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# 2005: IWC57 in South Korea

JUNE 20, 2005 - DAY 1

Susan Tomiak and Tom Garrett are attending the 57<sup>th</sup> meeting of the International Whaling Commission (IWC) meeting in Ulsan, South Korea. The rumors ahead of the opening day revolved around whether the pro-whaling nations would have sufficient votes to have a simple majority at the start of the meeting making the tension palpable. At IWC meetings, everything depends on whether countries will show up, whether they will pay their dues, and whether they have filed the necessary paperwork to get accredited.

Opening day started with a welcome from the hosts, South Korea, followed by opening statements from new member countries including Kiribati, the Czech and Slovak Republics and Luxemburg. The crucial report on voting rights from the IWC Secretariat then followed. It transpired that Belize, Costa Rica, The Gambia, Kenya, Nauru, Peru and Togo all had their voting rights suspended due to inadequate credentials. Mali and India were no-shows. This led the anti-whaling nations to breathe a small sigh of relief.

A discussion over the striking from the agenda of certain items then ensued prompted by Japan who proposed, as usual that the following agenda items be struck: Whale Killing Methods and Associated Issues, Sanctuaries, Small Cetaceans, Whale watching, and the Conservation Committee. After considerable back and forth and a vote to decide the validity of the striking of Sanctuaries which Japan lost, the issue finally went to a vote, thus giving observers the first indication of the state of play. The result - a vote against Japan, gave the anti-whaling nations more reason to feel hopeful. The same followed for a vote on secret ballots - a contentious issue because of the alleged vote buying by Japan that is prevalent nowadays at IWC meetings.

Thus the first critical issues were decided in favor of the anti-whaling nations. Yet the sighs of relief might not last - there is still time for unaccredited countries to participate and to have a vote. Rumors are rife that more pro-whaling nations are on their way.

The rest of the day passed according to the agenda with a discussion of the status of different world whale populations, termed 'stocks' by IWC. Considerable attention was given once again to the Western Gray Whale population and its precarious hold on survival against huge odds, worsened by the threat from oil and gas exploration and extraction as reported in our AWI Quarterly Summer 2004 Volume 53 Number 3.

The final agenda item of the day was Whale Killing Methods and Associated Welfare Issues with a summary of the recent working group meeting. Japan made it clear that while it believes that whale killing methods has no place in IWC, it participates and provides data on a purely voluntary basis. The outcome of the working group was a call from the UK for the creation of another working group or workshop on the subject of whale killing methods to meet before or at next year's IWC meeting. The USA welcomed such workshop and also urged that a session be devoted to aboriginal

subsistence whalers including those from the USA, the Russian Federation and St. Vincent and the Grenadines to discuss whale killing methods and in particular time to death. This proposal was supported by several countries including Sweden, and Switzerland.

The meeting adjourned and was followed by a reception hosted by the government of Korea.

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## **JUNE 21, 2005 - DAY 2**

The day opened with an attempt to return to left over items from the previous day. Almost immediately an intervention was announced by St. Lucia who called for a private commissioner's meeting. A long debate ensued with countries demanding to know the subject of the private commissioner's meeting and calls for transparency by Australia and a request that the Chair deny St. Lucia's request. The Chair disagreed and eventually the argument came to a head with a vote. Several countries, including the United States abstained and the vote on the Chair's denial was successful. The United States explained that while the subject of the private commissioner's meeting should have been disclosed, it had abstained because it believed in the rules of the Commission and that any country had a right to call for a private commissioner's meeting. Thus the proceedings were halted for about an hour and a half. We surmise that this was purely a delaying tactic by the pro-whalers to give those pro-whaling countries that had not yet arrived, a chance to show up.

The meeting resumed with a presentation by the secretariat on the RMP or the Revised Management Program, the means by which catch limits are set.

