



ODUMUNC 2011
Issue Brief for the
GA Sixth Committee: Legal

The International Protection of Endangered Species

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Whaling: A giant compromise?

A pragmatic effort to tackle an emotional issue has started making waves, April 29th 2010



Minkes are more than just cockroaches—surely

WHALES seem to stir up strong feelings. For conservationists, the majestic mammals have been in urgent need of protection ever since factory ships began slaughtering them in the middle of the last century. But advocates of whaling present themselves as protectors of traditional culture, diets and the rights of indigenous people. It is difficult to find any common ground, even when—as has just happened—an honest attempt is made.

Nobody can deny that the present arrangement is messy and hypocritical. In theory, a global moratorium, proclaimed by the International Whaling Commission (IWC), has been in force since 1986. But the creatures are still killed in large numbers; in recent years the annual slaughter has reached almost 2,000, about a third of the pre-moratorium level. Roughly half are killed by whalers from Japan, mostly off Antarctica; the cull is permissible, Japan says, because it amounts to “scientific” rather than commercial whaling. Indigenous people in Alaska, Greenland and Russia are allowed small catches; and commercial catches are still made by Norway and



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Iceland, which reject the IWC line. No wonder so much red whale meat finds its way, illegally, to restaurants in places from South Korea to California.

Countries, such as Australia and New Zealand, that oppose whaling are frustrated. The IWC has become a battleground between the two camps, with each side trying to recruit allies from neutral states. Half the body's 88 members joined in the past decade—helping to make it deadlocked and dysfunctional, unable either to curb whale hunts or to reauthorize them.

There have been physical stand-offs as well as diplomatic ones. In January there was a collision between a Japanese ship and a trimaran from the Sea Shepherd Conservation Society, a green group based in the American state of Washington. The crew (from Australia, New Zealand and the Netherlands) had to abandon ship. In February Australia (with quiet sympathy from New Zealand) threatened to take Japan to the International Court of Justice unless it stopped whaling off Antarctica.

Against this nastiness, a “peace plan” was unveiled on April 22nd, Earth Day, by the IWC's Chilean chairman, Crishán Maquieira, and his Antiguan deputy, Anthony Liverpool. It reflected months of closed-door talks among a dozen countries. The moratorium would be lifted for a decade, but whalers would agree to a sharp reduction in their catch, stricter enforcement measures and a ban on all cross-border commerce in whale products.

The aim is to buy time in which countries can hammer out a longer-term agreement, while achieving an immediate drop in the number of whales that are killed. Supporters—including Monica Medina, who heads America's IWC delegation—say the deal seeks to “depoliticise” the whaling that does go on, while laying the ground for a tougher conservation system. The plan will be considered in June at the IWC's annual meeting in Morocco.

Enter the naysayers

But objections are already coming in. New Zealand's foreign minister, Murray McCully, calls the proposed quota for Antarctic waters unrealistic and unacceptable. Junichi Sato, a Japanese conservationist from Greenpeace who does not share his compatriots' predilection for whaling, regrets that “the whales are making all the concessions, not the whalers.”

That is not an easy corner to argue in Tokyo. Japan's fisheries minister, Hirotaka Akamatsu, deems the limit “too drastic” and wants it raised. But in principle at least, Japan is ready to make a deal. An official at the Fisheries Agency says that the country is willing to hunt fewer whales provided it can do so without international opprobrium. “We have to lose something in order to get something,” he says. Indeed, it can be argued that the biggest obstacles to a cut in the number of whales slaughtered do not lie with the harpoon-wielders, but rather with their most zealous opponents, for whom the best is the enemy of the good.

Japan's critics say that by using a loophole in the IWC charter to practise “scientific” whaling, the country is violating the spirit of the document. Japanese officials counter that the



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1946 convention never anticipated a moratorium on all commercial whaling. Whale meat is still occasionally served to schoolchildren in Japan as a reminder of their culture, though large-scale whaling only really began after the war, on the orders of General Douglas MacArthur, who oversaw America's occupation. The aim was to provide cheap nourishment for a famished nation.

Under the IWC proposal, Japan would halve the number of whales it kills off Antarctica, and face further cuts over the five years thereafter. A South Atlantic sanctuary, barred to all whaling, would be rigorously enforced. Countries that do not already hunt would not be allowed to start. IWC monitors would be placed aboard every vessel to document the kill and take DNA samples, so the meat can be traced. Japan would be allowed to hunt 120 minke whales in its coastal waters as a sop to local sentiment in four ports.

Green activists and anti-whaling countries are calling the deal a victory for whaling nations, but pro-whalers certainly do not see things that way. Masayuki Komatsu—Japan's former IWC negotiator, who is notoriously blunt and once called minke whales the "cockroaches of the sea"—believes the proposal may mark the beginning of the end for Japanese whaling. After ten years, the industry will be smaller and the Japanese will lose interest, he grouses. Perhaps that is the point.

guardian.co.uk

Justin McCurry, "How Japanese sushi offensive sank move to protect sharks and bluefin tuna," *Guardian* (London), 26 March 2010

Aggressive lobbying operation borrowed tactics used at whaling negotiations

To conservationists it was a gratuitous act of provocation; but to the Japanese officials whose embassy served bluefin tuna sushi to guests hours before last week's UN vote on a trade ban on the fish, it was a show of confidence that their diplomatic offensive had worked.

