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Commission's Plenary at 10.00 on
Monday 11 July 2011**

Report of the Infractions Sub-committee

ST. HELIER, JERSEY 5 JULY 2011

Terms of reference: The Infractions Sub-committee considers matters and documents relating to the International Observer Scheme and Infractions insofar as they involve monitoring of compliance with the Schedule and penalties for infractions thereof (*Rep. int. Whal. Commn 29: 22*).

1. INTRODUCTORY ITEMS

A list of participants is given in Appendix 1.

1.1 Appointment of Chairman

Lars Walløe (Norway) was elected Chair.

1.2 Appointment of Rapporteur

Cherry Allison (Secretariat) was appointed rapporteur.

1.3 Review of Documents

The following documents were available to the sub-committee.

IWC/63/Inf	1	Revised Draft Agenda
	2	Annotated Draft Agenda
	3	National Legislation Details Supplied to the IWC
	4	Draft Summary of Infraction Reports for 2010 Received by the Commission

2. ADOPTION OF THE AGENDA

The Chair noted that in the past some delegations, including Norway and Japan, had referred to the terms of reference of this Sub-committee and had stated their belief that Item 7.1, covering stockpiles of whale products and trade questions, was outside the scope of the Convention. Iceland concurred with this view. In a spirit of co-operation there was no request for the item to be deleted. The draft agenda was adopted unchanged (Appendix 2).

3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2010

3.1 Reports for 2010

The Sub-committee reviewed IWC/62/Inf 4, the draft summary of infraction reports received by the Commission for 2010, which is given as Appendix 3 to this report.

The UK stressed that the allocation of quotas for humpback whales given to Greenland was an extremely sensitive issue that took a significant period of deliberation by the Commission; the UK is therefore extremely disappointed that Greenland's hunt took place before the award of the quota came into force. Both the UK and Australia noted that all requirements of the Convention should be respected.

3.2 Follow-up on earlier reports

Information on the unresolved infractions from previous seasons are given in Appendix 3, Table 3; these include three infractions by Denmark (Greenland), two by Iceland and eight by Korea.

Denmark (Greenland) observed that investigation of all three of its previous infractions was now complete and penalties had been imposed, despite the difficulties in obtaining evidence, and that this is an indication of Greenland's wish that the hunt be carried out in accordance with IWC regulations.

4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Report submitted by the USA and the Russian Federation stated that 100% of their catches are under direct national inspection. Catches by Denmark (Greenland) are subject to a random check (2%).

Denmark (Greenland) noted that the low percentage of its catch being checked is due to the opportunistic nature of the hunt taking place in an enormous territory. Wildlife officers are responsible for ensuring compliance with regulations. In addition, this summer, a NAMMCO observer will be inspecting the hunt where ever possible.

5. CHECKLIST OF INFORMATION REQUIRED OR REQUESTED UNDER SECTION VI OF THE SCHEDULE

The Checklist was developed as an administrative aid to the Sub-committee in helping it to determine whether obligations under Section VI of the Schedule were being met. It is not compulsory for Contracting Governments to fill in the Checklist although, of course, they do have to fulfil their obligations under this Section of the Schedule.

The available information is summarised below:

Denmark: Information on date, species, length, sex and the length and sex of any foetus if present is collected for between 74-100% of the catch, depending on the item. The position of each whale killed is collected for 62% of the catch and the name of the area where whales are hunted is reported for the remainder. Information on killing methods and struck and lost animals are also collected.

USA: Information on date, time, species, position, length, sex, the length and sex of any foetus if present, killing method and number of struck and lost is collected for 96-100% of the catch. Biological samples are collected from at least 76% of animals.

Russian Federation: Information on date, time, species, position, length, sex, the length and sex of any foetus if present, killing method and numbers struck and lost is collected for 100% of the catch. Biological samples are collected from 43% of animals.

St. Vincent and the Grenadines: Information on date, time, species, length, sex, whether the whale is pregnant and/or lactating and numbers struck and lost is collected for 100% of the catch and has been submitted to the Secretariat.

Norway and Iceland: the required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/63/Rep 1).

The Chairman of the Alaska Eskimo Whaling Commission (AEWC), Mr. Harry Brower gave a brief description of the 2010 hunt. In 2010, 45 bowhead whales were landed, 40 of which were taken using the traditional hand-thrown darting gun harpoon with the traditional shoulder gun used as the secondary killing method. 5 whales were taken using the penthrite projectile. 26 whales were struck and lost, giving an efficiency rate of 63%.