The RMS was the next item on the agenda and the outcome of the RMS working group was summarized by the chair. Then a debate over the RMS ensued with the pro-whaling countries saying that completion of the RMS was well overdue and that the anti-whaling countries had been deliberately stalling. Finally Japan introduced the much awaited schedule amendment, its version of an RMS which if successful would have lifted the ban on commercial whaling, allowed uncontrolled whaling of all species, eliminated the existing sanctuaries. Schedule amendments require a majority to succeed. After lengthy debate the proposal was put to a vote and failed. Denmark then announced that it wanted to keep the RMS agenda item open as it planned to put a resolution on the RMS.

Finally the Commission considered a proposal by the UK for a workshop to be held at the next IWC meeting, on whale killing methods and associated welfare issues. Japan and a number of other pro-whaling countries stated that the welfare issue is outside the remit of the IWC but stated that it was willing to participate on a voluntary basis only.

Norway stated that since one of the proposed agenda items of the welfare workshop was the use of data from other mammals, then the workshop should ask Australia to provide data on the 60,000 camels that it is proposing to kill by shooting them from a moving platform. This caused quite a stir with St. Kitts and Nevis actually calling upon the NGOs in the room to pay attention and condemn Australia for this inhumane killing. Australia did not directly rebut this but countered by stating that they were waiting for Norway to provide the data that might explain why the whale that had been

filmed by WSPA/EIA took 14 minutes to die. There was also some debate about taking into account the economic limitations of aboriginal subsistence whalers. After quite a back and forth, the US proposed text to settle the issue. The proposed text stated that the economic needs of aboriginal subsistence whalers should be taken into account.

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## JUNE 22, 2005 - DAY 3

India, an anti-whaling nation, has finally sent a delegate - but his paperwork is not in order, so he cannot vote. A delegate from Palau, a pro-whaling nation, has also arrived, with paperwork in order, so he can vote. This is not good news.

The meeting opened with a summary of the report of the aboriginal subsistence whaling committee. There was a significant debate about the West Greenland whaling operations and the lack of data provided by Denmark. The Scientific Committee expressed extreme concern that because of the lack of data on population identity and abundance, it was unable to provide satisfactory management advice. The Home Rule Government of Greenland, through the Danish Delegation, voluntarily agreed to reduce its quota of fin whales from 19 to 10 animals, and informed the Commission it had requested funding from parliament for research, and planned to initiate a survey in 2006.

The delegate from Dominica said the country wants to return to native Carib aboriginal whaling. This could be just posturing, but is certainly worrisome. Brazil provided a statement regarding the rights of its local people living in coastal communities, and stated they should be recognized by the Commission on an equal basis as aboriginal whalers, since they had the right to enjoy the natural resources within their Exclusive Economic Zone, including the use of whales for watching rather than killing.

After the break, the topic turned to scientific permits, which is a legal way for parties to whale, and also how Japan and Iceland get around the moratorium. The whales killed in the name of "research" end up in supermarkets and restaurants -- and now schools in Japan as well. In the 31 years prior to the moratorium, Japan killed just 840 whales, the number of minke whales it now plans on taking in one year, in addition to 50 each of the endangered fin and humpback.

The delegate from Japan opened up the session by providing a presentation on its ongoing JARPNII (Japanese Research Programme in the North Pacific) program, followed by the highly emotive proposal for JARPAII (Japanese Research Programme in the Antarctic), which involves doubling the killing of minke whales, and the additional killing of fin and humpback, as stated above.

A heated debate followed with delegates from anti-whaling countries, especially New Zealand, crying foul and delegates from the pro-whaling countries applauding. Notably, the chair of the scientific committee summarized the outcome of the scientific committee's discussion on the JARPAII program, which largely questioned the validity of the "research." A June 16th article in Nature, a well-known publication, was also mentioned because it slammed the scientific validity of the JARPAII proposal.

The afternoon session commenced with the United States delegate's proposal for the country to host the 2007 meeting in Anchorage, Alaska. 2007 is the year the bowhead whale quota for aboriginal subsistence whalers is due to be set. Further discussion on the JARPAII program followed, with the delegate from Australia ultimately introducing a resolution

urging Japan to withdraw its JARPAII proposal. A vote on the issue saw the resolution pass -- which is only a small victory, since Japan can and will ignore the resolution, and the IWC cannot enforce it.

