

Annex J

Report of the Infractions Sub-Committee

Tuesday, 17 June 2008, Santiago, Chile

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/60/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 2007

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 and Norway continued to hold this opinion but in a spirit of co-operation it did not request the item be deleted. The draft Agenda was adopted unchanged (Appendix 2).

3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2007

3.1 Reports for 2007

The Sub-Committee reviewed IWC/60/Inf3 (draft summary of infraction reports received by the Commission for 2007). A revised version is given as Appendix 3 to this report.

The USA reported on its aboriginal catch in 2007. Information from the Alaskan Eskimo Whaling Commission showed 41 bowhead whales had been landed with 22 struck and lost giving a total of 63 strikes. A small whale concluded to be a calf had been taken accidentally and was reported as an infraction as detailed in table 2 of Appendix 3. The animal had been swimming alone and the crew were unable to precisely determine the body length or baleen length while the whale was swimming. No penalty was levied. In addition the USA reported on the

unauthorised take of a gray whale by five members of the Makah tribe, in consequence of which the five hunters are awaiting sentence.

The Chair commented on the high number of struck and lost bowhead whales this year and asked if any measures were being introduced to improve the situation in the future. The USA explained that while hunters are working to improve the efficiency of the hunt, weather and ice conditions play a significant role in the hunt efficiency and that better observation of the conditions should help this issue.

In response to a question from Japan, the USA clarified that, although the take of a gray whale is an illegal act under its domestic laws, the catch limit for eastern North Pacific gray whales had not been exceeded and hence the gray whale caught by the Makah was not an infraction.

No infractions were reported by Denmark (Greenland) or St. Vincent and The Grenadines or the Russian Federation this year. The Russian Federation requested that the two stinky gray whales included in their harvest be annotated as such in Appendix 3.

The Republic of Korea reported on the cases of 14 minke whales caught illegally in 2007, noting that commercial whaling has been banned in Korea since 1986. The punishments for these offences include imprisonment for up to 3 years, fines of up to 20 million Korean won (equivalent to about US\$20,000), cancellation of fishing licences and prohibition from selling the meat.

3.2 Follow-up on earlier reports

The USA reported on the completion of the investigation of a stranded humpback whale taken in Kotlik village in October 2006 that had been reported last year. The hunter was sent a warning letter.

There was no new information on the five unresolved infractions by Greenland (numbers 2005.1, 2006.1, .2, .3 and .4), the investigations of which remain open.

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 their catches were subjected to a random check.

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 71-100% of the catch, depending on the item. The position of each whale killed is collected for 69% 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, 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 98-100% of the catch. Biological samples are collected for about 80% 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, sex, whether the whale is pregnant and/or lactating and numbers struck and lost is collected for 100% of the catch.

Norway and Iceland: The required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/60/Rep1).

6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of National Legislation supplied to the Commission is given in Table 1.

Denmark noted that their newest regulations (dated 2005) had been supplied to the Secretariat in July 2007 but are only available in Greenlandic and Danish.

Table 1
National Legislation details supplied to the IWC.¹

Country	Date of most recent material	Country	Date of most recent material
Antigua and Barbuda	None	Korea, Republic of	1996
Argentina	2003	Laos	None
Australia	2000	Luxembourg	None
Austria	1998	Mali	None
Belgium	2002	Marshall Islands, Republic of	None
Belize	None	Mauritania	None
Benin	None	Mexico	2006
Brazil	1987	Monaco	None
Cambodia	None	Mongolia	None
Cameroon	None	Morocco	None
Chile	1983	Nauru	None
China, People's Republic of	1983	Netherlands, The	2002
Congo, Republic of	None	New Zealand	1992
Costa Rica	None	Nicaragua	None
Cote D'Ivoire	None	Norway	2000
Croatia, Republic of	None	Oman	1981
Cyprus	None	Palau, Republic of	None
Czech Republic	None	Panama	None
Denmark (including Greenland)	2005	Peru	1984
Dominica	None	Portugal	2004
Ecuador	None	Romania	None
Finland	1983	Russian Federation	1998
France	1994	San Marino	None
Gabon	None	Saint Kitts and Nevis	None
Gambia	None	Saint Lucia	1984
Germany	1982	Saint Vincent and The Grenadines	2003
Greece	None	Senegal	None
Grenada	None	Slovak Republic	None
Guatemala	None	Slovenia	None
Guinea-Bissau	None	Solomon Islands	None
Guinea, Republic of	None	South Africa	1998
Hungary	None	Spain	1987
Iceland	1985	Suriname	None
India	1981	Sweden	2004
Ireland	2000	Switzerland	1986
Israel	None	Togo	None
Italy	None	Tuvalu	None
Japan	2004	Uruguay	None
Kenya	None	UK	1996
Kiribati	None	USA	2004