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of national legislation supplied to the Commission is given in Table 1.

The Republic of Korea reported on their new 'Directive on Conservation and Management of Cetacean Resources', the objectives of which are to promote the rational conservation and management of cetacean resources in an efficient and effective manner by establishing compulsory DNA extraction and registration, taking bycatch mitigation measures and issuing a 'Distribution Certificate for Cetacean Products' as well as strengthening monitoring, control and surveillance. The Directive is expected to reduce illegal whaling and hence enable the legitimate distribution of cetacean meat. Korea confirmed that although catching of cetaceans for scientific research may be authorised by the Minister, this currently applies only to small cetaceans.

Denmark (Greenland) stated its intention to submit its most recent regulations¹ updated after last year's meeting concerning the protection and hunting of large whales and on reporting the hunting and strike of large whales, noting that the regulations are available in Greenlandic and Danish only.

7. OTHER MATTERS

7.1 Reports from Contracting Governments on availability, sources and trade in whale products

The Commission has adopted a number of Resolutions inviting Contracting Governments to report on the availability, sources and trade in whale products:

- 1994-7 on international trade in whale meat and products

¹ The regulations were received by the Secretariat on 5 July 2011 after the meeting of the Infractions Sub-Committee.

- 1995-7 on improving mechanisms to prevent illegal trade in whale meat
- 1996-3 on improving mechanisms to restrict trade and prevent illegal trade in whale meat.
- 1997-2 on improved monitoring of whale product stockpiles.
- 1998-8 *inter alia* reaffirmed the need for Contracting Governments to observe fully the above Resolutions addressing trade questions, in particular with regard to the problem of illegal trade in whale products, and urged all governments to provide the information specified in previous resolutions.

No reports were received by the Secretariat on these resolutions and no comments were made during the meeting.

7.2 Other

No other matters were raised.

8. ADOPTION OF REPORT

The report was adopted by correspondence on 8 July 2011.

Table 1
National Legislation details supplied to the IWC¹

Country	Date of most recent material	Country	Date of most recent material
Antigua and Barbuda	None	Kiribati	None
Argentina	2003	Korea, Republic of	2011
Australia	2000	Laos	None
Austria	1998	Lithuania	None
Belgium	2002	Luxembourg	None
Belize	None	Mali	None
Benin	None	Marshall Islands, Republic of	None
Brazil	2008	Mauritania	None
Bulgaria	None	Mexico	2006
Cambodia	None	Monaco	None
Cameroon	None	Mongolia	None
Chile	1983	Morocco	None
China, People's Republic of	1983	Nauru	None
Congo, Republic of	None	Netherlands, The	2002
Costa Rica	None	New Zealand	1992
Cote D'Ivoire	None	Nicaragua	None
Croatia, Republic of	None	Norway	2000
Cyprus	None	Oman	1981
Czech Republic	None	Palau, Republic of	None
Denmark (including Greenland)	2010	Panama	None
Dominica	None	Peru	1984
Dominican Republic	None	Poland	None
Ecuador	None	Portugal	2004
Eritrea	None	Romania	None
Estonia	2008	Russian Federation	1998
Finland	1983	San Marino	None
France	1994	Saint Kitts and Nevis	None
Gabon	None	Saint Lucia	1984
Gambia	None	Saint Vincent and The Grenadines	2003
Germany	1982	Senegal	None
Ghana, Republic of	None	Slovak Republic	None
Greece	None	Slovenia	None
Grenada	None	Solomon Islands	None
Guatemala	None	South Africa	1998
Guinea-Bissau	None	Spain	2008
Guinea, Republic of	None	Suriname	None
Hungary	None	Sweden	2004
Iceland	1985	Switzerland	1986
India	1981	Tanzania	None
Ireland	2000	Togo	None
Israel	None	Tuvalu	None
Italy	None	UK	1996
Japan	2008	Uruguay	2002
Kenya	None	USA	2004

NOTES:

1. Up to 6 July 2011. Dates in the table refer to the date of the material not the date of submission.
2. Member states of the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and UK) are subject also to relevant regulations established by the Commission of the European Union. The date of the most recent EU legislation supplied to the International Whaling Commission is 2005.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iniguez

