

**Conference for the Normalization of the International Whaling Commission  
February 13-15, 2007  
Tokyo, Japan**

**Chair's Summary**

Japan's Commissioner Morimoto opened the meeting and welcomed participants. He stated that the aim of the Conference was to discuss and recommend specific measures to restore the IWC as an effective resource management organization in accordance with its mandate prescribed by the 1946 International Convention for the Regulation of Whaling. Mr. Morimoto expressed his view that it was unfortunate that a number of IWC member countries had decided to boycott the conference which was intended to promote dialogue and reduce the conflictive nature of the discourse that has become entrenched within the IWC.

Mr. Kuniwo Nakamura of Palau was elected Chair. The Conference Mission Statement prepared by the Government of Japan, the draft agenda and list of participants are attached. The Chair and a number of participants agreed with Mr. Morimoto's view that it was unfortunate that not all views reflected within the IWC would be presented at this conference.

The draft agenda was adopted. A panel discussion session was added and working groups established as described below.

D. Goodman presented a summary of a background document (attached) which described the IWC's dysfunctional character and the meaning of "Normalization of the IWC". The document identified 8 specific components that together make up the current dysfunctional nature of the IWC:

1. Disregard for international law (the ICRW and treaty interpretation).
2. Disregard for the principle of science-based policy and rule-making.
3. Excluding whales from the principle of sustainable use of resources.
4. Disrespect of cultural diversity related to food and the ethics.
5. Increasing emotionalism concerning whales.
6. Institutionalized combative/confrontational discourse that discourages cooperation.
7. Lack of good faith negotiations.
8. Pressure on scientists which results in a lack of consensus scientific advice from the Scientific Committee.

The meaning of normalization of IWC explained in the background document were taken from IWC documents IWC/58/RMS 3, IWC/58/12 and the St. Kitts and Nevis Declaration (IWC Resolution 2006-1).

One of the participants suggested an additional important characteristic of IWC's dysfunctional nature was mutual distrust. Other participants suggested that if all IWC members had been present that there may have been counter opinions that could have resulted in a meaningful exchange of views.

Several participants suggested that given that whaling is occurring and that it will continue in the future, the IWC needs something like the Chair's RMS package which came close to being a reasonable compromise.

Other comments and suggestions included:

- that the ICRW must be the basis for moving forward
- the need to discuss proposals with all members before tabling them and to seek consensus solutions before voting
- the need to show a willingness to compromise
- the need for science-based solutions
- the need to broaden the discussion in reference to international law, the UNESCO declaration on cultural diversity, food security and the rights of people to choose their diets.
- Need to examine how to create the political will to resolve the current situation in the IWC.
- Need for a legal opinion on the period of the moratorium
- Consider changing the categorization of whaling currently in the Schedule to one category; "sustainable whaling"
- the need to increase public education

- the need to eliminate harassment and threats that are a part of the way the IWC conducts its business.
- Consider using closed sessions to resolve some issues
- The need to build a middle group between the two polarized positions
- The need to work and speak in less confrontational ways
- Good press is part of the solution but some media is also part of the problem
- IWC should become boring – good management of resources is not news.
- Need to look at who is benefiting from the current situation in IWC
- Secret ballot voting may resolve some of the problems
- Existing situation is the imposition of moral or ethical views on human and cultural rights.
- Consider action required to bring the strong anti-whaling members to the negotiating table.
- Consider looking at Governments rather than Commissioners to resolve the situation.

Panel Discussion:

Moderator, Joanne Massiah (Antigua and Barbuda)

Panel Members: Bart Bottoms (Earthnative INC), Micah McCarty (Makah Tribal Council), Joji Morishita (Fisheries Agency of Japan), Junko Sakuma (The Rights of Nature Seminar), Tetsu Sato (Nagano University), Eugene Lapointe (IWMC World Conservation Trust), Amalie Jessen (Denmark/Greenland), Diallo Amadou (Guinea) and Raymond Ryan (St. Vincent and The Grenadines)

There was a constructive and frank exchange of views between panel members and other participants on a wide range of issues. Some of the views expressed and questions posed included:

