

Annex G

Report of the Infractions Sub-Committee

Thursday 24 May 2007, Anchorage, Alaska

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 Chair

Bruno Mainini (Switzerland) 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/59/Inf

- 1 Revised Draft Agenda
- 2 Annotated Draft Agenda
- 3 National Legislation Details Supplied to the IWC
- 4 Draft summary of Infraction Reports received by the Commission in 2006

IWC/59/ASW

- 8rev White paper on hunting of large whales in Greenland

2. ADOPTION OF THE AGENDA

The Chair noted that in the past some delegations, including Norway, Japan and Iceland, 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. Japan continued to hold this opinion but in a spirit of co-operation it did not request the item be deleted. Norway and Iceland agreed. The draft agenda was adopted unchanged (see Appendix 2).

3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2006

Last year at IWC/58, the Sub-committee adopted a revised form for reporting infractions, including reporting details of any infractions committed in previous years that remain unresolved. This revised form was circulated to Contracting Governments by the Secretariat. While use of the form is not compulsory, Contracting Governments do have to fulfil their reporting obligations under Article IX.4 of the Convention.

3.1 Reports for 2006

The Secretariat introduced IWC/59/Inf3, the draft summary of infraction reports received by the Commission in 2006, which is given as Appendix 3 to this report.

The USA reported on its aboriginal catch in 2006. Information from the Alaskan Eskimo Whaling Commission showed 31 bowhead whales had been landed, including a calf taken accidentally that was reported as an infraction as detailed in table 2 of IWC/59/Inf3. In addition, a stranded humpback whale had been taken in Kotlik village and the matter is under investigation. The Makah did not take any gray whales in 2006 but had begun the application for the domestic legal permission required before they can begin hunting.

3.2 Follow-up on earlier reports

The Secretariat introduced table 3 of IWC/59/Inf3, the draft summary of additional information on infraction reports received by the Commission in previous years, which is given as Appendix 3 to this report.

Norway commented on the difference between the case of terrestrial mammals in which young animals are targeted for harvest, rather than mature animals which are reproducing, in comparison with whaling in which large animals are targeted and calves protected.

New Zealand expressed its appreciation to Denmark and the Greenland Home Rule Government for the detailed information it had provided and noted the four infractions for which investigation is ongoing. It further noted the 2005 case which was closed due to lack of information. In answer to a question Denmark confirmed that there had not been any convictions in cases of this sort in the past three or four years and that it is continuing to follow up all reported incidents.

Austria was pleased to learn that all the reports of infractions and aboriginal catches this year had been made using the revised forms which were introduced last year following a suggestion by Austria. It noted that all infractions from the previous two seasons had been resolved but that there may be some infractions from earlier years which remain open. Austria suggested that these be considered next year.

4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Reports submitted by the USA, the Russian Federation and St. Vincent and The Grenadines stated that 100% of their catches are under direct national inspection. Denmark (Greenland) stated that 2% of their catch was inspected under an international programme (by an observer from NAMMCO) and in addition their catches are subjected to a random check. Denmark (Greenland) reports on monitoring in IWC/59/ASW8rev (pp.12-15).

The UK was encouraged by the rate of inspection but questioned whether Denmark had plans to increase the inspection rate of the Greenlandic hunt. Denmark responded that it is part of NAMMCO and is subject to

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	Luxembourg	None
Argentina	2003	Mali	None
Australia	2000	Marshall Islands, Republic of	None
Austria	1998	Mauritania	None
Belgium	2002	Mexico	2006
Belize	None	Monaco	None
Benin	None	Mongolia	None
Brazil	1987	Morocco	None
Cambodia	None	Nauru	None
Cameroon	None	Netherlands, The	2002
Chile	1983	New Zealand	1992
China, People's Republic of	1983	Nicaragua	None
Costa Rica	None	Norway	2000
Cote D'Ivoire	None	Oman	1981
Croatia, Republic of	None	Palau, Republic of	None
Cyprus	None	Panama	None
Czech Republic	None	Peru	1984
Denmark (including Greenland)	1998	Portugal	2004
Dominica	None	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
Grenada	None	Slovak Republic	None
Guatemala	None	Slovenia	None
Guinea	None	Solomon Islands	None
Hungary	None	South Africa	1998
Iceland	1985	Spain	1987
India	1981	Suriname	None
Ireland	2000	Sweden	2004
Israel	None	Switzerland	1986
Italy	None	Togo	None
Japan	2004	Tuvalu	None
Kenya	None	UK	1996
Kiribati	None	USA	2004
Korea, Republic of	1996		

¹Up to the beginning of May 2007. Dates in the Table refer to the date of the material not the date of submission. Countries which have recently joined the IWC are not included in the above Table as they have not yet had an opportunity to submit legislation. ²Member states of the European Union are subject also to relevant regulations established by the European Commission. The date of the most recent EU legislation supplied to the International Whaling Commission is 2004.

their inspection scheme. In addition, 8 full time wildlife officers and 12 assistants are employed to carry out random inspections. There are no plans to increase control in this respect.