The next agenda item was sanctuaries with a proposal by delegates from Argentina, Brazil and South Africa for a South Atlantic Sanctuary. This was a schedule amendment requiring a 3/4 majority to succeed. Upon a vote, the resolution failed. Japan's delegate then introduced a resolution to remove the existing Southern Ocean Sanctuary, which also required a 3/4 majority, and also failed.

Finally, the Commission discussed environmental matters, with a summary of those aspects of the scientific report provided by that committee's chair. Items covered included the relationship between sea ice and cetaceans, habitat degradation, Arctic issues and anthropogenic noise. The United States delegate stated that with regard to ocean noise and in particular sonar, the decision to share information should be left up to individual governments, due to issues of national security.

The day ended with the appearance of the dreaded RMS resolution by what has come to be known as the "Nordic bloc". The resolution calls for the Secretariat to prepare an RMS document based on the chair's proposal from last year, including work completed between sessions; to continue to work between sessions to discuss certain elements relating to scientific whaling, lifting of the moratorium and compliance; to consider involving ministerial or other high-level intervention to resolve certain issues; and to progress with finalizing a draft for consideration and possible adoption at next year's meeting. The resolution should be introduced tomorrow, and it is sponsored by Denmark, Finland, Sweden, Korea, The Netherlands, Oman and Switzerland.

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## JUNE 23, 2005 - DAY 4

The meeting opened early as a full agenda lay ahead. Agenda Item 9, small type coastal whaling was first discussed. Japan supported a proposal for a schedule amendment to allow for coastal whaling with a presentation from the vice-mayor of Shimonoseki on the traditions of whaling by coastal villages. The proposal which has been introduced in one form or another for many years called for a quota of 150 minke whales annually for four coastal villages, including Taiji where the notorious drive fisheries take place. A lively discussion followed with Brazil reiterating comments from yesterday that other coastal communities also have rights to the non-lethal use of its cetaceans. The pro-whaling nations gave arguments in support of Japan's proposal, stressing the cultural tradition and hardships endured by the locals since the moratorium came into effect. Arguments given by the anti-whaling nations included a question from Monaco as to why, if the communities are so impoverished, they aren't given the meat from the extensive scientific whaling that already takes place in Japan. Other arguments included statements that such whaling would be commercial rather than subsistence. The proposal went to a vote which required a 3/4s majority to pass. Even a simple majority was not achieved, with notable abstentions by China and Denmark. The US opposed the proposal, but did say that it would be open to discussing the issue with Japan in the future.

After the break, Korea introduced a resolution "Facilitating closer cooperation among the range states to expedite the sighting survey on the minke whales off the Korean Peninsula." The resolution was introduced in response to concern over the lack of information on the common minke whales that migrate off Korea, Russia, China and Japan and in recognition of a scheduled in-depth assessment by the IWC Scientific Committee of these animals. The resolution mentioned a workshop

to be held in 2006 for range states to discuss non-lethal research, requested range states to conduct non-lethal surveys, and recommended collaboration between scientists from the different range states. After a small text change suggestion from Monaco to include collaboration with the IWC Scientific Committee, the resolution passed by consensus.

The next resolution also passed by consensus. It pertained to the western gray whale population off Sakhalin Island in the Russian Federation. The resolution: called upon range states to take practical measures to avoid all anthropogenic mortality, and to develop and implement strategies to prevent accidental deaths; called on all organisations concerned with oil and gas projects to take all practicable measures to ensure that received noise levels in the Piltun feeding ground are reduced to a minimum and are in accordance with any future recommendations of the IWC Scientific Committee; supported a proposal for a comprehensive strategy to save western gray whales and their habitat; called on all organisations, range states, authorities, scientists and other stakeholders concerned with developments in the waters around Sakhalin Island to support the efforts to develop a framework for collaborative research, monitoring and mitigation efforts between oil companies, independent experts, national programmes and authorities and the IWC and other intergovernmental organisations, and that they share all relevant data collected; and requested the Secretariat continue to offer its services and scientific expertise to appropriate collaborative efforts to develop a comprehensive strategy and ensure continued effective monitoring of the population. AWI has followed this issue closely and is pleased that the IWC is giving the threat to the plight of these whales the significant attention they deserve. Dr. Justin Cooke of the World Conservation Union gave a report on the resolution welcoming its introduction and also calling on Exxon to share its research data on the whales with others. The Russian Federation stated that British Petroleum also has interests in the Sakhalin area and urged the UK to work with BP to reduce the impacts to the western gray whales from its operations.