- Building trust given past experiences in the IWC and where views are in total opposition is difficult.
- Responsible management of fisheries resources including ecosystem considerations is particularly important as an issue of food security for many developing countries dependent on marine resources.
- Regional organizations such as NAMMCO could provide a good alternative to the IWC.
- Are the whaling countries willing to ensure conservation measures are implemented?
- Part of the problem is that different members of the IWC have totally different and conflicting objectives – some disagree that IWC is broken – some not even seeking solutions.
- Sustainable use and science-based use of all available resources must be an option given the need for diversification of agriculture and food production.
- Diverse cultural values and dietary practices must be respected.
- Do we have accurate population abundance estimates?
- Can there be more cooperation on scientific research?
- What is the difference between using whales and other animals for food?
- Extreme positions push middle countries to either one of the 2 polarized views.
- Criminalization of whaling should be removed.
- Third party validation would help gain support for the sustainable use position.
- There are small signs that things are improving but who should take the first big step to break the ice?
- Films showing the cultural aspects and sustainability of whaling would help gain public understanding.
- Developed countries are oppressing every aspect of resource use and economic activity of small island coastal states including conch, sharks, tuna, small cetaceans and turtles. This is discriminatory.
- Need to find ways to get facts out while media seeks sensational stories.
- Need to find ways to get consensus advice from the Scientific Committee.
- Imposing moral and ethical judgments that affects our right to use resources in spite of scientific evidence is imperialism.
- Create conditions whereby Anti-whaling members of IWC see it in their interest to negotiate.
- Propose resolutions to IWC asking if they respect cultural diversity and who has the right to limit food choices.
- Accusations of vote buying are disrespect to developing countries.
- Other members claim the reason that IWC is dysfunctional is because the ICRW is outdated and needs amending.
- The principle of sustainable use of resources is a universal principle – whales should not be exempted.
- Whale watching and whaling can co-exist.

Chairman Nakamura thanked the moderator, panelists and all participants. He expressed the view that the discussion was very useful and that similar opportunities should be more frequent and longer in duration.

Four working groups were established with specific topics. They were tasked to develop recommendations within the context of normalizing the IWC taking into account the comments and views expressed at the conference and during the panel discussions. Reports from the working groups follow. Recommendations from the working groups are highlighted in **bold**.

Working Group 1 – Consensus building, building trust, procedural issues.

Chair – Daven Joseph

Rapporteur – Frank Hester

The working group noted that trust leads to good faith reception of proposals, that trust is difficult to achieve and is achieved over time. **They recommended seeking areas of commonality, compromise and letting others know what you want to begin the process of trust building.**

Trust at IWC may be built by starting with a small group, including members with moderate views and gradually expanding to include all members. Trust is not necessary for agreement but agreement without trust is unlikely to last.

Consensus building can only be achieved if both sides reach the realization that they cannot achieve their goals and would lose their present gains if they do not pursue consensus. As with trust, it must be built slowly. The working group recognized that achieving consensus in IWC was just not a practical objective but **recommended as an aim, some lesser level to indicate growing consensus.**

With regard to procedural issues the working group recommended:

- **Secret ballots should be reconsidered as an objective for at least the present time.**
- **Positions should be tabled at the Commissioners meeting and consensus sought at that time.**
- **Voting should be avoided. Pushing for voting indicates seeking confrontation as opposed to resolution.**
- **Propose a change to the Rules of Procedure to prohibit slanderous statements on the floor of the Plenary or in resolutions.**

Working Group 2. Public Education

Chair – Bruno Mainini

Rapporteur – Karsten Jensen

This working group discussed the issue of public education in the context of how to get the IWC back to work. They noted that information is usually one sided (which side is presented depends on where you are) and not helpful. They suggested that communication methods should be broader and **recommended as one possible example that the IWC establish links on its website to all member countries where they can express their views and positions.**

The working group also **recommended that important findings of the Scientific Committee, including agreements on stock abundance estimates, be made available to the public through press release issued by the IWC Secretariat.**

Working Group 3. Cultural Diversity

Chair – Reteta Rimon Nikuata

Rapporteur – Lloyd Pascal

The working group expressed the view that all members of the IWC should be treated with respect and that allowing aboriginal subsistence whaling quotas while rejecting Japan's small-type coastal whaling and rejecting available scientific advice demonstrates the dysfunctional nature of the IWC. They also noted that community based management and the establishment of quotas must be based on global standards. **Based on this, the working group recommended that Japan's small-type coastal whalers should be permitted to catch minke whales.**

**The working group also expressed the view that IWC should ensure that the culture related to the hunting of whales be maintained** and noted that requirements concerning humane killing, whale killing methods, reduction of time to death, provision of data and the high costs of equipment proposed make this difficult. They also noted that insistence on observers for even very small vessels endangers the crews.

