

## Annex J

# Report of the Infractions Sub-Committee

Wednesday, 17 June 2009, Madeira

**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/61/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 2008

### 2. ADOPTION OF THE AGENDA

Japan reaffirmed the position of Japan and Norway that Item 7.1, which deals with stockpiles of whale products and trade questions, was outside the scope of the Convention. In a spirit of co-operation they did not request the item be deleted from the Agenda. The draft Agenda was adopted unchanged (Appendix 2).

### 3. INFRACTIONS REPORTS FROM CONTRACTING GOVERNMENTS, 2008

#### 3.1 Reports for 2008

The Sub-Committee reviewed IWC/61/Inf3, the draft summary of infraction reports received by the Commission for 2008. A revised version is given as Appendix 3 to this report.

The USA provided information on infraction 2008.3 (see Appendix 3 Table 2) which had appeared to be a small independent bowhead whale that was not associated with a large whale. After being harvested, the whale was determined to be a calf, based on standard criteria (length, baleen length, and milk in the stomach). The AEWB Board of Commissioners met on 2 March 2009, and after receiving testimony from the crew in question and other nearby crews, determined that the crew had taken all possible precautions and the incident was an honest

mistake. The USA further noted that the calf was only about a foot short of being an independent yearling.

Korea regretted the fourteen infractions it reported this year, which were taken illegally to supply a demand for whale meat. In the past, eating whale meat has been part of the cultural tradition in Korea, and since the Moratorium bycatches have been the only legal source of the meat. The Ministry for Food, Agriculture, Forestry and Fisheries has been striving to reduce the illegal trade and has made the issue a top priority. This year new legislation is planned which will include strict regulation of bycatch which should enable the Government to block illegal sources of whale meat.

In response to a question by the UK as to why further investigation of infraction 2008.1 was impossible, Denmark (Greenland) explained that the extensive coastline of Greenland made policing very difficult. When a whale is found dead it may be impossible for the police to discover more unless someone gives information on the matter.

No infractions were reported by St. Vincent and The Grenadines or the Russian Federation this year.

#### 3.2 Follow-up on earlier reports

Information on the five unresolved infractions from previous seasons (numbers 2005.1, 2006.1, .2, .3 and .4), are reported in IWC/61/Inf4 (see Appendix 3 Table 3).

### 4. SURVEILLANCE OF WHALING OPERATIONS

The Infractions Reports submitted by the USA and the Russian Federation stated that 100% of their catches are under direct national inspection. In their Infractions Report Denmark (Greenland) reported that their catches were subjected to a random check.

In response to a question concerning the frequency of its random checks, Denmark (Greenland) informed the Committee that 13 wildlife officers, including assistants, were responsible for ensuring compliance with regulations but it had no information on the frequency of the checks. However, it noted that the wildlife officers are based in eight different cities or settlements and cover all areas of Greenland.

### 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 66% 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 is 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 97-100% of the catch. Biological samples are collected from at least 71% of animals.

**Russian Federation:** Information on date, time, species, position, length, sex, the length and sex of any foetus if present, killing method and numbers struck and lost is collected for 100% of the catch. Biological sampling was conducted on 44 gray whales.

**St. Vincent and The Grenadines:** Information on date, time, species, length, sex, whether the whale is pregnant and/or lactating and numbers struck and lost is collected for 100% of the catch. Biological samples are collected.

**Norway and Iceland:** the required information has been submitted to the Secretariat as noted in the Scientific Committee report (IWC/61/Rep1).

## 6. SUBMISSION OF NATIONAL LAWS AND REGULATIONS

A summary of National Legislation supplied to the Commission is given in Table 1. Following a request from Austria, member states of the European Union who are hence subject to EU legislation are identified in a footnote to the table.