¹Up to the end of May 2008. Dates in the table refer to the date of the material not the date of submission. ²Member states of the European Union 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 2004.

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; and

- 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 10:00 on 20 June 2008.

Appendix 1

LIST OF PARTICIPANTS

Argentina

Miguel Iñiguez

Australia

Pam Eiser
Andrew McNee
Milena Rafic

Austria

Andrea Nouak
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Belgium

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Maaïke Moolhuijsen

New Zealand

Geoffrey Palmer
Michael Donoghue

Norway

Halvard Johansen
Egil Øen
Hild Ynnesdal

Russian Federation

Valentin Ilyashenko
Rudolf Borodin
Vladimir Etylin

Olga Ipatova
Alexey Ottoy
John Tichotsky

St. Vincent and The Grenadines

Raymond Ryan

South Africa

Herman Oosthuizen

Switzerland

Bruno Mainini (Chair)

UK

Richard Cowan
Claire Bass
Jenny Lonsdale
Trevor Perfect
Luke Warwick

USA

Doug DeMaster
Harry Brower
Roger Eckert
Terra Lederhouse
Cheri McCarty
Heather Rockwell
Rollie Schmitt
Michael Tillman
Ryan Wulff

Secretariat

Cherry Allison (rapporteur)

Appendix 2**AGENDA**

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| <ol style="list-style-type: none"> 1. Introductory items <ol style="list-style-type: none"> 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 <ol style="list-style-type: none"> 3.1 Reports for 2007 3.2 Follow-up on earlier reports 4. Surveillance of whaling operations | <ol style="list-style-type: none"> 5. Checklist of information required or requested under Section VI of the Schedule 6. Submission of National Laws and Regulations 7. Other matters <ol style="list-style-type: none"> 7.1 Reports from Contracting Governments on availability, sources and trade in whale products 7.2 Other 8. Adoption of the Report |
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Appendix 3**SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION IN 2007**

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/60/Rep1). Norway took 597 minke whales (including 5 lost) in her commercial whaling operations and reported no infractions. Iceland took 6 minke whales in her commercial whaling operations. Aboriginal subsistence catches and infractions are summarised in Table 1.

Table 2 gives details of the infractions reported in the 2007 season. There was no new information on the five unresolved infractions by Greenland (numbers 2005.1, 2006.1, .2, .3 and .4), and the investigations remain open.

Table 1
Summary of Aboriginal subsistence catches and infractions reported for the 2007 season.

Country	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/comments
Denmark							
West Greenland	Fin	6	4	10	2	12	None
	Minke	38	121	161 ¹	6	167	None
East Greenland	Minke	0	1	2 ²	0	2	None
St. Vincent and The Grenadines							
	Humpback	0	1	1	0	1	None
USA							
	Bowhead	17	24	41	22	63	1 ³
	Gray	0	0	0	1 ²	1	0
Russian Federation							
	Gray	48	78	126	5 ⁵	131	None
Republic of Korea							
	Minke	-	-	-	-	-	14 ⁴

¹Includes 2 animals of unknown sex. ²Includes 1 animal of unknown sex. ³See Table 2, infraction 2007.1. ⁴See Table 2 infractions 2007.2-2007.10.

⁵Includes 2 stinky whales (females) + 3 struck and lost.