The working group noted that there are conflicts between global standard and the maintenance of locally based traditions and that global standards must include the local ways of doing things. They also noted that whaling for food consumption has never depleted the resource and **recommended tabling a resolution calling for respect for cultural diversity and recognition of the effectiveness of community contribution to resource management.**

The working group suggested further examination of other international instruments that deal with cultural diversity in the UNESCO conventions. They noted that trade in carvings and by-products will also play its part to ensure the efficient utilization of the resource.

**The working group recommended tabling a resolution based on language used in the EU such as “united in diversity” and the US such as “religious tolerance”, “all people are created equally and have the inalienable rights to life, liberty and pursuit of happiness”.**

The working group also noted that NGOs control the agenda of delegations of some western countries and that NGOs also need to respect cultural diversity since they are so influential. Tourism boycotts, threats and sanctions are unacceptable. They also expressed the view that tourism is another dimension used by Euro-centric cultures to disrespect and dominate other cultures that are economically weaker and that there is a need to diversify the clientele of tourism and a need for conservation of diversified cultures for a new tourism.

Finally the working group expressed the view that “Aboriginal/subsistence whaling” is a disrespectful and derogatory term set aside for cultures that have been discriminated, dominated, plundered, set aside in reservations and are now being pitied by being given a small quota. **They recommended that the IWC stop referring to people and cultures of whaling as aboriginal.**

#### Working Group 4. Interpretation of the ICRW and other instruments

Chair and rapporteur: Stefan Asmundsson

The following is the Chair’s summary of the working group discussions.

The group considered that the most relevant legal instruments for its work were the UN Convention on the Law of the Sea (LOS Convention) and the International Convention for the Regulation of Whaling (ICRW). The LOS Convention sets out the general legal framework within which the IWC must work, while the ICRW is a convention dealing with whaling specifically and, as it is the IWC founding convention, all the work of the IWC is based on the ICRW and must therefore without exception be consistent with the ICRW.

Many provisions of the LOS Convention are important in IWC context, but with the working group having very limited time focus was put on Articles 64 and 65.

Article 64 is regarding highly migratory species, including all whales. The group noted that Article 64 sets “optimum utilisation” as the objective regarding such species.

Article 65 is regarding marine mammals. The group noted that while it maintains the possibility to “prohibit, limit or regulate the exploitation of marine mammals more strictly” than is otherwise provided for in this part of the LOS Convention, Article 65 also states that the purpose of co-operation regarding cetaceans shall be “their conservation, management and study.” Conservation can therefore under this provision not be taken out of the context of management and study.

Article 65 further states that co-operation regarding cetaceans shall be through “appropriate international organisations”. The plural for of the word “organisation” means that the IWC is not the only possible organisation for such co-operation regarding cetaceans. It was noted that other relevant organisations presently exist, including the North Atlantic Marine Mammal Commission (NAMMCO).

The group noted that a general rule of the LOS Convention is that only states that are a coastal state regarding a living marine resource, or utilise it on the high seas, have the right to take part in making management decisions for that resource. Consequently the only source of a legal right for IWC members to take part in making management decisions for whale stocks that do not occur within their waters, and which they do not utilise in the high seas, is the ICRW and therefore all its limitations apply to such practice.

The group discussed several provisions of the ICRW.

The group considered that the objective and purpose of the ICRW is clearly set out in its preamble. This is the need for conserving whale stocks in order to ensure long term utilisation. The group considered that using modern terminology, the objective and purpose of the ICRW is the sustainable utilisation of whale stocks.

The group noted that Article 5 of the ICRW provides the IWC with the possibility to set various management measures through amending the Schedule. It further noted that paragraph 2 of Article 5 sets out clear limitations on what amendments can legally be made.

**The group considered that in order to ensure that future decisions of the IWC are consistent with the ICRW, any proposal to amend the Schedule might be looked at by a special group with the specific purpose of ensuring its consistency with Article 5.2.**

**The group further considered that in cases where there is disagreement among IWC members on the interpretation of the ICRW or IWC decisions, legal opinion from outside the IWC might be sought.**

The group considered that the wording of Article 8 was unambiguous. There was an unmistakable intention to create a clear right for any Contracting Government to issue special permits for scientific research purposes and that whaling under such permits was intended to be “exempt from the operation of” the ICRW and IWC. The group furthermore considered that the use of the right clearly provided for in Article 8 must be carried out in a responsible manner. The determination of whether such activity is responsible must be made by the permit-issuing state in the context of the objective and purpose of the ICRW.