Australia

Peter Komidar
Pam Eiser
Nick Gales
Stephanie Ierino

Austria

Andrea Nouak
Michael Stachowitsch

Belgium

Els Vermeulen

Chile

Barbara Galletti

Denmark

Ole Samsing
Amalie Jessen
Nette Levermann

Iceland

Asta Einarisdottir
Kristian Loftsson

Japan

Joji Morishita
Shinji Himura
Kayo Ohmagari

Korea

Dae Yeon Moon
Kab-Yong Jeong

Germany

Karl-Hermann Kock

Luxembourg

Pierre Gallego

New Zealand

Andrew Bignell
Louise Chilvers
Karena Lyons
Caroline McDonald

Mexico

Lorenzo Rojas Bracho

Netherlands

Peter Bos

Norway

Ole-David Stenseth
Egil Øen
Lars Walløe
Hild Ynnesdal

South Africa

Herman Oosthuizen
Ed Couzens

Sweden

Bo Fernholm

UK

James Gray
Jennifer Lonsdale
Vassili Papastavrou
Trevor Perfect
David Pritchard
Richard Pullen
Anju Sharda
Mark Simmonds

USA

Harry Brower
Robert Brownell
Ira New Breast
Doug DeMaster
Roger Eckert
Mike Gosliner
Allison Reed
Mike Tillman
Ryan Wulff
Rollie Schmitten

Secretariat

Cherry Allison
Simon Brockington

Appendix 2

AGENDA

1. INTRODUCTORY ITEMS
 - 1.1 Appointment of Chair
 - 1.2 Appointment of Rapporteur
 - 1.3 Review of Documents
2. ADOPTION OF THE AGENDA
3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS
 - 3.1 Reports for 2010
 - 3.2 Follow-up on earlier reports
4. SURVEILLANCE OF WHALING OPERATIONS
5. CHECKLIST OF INFORMATION REQUIRED OR REQUESTED UNDER SECTION VI OF THE SCHEDULE
6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS
7. OTHER MATTERS
 - 7.1 Reports from Contracting Governments on availability, sources and trade in whale products
 - 7.2 Other
8. ADOPTION OF THE REPORT

Appendix 3

SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION FOR 2010

Under the terms of the Convention, each Contracting Government is required to transmit to the Commission full details of each infraction of the provisions of the Convention committed by persons and vessels under the jurisdiction of the Government. Note that although lost whales are traditionally reported, they are not intrinsically infractions.

Catch and associated data for commercial and scientific permit catches were submitted to the IWC Secretariat (IWC/63/Rep 1). Aboriginal subsistence catches and infractions are summarised in tables 1a and 1b.

Table 2 gives details of the infractions reported in the 2010 season and Table 3 gives information on the unresolved infractions from previous years.

Table 1a. Summary of Aboriginal subsistence catches and infractions reported for the 2010 season.

Country	Species	Males	Females	Total landed	Struck and lost	Total Strikes	Infractions/ Comments
Denmark							
West Greenland	Fin	0	4	4	1	5	None
Greenland	Minke	53	122	179 ¹	7	186	2 ²
	Bowhead	0	3	3	0	3	None
	Humpback	3	5	9 ³	0	9	None
East Greenland	Minke	4	2	9 ⁴	0	9	None
St Vincent and The Grenadines							
	Humpback	0	3	3	0	3	None
USA							
	Bowhead	20	23	45 ⁵	26	71	None
Russian Federation							
	Bowhead	2	0	2	0	2	None
	Gray	57	61	118	0	118	None

Table 1b. Summary of Commercial catches and other infractions reported for the 2010 season.

Nation	Species	Males	Females	Total Landed	Lost	Total	Infractions/ Comments
ICELAND							
	Fin	74	68	142	6	148	2 ⁶
	Minke	47	12	59	1	60	None
NORWAY							
	Minke	101	363	466 ⁵	2	468	None
REPUBLIC OF KOREA							
	Minke						11 ⁷
	Bryde's						1 ⁸

