

I. THE CURRENT *STATUS QUO* DOES NOT FAVOUR EITHER THE CONSERVATIONIST OR THE WHALING BLOCKS.

From the point of view of the conservationist bloc overall, and particularly that of the Buenos Aires Group” members, the current status of the International Whaling Commission is not acceptable. The “impasse” of this Commission allows an annual catch of thousands of whales through scientific programmes (allowed by Article VIII, Convention for the Regulation of Whaling) or through whaling carried out under formal objection to the current commercial moratorium in force.

Such whaling, without any sort of international supervision, openly contradicts the purpose of the above moratorium, which we believe has been a successful measure for conservation of whale populations on the verge of extinction.

On the other hand, the countries which favour whaling consider the current “impasse” is live evidence of how dysfunctional a body can be when it does not fulfill the purpose and objective of the treaty that created it.

These opposite visions with regard to the purpose of the International Whaling Commission (IWO) that underlie the recent debate on “Modernization vs. Normalisation” have translated into irreconcilable positions on several topics on the Commission’ s agenda.

In the case of issues promoted by pro—conservation countries, it is worth mentioning the work of the Conservation Committee, the IWC addressing Small Cetacean issues, the creation of new Sanctuaries, etc.

In the case of topics of interest for the whaling bloc, it is worth pointing out the lifting of the commercial whaling moratorium, small scale coastal whaling, the amendment of the voting rules, etc. Throughout the years, we have noted unyielding positions on all these issues and very little willingness to negotiate.

The IWC is paying a political price for such a legacy of failures. An organization that year after year repeats its debates and is incapable of solving an “impasse” which makes nobody feel comfortable, and in which the only political strategy adopted by both opposite blocs is recruiting new members to achieve a simple majority –which we must recall is not enough to tilt the debate to one side or another— runs a true risk of having members from either bloc leave the Commission, or facing the creation of other regionally—based organizations.

The creation of other alternate organizations –with jurisdiction over cetacean conservation or the management of such resources— is not an option that we can considered valid, at least in Latin America. Despite all IWC’s defects, we believe there is no other international organization with such broad membership and with a comparable mandate and experience.

II. A NEW OPPORTUNITY FOR DIALOGUE

There is a palpable feeling of frustration among IWC members vis—â—vis the persistence of an impasse” which has extended for over a decade.

However, not all the news is bad. In 2007 we witnessed three meetings –in different geographical areas (Buenos Aires, Tokyo and New York) with different participants and perspectives— to seek new options for the Commission’ s future.

Despite the fact that the 59th IWC Meeting (Anchorage) did not move forward in addressing the substantive issues which split the Commission, we should not loose sight that the meeting ended with an agreement on the main topic to be discussed on that occasion (the allocation of aboriginal subsistence whaling quotas). Given how controversial the previous plenary had been in St. Kitts & Nevis in 2006

and the failure of the plenary in Shimonoseki in 2002 when addressing the issue of allocation of aboriginal whaling quotas, the outcome of the Alaska meeting is promissory. Neither must we forget the consensus reached in the Commission with regard to the safety of human life at sea and the protection of the Antarctic environment.

This year is starting with an excellent meeting convened by the “PEW Environment Group”. Its most remarkable feature is the valuable participation of the Delegation of Japan which allows us to have detailed, first—hand information about the Japanese stance.

Furthermore, the IWC intersessional meeting will be held in March to address the future of the Commission.

Although the critical position of the Buenos Aires Group with regard to the so—called scientific whaling is known—a position which was duly stated in the Declarations of the regional group and in the participation of several of the region’s countries in the different “demarches” on the subject presented in this city—a fact to be taken into consideration is Japan’s decision to exclude the Humpback whales from the “JARPA II” programme for this year. We also especially recognize the role of IWC’s President (Commissioner Bill Hogarth) in the conversations held to reach such an understanding.

All these events show an incipient political will to move forward. We must, however, be prudent and not give rise to excessive expectations. It would be naive to expect dramatic progress in the short run.

In this regard, the most adequate way forward seems to be setting up a process of dialogue and radically changing negotiation mechanisms and the culture of confrontation at IWC.

III. THE NEED FOR A POLITICAL FRAMEWORK AGREEMENT

At this stage it does not make much sense trying to assign

responsibilities for the current “impasse”. Particularly because the reasons must be sought in structural causes which go beyond the willingness of certain players.

Among such reasons, we can mention, on the one hand, the Convention’s institutional deficiencies. That is to say, the ambiguities with regard to its purpose, the possibility for the Parties to be exempted from complying with certain key provisions related to the Convention’s Regulation (such is the case of the commercial whaling moratorium), the lack of compliance and dispute settlement regimes, as well as the complicated procedure to amend the Convention which has led it to become an old—fashioned instrument compared to other conventions that address the conservation / use of living marine resources.