Table 1  
National Legislation details supplied to the IWC.<sup>1</sup>

Country	Date of most recent material	Country	Date of most recent material
Antigua and Barbuda	None	Laos	None
Argentina	2003	Lithuania	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	2008	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)	2009	Peru	1984
Dominica	None	Poland	None
Ecuador	None	Portugal	2004
Eritrea	None	Romania	None
Estonia	2008	Russian Federation	1998
Finland	1983	San Marino	None
France	1994	Saint Kitts and Nevis	None
Gabon	None	Saint Lucia	1984
Gambia	None	Saint Vincent and The Grenadines	2003
Germany	1982	Senegal	None
Greece	None	Slovak Republic	None
Grenada	None	Slovenia	None
Guatemala	None	Solomon Islands	None
Guinea-Bissau	None	South Africa	1998
Guinea, Republic of	None	Spain	2008
Hungary	None	Suriname	None
Iceland	1985	Sweden	2004
India	1981	Switzerland	1986
Ireland	2000	Tanzania	None
Israel	None	Togo	None
Italy	None	Tuvalu	None
Japan	2004	UK	1996
Kenya	None	USA	2004
Kiribati	None	Uruguay	2002
Korea, Republic of	1996		

<sup>1</sup>Up to the middle of June 2009. Dates in the table refer to the date of the material not the date of submission. <sup>2</sup>Member states of the European Union (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and UK) are subject also to relevant regulations established by the Commission of the European Union. The date of the most recent EU legislation supplied to the International Whaling Commission is 2005.

## 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 correspondence on 19<sup>th</sup> June 2009.

## Appendix 1

### LIST OF PARTICIPANTS

#### Argentina

Miguel Iñíguez

#### Australia

Andrew McNee  
David Dutton  
Lesley Gidding  
Nick Gales  
Pam Eiser  
Nicola Beynon

#### Austria

Andrea Nouak  
Michael Stachowitsch

#### Belgium

Alexandre de Lichtervelde  
Fábian Ritter

#### Brazil

José Truda Palazzo Jr.  
André Tenório Mourão  
Fabia de Oliveira Luna  
Marcia Engel

#### Chile

Francisco Ponce  
Barbara Galletti

#### Denmark

Øle Samsing  
Amalie Jessen  
Helga Jakobsen  
Nette Levermann

#### Germany

Thomas Schmidt  
Karl-Hermann Kock

#### Iceland

Tomas H. Heidat

#### Japan

Joji Morishita  
Toshinori Uoya  
Hideaki Okada  
Yasuo Iino  
Kayo Ohmagari  
Saemi Baba (I)

#### Republic of Korea

Hyun-Jin Park  
Jeongseok Park  
Zang-Geum Kim

#### Luxembourg

Pierre Gallego

#### Mexico

Lorenzo Rojas-Bracho

#### Netherlands

Maaïke Moolhuijsen

#### Norway

Egil Ole Øen  
Einar Tallaksen  
Hild Ynnesdal  
Øle David-Stenseth

#### Portugal

Marina Sequiera

#### Russian Federation

Valentin Ilyashenko  
Igor Mikhno  
Vladimir Etylin  
Rudolf Borodin

#### South Africa

Herman Oosthuizen

#### Spain

Carmen Asencio

#### Switzerland

Bruno Mainini (Chair)

#### UK

Claire Bass  
James Gray  
Trevor Perfect  
Mark Simmonds  
Sarah Archer

#### USA

Rollie Schmitten  
Keith Johnson  
Roger Eckert  
Cheri McCarty  
Shannon Dionne  
Michael Tillman Jr.  
Bob Brownell  
Doug DeMaster  
Harry Brower Jr.  
Ryan Wulff

#### Secretariat

Cherry Allison

## Appendix 2

### AGENDA

1. Introductory items
  - 1.1 Appointment of Chair
  - 1.2 Appointment of Rapporteur
  - 1.3 Review of documents
2. Adoption of the Agenda
3. Infractions reports from Contracting Governments
  - 3.1 Reports for 2008
  - 3.2 Follow-up on earlier reports
4. Surveillance of whaling operations
5. Checklist of information required or requested under Section VI of the Schedule
6. Submission of national laws and regulations
7. Other matters
  - 7.1 Reports from Contracting Governments on availability, sources and trade in whale products
  - 7.2 Other
8. Adoption of the Report