**The group was sceptical on there being a need for putting whaling into different categories of commercial and aboriginal subsistence whaling. Focus should be put on sustainability, in accordance with the objective and purpose of the ICRW.**

The group noted that paragraph 10 (e) of the Schedule was intended to be a temporary measure but not a permanent one. It furthermore noted that it was adopted without scientific advice to do so. With good scientific information on many whale stocks available, paragraph 10 (e) is not necessary. The group further noted that its continued application is of questionable legality, *inter alia* as the year 1990 has long since passed and since its continued application does not seem to be consistent with Article 5.2 which provides the IWC with its only legal ground to set binding management measures.

Following presentation of the reports from the working groups the Chairman Nakamura thanked the chairs and all participants.

One participant expressed the view that secret ballots would not help in building trust.

The conference agreed that the report of the working groups should be included in the Chair’s summary which should be made available to all participants including the press and NGOs. The conference also agreed that the Chair should forward a copy of his summary report to the IWC Secretariat.

Conference on Normalizing the IWC – Tokyo, February 13-15, 2007.

Background/Discussion Document

D. Goodman  
The Institute of Cetacean Research, Tokyo

Analysis of the IWC's dysfunctional character and the Meaning of Normalization

Part 1: The IWC's dysfunctional character or, what happened to the IWC's institutional legitimacy?

Concern about the ability of the International Whaling Commission (IWC) as an effective resource management organization is not new. In fact, this concern has been a part of the IWC since it came into being in 1948 as the means to implement the 1946 International Convention for the Regulation of Whaling (ICRW). Initially the concern was whether the IWC could halt the over-exploitation of whales in the Southern Ocean. However, concomitant with the increasing emotionalism related to whales since the 1972 Stockholm Conference on the Human Environment fueled by environmental NGOs for fundraising purposes (Gulland 1988, Aron *et al* 1999) and the increase in membership from the original 14 signatories to the Convention to the present 72, the concern about the effectiveness of the IWC has evolved to become bipolar in nature.

On the one hand the concern is that the IWC is not doing enough to provide total protection to all whales irrespective of their stock status while on the other hand the concern is that the IWC is ignoring international law, the principles of science-based management and rule making, sustainable use of resources and respect for cultural diversity that are the globally accepted norms. This bipolar situation has become entrenched and is reflected in the mostly conflictive, combative and "even hostile" (Morishita 2006) organizational discourse. This discourse together with a lack of good faith negotiations raises serious questions about the IWC's institutional legitimacy. As Knauss<sup>1</sup> (2001) said "As an example of good faith negotiations, the IWC is mostly a disaster." This situation has resulted in a dysfunctional IWC that is unable to carry out its mandate provided by the ICRW "to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry."<sup>2</sup>

Concern about the polarized and dysfunctional nature of the IWC, and indeed, concern about the very future of the organization has been expressed by many authors over the past two decades. Gulland (1988) for example expressed the view that the main whale conservation victories has already been won by the time the moratorium on commercial whaling was adopted in 1982 and that in a wider context the moratorium was a setback for conservation. He suggested that the adoption of the moratorium convinced some that many environmental groups were opposed to any use of living resources and that this was an important reason why CCAMLR was slow to introduce management measures for fish and krill in the Antarctic. Knauss (1997) wrote that a compromise would do more to protect all whales than continuing the moratorium which would be "stretching the interpretation of the ICRW beyond what at least some legal scholars believe is reasonable." He sights the importance that most nations place on attempting to resolve their differences within the norms of international law and the importance that most place in protecting the rights of those in the minority as reasons that the ICRW should not be reinterpreted.

Aron<sup>3</sup> *et al* (1999) argue that at meetings of the IWC "politics drown out science and push the Commission into a state of posturing irrelevancy which result in a disservice to the Commission, to international environmental law and sound resource management." They sight the requirements of the Convention related to the adoption of regulations (Article V) and note that "no possible interpretation of the convention allows for putting an end to whaling when credible scientific opinion support the sustainable use of abundant whale resources." They also sight the intransigence of and attempted coercion by the anti-whaling members of the IWC, politics, failure to implement the Revised Management Procedure (RMP) and the opportunity for anti-whaling organizations to raise substantial revenues as causes for the IWC becoming irrelevant.