¹ Includes 4 animals of unknown sex

² See table 2, infractions 2010.1 and 2010.2

³ Includes 1 animal of unknown sex

⁴ Includes 3 animals of unknown sex

⁵ Includes 2 animals of unknown sex

⁶ See table 2, infractions 2010.3 and 2010.4

⁷ See table 2, infractions 2010.5 - 2010.15

⁸ See table 2, infraction 2010.16

Table 2. List of infractions from the 2010 season.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/Action	Investigatn. complete?
20010.1	Greenland /Denmark	Minke	Male	5 m	5 Aug 10	Use of cold harpoon	Paamiut (West Greenland). A cold harpoon was used as secondary killing method.	Reported to the police. Investigation ongoing.	Expected in 2011
20010.2	Greenland /Denmark	Minke	Unk	Unk	Sep. 10	Waste of meat	Kullorsuaq (West Greenland). Only part of the meat was removed for consumption.	Case given up by the police, since further investigation was expected not to result in any prosecution.	Case suspended
20010.3	Iceland	Fin	Fem.	66 feet English	30 Jun 10	Lactating.	64°18' N and 26°48' W. No calf was seen.		In progress
20010.4	Iceland	Fin	Fem.	65 feet English	12 Sep 10	Lactating.	63°59' N and 27°16' W. No calf was seen.		In progress
20010.5	Korea	Minke whale	Unk.	Unk.	16 Jan 10	Illegal catch	An illegally caught and dismembered minke whale was found on board a floating boat in coastal waters around 1 mile from Odo village in Northern Gyeongsang province.	1 violator: 6 months imprisonment and 2 years probation The meat was confiscated	Yes
20010.6	Korea	Minke whale	Unk.	Unk.	17 Jan 10	Transporting an illegally caught whale	86 bags of dismembered minke whale were found on board a boat attached to an SUV in the Northern district of Pohang city in Northern Gyeongsang province.	1 violator: 6 months imprisonment, 2 years probation and 160 hours community service The meat was confiscated	Yes
2010.7 and 8	Korea	2 minke whales	Unk.	Unk.	25 Apr 10	Illegal catch	A vessel was found with 81 bags of illegally caught and dismembered minke whales transhipped from an unknown vessel at sea 15 miles east of Wolpo in Northern Gyeongsang province. The crew was arrested.	1 violator: 8 months imprisonment 1 violator: fined KRW 5m (~USD 5,000) The meat was confiscated	Yes
2010.9	Korea	Minke whale	Unk.	Unk.	4 May 10	Transporting an illegally caught whale	An SUV was stopped at a checkpoint in Uljin county in Northern Gyeongsang province and found to be carrying 77 bags of illegally caught and dismembered minke whale. The driver was arrested.	2 violators: fined KRW 5m (~USD 5,000) The meat was confiscated	Yes
2010.10	Korea	Minke whale	Unk.	Unk.	5 Jun 10	Illegal catch	A leisure boat left a port in Pohang, Northern Gyeongsang province and received 60 bags of illegally caught and dismembered minke whale from an unknown vessel. The violator was arrested.	1 violator: 6 months imprisonment and 2 years probation The meat was confiscated	Yes
2010.11	Korea	Minke whale	Unk.	Unk.	6 Jun 10	Taking of dead, entangled whale without authorization	A vessel found a drifting whale in coastal waters near Dokdo island in the East Sea of Korea whilst fishing for squid and tied it to the stern. Later, investigators found six harpoon wounds on the whale's body, indicating that the catch might have been intentional.	The investigation was closed. The meat was confiscated.	Yes

Table 2 continued

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/Action	Investigatn. complete?
2010.12	Korea	Minke whale	Unk.	Unk.	18 Jun 10	Taking of dead, entangled whale without authorization	Crew members found a whale in their fish pot with its tail entangled with a harpoon handle during the hauling operation in coastal waters 5 miles east of Daebo Port, Pohang in Northern Gyeongsang province.	The investigation was closed. The meat was confiscated.	Yes
2010.13	Korea	Minke whale	Unk.	Unk.	18 Aug 10	Illegal catch	Three vessels were chased and arrested by the maritime police for illegally catching a minke whale in coastal waters 12 miles east from Gangu, Youngdeok in Northern Gyeongsang province.	8 violators: 10 months imprisonment and 2 years probation 4 violators: 6 months imprisonment and 2 years probation 1 violator: fined KRW 3m (~USD 3,000) The meat was confiscated.	Yes
2010.14	Korea	Minke whale	Unk.	Unk.	23 Aug 10	Illegal catch	Crew members were caught discarding some bags when a patrol vessel approached a vessel in coastal waters 5 miles southeast of Jukbyun, Northern Gyeongsang province. A detailed inspection was conducted and bags of illegally caught and dismembered minke whale were found in the well of the vessel. The crew members were arrested.	The investigation is still ongoing. The meat was confiscated.	Not yet
2010.15	Korea	Minke whale	Unk.	Unk.	5 Jun 10	Illegal catch, transport and possession	The crew of a vessel illegally caught a minke whale in coastal waters 16 miles southeast of the Eastern District of Ulsan in Northern Gyeongsang province, dismembered it on board putting the pieces in 93 bags (1kg each) and transhipped them to an unregistered boat at sea to sell to an unknown buyer.	2 violators: 6 months imprisonment and 2 years probation The meat was confiscated	Yes
2010.16	Korea	Bryde's whale	Unk.	approx. 10 m	26 Jul 10	Illegal catch, transport and storage	The crew of a vessel illegally caught a Bryde's whale in coastal waters 10 miles from the Southern District of Ulsan in Northern Gyeongsang province, and dismembered it on board. The pieces were put into 220 pre-prepared bags (60cmX50cm), hidden in two wells on the vessel and transported to Jangsangpo port of Ulsan in order to sell the meat (1720 kg in total, worth KRW 70m (~USD 70,000)).	1 violator: 10 months imprisonment and 2 years probation 1 violator: 1 year imprisonment and 2 years probation	Yes