The next agenda item was whale watching with a report from the chair of the Scientific Committee on its report. The report contained information on whale watching activities and also swim-with programs across the world. Several nations spoke out in favor of whale watching as a preferable use of cetaceans than whaling. Japan and some other countries stated that whale watching is outside the remit of the IWC. Iceland said that whale watching can successfully coexist with whaling and also noted that minke whales are not good candidates for whale watching. Australia rebuffed this by suggesting that whilst perhaps the cold waters around Iceland were not conducive to minke whale watching, Australia was a great place to watch them.

The meeting was adjourned; with no doubt a nervous lunch for many delegates and observers as next on the agenda is the resolution on the RMS.

The meeting reconvened with Denmark asking for a deferral on the RMS resolution. The chair obliged and the item has been rescheduled for first thing tomorrow.

The rest of the afternoon passed with reports from other bodies, a report from the Secretariat on its attendance at a regional fisheries meeting, a further report from the Secretariat on the progress made pertaining to a resolution on possible synergies with the global environment facility. A final report from the chair of the scientific committee on its report followed. This included a report on small cetaceans, including a report on the progress relating to the Irrawaddy dolphin and also a report that Mexico is declaring the highest vaquita concentration area as a refuge. The UK welcomed the report and mentioned the problem with the large number of Dall's porpoises that are killed in Japan. New Zealand and Germany

concluded. Japan responded by saying that small cetaceans, including Dall's porpoises are outside the competence of the IWC. Japan also repeatedly stressed that the IWC should not be devoting so much time to items outside of its competence and that it should be focusing on items within its remit, such as the RMP.

The chair of the Scientific Committee continued with a report on stock definition and reviewed the priorities for the scientific committee for the coming year. This included the convening of a workshop on seismic noise to be held next year. Austria welcomed the scientific report and asked if it could propose that the Scientific Committee address the issue of entanglement and suggested a workshop or symposium on the subject. A debate ensued about the validity of this with Japan and others reiterating that such matters were outside the remit of the IWC. Finally the chair of the Scientific Committee stated that this issue could be discussed at next year's Scientific Committee meeting.

Notably during this discussion, the US stated that it wanted a note in the record that certain literature that had been quoted in the environmental section of the Scientific Committee report and especially the SOCER, or State of the Cetacean Environment Report section had been deemed inappropriate during the committee deliberations. The US stated that acceptable literature should include peer-reviewed papers and corroborated government reports. This so-called 'gray' literature includes newspaper articles and specific reference was made to a Washington DC newspaper, which we assume is a reference to noise articles in the Washington Post. Austria spoke up by saying that the SOCER was a non-scientific review of all relevant available literature and as such, it did not have to be peer-reviewed and if it had to be then a good deal of valuable literature would be lost. It did concede that newspaper articles could be omitted.

Finally the Scientific Committee report was adopted.

During the discussion an additional resolution on the RMS was issued. This one was a counter to the Nordic resolution. Both will be discussed tomorrow.

The Commission then discussed the report of the Conservation Committee. There continues to be disagreement over the establishment and terms of reference for this committee, with Iceland being one of the loudest voices against it. However, the Commission agreed to two of its recommendations: one to develop a research programme to address the issue of inedible 'stinky' gray whales caught by Russian Federation Chukotkan aboriginal subsistence hunters and the other to make progress on the issue of whales being killed or seriously injured by ship strikes.