## Appendix 3

### SUMMARY OF INFRACTIONS REPORTS RECEIVED BY THE COMMISSION FOR 2008

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/61/Rep1). Norway took 536 minke whales (including 4 lost) in her commercial whaling operations and reported no infractions. Iceland took 38 minke whales (including 2 lost) 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 2008 season and Table 3 gives information on the five unresolved infractions from previous years (numbers 2005.1, 2006.1, .2, .3 and .4).

Table 1  
Summary of Aboriginal subsistence catches and infractions reported for the 2008 season.

Nation	Species	Males	Females	Total landed	Struck and lost	Total strikes	Infractions/comments
<b>Denmark</b>							
West	Fin	8	3	11	3	14	None
Greenland	Minke	55	86	148 <sup>1</sup>	5	153	2 <sup>2</sup>
East Greenland	Minke	0	1	1	0	1	None
<b>St. Vincent and The Grenadines</b>							
	Humpback	0	1	1	1	2	None
<b>USA</b>							
	Bowhead	18	19	38 <sup>3</sup>	12	50	1 <sup>4</sup>
<b>Russian Federation</b>							
	Bowhead	0	2	2	0	2	None
	Gray	63	64	127	3	130	None
<b>Republic of Korea</b>							
	Minke	-	-	-	-	-	14 <sup>5</sup>

<sup>1</sup>Includes 7 animals of unknown sex (including 2 reported as infractions); <sup>2</sup> see Table 2, infractions 2008.1 and 2008.2; <sup>3</sup>includes 1 animal of unknown sex; <sup>4</sup>See Table 2, infraction 2008.3; <sup>5</sup>See Table 2, infractions 2008.4-2008.11. Infractions 2008.4 to 2008.6 occurred in 2007 but were reported in 2008.

Table 2  
List of infractions from the 2008 season.