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<sup>1</sup> John A. Knauss served as U.S. Commissioner to the IWC in 1991 and 1992.

<sup>2</sup> From the preamble of the 1946 International Convention for the Regulation of Whaling. International Convention for the Regulation of Whaling, Dec. 2, 1946, 62 Stat. 1716, 161 U.N.T.S. 72. with Schedule of Whaling Regulations. Available at <http://www.iwcoffice.org/commission/convention.htm>

<sup>3</sup> William Aron is also a former U. S. Commissioner and a long-time participant in the IWC's Scientific Committee.

A similar view is expressed by Jacobson (2001) who asserts that there is “a dissonance between the whaling conventions original purpose of regulating whaling for the benefit of the whaling industry and the recent actions of the IWC in establishing a possibly permanent moratorium on commercial whaling and the Southern Ocean Sanctuary.” He notes that even arguments for expansive interpretation of treaties do not justify these actions. Knauss (1997) also notes the importance of international law in the conduct of international relations for all states “because every state has an abiding interest in a long-term system of order within which to conduct its affairs with other members of the international community of states”. He suggests that “every clear violation or obvious avoidance of an accepted norm, especially in high-profile situations, adds to the degradation of the system by condoning a culture of self-interested noncompliance.”

Gambell<sup>4</sup> (1999), in his comprehensive review of whaling, the IWC and the whaling debate also notes the “growing sense, particularly in the more affluent Western World, that whales are special animals that should not be considered as just so many steaks for human consumption but as the focus of whale-watching and educational programs because of their perceived esthetic and sentient values.” He concludes from this that “different cultural viewpoints and traditions of the people and nations making up the IWC come into conflict.”

Friedheim (2001) refers to the current “preservation” regime of the IWC as a “bad” regime (not effective in achieving its mandated outcomes) that sets a bad legal precedent and makes future global governance more difficult. He suggests that its use of coercive means and the discouragement of cooperation also set a bad precedent for ignoring scientific advice and that because it is being defied, the IWC is a high-risk regime. In his view “the whaling issue is largely symbolic politics” with participants not yet convinced that they are better off with a negotiated outcome than with continued conflict. He notes that the whaling case is an important test case of the use of science in international environmental discourse suggesting that “those who wish to go in another direction have the burden of demonstrating that a different basis of dialogue exists.” and that “whaling may be an example of a policy issue where bargaining at the international level may be mere posturing to satisfy one or more domestic constituencies ...”.

With regard to science, Butterworth (1992) makes a strong argument that “the time seems overdue for scientists to speak out against the near-farcical pronouncements of some international organizations [including the IWC] regarding endangered species.” and suggests that “the real debate in the IWC between some countries wishing to preserve industries, employment and a food source based on whales and others wanting these animals classed as sacrosanct” is cloaked in arguments of conservation to hide the real agenda of powerful public pressure animal rights groups.

But the strongest condemnation of the IWC for ignoring science came from the Chairman of the IWC’s Scientific Committee in 1993. In his letter of resignation Hammond, (1993) asked “what is the point of having a Scientific Committee if its unanimous recommendations on a matter of primary importance are treated with such contempt?” He added that “I can no longer justify to myself being the organizer and spokesman for a Committee whose work is held in such disregard by the body to which it is responsible.”

Morishita and Goodman (2005) noted that the IWC’s Scientific Committee has been failing to provide consensus scientific advice on important whale conservation and management issues and that scientific uncertainty and the precautionary approach have often been misused to promote anti-whaling positions. They expressed the view that it is naïve to expect outputs from the Scientific Committee that are useful for the sustainable use and management of whale resources in accordance with the objectives of the ICRW until or unless the dysfunctional discourse and procedures of the Commission are changed. Problems with the Scientific Committee of this nature are symptoms of the IWC’s dysfunction rather than a cause.

In its opening statement to the 1998 Annual Meeting of the IWC, the IUCN recognized “that a range of views is represented within the Commission as to the appropriateness of consumptive exploitation of cetaceans for commercial purposes” and urged “respect for the diversity of views and customs on

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<sup>4</sup> Ray Gambell was Secretary to the IWC from 1976 to 2000.

ethical, cultural and dietary matters, so that agreement can be reached on the scientifically based conservation measures that are required.” (IWC/50/OS/IUCN)

The literature on these matters is extensive. However, even the above brief review of some of this literature is sufficient to identify the major reasons for the current dysfunctional nature of the IWC that result from deep irreconcilable philosophical and political views between those who see whales as food and those who want whales totally protected.