Finally the Commission received the report of its Infractions sub-committee. This sub-committee receives reports from Governments concerning any breaches of whaling regulations discovered. Infractions were reported by several countries including the US regarding the killing of a suspected nursing infant bowhead by aboriginal subsistence whalers. The matter was referred to the Scientific Committee to determine the issue.

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## JUNE 24, 2005 - DAY 5

The rumor is that all the sponsors of the first RMS resolution have pulled out, and that Denmark is the only country still sponsoring it. Unfortunately, the Japanese bloc is supporting it, and a few delegations, including Monaco, have left already.

The meeting re-opened with the first resolution on the RMS. Denmark's delegate introduced the resolution, saying that only Denmark and Korea were left on the resolution. The Danish commissioner stated Denmark wants a strong RMS, and wants to capitalize on the progress made by the SDG. He talked about the areas where there are problems, including scientific permitting, the lifting of the moratorium and compliance.

The resolution proposed one meeting between sessions, and one at next meeting to discuss the outstanding issues. He stated that the process is to try and break the deadlock so the document was being introduced as a compromise. Denmark's delegate said he was not open to changes to the resolution through amendments. He called for support as stating that the number of whales that are killed legally each year are increasing so those in favor of this position should vote for it.

The Netherlands' delegate explained that while the resolution was good, the country had withdrawn because there was not a broad consensus on the resolution, so he did not think it was useful to sponsor, and stated the Netherlands would support the other resolution. Sweden, Finland and Switzerland concurred. The United States delegate said it supports the development of a robust but practical RMS, but that the country didn't like the language, and therefore will be supporting the second resolution. The debate continued until Denmark called for a vote. The vote resulted in only two votes in favor of the resolution, 26 against and 27 abstentions, and the proposed resolution failed.

Ireland's delegate then introduced the second RMS resolution as a neutral document to move the process forward. The Irish commissioner addressed the francophone countries in French, urging them to accept this compromise to move the process forward. Germany and South Africa concurred.

Japan's delegate agreed the resolution was neutral, but said he was concerned it is just a repetition of the last 10 years, and that Japan would abstain. Debate continued with Mauritania charging that the anti-whaling countries claiming to support the completion of the RMS were being disingenuous. The chair finally asked the Commission if they could accept a consensus, which, because of an objection by Dominica and supported by Mauritania, they could not. The issue went to a vote with 28 abstentions, 25 yes votes and 3 no votes. The resolution passed. Notably, the Japanese bloc on the whole abstained, as did Australia, which does not want any RMS.

After the vote, Japan's delegate expressed the country's concern that the resolution may not be moving the issue further than the progress made in Sorrento. Japan also stated that their RMS proposal was not closed and invited other countries to discuss the issue with them at the intercessional meeting. The Japanese delegate also said that the Japanese delegation would receive a great deal of domestic pressure because of the outcome of the Ulsan meeting, because of the lack of progress made on RMS. With that, the matter was closed.

With reference to the compliance issues, Argentina suggested that an email group be created to discuss terms of reference between sessions. After some amendment by Japan, this suggestion was approved by consensus.

After the break, the Commission reconvened to the financial and administrative agenda items -- namely, administrative matters, the formula for calculating contributions, financial statements and budgets and adoption of the report of the finance and administration committee. Controversial items debated included the frequency of meetings; the possibility of

providing documents in French and Spanish; calculating the contributions of member states (including a link between calculating the contributions now and recalculating them when an RMS is passed).

The RMS will impose significant financial burdens, upon which member countries has yet to be determined); and determining the definition of very small countries with regard to financial contributions. With regard to NGO fees for 2006 to 2007, an NGO fee of \$610 and a media fee of \$40 was approved.

NGO participation was next item discussed, including the NGO code of conduct drafted by a working group and convened by Iceland. The group was divided over its terms of reference so Iceland had sought direction from the Finance and Administration committee who recommended the group proceed to develop a code of conduct. No work has been completed on this issue.

The afternoon started with a presentation by St. Kitts and Nevis on the venue for IWC58 to be held there. Finally the schedule for next year's meeting was discussed, followed by the confirmation of the 2007 meeting in Anchorage, Alaska.

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