Table 2
List of infractions from the 2007 season.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Investigation complete?
2007.1	USA	Bow-head	-	6.1m	9 Oct. 2007	Calf	A small whale was landed at Barrow on 9 October. Biologists examined the animal and concluded it was a calf based on: the animals body length (6.1m); very short baleen (29cm); gray colour; sloughing skin (all characteristic of a calf); although no milk was found in the stomach.	The Alaska Eskimo Whaling Commission held a hearing in December 2007 and summoned all the whaling crews that had been involved in the harvest or towing of the whale. After listening to testimony, the AEWK Executive Board determined that the crew accidentally harvested the calf because the animal was swimming alone (i.e. no large whale was in the vicinity when the calf was struck) and the crew was not able to precisely determine the body length or baleen length while the whale was swimming. No penalty was levied.	Yes
2007.2	Korea	Minke	-	7m	26 Mar. 2007	No quota	Whale was caught by a fishing vessel with a harpoon and transported. The take was done covertly at about 20 miles off Dong-gu, in Ulsan, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 1 year of imprisonment and 2 years probation; • 10 months of imprisonment and 2 years probation; • 8 months of imprisonment and 2 years probation; • 6 months of imprisonment and 2 years probation; • fine US\$2,000. 	Yes
2007.3	Korea	Minke	-	5m	8 Apr. 2007	No quota	Whale was caught on 8 April by a fishing vessel. The take was done covertly at about 8 miles off Haeundaegu, in Busan, with a harpoon.	<ul style="list-style-type: none"> • 1 year of imprisonment and 2 years probation; • 10 months of imprisonment and 2 years probation; • 8 months of imprisonment and 2 years probation. 	Yes
2007.4	Korea	Minke	-	4m	27 Apr. 2007	No quota	Whale was caught on 27 April by fishing vessels. The take was done covertly at about 100 miles off Jangsaengpo, in Ulsan, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 8 months imprisonment and 2 years probation; • 3 violators were fined US\$5,000. 	Yes
2007.5	Korea	2 Minke	-	5m 6m	11 May 2007	No quota	Whales were caught on 11 May by fishing vessels. The take was covertly done in waters neighbouring Gyeongsangbuk-Do, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 6 months of imprisonment and 2 years probation; • 8 months of imprisonment and 2 years probation; • 2 violators were imprisoned for 1 year; • 1 violator was fined US\$5,000; 2 were fined US\$7,000 and 1 was fined US\$10,000. 	Yes
2007.6	Korea	4 Minke	-	4m 5m 6m	20 May 2007	No quota	Whales were caught on 20 May by fishing vessels at about 9 miles off Chung Hamyun, Pohang-Si.	<ul style="list-style-type: none"> • 18 months of imprisonment and 3 years probation. 	Yes
2007.7	Korea	Minke	-	7m	1 Jun. 2007	No quota	Whale was caught on 1 June by a fishing vessel. The take was done covertly at about 12 miles off Young-Duck Gun, Gyeongsangbuk-Do.	<ul style="list-style-type: none"> • 18 months imprisonment and 3 years probation; • fined US\$3,000. 	Yes
2007.8	Korea	Minke	-	5.5m	23 Jun. 2007	No quota	Whale caught on 23 June by fishing vessels 2 miles off Pohang-Si, cut into pieces on the vessel, and covertly conveyed to land.	<ul style="list-style-type: none"> • 16 months imprisonment and 3 years probation. 	Yes
2007.9	Korea	2 Minke	-	5.5m 6m	26 Jun. 2007	No quota	Whales were taken on 26 June by fishing vessels but not reported. They were covertly conveyed to land.	<ul style="list-style-type: none"> • 6 months imprisonment and 3 years probation; • fined US\$2,000. 	Yes
2007.10	Korea	Minke	-	7m	19 Dec. 2007	No quota	Whale was caught on 19 December by fishing vessels. The take was done covertly at about 13 miles off Uljin Gyungsangbuk-Do and conveyed to land.	<ul style="list-style-type: none"> • 18 months imprisonment and 2 years probation; • fined US\$5,000. 	Yes