Confirmation duly came when delegates at the Washington Convention on International Trade in Endangered Species, or Cites, voted against the tuna trade ban in Qatar's capital, Doha.

Japan's aggressive lobbying operation in the days before the vote will be familiar to veterans of International Whaling Committee meetings, where poor island nations vote with Japan in return for investment in their fishing industries.

Now, with the dust still settling on a disappointing summit for conservationists, activists are concerned that trade and commercial considerations are overriding the need to conserve other threatened species.

"Japan clearly mobilised massive efforts to keep fisheries out of Cites," Mark W Roberts, the senior counsel and policy adviser for the Environmental Investigation Agency, told the



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Associated Press. Japanese officials flooded the conference floor, offering advice to supportive delegates.

Their endeavours, carried out with all the precision of a military operation, also brought defeats for proposals to regulate the coral trade and protect several species of shark targeted for their fins.

In another tactic copied from whaling negotiations, Japan was testing the diplomatic waters months before the UN meeting, gauging how many votes it would need to assure victory.

Last week, members of the 30-strong Japanese delegation were using their years of negotiating experience at conservation meetings to devastating effect. The EU, by contrast, was divided over its response, while the US dithered before finally voting for the bluefin ban.

But by then, Japan had built up a formidable coalition of 68 votes, while 20 voted in favour of the ban, with 30 abstaining.

The result has been greeted with relief among fish traders and sushi lovers in Japan, which imports 80% of the Atlantic bluefin catch.

"We were very pleased with the result, but that doesn't change the fact that criticism persists over the management of tuna stocks," a fisheries agency official, Kenji Kagawa, told the Guardian.

"It should never have been up to the Washington convention to determine policy. Protecting stocks and stamping out illegal fishing is the work of regional fisheries bodies," such as the International Commission for the Conservation of Atlantic Tunas.

While countries that voted against the ban, including Libya, Egypt and Zambia, denied they had been subjected to undue pressure, Japan conceded it had funds to offer to fishing industries in developing countries, and that some of that money had been used to send delegates to attend the Doha meeting.

The infamous sushi buffet, said Masanori Miyahara, chief counsellor at the fisheries agency, was nothing more than an innocent cultural event.

"We wanted to show what it is," he said of the servings of prime

The New York Times

David Jolly, "U.N. Group Rejects Shark Protections," *New York Times*, 23 March 2010

PARIS — Delegates to a [United Nations](#) conference on endangered species voted down three of four proposals to protect sharks on Tuesday, handing another victory to [Japan](#), [China](#) and countries opposed to the involvement of the international authorities in regulation of ocean fish.

The nations gathered in Doha, Qatar, for the Convention on International Trade in Endangered Species of Wild Fauna and Flora, rejected proposals that would have required countries to strictly regulate — but not ban — trade in several species of scalloped hammerhead, oceanic whitetip and spiny dogfish sharks.



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The hammerhead and whitetip proposals, introduced by the United States and the tiny Micronesian island of Palau, received majority backing. But the treaty behind the conference, abbreviated as Cites, requires that measures be approved by two-thirds of the delegates who are voting.

A proposal from the [European Union](#) and Palau to protect porbeagle sharks squeaked by with a vote of 86 to 42, with 8 abstentions — a winning margin of a single vote. All of the votes were by secret ballot.

“We will continue to pursue our efforts to protect sharks from eradication by the decadent and cruel process of shark-finning,” Stuart Beck, Palau’s ambassador to the United Nations, said in a statement. “I am sure that, properly prepared, bald eagle is delicious. But, as civilized people, we simply do not eat it.”

China, by far the world’s largest consumer of the cartilaginous fish, for sharkfin soup, and Japan, which has battled to keep the convention from being extended to any marine species, led the opposition.

“This is not about trade issues, but fisheries enforcement,” Masanori Miyahara, Japan’s top fisheries negotiator, was quoted by The Associated Press as telling delegates. “Poaching is a big problem.”

Juan Carlos Vásquez, a spokesman for the United Nations convention, said that the votes on the hammerhead and the porbeagle — a close relative of the great white shark that is prized for its meat — could be reopened on Thursday and possibly overturned at the final session of the conference because the margin of passage was so narrow.

Most of the other conference votes would be likely to stand without challenge, he said.

[Tom Strickland](#), the head of the United States delegation, said in a statement that Tuesday’s votes were “a major loss for marine conservation.”

On Monday, delegates voted to uphold a 21-year ban on international trade in ivory, rejecting efforts by Tanzania and Zambia to sell part of their stocks. Last week, the conference opposed an outright ban on international trade in bluefin tuna. A proposal to extend trade controls to red and pink corals was also voted down.

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