Table 3. List of unresolved infractions from previous seasons and follow-up actions

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/Action	Investigatn complete?
2006.4	Greenland /Denmark	Sei	Unk.	Unk.	21 Aug 06	Prohibited species	A sei whale was taken at Uummannaq (Northwest Greenland) by hunters licensed to catch a minke whale	Reported to the police. Investigation resulted in monetary penalties.	Yes
2008.1	Greenland /Denmark	Minke	Unk	4 m	Nov 2008	Illegal rifle hunt	Reported catch after the allocated quota had been taken in Qasigiannuit (West Greenland). The catch was left on a beach after it was reported as an illegal catch. Participating hunters are known.	Reported to the police. Investigation resulted in monetary penalties.	Yes
2009.1	Greenland /Denmark	Fin	Fem.	24.5 m	15 Jul 09	Waste of meat	Iulissat (West Greenland). Only part of the meat was removed for consumption.	Reported to the police. Investigation resulted in monetary penalties.	Yes
2009.7	Iceland	Minke	Male	7.98 m.	10 Aug 09	Grenade	Hvalgranad 99" not used. 64°19' N and 22°41' W	Case given up by the police, as further investigation was not expected to result in prosecution.	Case suspended
2009.13	Korea	Minke whale	Unk.	Unk.	28 Aug 09	No Quota	A minke whale was caught with a harpoon in coastal waters near Yeongdeok-gun GyeongBuk.	5 violators (inc. 2 reported in 2010): 6 months imprisonment and 2 years probation	Yes
2009.15	Korea	Minke whale	Unk.	Unk.	12 Sep 09	No Quota	A truck with 80 bags of meat from a minke whale caught by an unidentified person was delivered on the street of Pohang GyeongBuk.	2 violators (inc. 2 reported in 2010): 8 months imprisonment and 2 years probation.	Yes
2009.16	Korea	Minke whale	Unk.	Unk.	25 Sep 09	No Quota	94 bags of meat from an unidentified person were delivered on the street of Pohang GyeongBuk.	1 violator: 8 months imprisonment and 2 years probation 2 violators: 6 months imprisonment and 2 years probation The meat was confiscated	Yes
2009.17	Korea	Minke whale	Unk.	Unk.	20 Nov 09	No Quota	An unidentified vessel with 34 bags of meat approached Pohang Port GyeongBuk where the bags were loaded onto a truck	1 violator: fined KRW 3m (~USD 3,000) The meat was confiscated	Yes
2009.18	Korea	Minke whale	Unk.	4.5m	22 Nov 09	No Quota	A minke whale was caught with a harpoon in the coastal waters of Uljin GyeongBuk.	2 violators: fined KRW 5m (~USD 5,000) 1 violator: fined KRW 3m (~USD 3,000) 1 violator: 8 months of imprisonment	Yes
2009.19	Korea	Minke whale	Unk.	Unk.	23 Nov 09	No Quota	A minke whale was caught with a harpoon in coastal waters near Yeongdeok-gun GyeongBuk, cut up and the meat taken on board a boat	As of 2011, the case is still being tried in court.	In progress
2009.20	Korea	Minke whale	Unk.	Unk.	02 Dec 09	No Quota	58 bags of meat which had been cut up on an identified vessel 20 miles from Pohang GyeongBuk, were loaded onto another boat for delivery to the nearby shore.	2 violators: 6 months imprisonment and 2 years probation The meat was confiscated.	Yes

2009.21	Korea	Minke whale	Unk.	Unk.	02 Dec 09	No Quota	167 bags of meat from 2 minke whales caught by an unidentified vessel in the coastal waters of the East Sea, were taken by truck to a port in Uljin GyeongBuk.	The charges were dropped (non-indictment).	Yes
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