On the other hand, the IWC decision—making process and the way in which plenary debates are conducted do not meet the sought objective. If each controversial item on the agenda is discussed in plenary where many times speeches are meant to reflect maximalist positions – politically profitable at the domestic level— we cannot expect great progress.

There is consensus about IWC abandoning the culture of confrontation which prevails within the Commission where the primary objective of the delegates discourse seems to be, in some cases, a tactical, political defeat although merely rhetorical over the opposite bloc since no “victory” can alter the current situation. Although most speeches are not framed within that rationale, it is the most unyielding positions which have regrettably ended up by splitting the organization into two.

Within this context and if we would really like to exit the current status of IWC, it would be necessary to:

- Hold high level diplomatic negotiations (either multilateral or

bilateral).

- Ensure intersessional contact between the Commissioners of the different blocs to foster the confidence that is missing nowadays.
- Establish open working groups in IWC to elaborate on options for the agenda's controversial items, either by correspondence during intersessional periods or in plenary meetings.
- Recognize the need to urgently debate in the Commission all options recently proposed to unlock the current situation (from convening a diplomatic meeting under the auspices of the United Nations through to studying the possibility of amending the Convention, or relaunching negotiations on RMS, among other options).
- Foster IWC bonds with other international agencies such as CBD, CMS, CITES, the Antarctic Treaty and the CCAMLR to share experiences and learn from others, particularly on how those organizations handle their internal disputes.
- Promote a greater participation of the international community in IWC. In this regard, issues such as fostering international cooperation activities in the Commission (e.g. training new Commission members), encouraging the participation of scientists from developing countries on the Scientific Committee and developing an equitable contribution scheme, are all issues which favour the Commission's universal nature.
- Bearing in mind the importance of the work of the organizations and institutions devoted to cetacean conservation and research, it is important for them to support a potential negotiation process through their responsible participation within IWC.

- In plenary, avoid condemnatory resolutions (e.g. JARPA II) and/or political appeals (“ St. Kitts Declaration”) agreed upon on the basis of fluctuating simple majorities to foster an environment of mutual confidence.
- Completely leave aside derogatory language, inside and outside IWC meetings.

With a view to implementing such measures to open up a dialogue – although they guarantee no specific outcome—, it is necessary to achieve a basic political agreement that will allow progress in that direction.

The efficacy of an international instrument depends mainly on the good faith and commitment of the parties towards such instrument and not so much on the careful drafting of its clauses.

Such a framework agreement should state the negotiating will of all Parties to negotiate a “package” including all contentious issues, while agreeing on a roadmap” to establish negotiating mechanisms and realistic intermediate goals.

Furthermore, it should include an express acknowledgment of the non lethal use of cetaceans on equal grounds to other uses of the resource, reflecting existent international consensus with regard to the need of striking a balance between conservation and the rational use of live marine resources.

IV. NEW PLAYERS, NEW VOICES.

Within the current context of IWC debates, it is promising to

note the consolidation of a new player. In that regard, in Latin America we feel proud of having consolidated a very active regional group which, year after year, has new members that we think can contribute to the dialogue we are all seeking.

Argentina convened three meetings (2005, 2006 and 2007) from which a series of declarations and initiatives arose defining the position of the region and promoting cooperation in cetacean conservation in Latin America. Within this framework, the members of the Buenos Aires Group hope to have a renewed IWC that will establish;

- An efficient dispute settlement mechanism.
- A modern and effective compliance system.
- That IWC activity considers the non lethal use of cetaceans, on equal grounds with other uses of this resource.

Furthermore, at this stage, we support the current commercial whaling moratorium, while relaunching negotiations to achieve an RMS (Revised Management Scheme). Likewise, we believe it is necessary to maintain a ban on the international trade of whale products.

We also understand that the Convention should more decisively approach environmental issues which threaten the different cetacean populations. This approach should not be perceived as alienating since issues such as climate change, marine environment pollution, interaction with mankind's activities, collision of cetaceans with vessels, etc. negatively affect all potential uses of this resource.

From this same standpoint of transforming controversial topics into items on a positive agenda, we should maybe think how new sanctuaries can be implemented and imagine additional mechanisms to geographically protect cetacean populations.

Without prejudice to this regional vision with regard to the organization's future, the Buenos Aires Group is willing to negotiate in

good faith with the different parties each and every one of the controversial items on the IWC agenda.

In this regard, issues such as scientific whaling and small scale coastal whaling should be re—examined in the light of a spirit of commitment and within the framework of a dialogue which will allow us to leave aside the winner/loser rationale which has lately prevailed at IWC, to overcome the *status quo* affecting the organization.