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

This 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 80-100% of the catch, depending on the item. The position of each whale killed is collected for 59% of the catch and the name of the area where whales are hunted is reported for most of the remainder. Information on killing methods and struck and lost animals are also collected.

USA: Information on date, species, position, length, sex, the length and sex of any foetus if present, killing method and number of struck and lost is collected for 100% of the

catch. Biological samples are collected for about 67% 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.

St. Vincent and The Grenadines: Information on date, time, species, position, length and sex is collected for 100% of the catch. Biological samples are also collected.

Norway and Iceland: the required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/59/Rep1).

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of national legislation supplied to the Commission is given in Table 1. New information had been provided in the past year by Japan.

Denmark reported that revised legislation on whale hunting in Greenland was introduced in 2005. The new regulations are only available in Greenlandic and Danish but Denmark will be happy to supply a copy to the Secretariat.

Australia noted that amendments to the Australian Environment Protection and Biodiversity Conservation Act

were enacted in February 2007 to implement new arrangements for permitting of activities interacting with cetaceans in the Australian whale sanctuary. Other amendments have been introduced relating to CITES provisions for export and import of cetacean products. Australia will now implement stricter domestic measures and deal with all cetaceans as though they were listed on Appendix I. Some minor changes in definitions and wording have been introduced to clarify terminology for legal purposes. Australia will provide the required documentation to the Secretariat.

Following a question from New Zealand, Japan clarified that the legislation it had provided was not new and had been previously discussed by this Sub-committee. In 2001 a general prohibition on catching of whales was instituted, closing a legal loophole; prior to this date it had been illegal to catch whales using whaling equipment. The 2001 ordinance also specified how to handle whales by-caught in set nets and DNA testing was introduced at that time. In 2004 similar conditions were applied to stranded or drifted whales.

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
- 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 post' at 10am on 26 May 2007.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Donna Petrachenko
Pam Eiser

Austria

Andrea Nouak
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Belgium

Koen Van Waerebeek

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New Zealand

Geoffrey Palmer
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Portugal

Marina Sequeira

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Alyona Selhay (I)
Svetlana Burton (I)

Saint Vincent and The Grenadines

Raymond Ryan

Spain

Carmen Asencio

Sweden

Bo Fernholm

Switzerland

Bruno Mainini (Chair)

UK

Richard Cowan

USA

Bill Hogarth

Doug DeMaster

Cheri McCarty

Roger Eckert

Emily Lindow

Shannon Dionne

Robert Brownell

John Field

Rollie Schmitt

Michael Tillman

Heather Rockwell

Micah McCarty

Keith Johnson

John Arum

Brian Gruber

Anne Renker

Stanley Speaks

Harry Brower

Edward Itta

George Noongwook

Merlin Koonooka

Raymond Hawley

Eugene Brower

Secretariat

Cherry Allison (rapporteur)

Greg Donovan

Appendix 2**AGENDA**

1. Introductory items
 - 1.1 Appointment of Chair
 - 1.2 Appointment of rapporteur
 - 1.3 Review of documents
2. Adoption of Agenda
3. Infractions reports from Contracting Governments
 - 3.1 Reports for 2006
 - 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 IN 2006**

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.

Scientific permit catches were reported to the Scientific Committee (IWC/59/Rep1). Catch and associated data for commercial and scientific permit catches were submitted to the IWC Secretariat (IWC/59/Rep1). Norway and Iceland reported no infractions from their commercial whaling operations. Aboriginal subsistence catches and infractions are summarised in Table 1.

Table 2 gives details of the infractions reported in the 2006 season and Table 3 gives details of follow up action on infractions from previous seasons.

Table 1

Summary of aboriginal subsistence catches and infractions reported for the 2006 season.