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Invest. complete?
2008.1	Greenland /Denmark	Minke whale	?	4m	Oct. 2008	Illegal rifle hunt	Young minke whale found dead with rifle wounds after the allocated quota had been taken.	Reported to the police. Further investigation impossible.	Case suspended
2008.2	Greenland /Denmark	Minke whale	?	4m	Nov. 2008	Illegal rifle hunt	Reported catch after the allocated quota had been taken. The catch was left on a beach after it was reported as a illegal catch. Participating hunters are known.	Reported to the police. Investigation ongoing.	No. Expected in 2009
2008.3	USA	Bowhead ( <i>Balaena mysticetus</i> )	M	7.2m	6 Sep. 2008	Calf	Whale appeared to be a small independent animal that was not associated with a large whale. After being harvested, it was obviously a calf based on its standard length, baleen length, and milk in the stomach (George and Suydam, 2006).	The AEWG Board of Commissioners met on 2 Mar. 2009 to take testimony from the crew in question and crews nearby. After receiving testimony, the Commissioners determined that the crew had taken all possible precautions, but that the absence of a large whale in the area where the calf was taken led to an honest mistake.	Yes
2008.4 <sup>1</sup>	Korea	4 minke whales	-	-	27 May 4 Jun. 21 Jul. 16 Aug. 2007	No quota	The following 4 minke whales were caught in Korean waters: (1) around 15 miles from Ulgi lighthouse, Ulsan; (2) in waters around Jangsaengpo Port, Ulsan; (3) in waters around Jangsaengpo Port, Ulsan; (4) in waters around Jangsaengpo Port, Ulsan.	10 months of imprisonment and 2 years probation.	Yes
2008.5 <sup>1</sup>	Korea	3 minke whales	-	-	27 Jul. 18 Aug. 19 Aug. 2007	No quota	The following 3 minke whales were caught in Korean waters and taken onto a vessel in pieces: (1) in waters around Gampo beach, Gyeongju-si; (2) in waters around Chuksan-myeon, Yeongdeok-Gun, Gyeongbuk; (3) in waters around Gampo beach, Gyeongju-si.	10 months of imprisonment and 2 years probation.	Yes
2008.6 <sup>1</sup>	Korea	Minke whale	-	-	20 Oct. 2007	No quota	A minke whale was caught using a harpoon in Korean waters around Hupo-port, Uljin-gun Gyeongbuk by two vessels.	8 months of imprisonment and 2 years probation.	Yes
2008.7	Korea	Minke whale	-	7m	25 May 2008	No quota	A minke whale was caught using a harpoon in Korean waters around 13 miles from Guryongpo-eup, Pohang-si.	6 months of imprisonment and 2 years probation. Fined US\$5,000.	Yes
2008.8	Korea	Minke whale	-	3m	8 Jul. 2008	No quota	A minke whale was harpooned in Korean waters around 11 miles from Chuksan-myeon, Yeongdeok-Gun, Gyeongbuk.	14 months of community service command; 8 months of imprisonment and 2 years probation.	Yes
2008.9	Korea	2 Minke whales	-	2*5m	20 Oct. 2008	No quota	In Korean waters around 1 mile from Namoe-port, Busan, a fishing vessel which carried 3 tons of whale meat obtained from 2 minke whales (worth of around 0.24 million dollars) was seized by a guard ship of Busan Customs.	10 months of imprisonment and 2 years probation.	Yes
2008.10	Korea	Minke whale	-	5m	16 Nov. 2008	No quota	A vessel received 87 bags of minke whale meat from an unidentified vessel around the docks in Naengcheon brige, Cheongnim-dong, Pohang-si, Korea. The bags were seized.	6 months of imprisonment and 2 years probation; 87 bags of whale meat were forfeited.	Yes
2008.11	Korea	Minke whale	-	5m	17 Dec. 2008	No quota	A minke whale was caught in Korean waters around 12 miles from Chuksan-myeon, Yeongdeok-Gun, Gyeongbuk; a fisherman was drowned due to a harpoon hurled to catch the whale.	One violator was imprisoned for 10 months and received 2 years probation.	Yes

<sup>1</sup> Infractions 2008.4 to 2008.6 occurred in 2007. Following investigation they were identified as infractions by the Korean Government in April and May 2008.

Table 3

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

Ref.	Nation	Species	Sex	Length	Date	Infraction (specify)	Explanation	Penalty/action	Invest. complete?
2005.1	Greenland /Denmark	Fin whale	?	?	Sep. 2005	Unreported struck and lost whale	A dead whale with a harpoon embedded on its flank was seen near Maniitsoq (West Greenland).	Reported to the police. Investigation ongoing.	No. Completion unlikely.
2006.1	Greenland /Denmark	Fin whale	Unk.	Unk.	Aug. 2006	Hunting method; failure to report; waste of meat	Reported on August 22, Qasigiannguit (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.	Case given up by the police, since further investigations are expected not to result in any prosecution.	Yes
2006.2	Greenland /Denmark	Fin whale	Unk.	Unk.	23 Aug. 2006	Prohibited stock	A fin whale with bullet wounds was observed at Kulusuk (E Greenland). Fate unknown.	Investigation stopped.	Yes
2006.3	Greenland /Denmark	Humpback whale	Unk.	Unk.	14 Sep. 2006	Prohibited species	A humpback whale with bullet wounds was observed at Niaqornaarsuk (SW Greenland). Fate unknown.	Reported to the police. Investigation ongoing.	No. Completion unlikely.
2006.4	Greenland /Denmark	Sei whale	Unk.	Unk.	21 Aug. 2006	Prohibited species	A sei whale was taken at Uummannaq (NW Greenland) by hunters licensed to catch a minke whale.	Reported to the police. Investigation ongoing.	No. Expected in 2009.