Morishita (2006) describes the evolution of the conflict in IWC. He uses a matrix to show that it is important to examine all of the elements of this conflict in the correct temporal context and analyze their interactions. Such analysis is beyond the scope of this document however, from the above, the major components that together make up the current dysfunctional nature of the IWC include:

1. Disregard for international law (the ICRW and treaty interpretation).
2. Disregard for the principle of science-based policy and rule-making.
3. Excluding whales from the principle of sustainable use of resources.
4. Disrespect of cultural diversity related to food and the ethics.
5. Increasing emotionalism concerning whales.
6. Institutionalized combative/confrontational discourse that discourages cooperation.
7. Lack of good faith negotiations.
8. Pressure on scientists which results in a lack of consensus scientific advice from the Scientific Committee.

Some of the authors cited/quoted above have suggested potential solutions to address the dysfunctional nature of the IWC including; completing and implementing the Revised Management Scheme (RMS) and, accepting that there is a diversity of cultures with differing views and customs on ethical and dietary matters so that agreement can be reached on implementing scientifically based management measures.

Assuming that some whaling will continue, what are the incentives for anti-whaling countries to accept these solutions, how do we get there and, are there smaller measures that could address some of the components of the dysfunctional nature and lead towards reinstating the integrity of the IWC?

Others have suggested more drastic solutions such as developing new regional institutions for the management of whales or dividing the IWC into 2 organizations – one that would manage whaling sustainably and one that would protect all whales for each of its members.

#### Part 2: The meaning of “Normalization of the IWC”

The meaning of “normalization” has been put forward in IWC documents IWC/58/RMS 3, IWC/58/12 and the St. Kitts and Nevis Declaration (IWC Resolution 2006-1).

Normalization of the IWC means recognizing that the IWC has lost its relevance as an organization responsible for the conservation and management of whales despite the fact that whaling still continues and is expected to continue in the future and that the lack of a comprehensive management regime to regulate whaling is an undesirable situation for those states that support sustainable commercial whaling and those that do not.

With only three exceptions (adoption of the RMP in 1994, adoption of the Southern Ocean Sanctuary in 1994 and quotas for aboriginal subsistence whaling), the IWC has made no actual decisions in relation to management of whales for decades. Normalizing the IWC means bringing it back to its fundamental purpose as mandated by the ICRW so that current and future whaling would operate within a science-based, regulated, controlled and transparent management regime.

Normalizing the IWC also means recognizing that use of cetaceans, like other fishing activities, contributes to sustainable coastal communities, sustainable livelihoods, food security and poverty reduction and respect of cultural diversity and traditions of coastal peoples as well as coastal state rights and relevant national and international law consistent with the globally accepted norms. It also means establishing a management regime such that whales are treated as any other marine living resources available for harvesting subject to the needs of conservation and science-based management.



Responsible management of whaling requires full respect for the ICRW and interpretation of the ICRW in good faith. This means protecting endangered and depleted species. (*"Recognizing the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks;"*)<sup>5</sup> while allowing the sustainable utilization of abundant species.

Under the normalized IWC, all whaling activities should be appropriately managed using the best scientific methodology for calculating sustainable harvesting quotas as well as international observers, monitoring and enforcement. (*"Recognizing that whale stocks are susceptible of natural increase if whaling is properly regulated, and that increases in the size of whale stocks will permit increases in the number of whales which may be captured without endangering these natural resources."*) As a matter of course, no commercial whaling would be allowed for depleted and endangered stocks.

Normalization will also harmonize decision making policy in the IWC with other international instruments such as RFMOs the CBD with its emphasis on sustainable use and the UNESCO Universal Declaration on Cultural Diversity. It will not mean a return to historic over-harvesting.

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<sup>5</sup> Quotes in italic are from the preamble of the ICRW.

**Conference for the Normalization of the International Whaling Commission (IWC)  
February 2007, Japan**

**Mission Statement**

**Background**

Since 1982, the normal rules of debate and treaty interpretation for international governance as well as the globally accepted principles of science-based conservation and management and mutual respect for cultural diversity, have often been put aside in the IWC. The outcome of this could be characterized as spending time and energy, exchanging irreconcilably polarized views on almost all issues including the interpretation of the ICRW. The IWC has lost its purpose as an organization responsible for the conservation and management of whales. With only three exceptions (adoption of the RMP in 1994, adoption of the Southern Ocean Sanctuary in 1994 and quotas for the aboriginal subsistence whaling), the IWC has made no actual decisions in relation to the management of whales for decades. The failure of the RMS negotiations is a further evidence of the difficulties within the IWC.