Country	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/comments
Denmark							
West Greenland	Fin	2	6	9 ¹	1 ²	10	1 ²
	Minke	43	128	175 ³	6	181	None
	Humpback						1 ⁴
East Greenland	Sei			1			1 ⁵
	Fin						1 ⁶
	Minke	2	0	2	1	3	None
St Vincent and The Grenadines							
	Humpback	0	1	1	0	1	None
USA							
	Bowhead	21	10	31	8	39	1 ⁷
Russian Federation							
	Gray	55	74	129	5	134	None
Republic of Korea							
	Minke			2			2 ⁸

¹Includes 1 animal of unknown sex. ²See Table 2, infraction 2006.1. ³Includes 4 animals of unknown sex. ⁴See Table 2, infraction 2006.3. ⁵See Table 2, infraction 2006.4. ⁶See Table 2, infraction 2006.2. ⁷See Table 2, infraction 2006.5. ⁸See Table 2 infractions 2006.6 and 2006.7.

Table 2

List of infractions from the 2006 season.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Investigation complete?
2006.1	Greenland/Denmark	Fin	Unk.	Unk.	Aug. 2006	Hunting method, failure to report, waste of meat	Reported on August 22, Qasigianniguit (Disko Bay). Skiffs were observed using rifle shots to assist a boat equipped with harpoon cannon. Probably the same whale was found dead later, with only part of the meat removed for consumption.	Reported to the police. Investigation ongoing.	No. Expected in 2007
2006.2	Greenland/Denmark	Fin	Unk.	Unk.	23 Aug 2006	Prohibited stock	A fin whale with bullet wounds was observed at Kulusuk (East Greenland). Fate unknown.	Reported to the police. Investigation ongoing.	No. Completion unlikely
2006.3	Greenland/Denmark	Hump-back	Unk.	Unk.	14 Sept 2006	Prohibited species	A humpback whale with bullet wounds was observed at Niaqornaarsuk (Southwest Greenland). Fate unknown.	Reported to the police. Investigation ongoing.	No. Completion unlikely
2006.4	Greenland/Denmark	Sei	Unk.	Unk.	21 Aug 2006	Prohibited species	A sei whale was taken by hunters licensed to catch a minke whale at Ummannaq (Northwest Greenland)	Reported to the police. Investigation ongoing.	No. Expected in 2007
2006.5	USA	Bow-head	Unk.	Unk.	29 Sep 2006	Calf was struck and killed.	A small (6.3m) whale was landed at Barrow on 29 Sept. 2006. After examination of the very short baleen (characteristic of a calf) and stomach contents (contained milk), it was determined that the whale was a calf.	The AEWIC held a hearing during December 2006 and summoned all the whaling crews that had been involved in the harvest or towing of the whale to testify. The AEWIC determined that the calf was accidentally harvested. The mother was not in the vicinity when the calf was struck. No penalty.	Yes
2006.6	Korea	Minke	Unk.	5m	1 May 2006	No quota	Whale caught on 26 April 2006 by two fishing vessels with a permits for coastal gillnet and pot fisheries with a harpoon at about 20 miles off Ulsan, Ulju Dongbang. It was cut into 55 pieces on the vessel and covertly conveyed to land.	Administrative sanction: The meat and money (about US\$24,000) from it were confiscated. The licenses of the fishing vessels were revoked for one year. Judicial sanction: Six persons were involved in the violation; two were fined about US\$10,000 and US\$7,000 respectively; two were sentenced to 4 months in jail with probation for 2 years, one was sentenced to 6 months in jail with probation for 2 years; and the last one's prosecution was suspended.	Yes
2006.7	Korea	Minke	Unk.	5m	11 Aug 2006	No quota	Whale caught on 31 July 2006 by a fishing vessel with a permit for coastal gillnet at about 10 miles off Ulsan, Bangeojin Dongbang. It was cut into 50 pieces on the vessel, and covertly conveyed to land.	Administrative sanction: The meat and money (about US\$8,600) from it were confiscated. The license of the coastal gillnet fishery was suspended for 20 days of fishing operation. Judicial sanction: Five persons were involved in the violation; two were sentenced to 6 months in jail with probation for 2 years; two were sentenced to 4 months in jail with probation for 2 years; and the last one was fined about US\$1,000.	Yes

Table 3

List of unresolved infractions from the 2005 season and follow-up actions.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Investigation complete?
2005.1	Greenland/ Denmark	Fin	?	?	Sept. 2005	Unreported struck and lost whale	A dead whale was seen near Maniitsoq (West Greenland) with a harpoon embedded in its flank.	Case under investigation.	No. Expected in 2007
2005.2	Greenland/ Denmark	Minke	?	?	8 July 2005	Use of illegal bullet size	Bullets smaller than the minimum calibre allowed were found in meat bought in the open market in Nuuk (West Greenland).	Case closed due to lack of paths for further investigation.	Yes: closed 13/09/2006
