanese

¹⁷ Aboriginal subsistence whaling also takes place in several countries (the US/Alaska, Russia, Greenland and St Vincent & the Grenadines), but the IWC decided that these activities were not covered by the rules governing commercial whaling and so were not affected by the moratorium.

¹⁸ Aboriginal subsistence whaling also takes place in several countries (the US/Alaska, Greenland and St Vincent & the Grenadines), but these activities are not affected by the moratorium.

Foreign Affairs Ministry estimates that the whale meat market in his country accounts for approximately 7 billion Yen (53.5 million Euro/73 million USD). According to him, this is less than 1 percent of Japan's total fisheries revenue.¹⁹

In contrast, what whale conservation experts call the non-lethal use of whales, especially whale-watching for tourism, educational and scientific purposes, has become a multi-million dollar industry in recent decades benefiting local communities throughout the world, especially in developing countries.²⁰ Pro-whaling interests always emphasize the 1946 whaling convention for its reference to the "optimum utilization of the whale resources"; however, contemporary economic and social evidence shows that whale-watching and other non-lethal uses are far more profitable than whaling.

The IUCN noted last year that some whale populations appear to be recovering from their decimation by 20th Century commercial whaling operations, especially some populations of humpback whales that were protected by IWC decisions in the 1960s, long before the moratorium was adopted. This success demonstrates that international efforts to protect these species have not been in vain, but must be maintained over long periods of time to bear results. It would be wrong to advocate a resumption of commercial whaling on this basis.

¹⁹ *Wedge*, February 2009, Tokyo, *op. Cit.*

²⁰ Hoyt (2001), in *Whale Watching 2001: Worldwide Tourism Numbers, Expenditures, and Expanding Socioeconomic Benefits*, Report for IFAW uses the figures (for 2001) of "at least a \$1 billion USD industry attracting more than 9 million participants a year in 87 countries and territories."

Contemporary threats

Data showing that some whale populations are recovering from earlier depletions justify the calls for these populations to be protected by the IWC and eventually the commercial whaling moratorium decision of 1982. They also show that, contrary to a widespread belief, the combined efforts to protect whales by scientists, governments and NGOs and the public are succeeding.

Consequently, some believe that several communities could be allowed to catch a limited number of whales under a strict IWC management regime instead of operating as they do now with no international control.²¹ Others believe that any discussion of exemptions to the moratorium, or even of lifting the moratorium, requires first that Japan agrees to end abuses of the scientific whaling provision. At a minimum, they say if a country wants to catch whales for science the IWC's Scientific Committee should determine the legitimacy of the request — including whether the objective of the research is needed or whether it can be reached through alternative non-lethal methods.

Perhaps the most compelling reason for seeking a resolution to the whaling controversy and to enable the IWC to function properly is the emergence of new threats to whales, unknown when the IWC was created in the wake of World War II.

Whales today endure the consequences of overfishing, including the bycatch of cetaceans in destructive fishing gear; increased concentrations of pollutants in the marine environment; noise pollution from seismic tests, shipping and military

²¹ In addition to Japan's "scientific" programs, Norway formally objected to the moratorium decision and for more than 15 years has been setting its own catch limits for its whalers ; Iceland has used both the scientific whaling provision and a highly contested post-dated "reservation" to the moratorium decision, which it had initially accepted, to resume whaling in recent years.

maneuvers; and accidental ship strikes due to increasingly intense maritime traffic by faster and larger ships. All combined the new environmental threats result in the killing and loss every year of tens of thousands of cetaceans including great whales. Furthermore, scientists are only just beginning to study the possible effects, especially in polar regions, of climate change on whales.²²

In some respects, these new environmental patterns eclipse those posed by the dwarfed whaling industry. But environmentalists urge the utmost care and precaution in the light of the considerable uncertainties and unprecedented fragility affecting whales and their home, the ocean. Six years ago, the IWC agreed to form a Conservation Committee to address these issues, but its work has been hampered by the ongoing whaling controversy that inhibits cooperation and a conducive political environment.

In today's world, it makes little sense that the only global body in charge of the conservation of whales is prevented from addressing properly these pressing issues. If the members of the IWC are serious about working together for whale conservation, the International Whaling Commission should become an International Whale Commission *de facto*, if not by name.

²² See for example http://news.bbc.co.uk/2/hi/uk_news/scotland/north_east/8077272.stm