On the other hand, whaling of various forms still continues and is expected to continue in future. The lack of a comprehensive management regime to regulate whaling is therefore an undesirable situation for both those states that support sustainable commercial whaling and anti-whaling states.

**Missions of the Conference**

The aim of the Conference for the Normalization of the International Whaling Commission is to discuss and put forward specific measures to resume the function of the IWC as a resource management organization. Discussions at the Conference will be based on the International Convention for the Regulation of Whaling (ICRW) which established the IWC together with the principles of sustainable use, science-based conservation and management, and respect for cultural diversity.

The Conference, however, should not discuss substantial matters relating to conservation and management of whales and whaling, in order to avoid repeating the polarized discussions at the IWC. Rather, the Conference should concentrate on how to reduce the confrontational atmosphere and dialogue that have become institutionalized as well as on how the IWC could function as a management organization. New positive approaches are needed.

The Conference aims to build confidence and trust among participants through active and frank dialogue and by identifying options and means to minimize conflicts and solve the difficulties that IWC has been facing. The options should include both procedural matters and substantive subjects in relation to the functioning of IWC.

Other international organizations which handle equally, if not more, contentious issues can and do conduct discussions with mutual trust and good faith while accepting fundamental differences in the positions of member states. The IWC should be able to do the same.

**Format of the Conference**

The Conference will be held outside the framework of the IWC. This is because the stalemate in IWC's discussions has become institutionalized. It is hoped that a change of the forum will encourage a change in the mode of discussions leading to the reduction of conflict and the seeking of solutions. The non-IWC framework would also help participants to take more flexible approaches to the issues.

The Conference will be open to all Commissioners and government representatives of IWC members that respect the ICRW and share the concern for the current inability of the IWC to manage whale resources and whaling as is its mandate.

Conference outcomes may include a list of short-term and long-term recommendations to the IWC as a result of the discussions and consideration of future steps and options with appropriate time-lines. The implementation of the normalization process should thus have a clearly defined time limit. These outcomes will not be binding because the Conference has no legal status in relation to the IWC. Therefore, free and non-committal exchange of views/ideas for normalizing the IWC is encouraged. If they wish to do so, participants to the Conference can express their personal observations that are

deemed to be relevant to the deliberations during the Conference. Hopefully, the IWC will consider adoption of the outcomes of the Conference as its own measures in order to start the normalization process.

In order to focus on mutual agreements rather than differences, consensus would be an appropriate decision-making procedure in adopting recommendations at the Conference.

The Conference will be open to non-government observers as well as to the press. Observers may be allowed to make statements at the Conference when the Chair invites them to do so.

**The Conference on Normalization of the International Whaling Commission  
13-15 February, 2007  
Tokyo, Japan**

**List of Participants**

**Government Delegations**

**Antigua and Barbuda**

Joanne MASSIAH  
Anthony LIVERPOOL

**Cambodia**

Nao THUOK  
Nao BANNAKA

**Cameroon**

Malloum Ousman BABA

**People's Republic of China**

Bao Ying ZHU

**Cote D'ivoire**

Serikpa Guillaume DADI

**Denmark**

Ole SAMSING  
Karsten Ankjaer JENSEN  
Amalie A. JESSEN

**Dominica**

Lloyd PASCAL

**Gabon**

Guy Anicet RERAMBYATH

**The Gambia**

Yankuba TOURAY  
Suwareh JABAI

**Grenada**

Gregory BOWEN  
Justin Andy RENNIE

**Guatemala**

Maria Jose ITURBIDE FLORES  
Arturo DUARTE  
Floridalma Franco PAIZ

**Republic of Guinea**

Amadou Teliwel DIALLO

**Iceland**

Stefan ASMUNDSSON  
Jon GUNNARSSON  
Benedikt HOSKULDSSON  
Kristjan LOFTSSON

**Japan**

Minoru MORIMOTO  
Kiyoshi EJIMA  
Dan GOODMAN  
Hiroshi HATANAKA  
Hiroyuki MATSUMOTO  
Toru MORIKAWA  
Joji MORISHITA  
Hideki MORONUKI  
Noriyoshi NAGAYAMA  
Akira NAKAMAE  
Ryoichi NAKAMURA  
Naoko OTSUKA  
Ryotaro SUZUKI  
Yoshihiro TAKAGI  
Hiroki TOKUNAGA  
Toshio TSUKAHARA  
Jun YAMASHITA  
Yoshio YOSHINARI

**Kiribati**

Reteta Rimon NIKUATA

**Republic of Korea**

Chiguk AHN  
Seok-Gwan CHOI  
Hyun- Seok SIN

**Mali**

Coulibaly HERY

**Republic of Marshall Islands**

John M. SILK

**Mauritania**

Mamoudou-Aliou DIA

**Mongolia**

Tserendash DAMDINN  
Purevsuren NARANBAYAR

**Nauru**

Allan Richard DEBAO

**Norway**

Turid RODRIGUES EUSEBIO  
Halvard P. JOHANSEN  
Odd NAUSTDAL  
Lars WALLOE

**Oman**

Humaid AI-ALAWI

**Republic of Palau**

Kuniwo NAKAMURA

Peter ADELBAI

Fritz KOSHIBA

**Russian Federation**

Valentin Y. ILYASHENKO

**Senegal**

Moustapha THIAM

**St Kitts and Nevis**

Cedric R. LIBURD

Daven JOSEPH

**St Lucia**

Ezequiel JOSEPH

Vaughn Andrew CHARLES

**St Vincent and The Grenadines**

Edwin SNAGG

Raymond RYAN

Frank HESTER

**South Africa**

Nelia BARNARD

Ray MEDHURST

**Surinam**

Jaswant SAHTOE

**Switzerland**

Bruno MAININI

**Togo**

Tanah Modjosso Epouse DJANKLA

Kossi Maxoe SEDZRO

**Tuvalu**

Panapasi NELESONE

**Observers**

**Chuo Gakuin University**

Naoya TANIKAWA

**Dolphin & Whale Action Network**

Nanami KURASAWA

**Earthnative INC**

Tristan BAYER

Bart BOTTOMS

**Global Guardian Trust (GGT)**

Noriyoshi HATTORI

Toshikazu MIYAMOTO

**Greenpeace Japan**

Junichi SATO

**Greenpeace International**

Shane RATTENBURY

**Group To Preserve Whale Dietary Culture**

Komei WANI

**Harvard University**

Fumitaka WAKAMATSU

**Japan Fisheries Association**

Jay HASTING

**Japan Small-type Whaling Association**

CHIKAO KIMURA

**Japan Whale Conservation Network**

Naoko FUNAHASHI

**Japan Whaling Association**

Ichiro WADA

**Korea Re-Whaling Promotion Forum**

Myeng-Chang BYEN

**Makah Tribal Council**

Micah McCARTY

**Nagano University**

Tetsu SATO

**Ocean Policy Research Foundation**

Ayako OKUBO

**Omeka Communications Ltd**

Glenn INWOOD

**The Rights of Nature Seminar**

Junko SAKUMA

**Women's Forum for FISH (WFF)**

Mishiko ICHIZAKI

Akiko SATO

Yuriko SHIRAISHI

**World Conservation Trust (IWMC)**

Eugene LAPOINTE

**Interpreter**

Midori OHTA

Shinichi DOI

Shoko ISHIDA

Nobuko TAKAMURA

Junko TSUDA

Catherine ANCELOT

Eriko AYUHA

Keiko MARUYAMA

Yoshiko FUKUI

**Secretariat**

Gabriel Gomez Diaz  
Masato HAYASHI  
Jiro HYUGAJI  
Yasuo IINO  
Yuichi ISHIKAWA  
Makoto ITO  
Tokumichi IWASE  
Tomoko KUBA  
Konomu KUBO  
Hiroto MURASE  
Ryoichi NAKAMURA  
Hirofumi NAKAYAMA  
Hideaki OKADA  
Kayo OHMAGARI  
Naoko OKITA  
Kaori SATO  
Keizo SETO



Conference for the Normalization of the International Whaling Commission  
13 – 15 February 2006, Tokyo

AGENDA (draft)

1. Opening of the Conference
2. Election of Chair
3. Adoption of Agenda
4. Discussions
  - Background
  - Identification of Causes for the Malfunctioning
  - Exchange of Views and Ideas for the Normalization
  - Possible Solution and Recommendations to IWC
  - Others
5. Other issues
6. Adoption of Report
7. Closing of the Conference